

**STAFF REPORT FOR THE PLANNING COMMISSION BRIEFING
AUGUST 3, 2015**

**Extending the Wildlife Habitat Tax Deferral Program to MUA-20 Zoned Lands
(Project Case PC-2015-4106)**

1.0 INTRODUCTION

This briefing report provides background related to implementation of the 2015 draft Sauvie Island and Multnomah Channel (SIMC) Rural Area Plan Policy 3.2 – Voluntary Conservation Efforts.

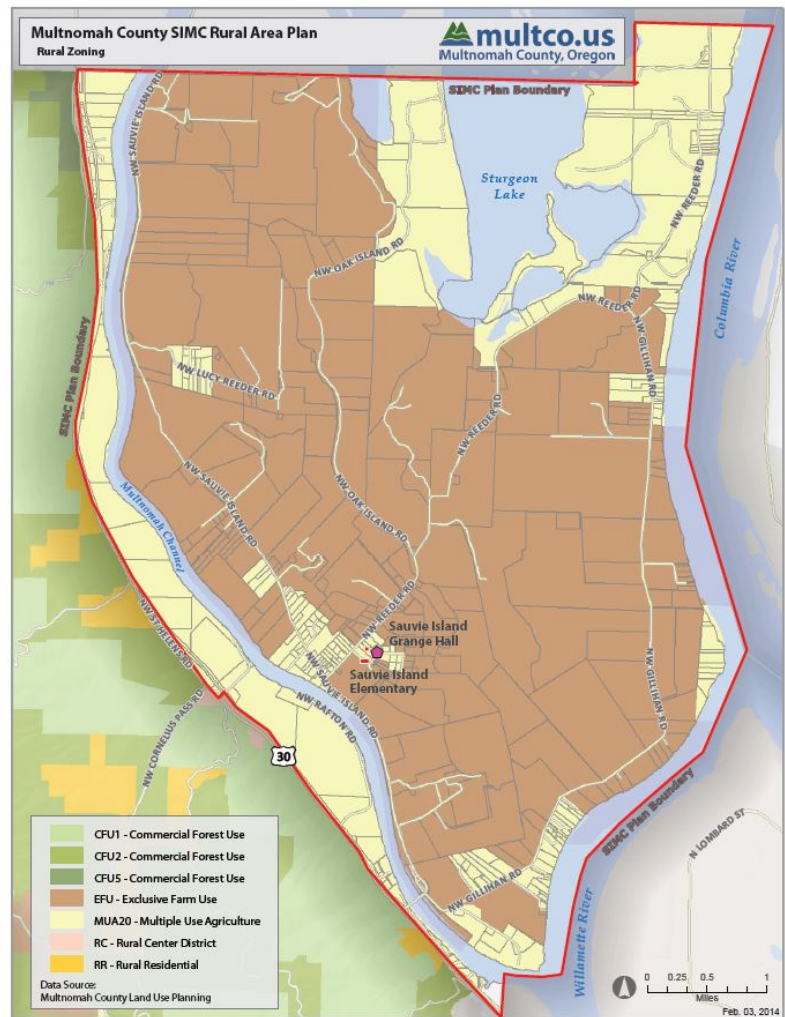
***DRAFT SIMC Rural Area Plan - POLICY 3.2:** Encourage voluntary conservation efforts such as conservation easements and community-based restoration projects that complement Multnomah County's Goal 5 (Natural and Cultural Resources) and Goal 15 (Willamette River Greenway) regulatory programs and if possible, extend the Wildlife Habitat tax deferral to MUA lands.*

Currently, Multnomah County code allows a landowner to pursue enrollment in the Wildlife Habitat Conservation and Management Program (habitat program) for lands zoned Exclusive Farm Use (EFU) and agricultural zoned lands inside the Columbia River Gorge National Scenic Area (GGA/GSA). This habitat program is administered by the Oregon Department of Fish and Wildlife (ODFW). Landowners enrolled in the program are rewarded for their stewardship with lower assessed property values equivalent to assessed property values for farm uses.

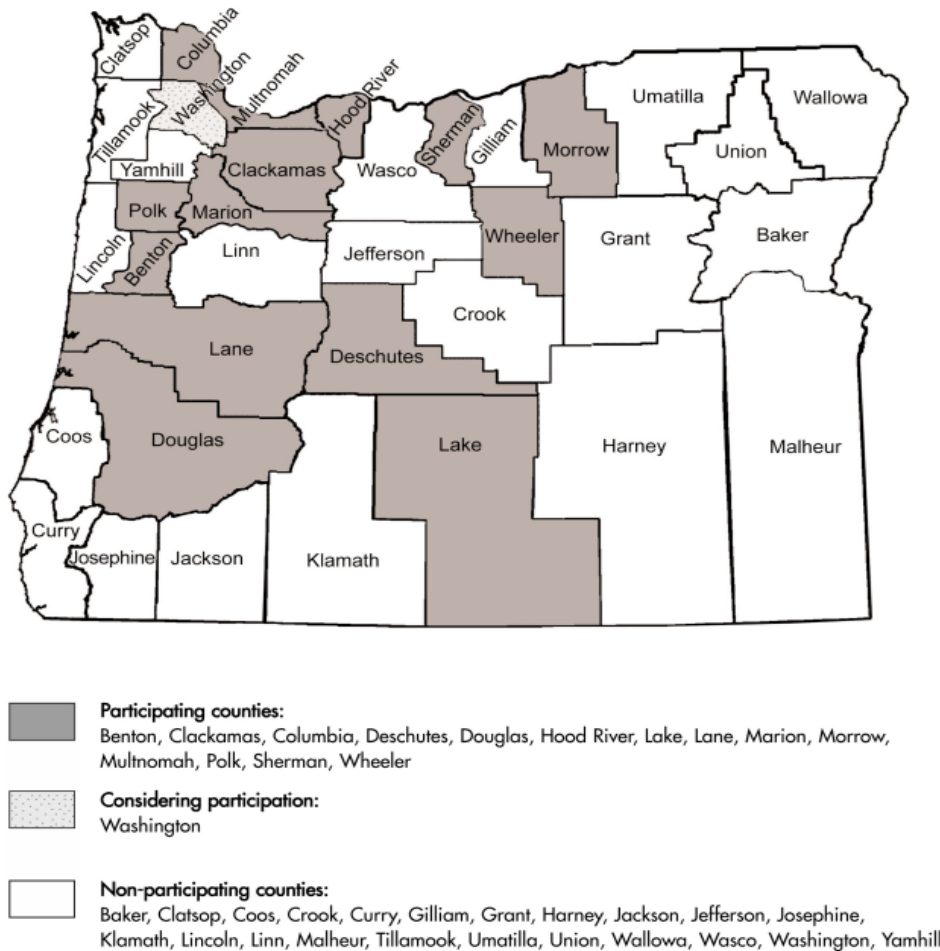
Prior to 2003 the habitat program was available only to rural Oregon landowners with properties zoned EFU or mixed farm and forest use. Multnomah has land zoned EFU but does not have mixed farm and forest use zones. House Bill 3616 in 2003 expanded the program by adding the potential to include land that is clearly identifiable as containing significant wildlife habitat.

Today, counties and cities can select lands for eligibility in the habitat program based on EFU zoning and/or significant native wildlife habitat. It is this second provision which is most relevant to Draft Policy 3.2 which contemplates expanding the program to include Multiple Use Agriculture-20 (MUA-20) zoned lands inside the boundaries of Sauvie Island / Multnomah Channel Rural Plan Area which is outlined by the red line in the zoning map below. The majority of Sauvie Island is zoned EFU (shown in brown) with the remainder largely zoned MUA-20 (light yellow).

Including MUA-20 zoned lands in the habitat program within the SIMC Plan area will first require program enrollment with the Oregon Department of Fish and Wildlife (ODFW).



Wildlife Habitat Conservation and Management Program County Participation as of March 1, 2006



The best available data at this time suggest fourteen counties in Oregon participate in the Wildlife Habitat Conservation and Management Plan program. Nine of the fourteen participating counties have landowners enrolled in the habitat program, with a total of 226 landowners and almost 34,000 acres included. As of 2006, eight habitat program plans had been approved in Multnomah County totaling 192 acres.

The concept behind this program is that landowners who can qualify and are willing to participate in the program are rewarded for their land stewardship with lower assessed property values that are more aligned to assessed property values for farmland. Landowners not wishing

to participate in the program are not required to take action. It is a volunteer program.

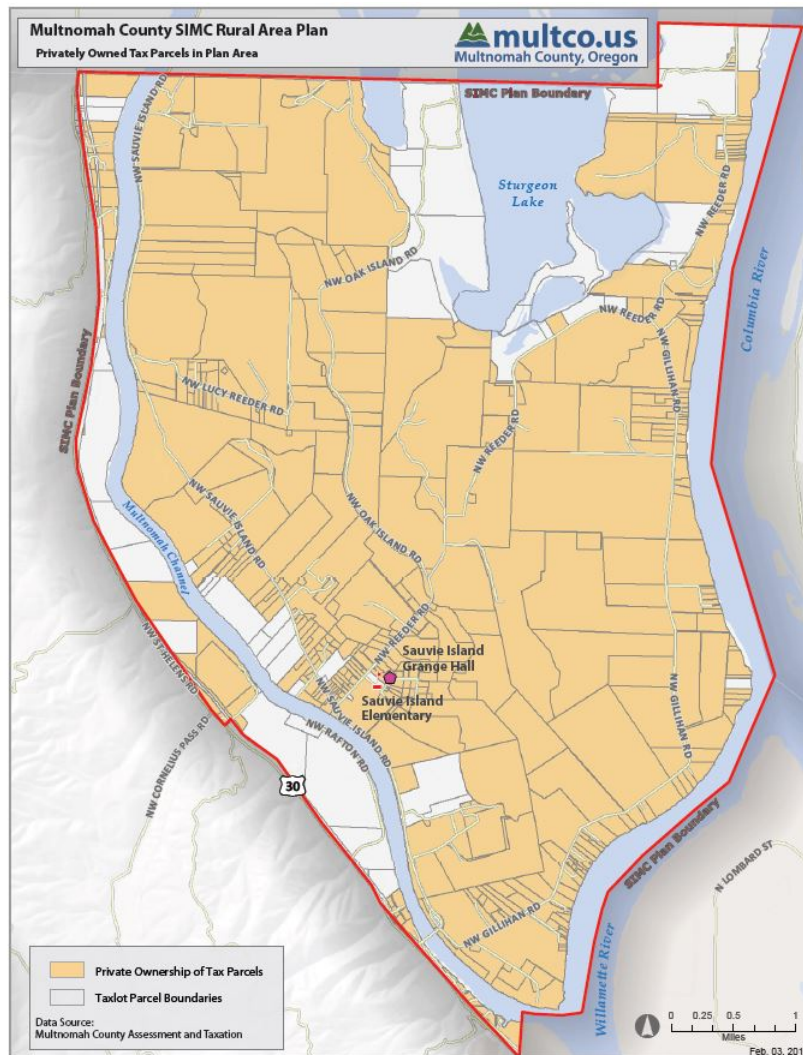
County support for fish and wildlife habitat efforts is not only reflected in zoning code but also within the County's Comprehensive Plan. For example, the Fish and Wildlife Habitat policy 16-D of the County's Comprehensive Framework Plan is to protect significant fish and wildlife habitat, and to specifically limit conflicting uses within natural ecosystems.

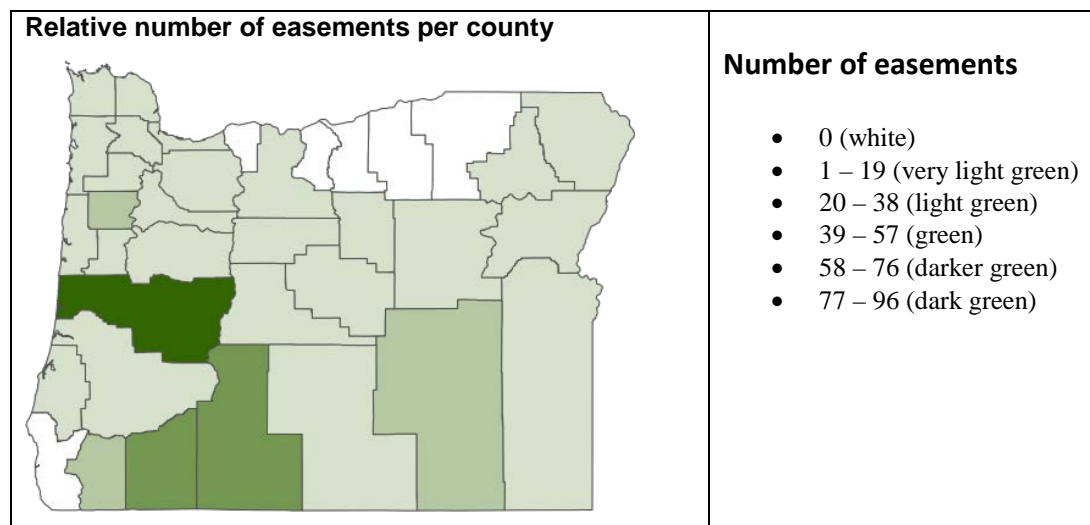
The SIMC RAP study area encompasses approximately 15,400 acres of land and several thousand additional acres of water. About three-fourths of the land acreage (approximately 11,800 acres or 76.6%) is within the Exclusive Farm Use (EFU) zone and about a quarter (3,600 acres or 23.4%) is

within the Multiple Use Agriculture-20 (MUA-20) zone. About half (1,700 acres) of the MUA-20 zoned land is within the Sauvie Island Wildlife Refuge.

2.1 OREGON CONSERVATION EASEMENT TRENDS

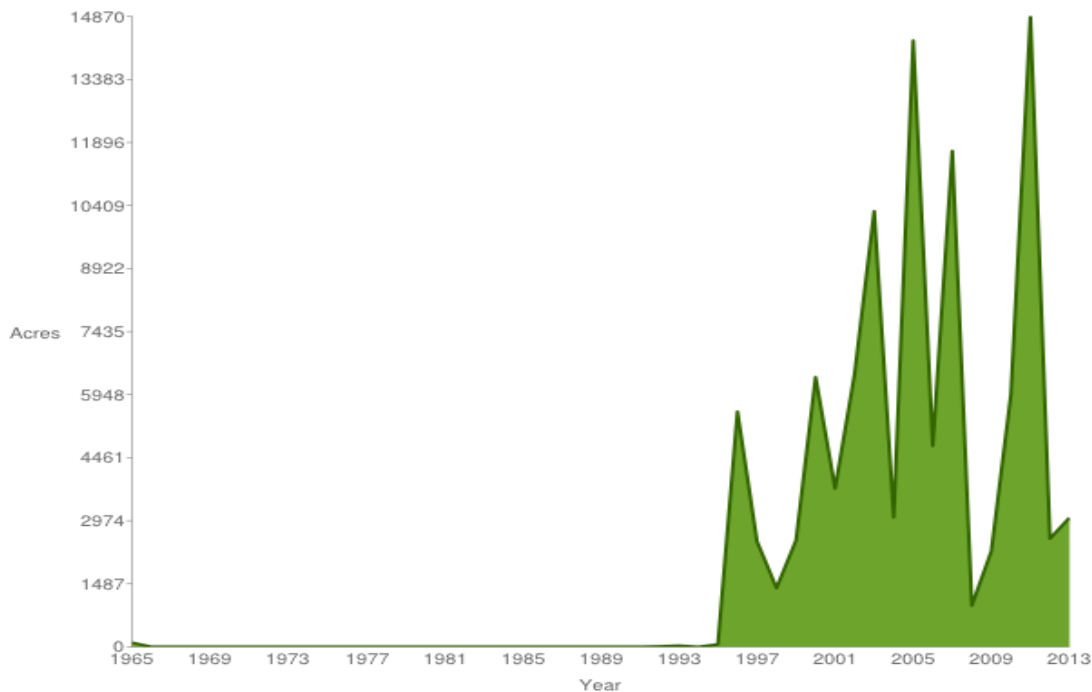
According to the National Conservation Easement Database, over the past decade Oregon has seen variable rates of conservation easement acquisitions with an overall upward trend.ⁱ Currently, Lane County Oregon has the largest amount number of conservation easements records, and the U.S. natural Resource Conservation service is the largest holder of conservation easement acreage at 61,697 acres protected.





Acquisition Year	Count	Acres
2003	28	10,275
2004	17	3,054
2005	24	14,299
2006	14	4,740
2007	15	11,694
2008	4	974
2009	6	2,256
2010	23	5,947
2011	18	14,875
2012	16	2,552
2013	7	3,045

Easement Holder	Count	Acres
U.S. Natural Resources Conservation Service	156	61,697
Rocky Mountain Elk Foundation	13	29,435
U.S. Forest Service	15	22,195
Deschutes Land Trust	8	4,996
Southern Oregon Land Conservancy	74	3,148



Conservation Easement Trends in Oregon (year vs. acreage enrolled)

Throughout the SIMC RAP update process, the stakeholders of Sauvie Island recognized that protection and preservation of the wildlife resources on and around the island provides a community wide benefit. With that, the community signaled that preservation and enhancement of these resources should be encouraged in the MUA-20 zoning district to expand the geographic extent of the program. To date, we have identified the following stakeholders:

- Multnomah County Land Use Planning Division
- West Multnomah Soil and Water Conservation District
- Multnomah County Division of Assessment, Taxation and Recording (DART)
- Coalition of Oregon Land Trusts
- Oregon Department of Fish and Wildlife (ODFW)
- Department of Land Conservation and Development (DLCD)

Question for the Planning Commission – Have the correct stakeholders been identified?

3.0 IMPLEMENTATION STEPS

(County Land Use Process)

In order for Multnomah County to expand its provisions of the Wildlife Habitat Conservation and Management Plan to MUA-20 lands, the county must prepare and submit the request to the Oregon Fish and Wildlife Commission (OFW Commission). At this point, staff recommends limiting the request to MUA-20 zoned lands within the boundaries of the Sauvie Island / Multnomah Channel Rural Plan Area. Progress made on this front will be communicated with the Comprehensive Plan Community Advisory Committee who can consider merits of extending this program to other parts of the county, and possibly other zoning districts. Land in Oregon

eligible for Wildlife Habitat Conservation and Management plans are lands that are zoned for EFU, Mixed Farm and Forest use (Multnomah County does not have mix farm and forest use zones), or Forest use; and/or land that is clearly identifiable as containing significant wildlife habitat.

(ODFW Commission Process)

The OFW Commission may designate lands as eligible for participation if it finds the designation promotes the objectives of the program. Land does not qualify for wildlife habitat special assessment unless the county requests, and the OFW Commission approves, the designation of those lands. Staff has not had an opportunity to fully research the mechanics of the application process, although a high level summary is presented in Section 5.2 below.

(Landowner Process)

In order for lands to qualify for the habitat program, the land must first be designated by the OFW Commission for the program as explained above. A local county official must complete the ODFW Certification Form to confirm the property's eligibility, and then the land owner must develop a habitat plan that specifies the conservation and management practices to be utilized to protect and restore native habitat and wildlife species.

This plan must be developed jointly with the cooperating agency, such as the Oregon Department of Fish and Wildlife, US Fish and Wildlife Service, Natural Resources Conservation Service, Oregon State University Extension Service, Soil and Water Conservation District, or qualified contractor.

Once the habitat plan is complete, the landowner must submit the plan to ODFW and to the County planning department for review. The county has 30 working days to review the plan and provide comments to ODFW. It is not currently clear what the scope of county review will include within the 30-day period. Within 90 days of receiving a complete plan, ODFW will review the plan to ensure it meets the program standards and to ensure implementation has begun. ODFW will approve, recommend changes or reject the habitat plan, and will notify the landowner of the decision in writing. The landowner can appeal the decision.

The landowner would then apply to the Multnomah County DART (property taxation office), on a form created by the Oregon Department of Revenue and supplied by the assessor, for wildlife habitat special assessment. The application must include a copy of the approved habitat plan, a copy of ODFW's notification of the plan's approval and a copy of the certification of eligibility.

4.0 EQUITY IN POLICY MAKING

The Planning Commission first heard about the county's Equity Lens during the Sauvie Island / Multnomah Channel Rural Area Plan update. The purpose of the equity lens is to identify and eliminate the root causes of inequitable decision making. Viewing this project through the Equity Lens will help inform the process. Acknowledging that different stakeholders have different needs, interests, rights, and responsibilities can help to foster strong social interest in sustainability, conservation, and socio-environmental policy.

According to the International Union for Conservation of Nature, “*One of the most direct linkages between resource scarcity and conflict is the link between unequal resource appropriation, poverty, and environmental degradation*”. They follow up this assertion by arguing, “*Participatory management of natural resources can provide a more solid base to achieve food security as part of the promotion of sustainable livelihoods*”ⁱⁱ. It is important to empower communities by recognizing their rights and responsibilities, ensuring the means to sustainable livelihoods and community development. The goal of this project in terms of equity is to promote conservation of public and private lands in an equitable ways.

Q.) Whom does the policy benefit?

A.) Conservation and sustainable land use practice benefits can be categorized into tangible and intangible items. Many of the benefits are seen as financially tangible because they allow a financial benefit for private landowners working to preserve sensitive areas. This benefit may come in the form of reduced taxes. Additionally, conservation areas provide ecologically tangible benefits to wildlife and the local community in the form of clean air and water. What about more intangible benefits, particularly associated with people who do not necessarily live in the area? Things such as increased food security could be an associated benefit. By providing adequate seasonal wildlife habitat protections, there could be an increase the availability of wild game in other rural areas for example.

Q.) What are the driving forces behind the policy? What community support or opposition exists for the proposal?

A.) This policy appears to have wide community support in the SIMC plan area. However, we have also heard criticism that by extending this deferral program, small family farms would be priced out of the market. The concern is that MUA-20 land can be profitable for farming and this may press people out of the market if policy changes increase the value of farms. Literature around conservation easements generally asserts that by limiting properties future development ability extensively, the program would actually work to limit the value of future sales to the value of the conserved land but more information would help inform this question.

Question for the Planning Commission – What additional equity related questions should be considered?

5.0 NEXT STEPS

5.1 Identify Potential Code Changes

The MUA-20 Allowed Use section could be amended in the following way. It would be wise to also use this opportunity to update Oregon Revised Statute references to the Wildlife Habitat Conservation and Management Program in the existing EFU sections of the chapters of county code which have been changed since adoption in County Code. Example text is below.

MULTIPLE USE AGRICULTURE MUA-20

§ 34.2820 ALLOWED USES

(L) Wildlife Habitat Conservation and Management Plan pursuant to ORS 308a.400-430 and 308a700-743. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

EXCLUSIVE FARM USE

§ 34.2620 ALLOWED USES

(S) Wildlife Habitat Conservation and Management Plan pursuant to ~~ORS 215.800 to 215.802 and ORS 215.806 to 215.808~~ ORS 308a.400-430 and 308a700-743. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

(Staff note...This change should also be made to any applicable EFU sections in Chapters 33, 35, 36 & 11.15)

COLUMBIA RIVER GORGE NATIONAL SCENIC AREA PART 1 - GENERAL PROVISIONS

§ 38.0015 DEFINITIONS

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Wildlife Habitat Conservation and Management Plan: ~~ORS 215.800 to 215.802 and ORS 215.806 to 215.808~~ ORS 308a.400-430 and 308a700-743. (Note: A proposed single-family residential dwelling in conjunction with a wildlife habitat conservation and management plan is not authorized by this section.)

5.2 Assess Resource Needs and Timing for Preparing Enrollment Request

The amount of work required for the county to request enrollment in the program is not currently understood and would need to be researched. ODFW has prepared a habitat program manual for counties and cities with high level information (Exhibit 1). Applicable ORS and OAR regulations are presented as Exhibit 2 and 3, respectfully for the interested reader. Exhibit 4 contains information about other Oregon conservation and incentive programs.

The manual in Exhibit 1 indicates that participation in the program first requires the Multnomah County Board submit the request to ODFW for specific lands requesting eligibility. It appears the request must justify how the land contains “significant” habitat. The ODFW Commission must find that the designation promotes the objectives of the program.

Table 3 in Exhibit 1 outlines habitat program timelines which involve responsibilities for a number of stakeholders over the first three years. It appears County Commissioners can submit a request January – April of each year which allows ODFW staff to bring the request to an ODFW Commission meeting in June. If approved, landowners become eligible to participate starting July 1 at which point landowners will work with ODFW staff to develop individual Habitat plans which can potentially be approved by ODFW July 1 – December 31. County planning staff will also assist with plan review and are provided 30-days to provide comment.

A landowner works with county DART (tax group) to apply for special tax assessment after the plan is approved and those deadlines are outlined in Exhibit 1.

5.3 Coordinate with County Division of Assessment, Taxation and Recording (DART)

Staff has not yet had an opportunity to explore this project in detail with staff from County DART, although a copy of a draft briefing report was provided to their office. Meeting with staff from DART will be an important next step.

5.4 Planning Commission Worksession

Staff will schedule a Worksession with the Planning Commission once we have more information to relay.

Question for the Planning Commission – Do these steps seem reasonable, holistic and efficient? Are we missing anything?

6.0 EXHIBITS

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| Exhibit 1 | ODFW Wildlife Habitat Conservation and Management Program Manual for Counties and Cities (2006) |
| Exhibit 2 | ORS 308A.400 – 308A.743; Wildlife Habitat Special Assessment & Additional Taxes, Procedures, Applicable to Certain Land Special Assessment Programs. |

- Exhibit 3 OAR 635-430-0000 – 335-430-0430; Wildlife Habitat Conservation and Management Program
- Exhibit 4 List of other known Oregon conservation and incentive programs

ⁱ http://conservationeasement.us/reports/easements?report_state=Oregon&report_type=All

ⁱⁱ http://cmsdata.iucn.org/downloads/sp_equity_policy.pdf