

**JEFFERSON COUNTY**  
Community Development Department

85 S.E. "D" St. • Madras, Oregon 97741 • Ph: (541) 475-4462 • FAX: (541) 475-4270



**Planning Commission Staff Report Casefile 23-A-02**  
**(Appeal of Decision – CDD File 23-NFD-02)**  
**Staff Report - Hearing Date: January 11, 2024**

**Appellant's Name:** Central Oregon LandWatch (COL)  
2843 NW Lolo Drive, Suite 200  
Bend, Oregon 97703

**Appellant's Representative:** Rory Isbell, Attorney at Law

**Appeal Date:** November 20, 2024

**Appealed Decision:** Attached as Exhibit A is 23-NFD-02 the appealed decision.

**Basis for Appeal:** Attached as Exhibit B is COL's appeal.

**23-NFD-02 decision:** November 3, 2023

**Appeal due date:** Prior to 5:00pm on November 20, 2023.

**Applicant:** Equity Trust Company Custodian FBO et al  
Otto and Fay M. Keller  
13878 SE Mountain Crest Drive  
Happy Valley, OR 97086

**Applicant's Representative:** Greta Holmstrom  
Ardor Consulting, LLC  
205 SE 3<sup>rd</sup> Avenue, Suite 600  
Hillsboro, OR 97123

**Request:** The applicant/owner is applying for a Non-Farm Dwelling approval.

**Map:** 13-11-35-4500

**Applicable criteria:** Jefferson County Zoning Ordinance (JCZO) Section 907 for casefile 23-A-02 and the applicable criteria found in 23-NFD-02 which are Jefferson County Zoning Ordinance (JCZO) Sections 301.6, 301.6 (I.), 321, 401, 426, 601, 602, 603 and 903.4.

### **Findings**

#### **Appeal Statement information with staff findings**

The following appeal statements flow from the appeal form (attached as Exhibit B) signed by Rory Isbell who represents COL for this appeal. Each appeal statement is followed by a Finding indicating where the answer can be found in the original staff report (23-NFD-02) or the Finding provides additional information answering the concern raised on the appeal form.

JCZO Section 907.1 states that “A written appeal of a Planning Director or Planning Commission decision, together with the required appeal fee, must be physically received by the CDD within fifteen days of the date the Notice of Decision was mailed. The appeal shall state the CDD Casefile number; the applicant’s name; the appellant’s name, address and phone number; the legal basis of the appellant’s standing to appeal; and specify the basis for the appeal (e.g., failure to address or meet specific applicable criteria).”

**Finding 1:** Staff finds the appellant submitted a timely written appeal and paid the appeal fee.

**Standing:** Under JCZO 907.2, an appellant must have standing by first having either submitted written comment, been entitled as of right to a Notice of the Administrative Decision, or be adversely affected or aggrieved by the decision. LandWatch submitted written comment on this application on October 18, 2023.

**Finding 2:** Staff finds the appellant submitted timely written comments.

The appellant indicates the position that the following are applicable standards and criteria that have not been met:

- JCZO 301.6(I)(1). The decision fails to include adequate information about farm and forest operations on area properties that is needed to determine whether the proposed nonfarm dwelling will force a significant change or cost increase to accepted farm and forest practices on nearby lands.

**Finding 3:** Staff finds Finding 2 and 3 in the decision for Casefile 23-NFD-02 answer this concern. Staff additionally finds that the Cumulative Impact Study by Ardor Consulting, LLC (attached to 23-NFD-02 as Exhibit B) used a 2,000 acre analysis study area around the Property as required by law. Staff finds the cumulative impact analysis answers this concern on the bottom of page 4 and the top of page 5.

- JCZO 301.6(I)(2). The decision errs in finding the subject property is generally unsuitable for the production of farm crops or livestock. The soils of the subject property are rated Class I-VI by the NRCS and the property is presumptively suitable for farm use.

**Finding 4:** Staff finds the cumulative impact analysis answers this concern in the two paragraphs at the top of page 6 just below the soils information. Staff finds Finding 4 in the decision for Casefile 23-NFD-02 answers this concern.

- JCZO 301.6(I)(3). The decision errs in finding the proposed nonfarm dwelling will not alter the stability of the overall land use pattern of the area.

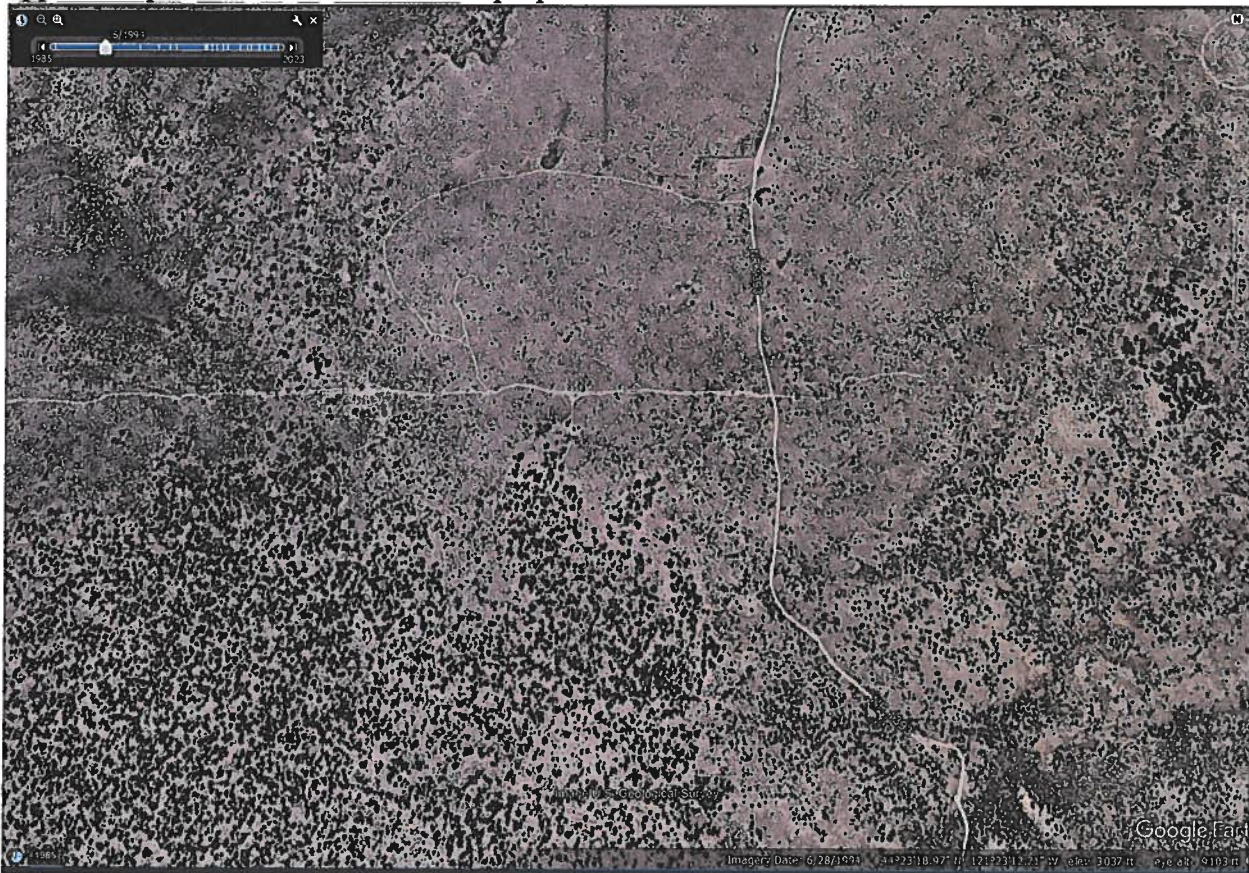
**Finding 5:** Staff finds Finding 6, 7, 8, and 9 in the decision for Casefile 23-NFD-02 answer this concern.

- JCZO 301.6(I)(4). It is not clear that the parcel was lawfully created pursuant to JCC 301.9(B) or (C).

**Finding 6:** Staff finds the property was created 26 years ago via County Partition Plat 1998-11 as found on page 1 and Finding 10 of Casefile 23-NFD-02 which staff finds answers this concern. A copy of Partition Plat 1998-11 is attached as Exhibit C.

- JCZO 321.5(A). It is not clear that the proposee dwelling and accessory buildings would be located entirely within 300 feet of a public road that existing as of August 31, 1995 or a driveway that provides access to an existing dwelling.

**Finding 7:** Staff finds Finding 15 and 16 in the decision for Casefile 23-NFD-02 answer this concern. Staff finds a review of Google earth airphoto's shows NF Road 1393 in existence in June 1994 as shown below. The driveway that goes across the subject property is access to the lawfully approved dwelling located on 1311000004400 owned by David and Pamela Potter and appears to pass within 300 feet of the proposed homesite.



- JCZO 401.1. It is unclear whether the subject property has year-round legal access provided by an open public road.

**Finding 8:** Staff finds Finding 10 in the decision for Casefile 23-NFD-02 answers this concern by establishing how the parcel was created via partition that requires proof of legal access.

- JCZO 401.4. The decision errs in deferring findings of compliance with this criterion until a later date when compliance must be shown now.

**Finding 9:** Staff finds Finding 20 in the decision for Casefile 23-NFD-02 answers this concern.

- JCZO 426.2(d). The decision errs in deferring findings of compliance with this criterion until a later date when compliance must be shown now.

**Finding 10:** Staff finds Finding 24 in the decision for Casefile 23-NFD-02 answers this concern.

- JCZO 426.2(e). The decision errs in deferring findings of compliance with this criterion until a later date when compliance must be shown now.

**Finding 11:** Staff finds Finding 25 in the decision for Casefile 23-NFD-02 is intended to answer this concern. Please note condition number 6 of Casefile 23-NFD-02 has a typo in it that should read JCZO Section “426.2(E.)” instead of “426.2(H.)”.

- JCZO 602(B). The decision errs in finding the proposal will have minimal adverse impact on the livability, value, and appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.

**Finding 12:** Staff finds Finding 32 in the decision for Casefile 23-NFD-02 answers this concern.

- JCZO 603(B). The decision errs in findings that these criteria do not apply.

**Finding 13:** Staff finds Finding 36 in the decision for Casefile 23-NFD-02 answers this concern. Staff additionally finds that staff indicates in the staff report that the criteria are “not required” versus indicating the “criteria do not apply”. Staff further finds JCZO Section 603(B.) appears to apply to the conditional use approvals by the Planning Commission as found in the first sentence of JCZO 603(B.).



**Potential Planning Commission motions:**

- 1) **Continue** to a date certain.
- 2.) I make a motion to **deny** the appeal from the appellants based on the staff report, application and all evidence entered into the record appearing to support the staff decision approving the partition as found in casefile 23-NFD-02 and the Planning Commission staff report.
- 3.) I make a motion to **affirm** the appeal from the appellants based on the staff report, application and all evidence entered into the record appearing to not show adequate evidence supporting approval of the partition based on criteria as found in casefile 23-NFD-02. More specifically for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Respectfully submitted,

  
\_\_\_\_\_  
Phil Stenbeck, Planning Director

1/4/24  
\_\_\_\_\_  
Date

- C:     Exhibit A - Casefile 23-NFD-02  
       Exhibit B - COL appeal form  
       Exhibit C - Copy of Partition Plat 1998-11

EXHIBIT A  
23-A-02

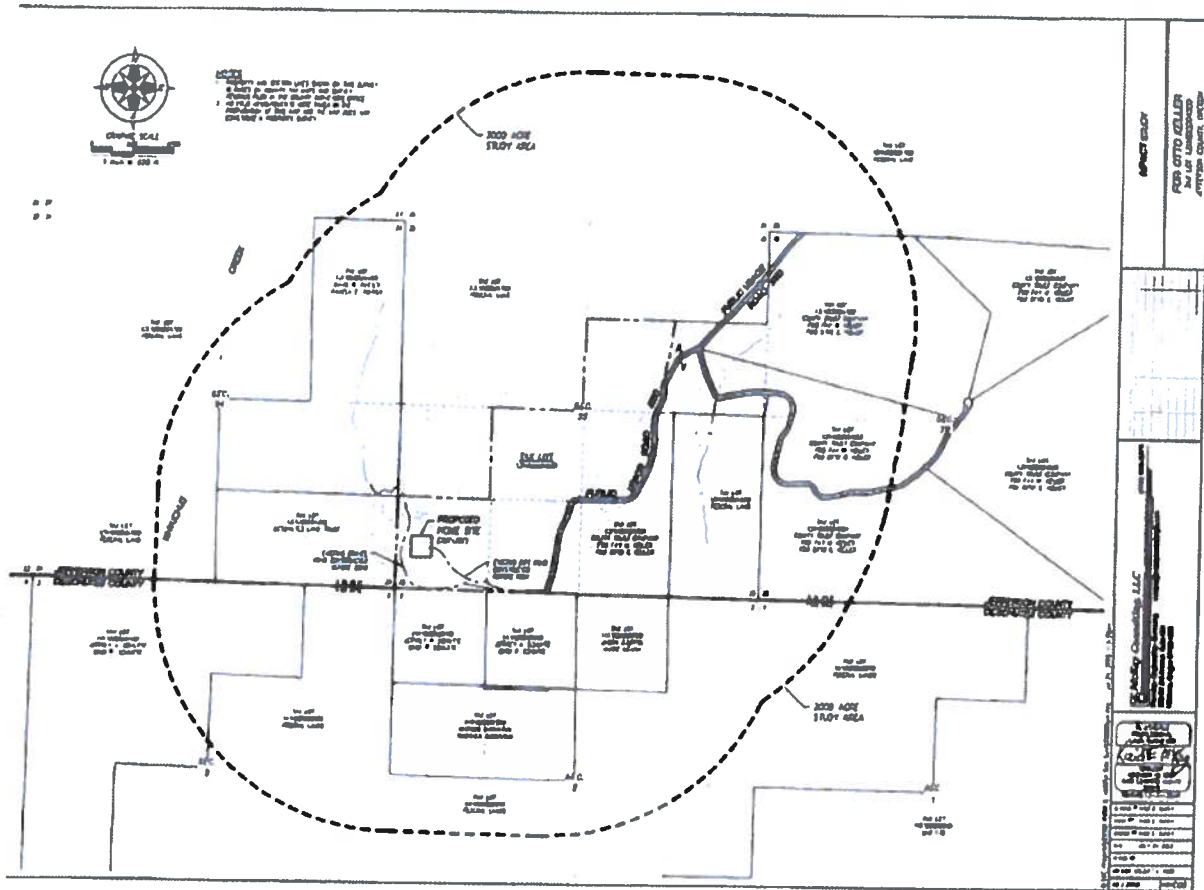
**JEFFERSON COUNTY**  
**COMMUNITY DEVELOPMENT DEPARTMENT**

85 S.E. "D" St. Madras, Oregon 97741 Phone: (541) 475-4462 FAX: (541) 325-5004



**STAFF REPORT**  
**CASEFILE 23-NFD-02**

- Applicant:** Equity Trust Company Custodian FBO et al  
Otto and Fay M. Keller  
13878 SE Mountain Crest Dr  
Happy Valley, Oregon 97086
- Owner:** Same as applicant.
- Representative:** Greta Holmstrom  
Ardor Consulting, LLC  
205 SE 3<sup>rd</sup> Ave., Ste 600  
Hillsboro, Oregon 97123
- Request:** The applicant requests approval of a conditional use permit to establish a nonfarm dwelling on a lawfully created lot.
- Subject Property:** The subject property is 179.93 acres legally described as Tax Lot 4500, Section 35, T13, R11 located in Jefferson County.
- Zoning:** The property is zoned Rangeland (RL) on the County's zoning map and comprehensive plan map.
- Lot of Record:** The subject property was created by Partition Plat 1998-11 as approved and recorded in Jefferson County.
- Applicable criteria:** Jefferson County Zoning Ordinance (JCZO) Sections 301.6, 301.6 (I.), 321, 401, 426, 601, 602, 603 and 903.4.
- Background/Facts:**
- Location:** The subject property is in South-western Jefferson County and is adjacent to the Jefferson-Deschutes County boundary and 0.6 miles east of Whychus Creek.



**Surrounding Land Uses:** The subject property is surrounded by Federally owned land on the west, north east and south with one 80 acre parcel on the west side being owned by Deschutes Land Trust. Surrounding property to the north, south, east and west is RL zoned in Jefferson County. The site is not within the North Unit Irrigation District Boundary or the Livestock District.

**Nature of the request and applicable requirements**

The applicants, Equity Trust Company Custodian FBO Et al (Otto and Fay Keller), request approval for a nonfarm dwelling on property located in the RL Zone. A nonfarm dwelling is permitted in the RL Zone if the request is able to satisfy the criteria outlined under Section 301.6 (1) of the Jefferson County Zoning Ordinance (JCZO).

The applicants' property is also situated within the Wildlife Area Overlay Zone being that the site is within the Metolius Deer Winter Range Overlay that is planned for the protection of deer habitat by Jefferson County. Development standards for property in the WA Overlay Zone are included in Section 321 of the JCZO and are in addition to the requirements of the RL Zone.

Siting of the proposed nonfarm dwelling must also comply with access requirements under Section 401 and fire safety standards under Section 426 of the JCZO applicable to the request. The applicants' written burden of proof justification (attached as Exhibit B) addresses the access and fire safety standards generally and acknowledges the need to demonstrate full compliance with these requirements as conditions of approval for the proposed nonfarm dwelling prior to the County granting zoning approval of a building permit for the nonfarm dwelling.

Review of the request is subject to the administrative review procedures and public notice requirements under Section 903.4 of the JCZO.

Unless otherwise noted, if a request is found to be consistent with the JCZO and other applicable land use regulations intended to implement the Comprehensive Plan, then the use is considered to be consistent with the Comprehensive Plan.

### **FINDINGS**

The applicable criteria from the Jefferson County Zoning Ordinance (JCZO) are found in Sections 301.6, 301.6 (l.), 321, 401, 412, 426, 601, 602, 603 and 903.4.

#### *JCZO Section 301.6 Dwellings*

*A dwelling may be approved by the Planning Director under the Administrative Review procedures in Section 903.4 if found to comply with the listed standards and criteria and any other applicable requirements of this ordinance. The County Assessor will be notified when a dwelling is approved. A condition of approval will require that the landowner sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

**Finding 1:** Staff finds that this request may be approved by the Planning Director under the Administrative Review process and a condition of approval will require that the landowner sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

#### **ANALYSIS**

##### **A. Jefferson County Zoning Ordinance, Section 301 - Rangeland Zone Applicable Standards**

*The following criteria listed under Section 301.6(1) of the JCZO apply to the applicants' request and must be met for a nonfarm dwelling to be approved.*

*1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.*

**Finding 2:** Staff finds the subject property is within an area that is not predominantly used for farm or forest practices. Staff finds the applicant has indicated the study area is not within an irrigation district and no properties within the study area currently hold



grazing leases. Staff also finds no agricultural operations need to travel near the property and the property and surrounding study are not in a livestock district. Staff finds approximately half of the land area within the 2000-acre buffer of the site is owned by the Federal Government, two parcels are owned by the Deschutes Land Trust, and the remainder are privately held.

Staff finds no properties within the study area being primarily devoted to farm or forest use, and as such the approval of the nonfarm dwelling will not impact the cost of farm or forest practices in the vicinity. Staff also finds the location of the property will also not force a significant change in the land uses currently present in the vicinity.

**Finding 3:** Staff finds the applicants' findings and argument that a nonfarm dwelling on the subject property will not force a significant change in, or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use appears reasonable from the standpoint that there appears to be no farm use and no forest use occurring on nearby properties within at least the 1 mile study area or more of the subject property with no farm or forestry activities going past the property on the road which provides driveway access to the property.

2. *The dwelling and all amenities to serve the dwelling, including but not limited to a driveway and septic system, will be situated upon a lot or parcel, or portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract.*

a. *A lot or parcel, or portion of a lot or parcel, shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and*

b. *A lot or parcel, or portion of a lot or parcel, is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel, or portion of a lot or parcel, can be sold, leased, rented, or otherwise managed as part of a commercial farm or ranch, then the lot or parcel, or portion of the lot or parcel, is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel, or portion of a lot or parcel, is unsuitable for one farm use does not mean it is not suitable for another farm use.*

**Finding 4:** Staff finds the applicants submitted the following justification to address this requirement:

The subject property is comprised of varying and rocky terrain. The property is not within the boundaries of an irrigation district. Given the lack of rainfall, and without water for irrigation, the subject property is unable to support crop production or livestock grazing on a commercial scale by itself or in conjunction with other properties in the vicinity. With no adjacent properties currently in commercial farm or forest use, it is unlikely that the subject property could be combined with other nearby land holdings to create a viable commercial farm or forest venture.

The NRCS Soil Survey identifies the following soil types on the property:

<u>Soil Types</u>	<u>Prime farmland if irrigated?</u>
3B Agency-Madras complex, 0-8% Slopes	Y
86A Madras sandy loam, 0-3% Slopes	Y
118D Simas-Ruckles complex, 15%-40% Slopes North	N
119D Simas-Ruckles complex, 15%-40% Slopes North	N

Staff finds as previously stated, the site is not located within an irrigation district, nor does the parcel have water rights. Staff finds the suitability of the soils for farming are only applicable if irrigation water is available.

Staff finds the applicant proposes a homesite on generally rocky land accessed by an existing road constructed decades ago, and this homesite location would not be suitable for farm or forestry activities.

**Finding 5:** Staff finds the applicants essentially argue that the entire subject property is generally unsuitable for the production of farm crops, livestock, or merchantable tree species due to the limited productivity of soils on the parcel, especially without water for irrigation. Because rainfall and water for irrigation is limited in the area, the subject property is unable to support crop production or livestock grazing on a commercial scale by itself or in conjunction with adjacent or nearby properties. Because neither the subject property nor any adjacent or nearby properties appear to be in farm use or forest use, staff finds it is unlikely that the subject property could be put to farm or forest use in conjunction with other land in the vicinity. Staff finds that placement of the proposed nonfarm dwelling and amenities in the west area of the property will be on land generally unsuitable for farm use and will use a road already being used by one neighbor, thereby not creating a new use type for the road.

3. *The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non/arm dwelling will alter the stability of the area, the cumulative impact of possible new non/arm dwellings on other lots or parcels in the area similarly situated shall be considered. To address this standard, the applicants shall:*

a. *Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land*

*use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;*

*b. Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non/arm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non/arm/lot-of-record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non/arm dwellings under Section 301.9(8) or (C). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non/arm dwelling under this subparagraph;*

*c. Determine whether approval of the proposed non/arm/lot-of record dwellings, together with existing non/arm dwellings, will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non/arm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.*

**Finding 6:** Staff finds A map is included with this application showing the subject 179.83-acre property and all properties within a 2,000-acre study area.

An impact analysis starts on page 10 of this narrative. The area includes fourteen parcels wholly or partially within the study area. Eight of these parcels are in Jefferson County, and zoned Rangeland. Six of these parcels are in Deschutes County, and zoned Exclusive Farm Use. None of the parcels are within an irrigation district. Soil types are rocky with basalt outcrops, cliffs and uneven terrain. Vegetation includes grasses, junipers and sagebrush.

**Finding 7:** Staff finds the applicants provided the following information regarding the types of farm uses; the number, location, and type of existing dwellings; and dwelling development trends to describe the land use pattern within the proposed study area: *Approximately half of the study area (three parcels) is undevelopable public land owned by the Federal Government. Two parcels are owned by the Deschutes Land Trust and made undevelopable by conservation easement. The remaining nine parcels are privately held. Four of these privately held parcels are developed with nonfarm or lot-of-record dwellings. Five parcels are vacant and may be eligible for future nonfarm or lot-of-record dwellings.*

*The predominant land use pattern in the vicinity is vacant land associated either with public ownership, easements, or residences. Commercial agriculture and forestry are not significant land uses.*

*Given the existing pattern of land uses along with rough terrain and arid climate, the proposed nonfarm dwelling would have no anticipated impact on the stability of character of the area. Similarly, the cumulative impact of the proposed nonfarm dwelling, along with a small number of additional potential nonfarm dwellings in the vicinity, would have minimal to no impact.*

**Finding 8:** Staff finds the above findings submitted by the applicants in response to this requirement appear to provide the information necessary to conduct the required analysis. Staff finds the proposed study area contains 2,000 acres and shows a good overview of the land use pattern of the area.

**Finding 9:** Staff finds that there appears to be few opportunities within the study area for additional nonfarm dwellings or lot- of-record dwellings based on the limited number of parcels in the study area. Staff finds the County agrees with the applicants that approval of the proposed nonfarm dwelling will not materially alter the stability of the land use pattern in the area by itself or cumulatively with other nonfarm dwellings that may potentially be permitted in the area. Staff finds as previously mentioned under other review requirements in this report, adjacent and nearby properties in the RL Zone are not currently used for farming, and there is little reason to believe that the subject property will provide an opportunity to be used in conjunction with other land in the RL Zone to form a viable commercial farming or livestock operation.

4. *The dwelling will be situated on:*

a. *A lot or parcel lawfully created before January 1, 1993; or*

b. *A lot or parcel lawfully created on or after January 1, 1993, as allowed under Section 301.9(8) or (C).*

**Finding 10:** Staff finds the subject parcel was created by Partition Plat 1998-11 as approved and recorded with Jefferson County as 179+ acres thereby complying this requirement.

5. *The lot or parcel on which the dwelling will be located does not contain a dwelling.*

**Finding 11:** Staff finds the subject parcel is vacant. Staff finds the parcel on which the nonfarm dwelling would be located does not contain a dwelling, thus this requirement is met.

6. *If in the RL zone, the lot or parcel on which the dwelling will be located is at least forty (40) acres in size.*

**Finding 12:** The parcel on which the proposed nonfarm dwelling is proposed to be located is Tax lot 4500 in Section 35, Township 13 South, Range 11 East, W.M., is zoned RL and is 179.93 acres in size according to Jefferson County Planning and County Assessor records. Staff finds the subject property is in the RL Zone and is 179.93 acres in size, which is greater than the minimum required to be considered for a nonfarm dwelling in the RL Zone thus this requirement is met.

7. *Final approval shall not be granted and septic or building permits shall not be issued on a lot or parcel which is, or has been, receiving special assessment until evidence has been submitted that the lot or parcel upon which the dwelling is proposed has been disqualified for valuation at true cash value for farm use under ORS 308A.050 to 308A.128, or for other special assessment under ORS 308A.315, 321.257 to 321.381, 321.730, or 321.815, and that any additional taxes that have been imposed as a result of the disqualification have been paid. Final approval under this section will not*

*change the date the County's decision becomes final or the permit expiration period under Section 301.7.*

**Finding 13:** Staff finds the applicants acknowledge in their burden of proof that any special assessments will be discontinued and any additional taxes and or penalties will be paid prior to final approval. Staff finds that this shall be required as a condition of approval.

**Finding 14:** Staff finds that regardless of whether or not the subject property is currently receiving special assessment for farm use, the County will require, as a condition of approval, that current evidence be submitted demonstrating that the subject property has been disqualified for valuation at true cash value for farm use under Oregon Revised Statute (ORS) 308A.050, or for any other special assessment as listed under this requirement, and that any additional taxes imposed as a result of the disqualification have been paid prior to issuing zoning approval for a building permit for a dwelling.

*B. Jefferson County Zoning Ordinance, Section 321- Wildlife Area Overlay Zone*

*1. JCZO Section 321.5(A):*

*New dwellings and their accessory buildings in the WA [overlay] zone shall be located entirely within 300 feet of at least one of the following, except as provided in {321.51(8):*

- 1. An existing lawfully established dwelling that existed as of August 31, 1995; or*
  - 2. A public road or county-approved private road that existed as of August 31, 1995;*
- or*
- 3. A driveway that existed as of August 31, 1995 that provides the primary access to an existing dwelling either on the same parcel or on another parcel*

**Finding 15:** Staff finds that application points out that several potential homesite locations exist on the property. The southeast property line is formed by Public Usage Road 3160, which is owned and maintained by the US Forest Service. A homesite could be accessed directly from this road. An existing driveway is also present on the site where a potential homesite could utilize this driveway, which is within 300 feet of the USFS road.

**Finding 16:** Staff finds the location proposed for the nonfarm dwelling by the applicants seems to comply with the provisions of Section 321.5(A) (WA Overlay Zone) whereby the homesite is to be sited within 300 feet of a dwelling or road that existed as of August 31, 1995. Staff therefore finds the applicant has made the case that the homesite site appears to comply with the provisions under Section 321.S(B) of the JCZO for siting of a dwelling on the subject property.

*3. JCZO Section 321.5(C) states:*

*Considering the locations for new dwellings and their accessory buildings allowed under paragraphs A and B of this section, the proposed development shall have minimal adverse impact on big game winter range habitat based on the following factors:*

- 1. New dwellings and structures shall be clustered with one another;*
- 2. Development shall be located to avoid conflicts with big game winter range habitat or adverse impacts to cover, forage or access to water;*



3. *Road and driveway development shall be the minimum necessary to support the use.*

**Finding 17:** Staff finds that attached as Exhibits C is a response from ODFW. Staff also finds that it shall be a condition of approval that any additional future buildings proposed on the property shall be clustered near the proposed homesite within the required 300 feet.

4. *JCZO Section 321.7 Waiver of Remonstrance:*

*Prior to issuance of building permits for a new dwelling in a WA Zone, the property owner(s) shall sign and record in the County deed records a Waiver of Remonstrance and Agreement acknowledging that the property is located in a wildlife habitat area, and agreeing that current and future land owners will hold Jefferson County and ODFW harmless for any wildlife damage to the property, including damage to any landscape and gardens.*

**Finding 18:** Staff finds the requirement to sign and record a Waiver of Remonstrance and Agreement acknowledging the property is in a wildlife habitat area and agreeing to hold Jefferson County and ODFW harmless shall be a condition of approval.

C. *Jefferson County Zoning Ordinance, Section 401 - Applicable Access Standards*

1. *JCZO Section 401.1 - Minimum Access Requirement*

*Evidence of legal access providing physical ingress and egress that meets the emergency vehicle access standards of Section 426.2(E) is required prior to issuance of building or septic permits. Access shall be provided by one of the following means:*

a. *A driveway connecting via direct parcel frontage to a public road, a nonconforming private road or private road in a destination resort, a Bureau of Land Management (BLM) road, or U.S. Forest Service (USFS) road.*

b. *A recorded, exclusive easement for ingress and egress.*

c. *A long-term special use permit for ingress and egress across BLM or USFS land.*

d. *A shared driveway, provided the driveway will serve no more than two parcels and the property owner submits evidence that they have an easement or other legal right to use the driveway for ingress and egress.*

e. *A decree or judgment granting ingress and egress issued by a Court of competent jurisdiction.*

**Finding 19:** Staff finds access to the site where the nonfarm dwelling would be located is via a road extending northward from Holmes Road in Deschutes County. Staff finds the parcel has direct frontage on USFS Public Usage Road 3160 and that the applicant shall either access this road directly, or via an existing driveway on the subject parcel. Staff finds the emergency vehicle access standards are addressed later in this report. If any emergency vehicle access provision is found to not be met, a condition of approval will be attached to address the provision, if appropriate to do so.

2. **401.4 Access Standards**

*Access shall comply with the emergency vehicle access standards of Section 426.2(E), the clear vision area standards of Section 403, and the requirements of Section 12.18 of the Jefferson County Code.*

**Finding 20:** Staff finds the clear vision area standards under Section 403 and the emergency vehicle access standards under Section 426.2(E) of the JCZO apply to the applicants' proposed nonfarm dwelling and any accessory structures. Staff finds Section 426.4 of the JCZO addresses the timing as to when the applicants must demonstrate compliance with certain fire safety standards for an approved dwelling and for the private driveway access to the dwelling site. Staff finds the applicants are required to demonstrate that the fire safety standards under Section 426.2(E) through (H) for the driveway access are met prior to beginning framing of the nonfarm dwelling; otherwise, no building inspections other than for the forms and foundation will be approved until these fire safety standards are met.

Staff finds compliance with Jefferson County's access requirements will be a condition of this approval.

3. **401.5 Driveway Connection Permits**

a. *A Driveway Connection permit shall be obtained prior to the construction of any new driveway that accesses a county or local access road.*

b. *A Driveway Connection permit shall be obtained prior to issuance of a building permit for any new, remodeled or replacement building that will obtain access via an existing driveway that does not meet current driveway connection standards of Section 12.18 of the Jefferson County Code, unless the Public Works Director has authorized a variation of those standards.*

c. *Evidence that the Oregon Department of Transportation has approved the access shall be submitted prior to issuance of a building permit for any new, remodeled or replacement building that will obtain access from a state highway.*

**Finding 21:** Staff finds that information submitted by the applicants indicates that access to the site where the nonfarm dwelling would be located is via an existing road extending northward from Holmes Road in Deschutes County. The road passes through USFS land, BLM land and private land and legal access was verified for the property by Partition Plat 1998-11. Staff finds the applicants shall be required to submit evidence in as a condition of approval that shows that they have a long-term special use permit for ingress and egress from both the USFS and BLM for each section of the road correspondingly managed by the agency. Staff finds that because access to the subject property does not directly involve a County road, the requirement for a Driveway Connection permit is not applicable.

D. **Jefferson County Zoning Ordinance, Section 426 - Fire Safety Standards**

1. **JCZO Section 426.2 - Mandatory Standards**

*The following fire safety standards are mandatory for all new construction in the unincorporated areas of Jefferson County, unless a variance has been granted in accordance with Section 426.5. New construction includes additions to existing buildings and replacement buildings.*

a. **Roof Coverings**

*New buildings, reroofing of existing buildings, and additions to buildings that will have a roof area more than 50 percent of the existing roof area, shall have Underwriter's Laboratory rated Class A or B roofing or equivalent, or tile or metal roofing. Wood roofing of any type, including pressure treated wood shingles or shakes, is prohibited.*

**b. Chimneys and Stovepipes**

*The openings of all chimneys and stovepipes shall be completely covered with a spark arrester, which is constructed of 12 USA standard gauge wire which has openings no larger than 1/2- inch in size.*

**Finding 22:** Staff finds the above requirements for roofing, chimneys, and stovepipes can best be met as a condition of approval since construction of the proposed nonfarm dwelling cannot lawfully occur until all required land use requests and permits have been approved. Staff finds a condition of approval will be included that requires compliance with the standards listed above (roofing material and spark arresters) as part of the building permit application and review process. Staff finds a building permit will not be issued unless the plans for the proposed nonfarm dwelling demonstrates compliance with the mandatory fire safety standards under Sections 426.2(A) and (B) listed above.

**c. Slope**

*New dwellings shall be located on a slope of less than 40 percent, based on the natural grade.*

**Finding 23:** Staff finds the applicants' site plan indicates an area on the NRCS maps where the slope is less than 30% thereby meeting this requirement.

**d. Fire Fighting Protection**

*Where possible, dwellings shall be located within a fire district that provides structural fire protection. If the property is not in a fire district, the following standards shall be met:*

*i. The property owner shall provide evidence that they have requested that the nearest fire district either annex the property or provide fire protection by contract if annexation is not possible. If the fire district will not provide protection, the County may require alternative fire protection measures, including one or more of the recommended standards in Section 426.3.*

*ii. The property owner shall sign and record in the deed records for the County a Waiver of Remonstrance and Agreement binding the landowner, and the landowner's successors in interest, acknowledging that the property is in an area where no fire protection will be provided and agreeing to hold Jefferson County harmless for any damage to life or property caused by fire.*

**Finding 24:** Staff finds the subject property is not located in a rural fire protection district (RFPD). Staff finds the applicants shall either join the Camp Sherman Fire District or sign and record in the deed records for the County a Waiver of Remonstrance and Agreement binding the landowner, and the landowner's successors in interest, acknowledging that the property is in an area where no fire protection will be provided and agreeing to hold Jefferson County harmless for any damage to life or property caused by fire. Staff finds this requirement can be met through compliance with a condition of approval.

**e. Emergency Vehicle Access**

*Access to within 50 feet of all buildings shall be constructed to the following standards unless a variance has been granted in accordance with Section 426.5. However, existing access to a lawfully established building that does not meet these standards need not be upgraded to comply with the standards when an improvement to the building or a proposed accessory building is valued at less than \$10,000, provided that the existing access is adequate to provide ingress and egress by fire protection vehicles.*

*i. Access roads and driveways serving a single residence shall have a surface width of at least 12 feet. The width shall be increased to a minimum of 14 feet in curves with a centerline radius of less than 150 feet to ensure emergency vehicles remain on an all-weather surface. The area extending at least 10 feet from each side of the driveway's centerline shall be kept clear of obstructions and shall be maintained as a fuel break. Driveways more than 250 feet in length shall include turnouts at 150 foot intervals or lesser distance as needed to allow visibility. Turnouts shall be at least 10 feet in width and 50 feet in length and shall meet the same load requirements as required by subsection (4).*

*ii. Access roads and driveways serving more than one residence shall have a surface width of at least 20 feet.*

*iii. Commercial or industrial buildings that will have any portion of an exterior wall more than 150 feet from an existing road shall have an emergency vehicle access drive with a surface width of at least 20 feet.*

*iv. A minimum clear height of at least 14-1/2 feet shall be maintained for the entire width of the driveway.*

*v. Access shall be designed and constructed to maintain a minimum 75,000 pound load carrying capacity. If not designed by an engineer, driveways shall be constructed of a minimum of 5 compacted inches of crushed rock meeting Oregon Department of Transportation material standards. The road shall be compacted until a loaded 10 cubic yard dump truck ceases to deflect the road.*

*vi. Maximum finished grade shall be no greater than 10 percent unless approved by the fire chief. Grade shall not exceed 4 percent in turnarounds. Any portion of the access with a grade greater than 8 percent shall be surfaced with 1-1/2 inch Class C asphalt mix, 0-11 oil mat, or 4-inch fiber mesh reinforced Portland cement concrete.*

*vii. Curves shall have a minimum centerline radius of 55 feet, including the intersection of a driveway with a public road.*

*viii. Gates shall be a minimum of 20 feet wide and shall be of a swinging or sliding type constructed of materials that allow manual operation by one person. Electric gates shall be equipped with a Knox box purchased from the fire district.*

*ix. Dead-end access roads and driveways more than 150 feet in length shall terminate in a 120-foot hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac or alternative turnaround arrangement as shown in the following diagrams. Turnarounds shall also be provided every 1/2-mile on dead-end access roads and driveways exceeding 1 mile in length. The turnaround area shall meet the same load requirements as required by subsection (4).*

**Finding 25:** Staff finds the applicants will need to demonstrate that all of the emergency vehicle access requirements will be fully met by no later than after building permit

approval is obtained but prior to framing the nonfarm dwelling. Staff finds compliance with the above emergency vehicle access standards can be met as a condition of this approval.

**2. JCZO Section 426.2(F) - Address Signs**

*An address sign shall be posted at the point where a driveway leaves a road, in such a manner as to be visible to vehicles approaching from both directions. A directional address sign must also be posted at the junction where an individual driveway leaves a shared driveway. Address signs shall contain white, reflective numbers at least 3 inches in height on a green background.*

**Finding 26:** Staff finds the applicants did not provide evidence in the application materials that an address sign exists for the subject property. However, this requirement is capable of being met with a condition of approval requiring the property owner submit evidence that an address sign is posted in compliance with the requirements above, prior to issuance of a certificate of occupancy for the farm dwelling.

Staff finds this requirement can best be met as a condition of approval requiring the applicants to submit evidence of an address sign for subject property in compliance with the above requirements, prior to issuance of a certificate of occupancy for the nonfarm dwelling. The applicants will likely need to work with the County and the USFS to determine the best placement location for the address sign.

**3. JCZO Section 426.2(G) - Fuel Breaks**

*Irrigated agricultural land and properties that are inside an urban growth boundary are exempt from the fuel break requirements, but must comply with all other fire safety standards. Fuel breaks shall not be developed within riparian protection areas required by Section 419.1. In all other areas, fuel breaks are required that meet the following standards, unless a variance has been granted in accordance with Section 426.5:*

*a. A primary fuel break shall be developed and maintained around all buildings. The fuel break shall be at least 30 feet wide, or to the property line, whichever is the shortest distance. The fuel break shall be measured from the furthest extension of the structure, including attached carports, the outside edge of a deck, and the edge of roof eaves. The goal within the primary fuel break is to remove fuels that will produce flame lengths in excess of 1 foot. Brush, downed limbs and other dead plant material must be removed. The primary fuel break should contain primarily non-flammable ground cover such as asphalt, concrete, rock, brick, bare soil, green grass, or succulent ground cover. Combustible ground cover or plant materials, such as bark mulch or accumulated leaves and needles, are prohibited within 12 inches of buildings. Herbaceous plants such as groundcovers, bedding plants, bulbs and perennial flowers are permitted provided they are kept green during the fire season. Dry grass is allowed if kept less than 4 inches in height. Isolated groupings of deciduous ornamental shrubbery and trees, native trees or other low plants (less than 24 inches) are allowed when maintained in a green condition free of dead plant material and ladder fuels, and provided they are arranged and maintained in such a way that minimizes the possibility a fire can spread to adjacent vegetation. Healthy trees are permitted, provided they are pruned to remove branches that are dead or that are less than 10 vertical feet above the*



ground. A 15-foot clearance between tree limbs and stovepipes or chimney outlets must be maintained.

No branches may overhang within 25 vertical feet of a roof areas under decks shall be kept free of firewood, stored flammable materials, leaves and needles.

b. A fuel break shall be developed and maintained immediately adjacent to any driveway that is more than 150 feet in length. The fuel break shall extend at least 10 feet from each side of the centerline of the driveway, or to the property line, whichever is the shortest distance. A minimum clear height of at least 14-1/2 feet shall be maintained for the entire width of the driveway and fuel break. The driveway fuel break shall meet the same requirements as outlined in subsection (1) for ground cover and limbing of trees.

**Finding 27:** Staff finds this requirement can best be met as a condition of approval requiring the applicants clear and maintain fuel break areas in compliance with the above standards. A site inspection will be conducted to verify compliance prior to issuing a certificate of occupancy for the nonfarm dwelling.

Staff finds the applicants will be required to comply with the fuel break standards as a condition of approval prior to issuance of a certificate of occupancy for the proposed nonfarm dwelling. The fuel break requirements will be verified through a site inspection by County planning staff.

#### 4. JCZO Section 426.2(H) - Storage of Flammable Materials

The area under decks and stairways shall be kept free of flammable material, including leaves and needles. Firewood and lumber piles shall be kept at least 20 feet away from buildings from April 1 through November 1, unless kept within a fully enclosed building.

**Finding 28:** Staff finds this requirement can best be met as an ongoing condition of approval. As an ongoing condition of approval, the applicants will be required to store flammable materials in compliance with the above requirement.

#### 5. JCZO Section 426.3 - Recommended Standards

The following fire safety standards are recommended in all areas that are susceptible to a wildfire, and one or more of the standards may be required in areas with a high wildfire hazard when a fire district will not provide structural fire protection:

a. All permanent openings into and under the structure, including the area under decks, shall be completely covered with noncombustible, corrosion-resistant, mesh screening material which has openings no greater than 1/4-inch in size.

b. Eaves shall be boxed in.

c. Fire resistant building materials such as stucco or fiber-cement siding shall be used.

d. An automatic fire sprinkler system shall be installed.

e. Onsite firefighting equipment and water storage shall be provided. The water supply shall contain at least 4,000 gallons at all times. Road access to within 15 feet of the water source shall be provided for fire apparatus, with a turnaround adequate to accommodate the firefighting equipment. Permanent signs shall be posted along the access route to show the location of the emergency water source. If providing road access to the water source is not feasible, the water source shall be equipped with a

*minimum 2-1/2-inch dry standpipe assembly equipped with NST (National Standard Thread) fittings to enable fire equipment to draught water.*

*f. A minimum 20-foot secondary fuel break shall be created around buildings. The secondary fuel break shall extend in all directions around the primary fuel break required by Section 426.2(G). An additional 50 feet, for a total of 100 feet of fuel break, shall be created when the slope around a dwelling exceeds 20 percent. This additional 50 feet is required downhill and to each side of the dwelling, but is not required uphill of the dwelling. The goal of the secondary fuel break is to reduce fuels so that the overall intensity of a wildfire will be lessened and the likelihood of crown fires and crowning is reduced. Healthy trees are permitted, provided they are pruned to remove branches that are dead or that are less than 10 vertical feet above the ground. Small trees and shrubs growing underneath larger trees must be removed or pruned to less than 1/3 the height of the lowest branch of the larger trees. Understory vegetation may include lawns or groundcover maintained at less than 12 inches in height, and low shrubs arranged in a manner so that fire cannot spread between plantings or into trees. Brush and dead plant material must be removed.*

*g. Open fires and use of burn barrels shall not occur unless in compliance with Jefferson County Fire District standards.*

*h. Liquid propane gas tanks shall be placed according to state Fire Marshal standards.*

**Finding 29:** Staff finds the subject property is not located within a RFPD. Staff finds the applicants must, to comply with Section 426.2(0), make a formal written request to the Sisters/Camp Sherman RFPD to annex the subject property into the RFPD, or to contract with the RFPD for fire protection services. If the applicants are unsuccessful in obtaining fire protection from the Sisters/Camp Sherman RFPD, then the County may make one or more of the standards under Section 426.3 mandatory, rather than recommended, as part of the approval for a building permit for the nonfarm dwelling.

#### **JCZO Section 601**

*A. Uses listed in this Ordinance as requiring conditional use approval are not outright permitted uses. They may be allowed only if found to comply with the approval criteria in Section 602. An application for a conditional use permit shall be reviewed by the Planning Commission at a public hearing, in accordance with the procedures in Section 903.5. The Planning Commission may approve, approve with conditions, or deny the application.*

*B. A use that was established prior to the effective date of this ordinance, but that is now classified as a conditional use in the zone, may continue without additional County approval.*

*C. Any proposal to change or expand a conditional use requires submittal of an application, which will be processed as if it were for a new conditional use. In the event the application is denied, the use may continue at its previous level and scope.*

**Finding 30:** Staff finds that this request for a conditional use approval must comply with JCZO Section 602.

**JCZO Section 602**

*Conditional use applications must show compliance with approval criteria of the underlying zone and this Section. The burden of proof is on the applicant to submit sufficient information to demonstrate that the application complies with the approval criteria. For instance, a traffic impact study in accordance with Section 421 may be needed to show compliance with criterion (D). An applicant may demonstrate that the approval criteria will be satisfied through the imposition of clear and objective conditions of approval, in accordance with Section 603. The following criteria must be met:*

**A.** *The proposal is consistent with all applicable standards and criteria of the Zoning Ordinance;*

**Finding 31:** Staff finds that the proposal is consistent with all applicable standards and criteria of the Zoning Ordinance.

**B.** *Taking into account location, size, design and operating characteristics, the proposal will have a minimal adverse impact on the (a) livability, (b) value, and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright. In cases where there is a finding of overriding public interest, this criterion may be deemed met when any adverse impact resulting from the use will be mitigated or offset to the maximum extent practicable;*

**Finding 32:** Staff finds that taking into account location, size, design and operating characteristics, and coordination with ODFW, the proposal will have a minimal adverse impact on the (a) livability, (b) value, and (c) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright and that no overriding public interest exists.

**C.** *Adequate facilities and services are available or can be made available to serve the proposed use, including, but not limited to, water supply, sewage disposal, electric power, law enforcement service and fire protection;*

**Finding 33:** Staff finds that adequate facilities and services are available or can be made available to serve the proposed use, including, but not limited to, water supply, sewage disposal, electric power, law enforcement service and fire protection.

**D.** *The development will not result in traffic volumes that will reduce the performance standard of a transportation facility below the minimum acceptable level identified in the applicable Transportation System Plan, and will comply with all applicable standards in Section 12.18 of the Jefferson County Code or applicable city standards if located within an urban growth boundary. This criterion may be met through a condition of approval requiring improvements to the transportation facility.*

**Finding 34:** Staff finds that proof of compliance with JCZO Section 602(D.) shall be required as a condition of approval.

**JCZO Section 603.**

**A.** As a condition of approving a conditional use permit, the property owner shall sign and record in the deed records for the county a "Waiver of Right to Remonstrate Against Accepted Farm Use Practices And the Maintenance or Construction of County Roads."

**Finding 35:** Staff finds that compliance with JCZO 603(A.) shall be required as a condition of approval.

**B.** In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions which they consider necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include but are not limited to the following:

1. Increasing setbacks from adjoining properties.
2. Limiting the height, size, or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the road width, requiring turn lanes, or other transportation improvements.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location, and lighting of signs.
7. Requiring fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
8. Designating land for open space.
9. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibrations, air pollution, glare and odor.
10. Requiring the developer to enter into a bonding agreement to ensure completion of improvements, in accordance with Section 413.
11. Requiring the permit to be reviewed and renewed after a specified time period. If this condition is imposed, the Planning Commission shall hold a public hearing to review the permit. The review will take into consideration any complaints about the use that have been received and any adverse impacts caused by the use. The Planning Commission may revoke the permit in accordance with Section 909, modify any original conditions of approval, or impose additional conditions. The decision of the Planning Commission may be appealed to the Board of Commissioners in accordance with Section 907.3.

**Finding 36:** Staff finds that Section 603(B.) is not required because this is an administrative decision.

**Section 903.4**

**903.4 Administrative Review**

Except for the specific types of applications reserved to the Planning Commission as set forth in Section 903.5, all applications shall be subject to Administrative Review and decision. Applications subject to Administrative Review will be reviewed by the Planning Director, who shall make a tentative decision without a public hearing except as

*otherwise specified in this section. Uses subject to Administrative Review will be reviewed according to the following procedures:*

*A. If the property is within an area covered by a Community Planning Advisory Committee (CPAC) appointed by the Board of Commissioners, notice of the application shall be sent to the Committee for comments and a recommendation on the application. At the option of the Planning Director, notice of an accepted application may also be sent to surrounding property owners or to any agency or jurisdiction that may be affected by the proposed land use activity. The notice shall state that the County has accepted an application, describe the nature of the proposed land use activity, and state that comments may be made in writing on the application within 15 days from the date the notice was mailed.*

*B. After preliminary review of the application, and taking into consideration any comments received, if the Planning Director feels the proposed use may warrant a public hearing because of its size, scope, nature, potential impacts or other factors, the Director may refer the application directly to the Planning Commission for a public hearing in accordance with the procedures in Section 903.5 rather than process the application administratively.*

*C. Applications reviewed administratively shall be either approved, approved with conditions, or denied by the Planning Director in writing.*

*D. Notice of the administrative decision will be sent to all parties entitled to notice of the decision according to law, and to any party who submitted written comments on the application.*

*E. The administrative decision may be appealed to the Planning Commission within 15 days of the date the Notice of Decision was mailed, in accordance with the provisions of Section 907.2.*

**Finding 37:** Staff finds that compliance with Section 903.4 is required and has been met by evidence found in Casefile 23-NFD-02 such as copies of the required notices.

#### **SUMMARY CONCLUSIONS AND DECISION**

The request, Casefile 23-NFD-02 by Equity Trust Company Custodian (Otto and Fay Keller) for a nonfarm dwelling on the 179.93 acre subject property in the RL Zone appears to meet, or be capable of meeting with appropriate conditions of approval for all of the applicable review criteria and development standards under Sections 301.6 and 321 of the JCZO. Compliance with access and fire safety standards under Sections 410 and 426 of the JCZO will be addressed at the time the applicants make application for a building permit for the nonfarm dwelling, or before a certificate of occupancy for the dwelling is issued.

Compliance with all of the access and fire safety standards under Sections 410 and 426 of the JCZO and any other applicable siting standards, shall be addressed as part of the zoning approval for a building permit for the nonfarm dwelling.

Therefore, based on the information in the application and file, this report and attached Exhibits A to C, the above review criteria and findings of fact and conclusions, the request 23-NFD-02, for a nonfarm dwelling on property in the RL Zone identified as Tax Lot 4500, Section 35, T13, R11 East, W.M., is approved subject to the conditions of



approval in this decision, and the notice of decision and opportunity to appeal provisions in Sections 903.4(E) of the JCZO.

Staff finds the proposed nonfarm dwelling will be located on property that is not suitable for raising farm crops, livestock or merchantable tree species. Staff also finds there are no surrounding farms or ranches that would be impacted by the dwelling and associated activities predominantly due to federal land ownership surrounding the property. Staff finds the dwelling will not materially alter the overall land use pattern of the area, thus staff finds the proposal meets all of the applicable Zoning Ordinance criteria.

**Decision:** Based on the application, the Burden of Proof including all Exhibits, all information in the record and the staff findings listed in this report and Exhibits attached, this request for a non-farm dwelling (23-NFD-02) is hereby approved with the following conditions of approval:

1. The applicants must submit a copy of a Waiver of Remonstrance and Agreement recorded in the Jefferson County Clerk's office that acknowledges the subject property is in a wildlife habitat area and agrees to hold Jefferson County and ODFW harmless for any wildlife damage to the property.
2. Prior to issuance of a building permit for the nonfarm dwelling, the applicants must submit a copy of a letter from the Sisters/Camp Sherman RFPD indicating that the applicants requested annexation of the subject property into the RFPD, or to contract for fire protection services. If the letters indicate that the Sister/Camp Sherman RFPD is unwilling to annex or contract for fire protection services for the subject property, the Jefferson County Community Development Department will work with the applicants to determine which, if any of the recommended standards under Section 426.3 of the JCZO will become mandatory as part of the building permit approval process.
4. If the applicants are not able to obtain fire protection service from the Sisters/Camp Sherman RFPD, the applicants must submit a copy of a signed and recorded Waiver of Remonstrance and Agreement acknowledging that no fire protection will be provided and holding Jefferson County harmless as specified in detail under Section 426.2 of the JCZO.
5. The applicants' building plans must demonstrate that the dwelling will have fire retardant roofing and that all chimneys or stovepipes will have spark arrestors.
6. Prior to framing the nonfarm dwelling, the applicants must submit evidence that the existing access road from its intersection with the USFS/BLM road to the dwelling site complies with the emergency vehicle access standards under Section 426.2(H) of the JCZO. No further building inspections or approvals will be granted until this condition of approval is satisfied.

7. The applicants/property owner must submit current evidence that the subject property has been disqualified for valuation at true cash value for farm use under ORS 308A.050, or for any other special assessment under ORS 308A.315, 321.257 to 321.381, 321.730, or 321.815, and that any additional taxes imposed as a result of the disqualification have been fully paid.
8. Any future accessory structures or development must be clustered within 300 feet of the nonfarm dwelling approved herein.
9. The applicants/property owners shall comply at all times with the fencing standards contained in Section 321.4 and Section 404 of the JCZO.
10. An address sign shall be posted and maintained in compliance with the standards of Section 426.2(F) prior to issuance of a certificate of occupancy for the farm dwelling.
11. Fuel breaks shall be maintained at all times along the access easement, driveway, and around all buildings in compliance with Section 426.2(G) of the JCZO.
12. The storage of flammable materials shall comply at all times with the standards of Section 462.2(H) of the JCZO.
13. Failure to comply with the conditions of approval contained herein will result in revocation of this approval. In addition, no future permits will be approved for the property if the applicants/property owner is in violation of this approval.
14. This approval will be void four years from the date of the final decision if the development action is not initiated in that period. An extension of up to 12 months may be granted if the applicant submits a written request prior to the expiration of the approval period stating reasons that prevented him from beginning or continuing development, and the county determines that the applicant was unable to begin or continue development for reasons for which the applicant was not responsible.

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This decision determines compliance with the Jefferson County Comprehensive Plan and Zoning Ordinance. It does not guarantee compliance with the requirements of any other agency, nor does it guarantee that building or septic permits will be issued. It is the applicant's responsibility to verify that the requirements of all other agencies have been met.

Notice of the decision will be sent to surrounding property owners. They, or the

applicant have the right to appeal the decision within 15 days of the date it is mailed. The decision will be final once the appeal period has ended, provided the decision has not been appealed.

Respectfully,

A handwritten signature in blue ink, appearing to read "Phil Stenbeck", written over a horizontal line.

Phil Stenbeck, CFM  
Jefferson County Planning Director

**Attachments:**

**Exhibit A – Warranty Deed**

**Exhibit B – Cumulative Impact Analysis and Burden of Proof**

**Exhibit C – ODFW Letter**

## Exhibit A – Warranty Deed

Jefferson County Official Records  
Kathleen B. Marston, County Clerk

2014-2060

Equity Trust Company Custodian FBO Fay M. Keller  
Equity Trust Company Custodian FBO Otto C. Keller  
Otto Keller  
13878 SE Mountain Crest Dr.  
Happy Valley, OR 97086



\$56.00

07/03/2014 01:08:57 PM

D-WD Cnt=1 Stn=19 MARSTONK  
\$10.00 \$11.00 \$20.00 \$10.00 \$5.00

**Grantors' Name and Address**

Equity Trust Company Custodian FBO Fay M. Keller  
Equity Trust Company Custodian FBO Otto C. Keller  
Otto and Fay Keller  
13878 SE Mountain Crest Dr.  
Happy Valley, OR 97086

**Grantees' Name and Address**

After recording return to:  
Gary P. Shepherd, Attorney  
Oregon Land Law  
PO Box 86159  
Portland, OR 97286

Until a change is requested, send all tax statements to:  
No change requested

**STATUTORY WARRANTY DEED**

Equity Trust Company Custodian FBO Fay M. Keller, Roth IRA Act. #73769; Equity Trust Company Custodian FBO Fay M. Keller, IRA Act #14262; Equity Trust Company Custodian FBO Otto C. Keller; and Otto C. Keller, individually (Grantors)

convey and warrant to

Equity Trust Company Custodian FBO Fay M. Keller, IRA Act #14262, as to an undivided 71.875%;  
Equity Trust Company Custodian FBO Otto C. Keller, as to an undivided 17.50%;  
Otto C. Keller and Fay M. Keller, husband and wife, as to an undivided 10.625% (Grantees);

the following described real property free of encumbrances, except as specifically set forth herein, situated in Jefferson County, State of Oregon, and legally described as follows:

**Parcel 1 of Partition Plat No. 1998-11, recorded June 15, 1998, as Instrument #982520, Jefferson County, Oregon.**

This legal description was created prior to January 1, 2008.

Subject to and excepting: Covenants, conditions, restrictions, easements and items of record. The true and actual consideration paid for this transfer, stated in terms of dollars, is \$0.00 and such good and other valuable consideration, the receipt of which is acknowledged.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS. IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS

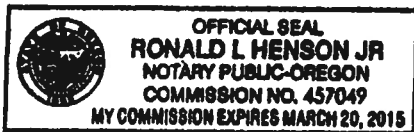
195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 27 day of JUNE, 2014

[Signature]  
Otto C. Keller

State of Oregon, County of Clatsop )ss.

This instrument was acknowledged before me on June 27<sup>th</sup>, 2014 by Otto C. Keller.



[Signature]  
Notary Public for the State of Oregon  
My commission expires: March 20, 2015

Dated this 5 day of June, 2014

[Signature]

[Signature] **Victoria Stutson**  
Corporate Alternate Signer  
Equity Trust Company Custodian FBO Otto C. Keller

State of Ohio, County of Cuyahoga )ss.

This instrument was acknowledged before me on June 5, 2014 by Corporate Alternate Signer,  
as \_\_\_\_\_ of Equity Trust Company Custodian FBO Otto C. Keller.



MICHELLE GOLDBACH  
Notary Public, State of Ohio  
My Commission Expires  
August 10, 2016

[Signature]  
Notary Public for the State of Ohio  
My commission expires: \_\_\_\_\_

Dated this 5 day of June, 2014

[Signature]

[Signature] **Victoria Stutson**  
Corporate Alternate Signer  
Equity Trust Company Custodian FBO Fay M. Keller

State of Ohio, County of Cuyahoga )ss.

This instrument was acknowledged before me on June 5, 2014 by Corporate Alternate Signer,  
as \_\_\_\_\_ of Equity Trust Company Custodian FBO Fay M. Keller.



MICHELLE GOLDBACH  
Notary Public, State of Ohio  
My Commission Expires  
August 10, 2016

[Signature]  
Notary Public for the State of Ohio  
My commission expires: \_\_\_\_\_



EXHIBIT A TO DEED  
(Legal Description)

LOT

4400

**PARCEL I:** The East half of the Northeast quarter; North half of the Southeast quarter; all being in Section 34, Township 13 South, Range 11 East of the Willamette Meridian, Jefferson County, Oregon.

4500

**PARCEL II:** Parcel 1 of Partition Plat No. 1998-11, recorded June 15, 1998, as instrument #982520, Jefferson County, Oregon.

4501

**PARCEL III:** Parcel 2 of Partition Plat No. 1998-11, recorded June 15, 1998, as instrument #982520, Jefferson County, Oregon.

4503

**PARCEL IV:** Parcel 1 of Partition Plat No. 1998-19, recorded December 14, 1998, as instrument #985908, Jefferson County, Oregon.

4502

**PARCEL V:** Parcel 2 of Partition Plat No. 1998-19, recorded December 14, 1998, as instrument #985908, Jefferson County, Oregon.

4506

**PARCEL VI:** Parcel 1 of Partition Plat No. 2001-02, recorded March 19, 2001, as instrument #20011030, Jefferson County, Oregon.

4505

**PARCEL VII:** Parcel 2 of Partition Plat No. 2001-02, recorded March 19, 2001, as instrument #20011030, Jefferson County, Oregon.

4504

**PARCEL VIII:** Parcel 3 of Partition Plat No. 2001-02, recorded March 19, 2001, as instrument #20011030, Jefferson County, Oregon.

NOTE: This legal description was created prior to January 1, 2008.

23-NFD-02

**Exhibit B – Cumulative Impact Analysis and Burden of Proof**

Keller Property

Nonfarm Dwelling Review



# Table of Contents

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**Supporting Materials**

Signed Development Application

Code Compliance Narrative and Impact Analysis

Impact Analysis Area Plan

Assessor's Summary Report

Statutory Warranty Deed

## **Project Overview**

The applicant requests authorization to construct a nonfarm dwelling on parcel 1311000004500, which is a 179.93-acre parcel in the Rangeland (RL) zone.

As shown in the following response to approval criteria, all design standards of the County are met.

## **Approval Criteria**

*Section 301.6 – Dwellings – A dwelling map be approved by the Planning Director under the Administrative Review procedures in Section 903.4 if found to comply with the listed standards and criteria and any other applicable requirements of this ordinance. The County Assessor will be notified when a dwelling is approved. A condition of approval will require that the landowner sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

**RESPONSE:** The applicant requests administrative review of a nonfarm dwelling as provided by this section. The applicant acknowledges that upon approval they will record a document prohibiting pursuing a claim for relief or cause of action alleging injury from farming or forest practices as provided in ORS 30.936 and 30.936.

1. *The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.*

**RESPONSE:** The subject property is within an area that is not predominantly used for farm or forest practices. The study area is not within an irrigation district. No properties within the study area currently hold grazing leases. No agricultural operations need to travel near the property. Approximately half of the land area within the 2000-acre buffer of the site is owned by the Federal Government, two parcels are owned by the Deschutes Land Trust, and the remainder are privately held.

The subject property and vicinity are sparsely vegetated, with grasses, juniper and sagebrush, as seen from an aerial view. The subject property is not currently in farm use, and surrounding properties in the vicinity within 0.25 miles appear to have little to no farm use, and no commercial forestry use.

With no properties within the study area primarily devoted to farm or forest use, the approval of the nonfarm dwelling will not impact the cost of farm or forest practices in the vicinity. It will also not force a significant change in the land uses currently present in the vicinity.

2. *The dwelling and all amenities to serve the dwelling, including but not limited to a driveway and septic system, will be situated upon a lot or parcel, or portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract.*
  - a. *A lot or parcel, or portion of a lot or parcel, shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and*
  - b. *A lot or parcel, or portion of a lot or parcel, is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel, or portion of a lot or parcel, can be sold, leased, rented, or otherwise managed as part of a commercial farm or ranch, then the lot or parcel, or portion of the lot or parcel, is not "generally unsuitable." A lot or parcel, or portion of a lot or parcel, is presumed to be suitable if it is composed predominantly of Class I-VI soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use.*

**RESPONSE:** The subject property is comprised of varying and rocky terrain. The property is not within the boundaries of an irrigation district. Given the lack of rainfall, and without water for irrigation, the subject property is unable to support crop production or livestock grazing on a commercial scale by itself or in conjunction with other properties in the vicinity. With no adjacent properties currently in commercial farm or forest use, it is unlikely that the subject property could be combined with other nearby land holdings to create a viable commercial farm or forest venture.

The NRCS Soil Survey identifies the following soil types on the property:

<u>Soil Types</u>	<u>Prime Farmland if Irrigated?</u>
3B Agency-Madras complex, 0-8% Slopes	Y
86A Madras sandy loam, 0-3% Slopes	Y
118D	N



Simas-Ruckles complex, 15-40% Slopes North

119D

N

Simas-Ruckles complex, 15-40% Slopes South

As previously stated, the site is not located within an irrigation district, nor does the parcel have water rights. The suitability of the soils for farming are only applicable if irrigation water is available.

The applicant proposes a homesite on generally rocky land accessed by an existing road constructed decades ago. This homesite location would not be suitable for farm or forestry activities.

3. *The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the area, the cumulative impact of possible new nonfarm dwellings on other lots or parcels in the area similarly situated shall be considered. To address this standard, the applicant shall:*
- a. *Identify a study area for the cumulative impact analysis. The study area shall be at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.*
  - b. *Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm / lot-of-record dwellings that could be approved, including the identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under Section 301.9(8) or (C). the findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwelling under this subparagraph;*
  - c. *Determine whether approval of the proposed nonfarm dwelling / lot-of-record dwellings, together with existing nonfarm dwellings, will materially alter the stability of the land use pattern in the area. The*



*stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.*

**RESPONSE:** A map is included with this application showing the subject 179.83-acre property and all properties within a 2,000-acre study area. An impact analysis starts on page 10 of this narrative. The area includes fourteen parcels wholly or partially within the study area. Eight of these parcels are in Jefferson County, and zoned Rangeland. Six of these parcels are in Deschutes County, and zoned Exclusive Farm Use. None of the parcels are within an irrigation district. Soil types are rocky with basalt outcrops, cliffs and uneven terrain. Vegetation includes grasses, junipers and sagebrush.

Approximately half of the study area (three parcels) is undevelopable public land owned by the Federal Government. Two parcels are owned by the Deschutes Land Trust and made undevelopable by conservation easement. The remaining nine parcels are privately held. Four of these privately held parcels are developed with nonfarm or lot-of-record dwellings. Five parcels are vacant and may be eligible for future nonfarm or lot-of-record dwellings.

The predominant land use pattern in the vicinity is vacant land associated either with public ownership, easements, or residences. Commercial agriculture and forestry are not significant land uses.

Given the existing pattern of land uses along with rough terrain and arid climate, the proposed nonfarm dwelling would have no anticipated impact on the stability of character of the area. Similarly, the cumulative impact of the proposed nonfarm dwelling, along with a small number of additional potential nonfarm dwellings in the vicinity, would have minimal to no impact.

4. *The dwelling will be situated on:*
- a. *A lot or parcel lawfully created before January 1, 1993; or*
  - b. *A lot or parcel lawfully created on or after January 1, 1993, as allowed under Section 301.9(8) or (C).*

**RESPONSE:** The subject parcel was created by Partition Plat 1998-11 as approved and recorded with Jefferson County.

5. *The lot or parcel on which the dwelling will be located does not contain a dwelling.*

**RESPONSE:** The subject parcel is vacant.

6. *If in the RL zone, the lot or parcel on which the dwelling will be located is at least forty (40) acres in size.*

**RESPONSE:** The subject parcel is 179.83-acres in size.

7. *Final approval shall not be granted and septic or building permits shall not be issued on a lot or parcel which is, or has been, receiving special assessment until evidence has been submitted that the lot or parcel upon which the dwelling is proposed has been disqualified for valuation at true cash value for farm use under ORS 308A.050 to 308A.128, or for other special assessment under ORS 308A.315, 321.257 to 321.381, 321.730, or 321.815, and that any additional taxes that have been imposed as a result of disqualification have been paid. Final approval under this section will not change the date the County's decision becomes final or the permit expiration period under 301.7.*

**RESPONSE:** The applicant acknowledges that any special assessments will be discontinued and any additional taxes will be paid prior to final approval.

*Section 321.5(A) – Wildlife Area Overlay Zone - Dwellings – New dwellings and their accessory buildings in the WA zone shall be located entirely within 300 feet of at least one of the following, except as provided in (B):*

1. *An existing lawfully established dwelling that existed as of August 31, 1995; or*
2. *A public road or county-approved private road that existing as of August 31, 1995; or*
3. *A driveway that existed as of August 31, 1995, that provides the primary access to an existing dwelling either on the same parcel or another parcel.*

**RESPONSE:** Several potential homesite locations exist on the property. The southeast property line is formed by Public Usage Road 3160, which is owned and maintained by the US Forest Service. A homesite could be accessed directly from this road. An existing driveway is also present on the site that crosses an old rock wall that was likely constructed during the early part of the 20<sup>th</sup> century. A potential homesite could utilize this driveway, which is within 300 feet of the USFS road and other driveways / private roads accessing off-site dwellings.

*Section 321.7 – Waiver of Remonstrance – Prior to issuance of building permits for a new dwelling in a WA Zone, the property owner(s) shall sign and record in the County*

*deed records a Waiver of Remonstrance and Agreement acknowledging that the property is located in a wildlife habitat area, and agreeing that current and future land owners will hold Jefferson County and ODFW harmless for any wildlife damage to the property, including damage to any landscape and gardens.*

**RESPONSE:** The applicant acknowledges they will record the required waiver of remonstrance.

**Section 401 – Applicable Access Standards**

1. *Minimum Access Requirement – Evidence of legal access providing physical ingress and egress that meets the emergency vehicle access standards of Section 426.2(E) is required prior to issuance of building or septic permits.*

*Access shall be provided by one of the following means:*

- a. *A driveway connecting via direct parcel frontage to a public road, a nonconforming private road or private road in a destination resort, a Bureau of Land Management (BLM) road or US Forest Service (USFS) Road.*

**RESPONSE:** The parcel has direct frontage on USFS Public Usage Road 3160. The applicant will either access this road directly, or via an existing driveway on the subject parcel.

**Section 426 – Fire Safety Standards**

**RESPONSE:** The applicant acknowledges fire safety standards will apply and will demonstrate such compliance at the time of building permit submission.

**Conclusion**

The proposed development meets or exceeds all review criteria established by Jefferson County. Therefore, approval of the application is requested.

**IMPACT ANALYSIS – Keller Nonfarm Dwelling**

The following represents a cumulative impact analysis intended to determine whether the proposed nonfarm dwelling will materially alter the stability of the overall land use pattern in the area. Properties within a 2000-acre cumulative study area which includes the proposed dwelling have been investigated, identifying soil types, agricultural and residential uses, zoning, development trends, and regulations controlling potential land division and development.

The study area includes fourteen parcels. Three of these parcels are federally owned. Two of these parcels (4300 and 0400) are owned by the Deschutes Land Trust and undevelopable due to recorded conservation easements. These 5 parcels were excluded from the impact analysis. The remaining 9 privately held parcels in the vicinity have been analyzed.

**Tax Lot 1311000004503 (4503) Jefferson County**

Location	east of subject property
Zoning	Rangeland (RL)
Size	80.69 acres
Current Land Use	Vacant, non-irrigated, no water rights found.
Soil Types	86A - Madras sandy loam, 0-3% Slopes. Class IV Soil. Prime farmland if irrigated, with severe limitations and management requirements narrowing crop types. Limited by climate in vicinity.  118D - Simas-Ruckles complex, 15-40% Slopes North. Mix of Class VI and VII soils, with no irrigated class. Shallow depth of bedrock and soil erosion limits use for crops. Basalt cliffs limit use for grazing.
Development Potential	Parcel 1 of Partition Plat No. 1998-19, recorded December 14, 1998. May be eligible for non-farm dwelling.
Farm Potential	Soil limitations restrict commercial agriculture. There are no water rights and site is not within irrigation district. Grazing may be possible, but access to water and rocky terrain would be challenging.

**Tax Lot 1311000004501 (4501) Jefferson County**

Location	east of subject property
Zoning	Rangeland (RL)
Size	85.01 acres
Current Land Use	Vacant, non-irrigated, no water rights found.
Soil Types	<p>86A - Madras sandy loam, 0-3% Slopes. Class IV Soil. Prime farmland if irrigated, with severe limitations and management requirements narrowing crop types. Limited by climate in vicinity.</p> <p>118D - Simas-Ruckles complex, 15-40% Slopes North. Mix of Class VI and VII soils, with no irrigated class. Shallow depth of bedrock and soil erosion limits use for crops. Basalt cliffs limit use for grazing.</p> <p>119D - Simas-Ruckles complex, 15-40% Slopes South. Mix of Class VI and Class VII soils, with no irrigated class. Shallow depth of bedrock and soil erosion limits use for crops. Basalt cliffs limit use for grazing.</p>
Development Potential	Parcel 2 of Partition Plat No. 1998-11, recorded June 15, 1998. May be eligible for non-farm dwelling.
Farm Potential	Soil limitations restrict commercial agriculture. There are no water rights and site is not within irrigation district. Grazing may be possible, but access to water and rocky terrain would be challenging.

**Tax Lot 1311000004502 (4502) Jefferson County**

Location	northeast of subject property
Zoning	Rangeland (RL)
Size	163.19 acres
Current Land Use	Vacant, non-irrigated, no water rights found.
Soil Types	<p>86A - Madras sandy loam, 0-3% Slopes. Class IV Soil. Prime farmland if irrigated, with severe limitations and management requirements narrowing crop types. Limited by climate in vicinity.</p> <p>118D - Simas-Ruckles complex, 15-40% Slopes North. Mix of Class VI and VII soils, with no irrigated class. Shallow depth of bedrock and soil erosion limits use for crops. Basalt cliffs limit use for grazing.</p>
Development Potential	Parcel 2 of Partition Plat No. 1998-19, recorded December 14, 1998. May be eligible for non-farm dwelling.
Farm Potential	Soil limitations restrict commercial agriculture. There are no water rights and site is not within irrigation district. Grazing may be possible, but access to water and rocky terrain would be challenging.

**Tax Lot 131100004400 (4400) Jefferson County**

<b>Location</b>	west of subject property
<b>Zoning</b>	Rangeland (RL)
<b>Size</b>	160 acres
<b>Current Land Use</b>	Residential, non-irrigated, no water rights found.
<b>Soil Types</b>	<p>64C – Holmzie-Searles Complex, Moist, 0-15% Slopes. Class VI Soils with slopes and shallow bedrock limiting agricultural use. Grazing restricted by bedrock and outcrops.</p> <p>81F – Lickskillet Rock Outcrop Complex, 45-80% Slopes. Class VI Soils. Steep cliffs with shallow/exposed bedrock. Severe limitations to agriculture and grazing.</p> <p>106D – Redslide-Lickskillet Complex, 45-80% Slopes. Mix of Class VI and Class VII soils. Shallow depth to bedrock limits agriculture. Rocky outcrops and cliffs limit grazing.</p>
<b>Development Potential</b>	Developed with approved nonfarm dwelling. Conservation easement restricts further development.
<b>Farm Potential</b>	Soil limitations restrict commercial agriculture. There are no water rights and site is not within irrigation district. Grazing may be possible, but access to water and rocky terrain would be challenging.



**Tax Lot 1311000004504 (4504) Jefferson County**

Location	east of subject property
Zoning	Rangeland (RL)
Size	162.23 acres
Current Land Use	Vacant, non-irrigated, no water rights found.
Soil Types	<p>86A - Madras sandy loam, 0-3% Slopes. Class IV Soil. Prime farmland if irrigated, with severe limitations and management requirements narrowing crop types. Limited by climate in vicinity.</p> <p>118D - Simas-Ruckles complex, 15-40% Slopes North. Mix of Class VI and VII soils, with no irrigated class. Shallow depth of bedrock and soil erosion limits use for crops. Basalt cliffs limit use for grazing.</p>
Development Potential	Parcel 3 of Partition Plat No. 2001-02, recorded March 19, 2002. May be eligible for non-farm dwelling.
Farm Potential	Soil limitations restrict commercial agriculture. There are no water rights and site is not within irrigation district. Grazing may be possible, but access to water and rocky terrain would be challenging.

**Tax Lot 141102B000100 Deschutes County**

Location	south of subject property
Zoning	EFU
Size	42.75 acres
Current Land Use	Residential, non-irrigated, no water rights found.
Soil Types	<p>3B – Agency Madras complex, 0-8% Slopes. Mix of Class IV soils. Prime farmland if irrigated, but severe soil erosion limits use.</p> <p>86A - Madras sandy loam, 0-3% Slopes. Class IV Soil. Prime farmland if irrigated, with severe limitations and management requirements narrowing crop types. Limited by climate in vicinity.</p>
Development Potential	Developed in 2020 with nonfarm dwelling. No additional development potential or land divisions.
Farm Potential	Soil limitations and lack of water restrict commercial agriculture. There are no water rights and site is not within irrigation district.

**Tax Lot 141102AB00100 Deschutes County**

Location	south of subject property
Zoning	EFU
Size	42.07 acres
Current Land Use	Residential, non-irrigated, no water rights found.
Soil Types	3B – Agency Madras complex, 0-8% Slopes. Mix of Class IV soils. Prime farmland if irrigated, but severe soil erosion limits use.  86A - Madras sandy loam, 0-3% Slopes. Class IV Soil. Prime farmland if irrigated, with severe limitations and management requirements narrowing crop types. Limited by climate in vicinity.
Development Potential	Developed with nonfarm dwelling. No additional development potential or land divisions.
Farm Potential	Soil limitations and lack of water restrict commercial agriculture. There are no water rights and site is not within irrigation district.

**Tax Lot 141102B000300 Deschutes County**

Location	south of subject property
Zoning	EFU
Size	42.34 acres
Current Land Use	Vacant, non-irrigated, no water rights found.
Soil Types	3B – Agency Madras complex, 0-8% Slopes. Mix of Class IV soils. Prime farmland if irrigated, but severe soil erosion limits use.  86A - Madras sandy loam, 0-3% Slopes. Class IV Soil. Prime farmland if irrigated, with severe limitations and management requirements narrowing crop types. Limited by climate in vicinity.
Development Potential	Lot 1 of Partition Plat 2015-04. Has been approved for nonfarm dwelling previously under Measure 37 claim.
Farm Potential	Soil limitations and lack of water restrict commercial agriculture. There are no water rights and site is not within irrigation district.

**Tax Lot 141102B000200 Deschutes County**

Location	south of subject property
Zoning	EFU
Size	81.17 acres
Current Land Use	Residential, non-irrigated, no water rights found.
Soil Types	3B – Agency Madras complex, 0-8% Slopes. Mix of Class IV soils. Prime farmland if irrigated, but severe soil erosion limits use.  64C – Holmzie-Searles Complex, Moist, 0-15% Slopes. Class VI Soils with slopes and shallow bedrock limiting agricultural use. Grazing restricted by bedrock and outcrops.
Development Potential	Developed in 2014 with nonfarm dwelling. No additional development potential or land divisions.
Farm Potential	Soil limitations and lack of water restrict commercial agriculture. There are no water rights and site is not within irrigation district.

**Findings of Impact Analysis**

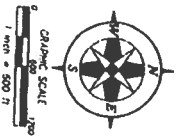
**Existing Land Use Pattern**

Over half of the land area in the vicinity is public land or held by a Land Trust. No lots are currently being used for commercial agriculture or forestry. The existing land use pattern is a combination of non-farm dwellings, minimal non-commercial grazing, vacant land that may be eligible for development as allowed by zoning, and undevelopable federal or trust-held lands.

**Potential Impact of Nonfarm Dwelling(s) on Subject and Adjacent Parcels**

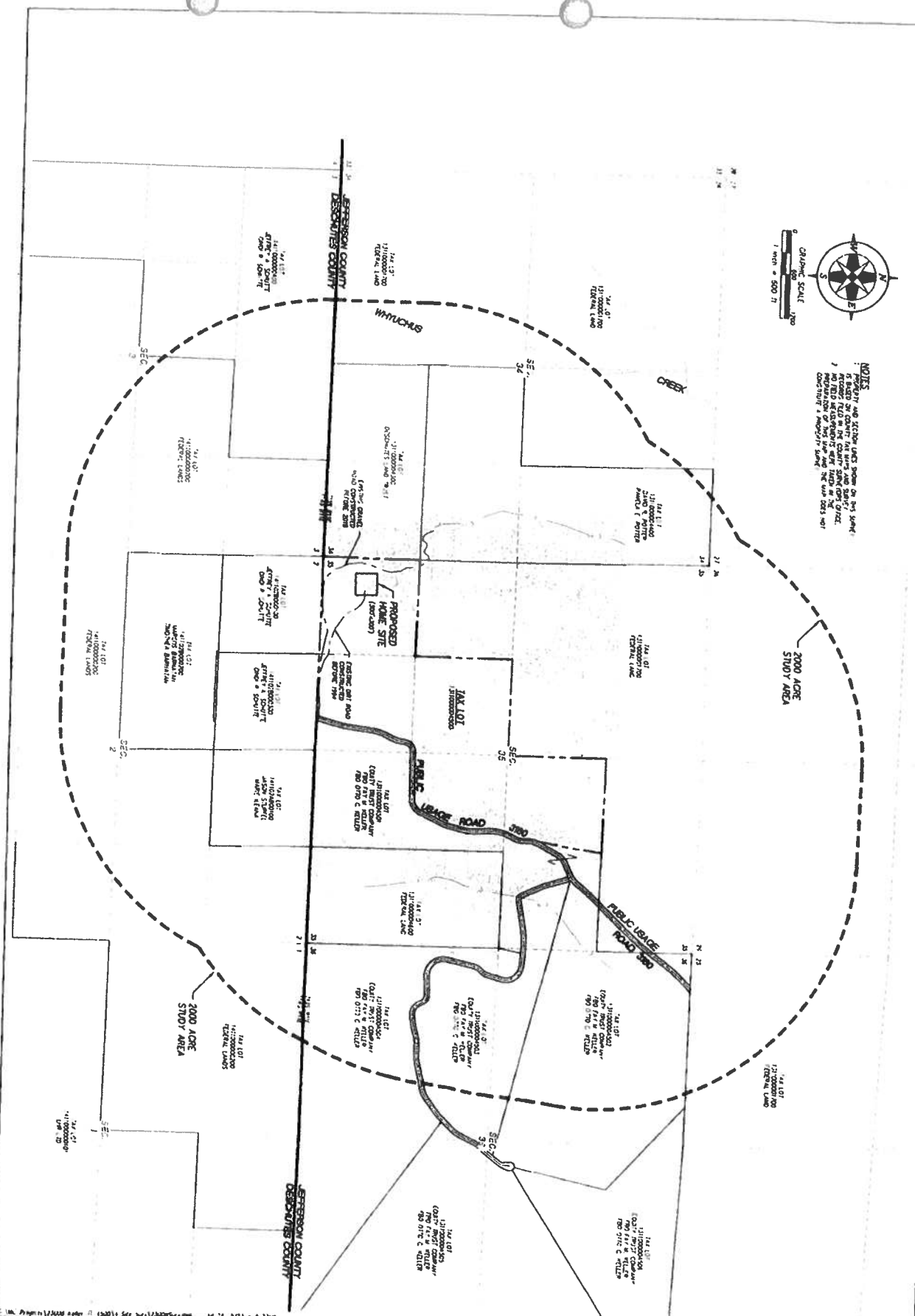
Of the nine properties analyzed within the study area, four have been developed with nonfarm dwellings, and five may be eligible for nonfarm dwellings in the future. Zoning regulations and conservation easements will restrict further development or land division.

The majority of the study area is public land or held by a land trust. There is no pattern of commercial agriculture in the vicinity due to poor soils, rocky terrain and cliffs, lack of water, and climate conditions. Residences in the area are on large parcels, and would not impact economic viability of agriculture in the area. The approval of the Keller dwelling will have little to no impact on land use patterns.







**NOTES**

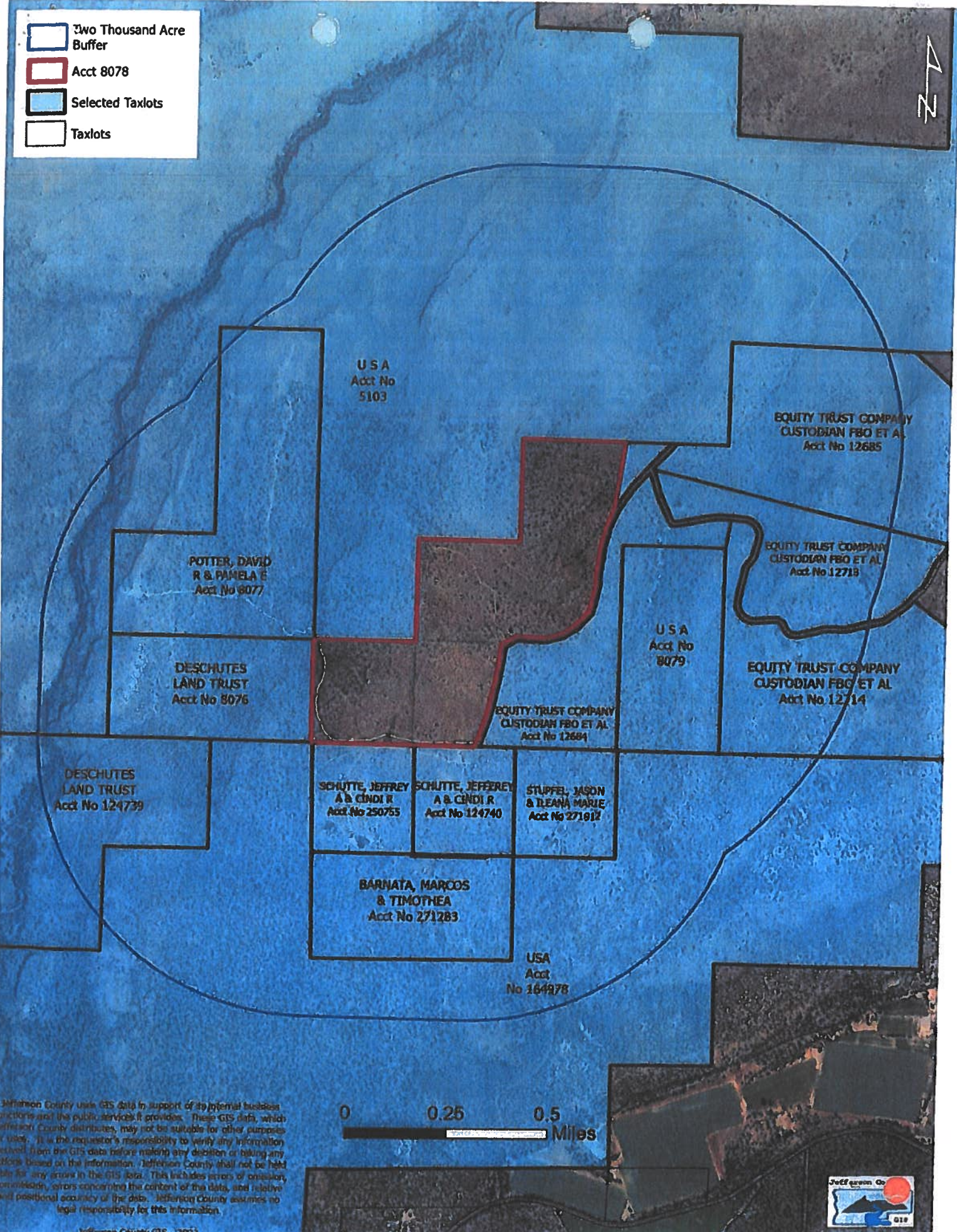
1. PROPERTY AND SECTION LINES SHOWN ON THIS MAP ARE BASED ON COUNTY TAX MAPS AND SURVEY DATA. THE FIELD OF SURVEYING AND THE SIZE OF THE SECTION LINES ARE NOT GUARANTEED BY THE COUNTY OF DESCHUTES AND THE SURVEYOR'S OFFICE.
2. THE FIELD OF SURVEYING AND THE SIZE OF THE SECTION LINES ARE NOT GUARANTEED BY THE COUNTY OF DESCHUTES AND THE SURVEYOR'S OFFICE.



<p>McKay Consulting, LLC          Planning - Engineering - Surveying          200 SE 3rd Avenue, Suite 200          Hillsboro, Oregon 97123-0258          (503) 848-8476          contact@mc kayconsulting.com</p>	<p><b>McKay Consulting, LLC</b>          Planning - Engineering - Surveying          200 SE 3rd Avenue, Suite 200          Hillsboro, Oregon 97123-0258          (503) 848-8476          contact@mc kayconsulting.com</p>	<p><b>IMPACT STUDY</b></p> <p><b>FOR OTTO KELLER</b>          TAX ID# 111000004510          DESCHUTES COUNTY, OREGON</p>
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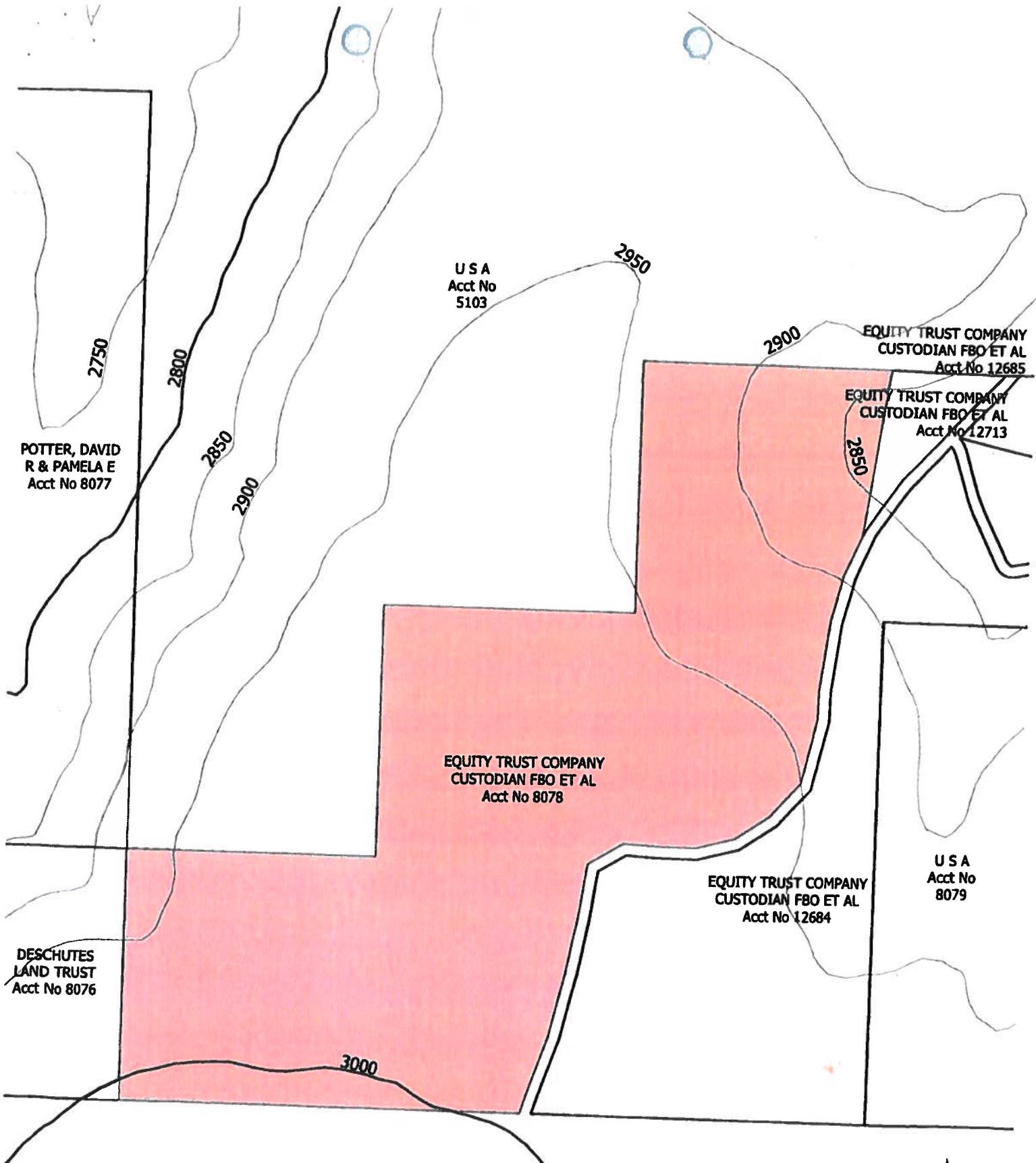
-  Two Thousand Acre Buffer
-  Acct 8078
-  Selected Taxlots
-  Taxlots



Jefferson County uses GIS data in support of its internal business functions and the public services it provides. These GIS data, which Jefferson County distributes, may not be suitable for other purposes or uses. It is the requester's responsibility to verify any information received from the GIS data before making any decision or taking any action based on the information. Jefferson County shall not be held liable for any errors in the GIS data. This includes errors of omission, commission, errors concerning the content of the data, and relative positional accuracy of the data. Jefferson County assumes no legal responsibility for this information.







POTTER, DAVID  
R & PAMELA E  
Acct No 8077

U S A  
Acct No  
5103

EQUITY TRUST COMPANY  
CUSTODIAN FBO ET AL  
Acct No 12685

EQUITY TRUST COMPANY  
CUSTODIAN FBO ET AL  
Acct No 12713

EQUITY TRUST COMPANY  
CUSTODIAN FBO ET AL  
Acct No 8078

EQUITY TRUST COMPANY  
CUSTODIAN FBO ET AL  
Acct No 12684

U S A  
Acct No  
8079

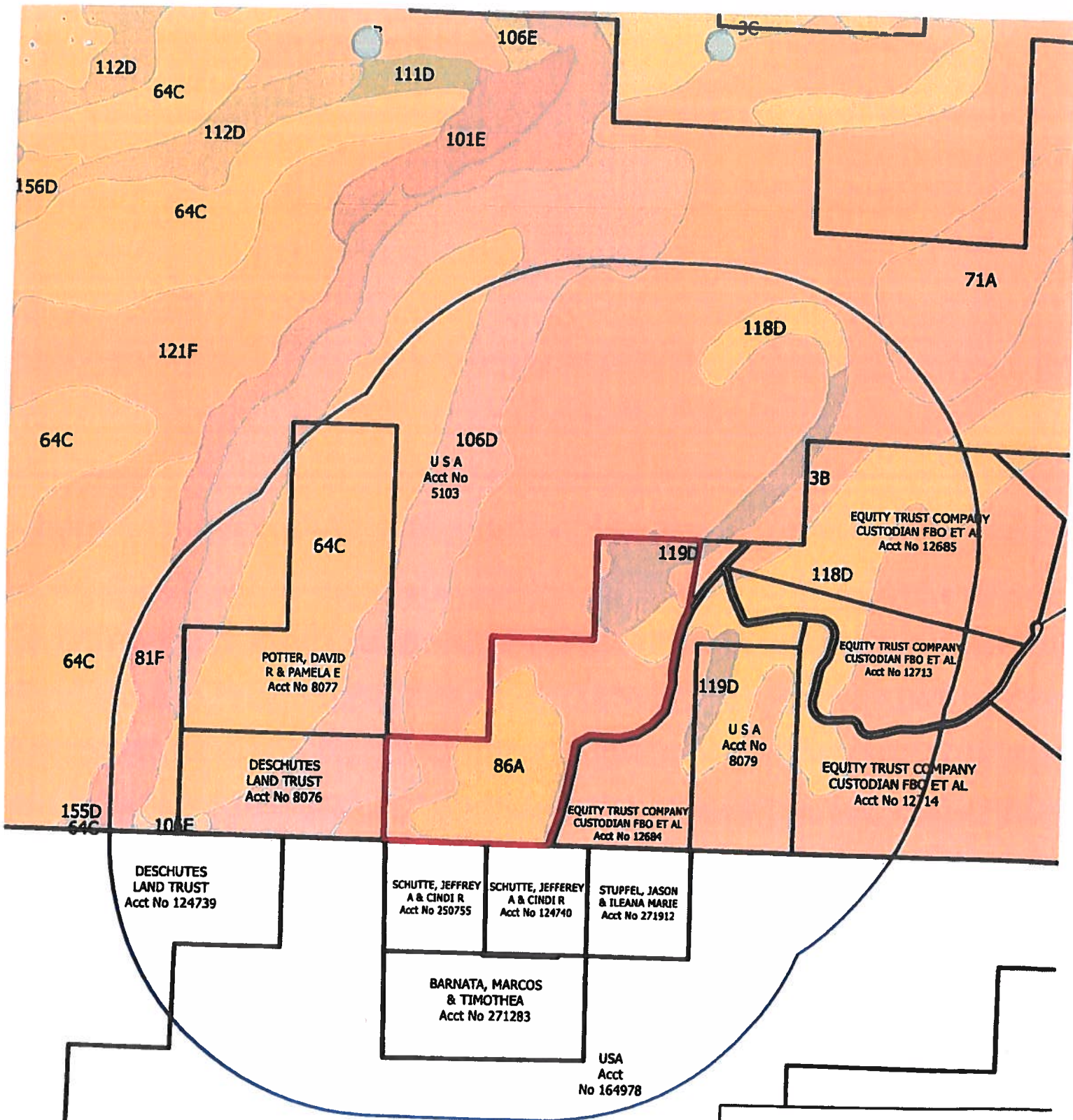
DESCHUTES  
LAND TRUST  
Acct No 8076

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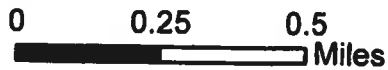
0 330 660  
Feet  
1 inch equals 660 feet







Jefferson County uses GIS data in support of its internal business functions and the public services it provides. These GIS data, which Jefferson County distributes, may not be suitable for other purposes or uses. It is the requestor's responsibility to verify any information derived from the GIS data before making any decision or taking any actions based on the information. Jefferson County shall not be held liable for any errors in the GIS data. This includes errors of omission, errors concerning the content of the data, and relative positional accuracy of the data. Jefferson County assumes no legal responsibility for this information.



### Legend

- Two Thousand Acre Buffer
- Acct 8078
- Selected Taddots

#### JCSOILS

101E	120F
106D	121F
106E	155D
111D	156D
112D	157C
118D	3B
119D	3C
	64C
	71A
	81F
	86A



TAXLOTS IN JEFFERSON COUNTY WITHIN 2000 ACRE BUFFER

Taxlot #	MapTaxlot	ACCOUNT_ID	PROPERTY_C	CLASS_DESC	OWNER	M_ADDRESS	M_CITY	M_STATE	M_ZIP	SITUS	TAX_CODE_A	PLAN_ZONE	ACRES
4600	1311000004600	8079	970	FEDERALLY OWNED LAND	U.S.A						230	RL	80
4503	1311000004503	12713	550	FARM USE LAND - EFU	EQUITY TRUST COMPANY CUSTODIAN FBO ET AL	13878 SE MOUNTAIN CREST DR	HAPPY VALLEY	OR	97086-6749		230	RL	80.59
4501	1311000004501	12684	550	FARM USE LAND - EFU	EQUITY TRUST COMPANY CUSTODIAN FBO ET AL	13878 SE MOUNTAIN CREST DR	HAPPY VALLEY	OR	97086-3749		230	RL	85.01
4502	1311000004502	12685	550	FARM USE LAND - EFU	EQUITY TRUST COMPANY CUSTODIAN FBO ET AL	13878 SE MOUNTAIN CREST DR	HAPPY VALLEY	OR	97086-6749		230	RL	163.19
1700	1311000001700	5103	970	FEDERALLY OWNED LAND NON FARM DWELLING-PERMI FU DISQ	U.S.A						220	RL	8104.43
4400	1311000004400	8077	571		POTTER, DAVID R & PAMELA E EQUITY TRUST COMPANY CUSTODIAN FBO ET AL	2763 SW 31ST ST	REDMOND	OR	97756-9451	16961 FORECAST SERVICE RD 6360 CLATSOP SPECIMEN OR 97126	230	RL	160
4504	1311000004504	12714	550	FARM USE LAND - EFU	EQUITY TRUST COMPANY CUSTODIAN FBO ET AL	13878 SE MOUNTAIN CREST DR	HAPPY VALLEY	OR	97086-6749		230	RL	162.23
4300	1311000004300	8076	550	FARM USE LAND - EFU	DESCHUTES LAND TRUST	210 NW IRVING AVE STE 102	BEND	OR	97703-2050		230	RL	8 <sup>00</sup>

TAXLOTS IN DESCHUTES COUNTY WITHIN 2000 ACRE BUFFER

TAXLOT	OWNER	ACCOUNT_NO
1411028000100	SCHUTTE JEFFREY A & CINDI R	250755
1411028000100	STUFFEL JASON & ILEANA MARIE	271912
1411028000300	SCHUTTE JEFFREY A & CINDI R	124740
1411028000200	BARHATA, MARCOS & TIMOTHEA	271283
1411000000400	DESCHUTES LAND TRUST	124739 131359 135676 144881
1411000000200	USA	164978 164979 166181 261793

**JEFFERSON County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2022

February 2, 2023 1:52:46 pm

Account # 8078  
 Map # 1311000004500  
 Code - Tax # 0230-8078

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr Metes & Bounds - See legal report for full description.

Mailing Name EQUITY TRUST COMPANY CUSTODIAN FBO ET AL

Deed Reference # 2013-3617

Agent

Sales Date/Price 10-07-2013 / \$84,000.00

In Care Of KELLER, OTTO C. ET AL

Appraiser JEAN MCCLOSKEY

Mailing Address 13878 SE MOUNTAIN CREST DR  
 HAPPY VALLEY, OR 97086-3749

Prop Class 550 MA SA NH Unit  
 RMV Class 500 03 63 000 6486-7

Situs Address(s)	Situs City
------------------	------------

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
0230 Land	212,210	0	2,106	Land	0
Impr.	0	0	0	Impr.	0
<b>Code Area Total</b>	<b>212,210</b>	<b>0</b>	<b>2,106</b>		<b>0</b>
<b>Grand Total</b>	<b>212,210</b>	<b>0</b>	<b>2,106</b>		<b>0</b>

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV	
0230	1		<input type="checkbox"/>	RL	Farm Use Zoned	128	A	179.93	7	212,210	
<b>Grand Total</b>										<b>179.93</b>	<b>212,210</b>

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV
<b>Grand Total</b>							<b>0</b>	<b>0</b>

**Exemptions / Special Assessments / Potential Liability**

**NOTATIONS:**  
 ■ POTENTIAL ADDITIONAL TAX LIABILITY  
 SA Farmland

Comments:

Exhibit A - Warranty Deed

Jefferson County Official Records  
Kathleen B. Marston, County Clerk

2014-2060

Equity Trust Company Custodian FBO Fay M. Keller  
Equity Trust Company Custodian FBO Otto C. Keller  
Otto Keller  
13878 SE Mountain Crest Dr.  
Happy Valley, OR 97086



\$56.00

07/03/2014 01:08:57 PM

D-WD Cnt=1 Stn=18 MARSTONK  
\$10.00 \$11.00 \$20.00 \$10.00 \$5.00

**Grantors' Name and Address**

Equity Trust Company Custodian FBO Fay M. Keller  
Equity Trust Company Custodian FBO Otto C. Keller  
Otto and Fay Keller  
13878 SE Mountain Crest Dr.  
Happy Valley, OR 97086

**Grantees' Name and Address**

**After recording return to:**  
Gary P. Shepherd, Attorney  
Oregon Land Law  
PO Box 86159  
Portland, OR 97286

**Until a change is requested, send all tax statements to:**  
No change requested

**STATUTORY WARRANTY DEED**

Equity Trust Company Custodian FBO Fay M. Keller, Roth IRA Act. #73769; Equity Trust Company Custodian FBO Fay M. Keller, IRA Act #14262; Equity Trust Company Custodian FBO Otto C. Keller; and Otto C. Keller, individually (Grantors)

convey and warrant to

Equity Trust Company Custodian FBO Fay M. Keller, IRA Act #14262, as to an undivided 71.875%;  
Equity Trust Company Custodian FBO Otto C. Keller, as to an undivided 17.50%;  
Otto C. Keiler and Fay M. Keller, husband and wife, as to an undivided 10.625% (Grantees);

the following described real property free of encumbrances, except as specifically set forth herein, situated in Jefferson County, State of Oregon, and legally described as follows:

**Parcel 1 of Partition Plat No. 1998-11, recorded June 15, 1998, as Instrument #982520, Jefferson County, Oregon.**

This legal description was created prior to January 1, 2008.

Subject to and excepting: Covenants, conditions, restrictions, easements and items of record. The true and actual consideration paid for this transfer, stated in terms of dollars, is \$0.00 and such good and other valuable consideration, the receipt of which is acknowledged.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS. IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS

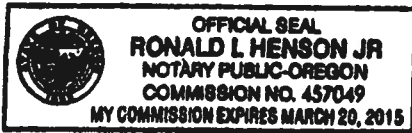
195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 27 day of JUNE, 2014

Otto C Keller  
Otto C. Keller

State of Oregon, County of Clatsop )ss.

This instrument was acknowledged before me on June 27<sup>th</sup>, 2014 by Otto C. Keller.



Ronald L Henson  
Notary Public for the State of Oregon  
My commission expires: March 20, 2015

Dated this 5 day of June, 2014

Victoria Stutson  
Equity Trust Company Custodian FBO Otto C. Keller

**Victoria Stutson**  
Corporate Alternate Signer

State of Ohio, County of Cuyahoga )ss.

This instrument was acknowledged before me on June 5, 2014 by Victoria Stutson,  
as Corporate Alternate Signer of Equity Trust Company Custodian FBO Otto C. Keller.



MICHELLE GOLDBACH  
Notary Public, State of Ohio  
My Commission Expires  
August 10, 2016

Victoria Stutson  
Notary Public for the State of Ohio  
My commission expires: \_\_\_\_\_

Dated this 5 day of June, 2014

Victoria Stutson  
Equity Trust Company Custodian FBO Fay M. Keller

**Victoria Stutson**  
Corporate Alternate Signer

State of Ohio, County of Cuyahoga )ss.

This instrument was acknowledged before me on June 5, 2014 by Victoria Stutson,  
as Corporate Alternate Signer of Equity Trust Company Custodian FBO Fay M. Keller.



MICHELLE GOLDBACH  
Notary Public, State of Ohio  
My Commission Expires  
August 10, 2016

Victoria Stutson  
Notary Public for the State of Ohio  
My commission expires: \_\_\_\_\_

EXHIBIT A TO DEED  
(Legal Description)

LOT

4400

**PARCEL I:** The East half of the Northeast quarter; North half of the Southeast quarter; all being in Section 34, Township 13 South, Range 11 East of the Willamette Meridian, Jefferson County, Oregon.

4500

**PARCEL II:** Parcel 1 of Partition Plat No. 1998-11, recorded June 15, 1998, as instrument #982520, Jefferson County, Oregon.

4501

**PARCEL III:** Parcel 2 of Partition Plat No. 1998-11, recorded June 15, 1998, as instrument #982520, Jefferson County, Oregon.

4503

**PARCEL IV:** Parcel 1 of Partition Plat No. 1998-19, recorded December 14, 1998, as instrument #985908, Jefferson County, Oregon.

4502

**PARCEL V:** Parcel 2 of Partition Plat No. 1998-19, recorded December 14, 1998, as instrument #985908, Jefferson County, Oregon.

4500

**PARCEL VI:** Parcel 1 of Partition Plat No. 2001-02, recorded March 19, 2001, as instrument #20011030, Jefferson County, Oregon.

4505

**PARCEL VII:** Parcel 2 of Partition Plat No. 2001-02, recorded March 19, 2001, as instrument #20011030, Jefferson County, Oregon.

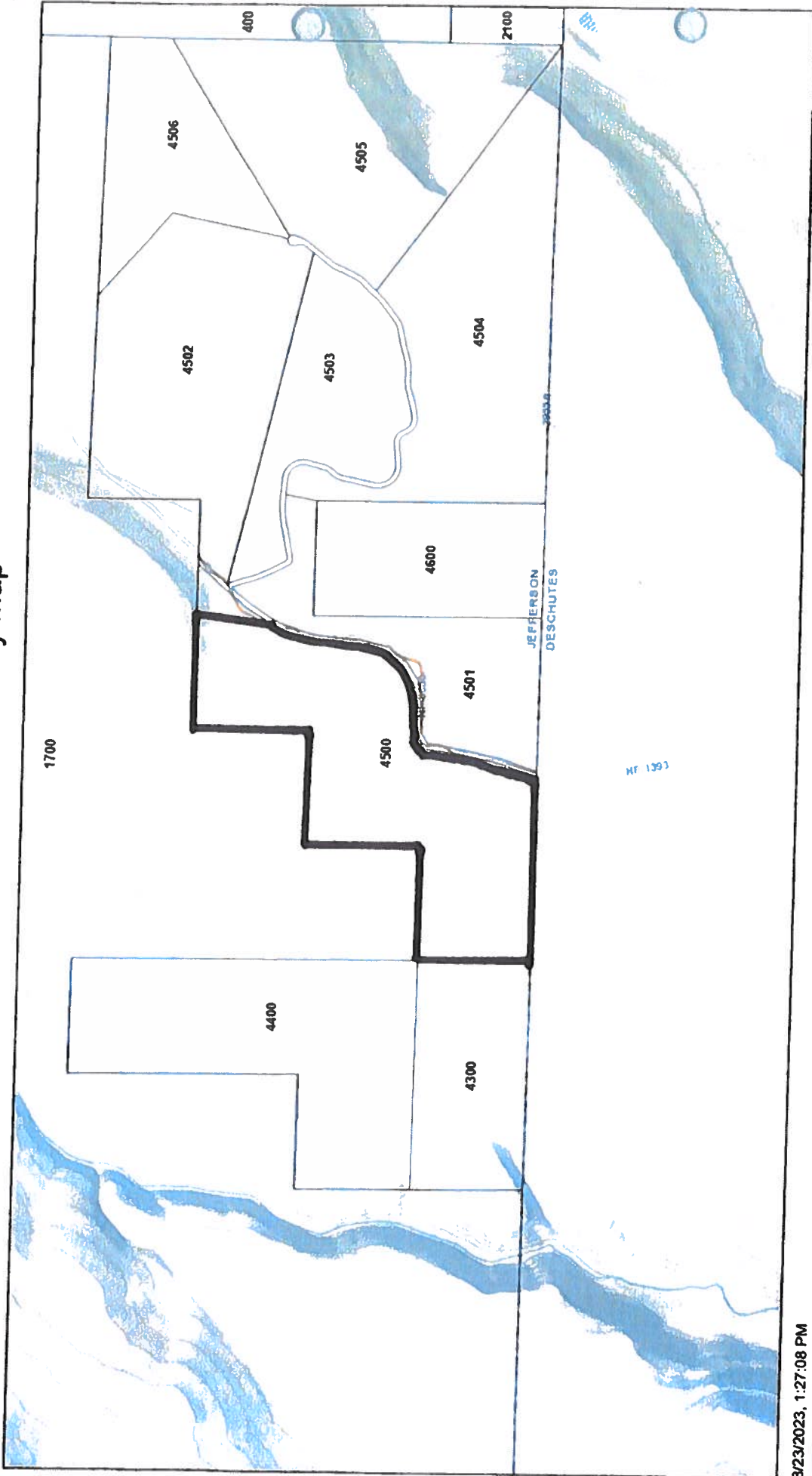
4504

**PARCEL VIII:** Parcel 3 of Partition Plat No. 2001-02, recorded March 19, 2001, as instrument #20011030, Jefferson County, Oregon.

NOTE: This legal description was created prior to January 1, 2008.



# Jefferson County Map



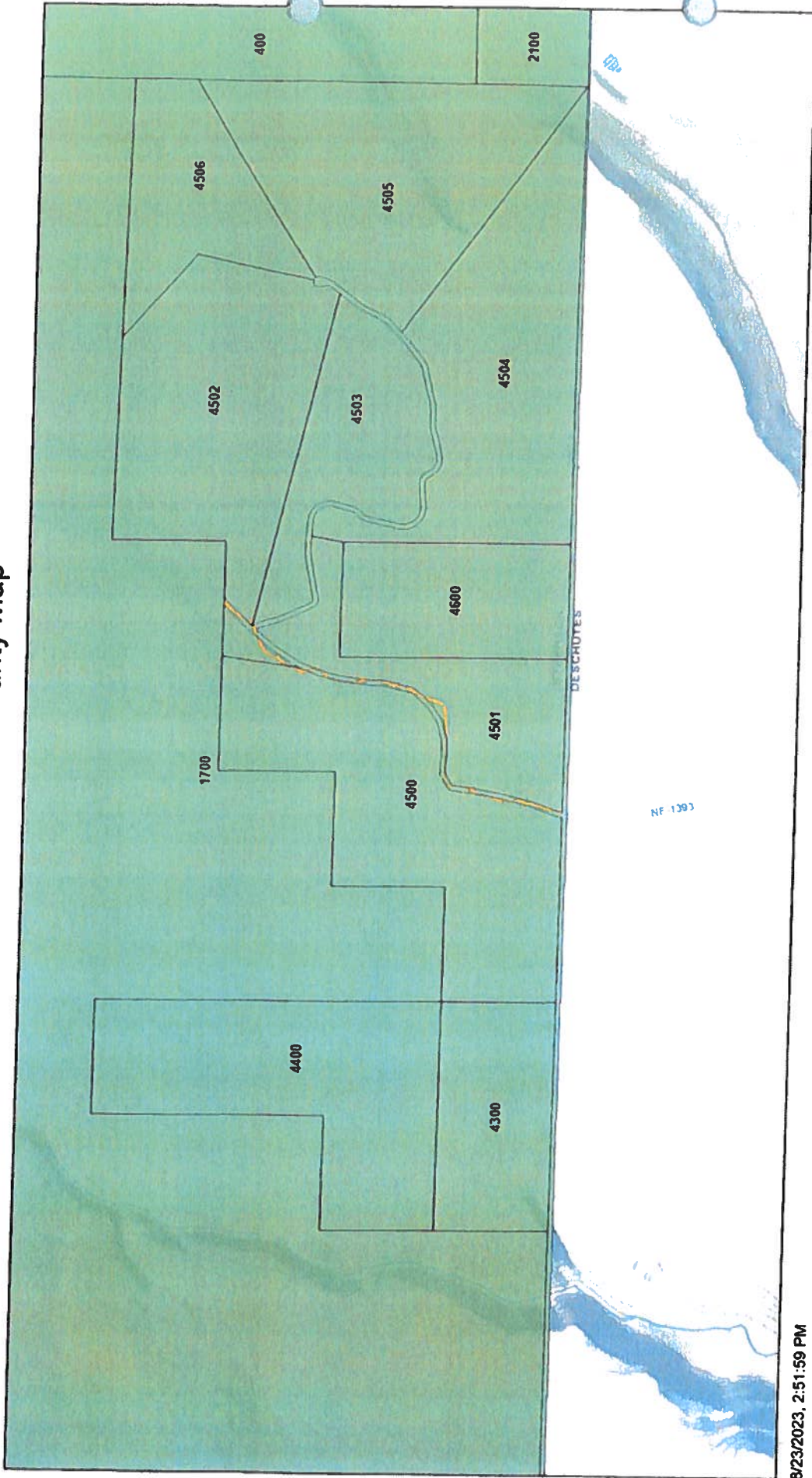
8/23/2023, 1:27:08 PM

-  Taxlot
-  Streets
-  Highway
-  Road
-  Railroads

1:18,056  
 0 0.15 0.3 0.5 0.6 mi  
 0 0.25 0.5 1 km

Sources: Esri, HERE, Garmin, Intermap, Increment P Corp, GEBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swire, OpenStreetMap contributors, and the GIS User Community

# Jefferson County Map



8/23/2023, 2:51:59 PM

-  Taxlot
-  Road
-  Deer Range
-  Streets
-  Railroads
-  Highway

1:18,056



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeBCO, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, OpenStreetMap contributors, and the GIS User Community



# JEFFERSON County Assessor's Summary Report

## Real Property Assessment Report

### FOR ASSESSMENT YEAR 2022

August 23, 2023 1:50:49 pm

Account # 8078  
 Map # 1311000004500  
 Code - Tax # 0230-8078

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr Metes & Bounds - See legal report for full description.

Mailing Name EQUITY TRUST COMPANY CUSTODIAN FBO ET AL

Deed Reference # 2013-3617

Agent

Sales Date/Price 10-07-2013 / \$84,000.00

In Care Of KELLER, OTTO C. ET AL

Appraiser JEAN MCCLOSKEY

Mailing Address 13878 SE MOUNTAIN CREST DR  
 HAPPY VALLEY, OR 97086-3749

Prop Class 550 MA SA NH Unit  
 RMV Class 500 03 63 000 6486-7

Situs Address(s) Situs City

Code Area		RMV	MAV	Value Summary		RMV Exception	CPR %
				AV			
0230	Land	212,210	0	2,106		Land	0
	Impr.	0	0	0		Impr.	0
<b>Code Area Total</b>		212,210	0	2,106			0
<b>Grand Total</b>		212,210	0	2,106			0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV	
						TD%	LS	Size		
0230	1		<input type="checkbox"/>	RL	Farm Use Zoned	128	A	179.93	7	212,210
<b>Grand Total</b>								179.93		212,210

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Trended RMV
					TD%	Total Sq. Ft.	Ex% MS Acct #	
<b>Grand Total</b>							0	0

**Exemptions / Special Assessments / Potential Liability**

**NOTATIONS:**

- POTENTIAL ADDITIONAL TAX LIABILITY
- SA Farmland

Comments:

23-NFD-02  
Exhibit C – ODFW Letter

Phil Stenbeck

**From:** CLARK Jessica S \* ODFW <Jessica.S.CLARK@odfw.oregon.gov>  
**Sent:** Friday, September 29, 2023 9:48 AM  
**To:** Phil Stenbeck  
**Subject:** RE: Non-Farm Dwelling application - Jefferson County - 23-NFD-02.

Phil,  
Thanks for your response and clarification! ODFW has no comments on the proposed application. As always, we encourage the County to enforce Jefferson County ordinance and stay in compliance with the Wildlife Area Overlay Zone for the sake of minimizing the impact of development on Central Oregon's wildlife and their habitats.

Thank you for keeping us informed!

*Jessica Clark*  
ODFW Habitat Biologist  
Deschutes Watershed District  
61374 Parrell Road  
Bend, OR 97702

Office: 541-388-6099  
Cell: 541-640-1420  
Fax: 541-388-6281

**From:** Phil Stenbeck <Phil.Stenbeck@co.jefferson.or.us>  
**Sent:** Wednesday, September 27, 2023 5:57 PM  
**To:** CLARK Jessica S \* ODFW <Jessica.S.CLARK@odfw.oregon.gov>  
**Subject:** RE: Non-Farm Dwelling application - Jefferson County - 23-NFD-02.

Hi Jessica,

Please see my responses in italics below.

Cordially,

Phil



**Phil Stenbeck, CFM**  
Planning Manager  
Jefferson County Community Development Department  
85 S.E. "D" Street  
Madras, Oregon 97741  
(541) 475-4462

**From:** CLARK Jessica S \* ODFW <Jessica.S.CLARK@odfw.oregon.gov>  
**Sent:** Wednesday, September 27, 2023 4:09 PM  
**To:** Phil Stenbeck <Phil.Stenbeck@co.jefferson.or.us>  
**Subject:** FW: Non-Farm Dwelling application - Jefferson County - 23-NFD-02.

EXHIBIT B  
Z3-A-02

**JEFFERSON COUNTY**  
Community Development Department

85 S.E. "D" St. • Madras, Oregon 97741 • Ph: (541) 475-4462 • FAX: (541) 475-4270



**APPEAL FORM**

Casefile #: 23-NFD-02, 451-23-000173-PLNG

*For office use only*  
Date Decision was mailed: \_\_\_\_\_

Applicant's Name: Equity Trust Company Custodian FBO et al  
Otto and Fay M. Keller

Date Appeal filed: \_\_\_\_\_

Appellant's Name: Central Oregon LandWatch

Appellant's Name: \_\_\_\_\_

Address: 2843 NW Lolo Drive Ste 200

Address: \_\_\_\_\_

Bend, Oregon 97703

Phone: (541 ) 647-2930

Phone: ( ) \_\_\_\_\_

Fax: ( ) \_\_\_\_\_

Fax: ( ) \_\_\_\_\_

Email: rory@colw.org

Email: \_\_\_\_\_

Signature: Rory Stahl

Signature: \_\_\_\_\_

*Use additional sheets if there are other appellants.*

Basis for Appeal: (Please explain why the decision is being appealed, and indicate what criteria or standards have not been met. Attach additional sheets if necessary/)  
(see attached) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***In order to be considered, an appeal must be filed within fifteen (15) days of the date the Notice of Decision was mailed, and must be accompanied by the required appeal fee.***



**Central Oregon LandWatch Appeal of Administrative Decision of November 3, 2023 on Casefile 23-NFD-02, Application File No. 451-23-000173-PLNG**

This appeal concerns an administrative decision that approves a nonfarm dwelling application.

JCZO Section 907.1 states that “A written appeal of a Planning Director or Planning Commission decision, together with the required appeal fee, must be physically received by the CDD within fifteen days of the date the Notice of Decision was mailed. The appeal shall state the CDD Casefile number; the applicant’s name; the appellant’s name, address and phone number; the legal basis of the appellant’s standing to appeal; and specify the basis for the appeal (e.g., failure to address or meet specific applicable criteria).”

**CDD Casefile number:** Casefile 23-NFD-02, Application File No. 451-23-000173-PLNG

**Applicant’s name:** Equity Trust Company Custodian FBO et al Otto and Fay M. Keller

**Appellant’s name, address and phone number:**

Central Oregon LandWatch  
c/o Rory Isbell, Staff Attorney  
2843 NW Lolo Drive, Suite 200  
Bend, Oregon 97703  
(541) 647-2930

**Standing:** Under JCZO 907.2, an appellant must have standing by first having either submitted written comment, been entitled as of right to a Notice of the Administrative Decision, or be adversely affected or aggrieved by the decision. LandWatch submitted written comment on this application on October 18, 2023. See attached.

**Applicable standards and criteria that have not been met:**

- JCZO 301.6(I)(1). The decision fails to include adequate information about farm and forest operations on area properties that is needed to determine whether the proposed nonfarm dwelling will force a significant change or cost increase to accepted farm and forest practices on nearby lands.
- JCZO 301.6(I)(2). The decision errs in finding the subject property is generally unsuitable for the production of farm crops or livestock. The soils of the subject property are rated Class I-VI by the NRCS and the property is presumptively suitable for farm use.
- JCZO 301.6(I)(3). The decision errs in finding the proposed nonfarm dwelling will not alter the stability of the overall land use pattern of the area.
- JCZO 301.6(I)(4). It is not clear that the parcel was lawfully created pursuant to JCC 301.9(B) or (C).





2843 NW Lolo Drive, Ste. 200 | Bend, OR 97703

Phone (541) 647-2930

[www.colw.org](http://www.colw.org)

- JCZO 321.5(A). It is not clear that the proposee dwelling and accessory buildings would be located entirely within 300 feet of a public road that existing as of August 31, 1995 or a driveway that provides access to an existing dwelling.
- JCZO 401.1. It is unclear whether the subject property has year-round legal access provided by an open public road.
- JCZO 401.4. The decision errs in deferring findings of compliance with this criterion until a later date when compliance must be shown now.
- JCZO 426.2(d). The decision errs in deferring findings of compliance with this criterion until a later date when compliance must be shown now.
- JCZO 426.2(e). The decision errs in deferring findings of compliance with this criterion until a later date when compliance must be shown now.
- JCZO 602(B). The decision errs in finding the proposal will have minimal adverse impact on the livability, value, and appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.
- JCZO 603(B). The decision errs in findings that these criteria do not apply.

An appeal fee of \$250 is included, pursuant to the 2023-2024 fee schedule, line 35 “Appeal of Administrative Decision (to Planning Commission),” posted on the County’s website at [https://www.jeffco.net/sites/default/files/fileattachments/community\\_development/page/9341/2023-24\\_cdd\\_fee\\_schedule.pdf](https://www.jeffco.net/sites/default/files/fileattachments/community_development/page/9341/2023-24_cdd_fee_schedule.pdf).



WE DEFEND AND PLAN FOR CENTRAL OREGON'S LIVABLE FUTURE



Rory Isbell &lt;rory@colw.org&gt;

---

**Application file no. 451-23-000173-PLNG**

2 messages

**Rory Isbell** <rory@colw.org>

Wed, Oct 18, 2023 at 3:52 PM

To: Phil Stenbeck &lt;Phil.Stenbeck@co.jefferson.or.us&gt;, Tanya Cloutier &lt;Tanya.Cloutier@co.jefferson.or.us&gt;

Bcc: Carol Macbeth &lt;carol@colw.org&gt;, Ben Gordon &lt;ben@colw.org&gt;

Hello Phil and Tanya,

Central Oregon LandWatch is concerned whether application file no. 451-23-000173-PLNG meets all the application criteria. Specifically, it appears the subject property is suitable for farm use and thus ineligible for a nonfarm dwelling, and also that approval of nonfarm dwelling development would materially impact the stability of the surrounding resource land. We are also concerned about compliance with Metolius Deer Habitat criteria. Please inform us of any decisions or hearings scheduled on this application. Our address is 2843 NW Lolo Drive Ste 200 Bend, Or 97703.

Regards,

Rory

---

**Rory Isbell** (he/him)

Staff Attorney &amp; Rural Lands Program Manager

**Central Oregon LandWatch**

2843 NW Lolo Drive, Suite 200

Bend, Oregon 97703

541-647-2930 x804

---

**Tanya Cloutier** <Tanya.Cloutier@co.jefferson.or.us>

Wed, Oct 18, 2023 at 4:18 PM

To: Rory Isbell &lt;rory@colw.org&gt;, Phil Stenbeck &lt;Phil.Stenbeck@co.jefferson.or.us&gt;

I will enter this into the record. Thank you.



Tanya Cloutier

**Assistant Planner**

p: 541.475.4462

f: 541.325.5004

a: 85 S.E. D Street, Madras, OR 97741

w: [www.co.jefferson.or.us](http://www.co.jefferson.or.us) e: [tanya.cloutier@co.jefferson.or.us](mailto:tanya.cloutier@co.jefferson.or.us)

[Quoted text hidden]

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



EXHIBIT C  
23-A-02

982520 PARTITION PLAT NO. 1998-11  
LAND PARTITION  
THE PARTITIONING OF A PARCEL OF LAND SITUATED IN SEC. 35 & 36, T13S, R11E, W.M., JEFFERSON CO., OR  
SHEET 1 OF 3

APPROVALS:

M. E. McHenry JEFFERSON COUNTY PUBLIC WORKS DIRECTOR	5-20-98	DATE
D. J. Smith JEFFERSON COUNTY SURVEYOR	5-19-98	DATE
B. J. Anderson JEFFERSON COUNTY ASSESSOR	5-20-98	DATE
B. J. Smith JEFFERSON COUNTY ASSESSOR	5-19-98	DATE
F. J. Beam NO WATER RIGHTS EXIST ON THESE PARCELS	5-8-98	DATE

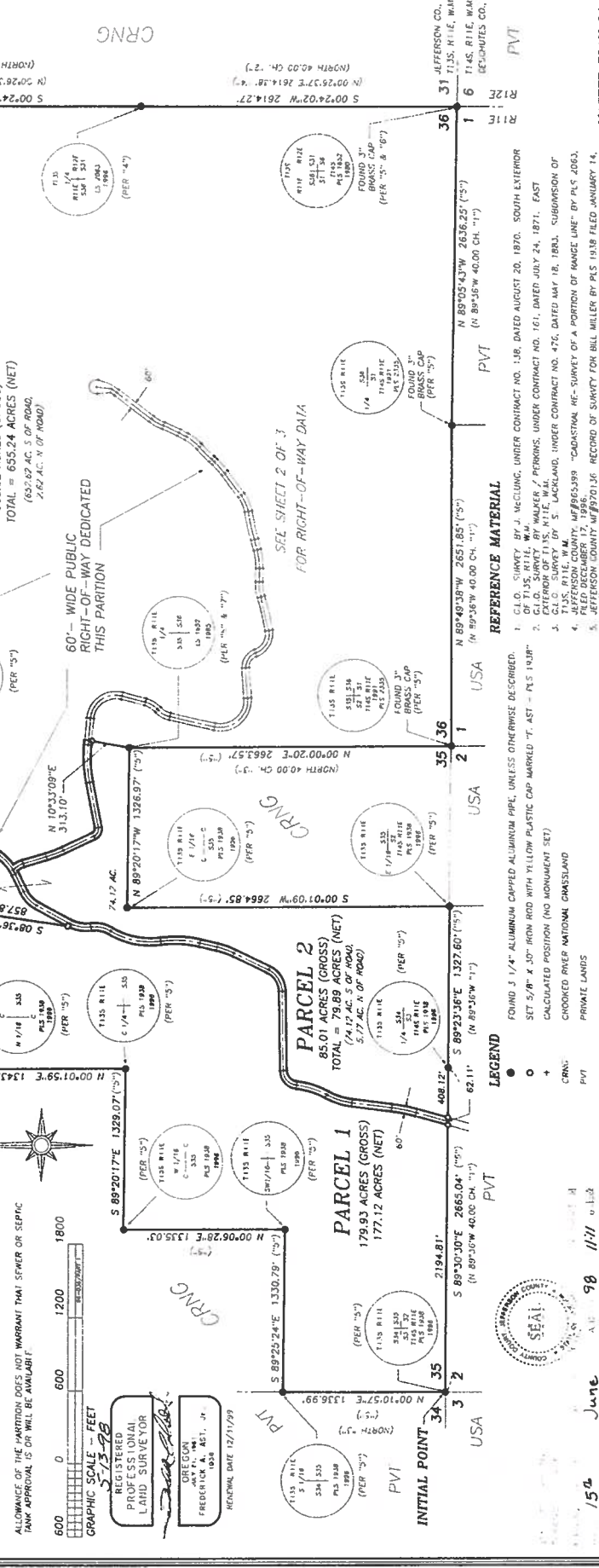
**BASIS OF BEARINGS**  
BEARINGS ARE BASED ON A SOLAR OBSERVATION TAKEN OF THE SOUTH QUARTER CORNER OF SECTION 35, T13S, R11E, W.M., JEFFERSON COUNTY, OREGON.

**SHEET INDEX**  
SHEET 1: PLAT, APPROVALS, BASIS OF BEARINGS, REFERENCE MATERIAL.  
SHEET 2: ROAD DEDICATION, CURVE AND LITE TABLES.  
SHEET 3: ROAD CONTROL, DIACRAM, DECLARATION, ACKNOWLEDGEMENT, SURVEYOR'S CERTIFICATE, NARRATIVE.

**PARCEL 1**  
179.93 ACRES (GROSS)  
177.12 ACRES (NET)  
174.12 AC. S. OF ROAD  
5.77 AC. N. OF ROAD

**PARCEL 2**  
85.01 ACRES (GROSS)  
79.89 ACRES (NET)  
174.12 AC. S. OF ROAD  
5.77 AC. N. OF ROAD

**PARCEL 3**  
655.02 ACRES (GROSS)  
TOTAL = 655.24 ACRES (NET)  
657.82 AC. S. OF ROAD  
2.82 AC. N. OF ROAD



**LEGEND**

- FOUND 3" 1/4" ALUMINUM CAPPED ALUMINUM PIPE, UNLESS OTHERWISE DESCRIBED.
- SET 5/8" x 50" IRON ROD WITH YELLOW PLASTIC CAP MARKED "T. AST - PLS 1938"
- + CALCULATED POSITION (NO MONUMENT SET)
- CRNG CROOKED RIVER NATIONAL GRASSLAND
- PVT PRIVATE LANDS
- (....) RECORD DATA PER "REFERENCE MATERIAL". (SEE SHEET 1 OF 3)
- REFER TO "SHEET 3 OF 3" FOR SURVEYOR'S CERTIFICATE AND NARRATIVE.

**REFERENCE MATERIAL**

- C.L.D. SURVEY BY J. WELCH, UNDER CONTRACT NO. 138, DATED AUGUST 20, 1970. SOUTH EXTERIOR OF T13S, R11E, W.M., JEFFERSON COUNTY, OREGON.
- C.L.D. SURVEY BY WALKER, PERKINS, UNDER CONTRACT NO. 161, DATED JULY 24, 1871. EAST EXTERIOR OF T13S, R11E, W.M., JEFFERSON COUNTY, OREGON.
- T13S, R11E, W.M. "LACKLAND, UNDER CONTRACT NO. 476, DATED MAY 18, 1883. SUBDIVISION OF JEFFERSON COUNTY, OREGON.
- JEFFERSON COUNTY, OREGON. "CADASTRAL RE-SURVEY OF A PORTION OF RANGE LINE" BY PLS 2063, 1997.
- JEFFERSON COUNTY, OREGON. RECORD OF SURVEY FOR BILL MILLER BY PLS 1938 FILED JANUARY 14, 1997.
- JEFFERSON COUNTY, OREGON. RECORD OF LAND CORNER MONUMENTATION BY PLS 1652 FILED AUGUST 6, 1985.
- JEFFERSON COUNTY, OREGON. RECORD OF LAND CORNER MONUMENTATION BY PLS 1652 FILED AUGUST 6, 1985.

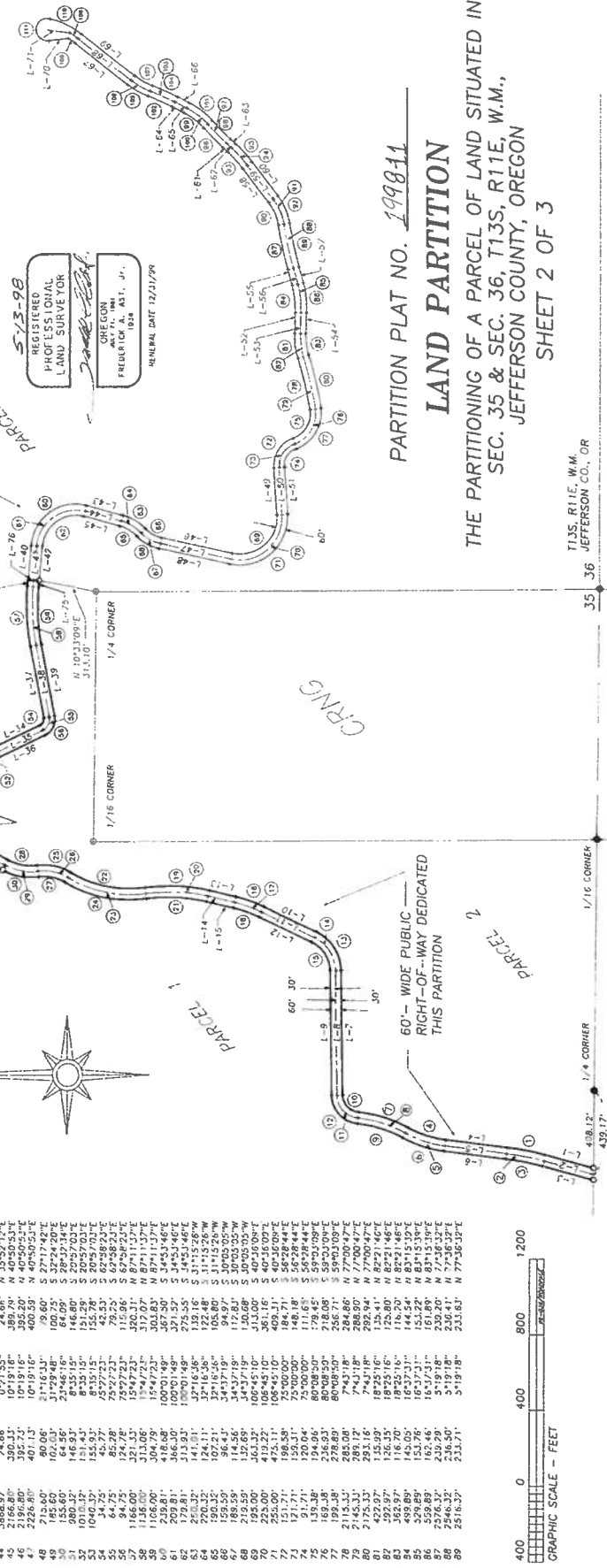
REGISTERED PROFESSIONAL LAND SURVEYOR  
FRED A. AST, JR.  
OREGON LICENSE NO. 194  
RENEWAL DATE 12/31/99

DATE: June 98  
PLAT: 982520  
Molly Mansfield



**CURVE TABLES**

CURVE	RADIUS	LENGTH	DELTA	CHORD	CH-BEARING	CURVE	RADIUS	LENGTH	DELTA	CHORD	CH-BEARING
1	145.05	205.06	6905.46	202.88	N 112°43'56"E	30	276.84	132.19	2720.38	N 68°15'42"E	
2	145.05	205.06	6905.46	202.88	N 112°43'56"E	31	276.84	132.19	2720.38	N 68°15'42"E	
3	145.05	205.06	6905.46	202.88	N 112°43'56"E	32	276.84	132.19	2720.38	N 68°15'42"E	
4	145.05	205.06	6905.46	202.88	N 112°43'56"E	33	276.84	132.19	2720.38	N 68°15'42"E	
5	145.05	205.06	6905.46	202.88	N 112°43'56"E	34	276.84	132.19	2720.38	N 68°15'42"E	
6	145.05	205.06	6905.46	202.88	N 112°43'56"E	35	276.84	132.19	2720.38	N 68°15'42"E	
7	145.05	205.06	6905.46	202.88	N 112°43'56"E	36	276.84	132.19	2720.38	N 68°15'42"E	
8	145.05	205.06	6905.46	202.88	N 112°43'56"E	37	276.84	132.19	2720.38	N 68°15'42"E	
9	145.05	205.06	6905.46	202.88	N 112°43'56"E	38	276.84	132.19	2720.38	N 68°15'42"E	
10	145.05	205.06	6905.46	202.88	N 112°43'56"E	39	276.84	132.19	2720.38	N 68°15'42"E	
11	145.05	205.06	6905.46	202.88	N 112°43'56"E	40	276.84	132.19	2720.38	N 68°15'42"E	
12	145.05	205.06	6905.46	202.88	N 112°43'56"E	41	276.84	132.19	2720.38	N 68°15'42"E	
13	145.05	205.06	6905.46	202.88	N 112°43'56"E	42	276.84	132.19	2720.38	N 68°15'42"E	
14	145.05	205.06	6905.46	202.88	N 112°43'56"E	43	276.84	132.19	2720.38	N 68°15'42"E	
15	145.05	205.06	6905.46	202.88	N 112°43'56"E	44	276.84	132.19	2720.38	N 68°15'42"E	
16	145.05	205.06	6905.46	202.88	N 112°43'56"E	45	276.84	132.19	2720.38	N 68°15'42"E	
17	145.05	205.06	6905.46	202.88	N 112°43'56"E	46	276.84	132.19	2720.38	N 68°15'42"E	
18	145.05	205.06	6905.46	202.88	N 112°43'56"E	47	276.84	132.19	2720.38	N 68°15'42"E	
19	145.05	205.06	6905.46	202.88	N 112°43'56"E	48	276.84	132.19	2720.38	N 68°15'42"E	
20	145.05	205.06	6905.46	202.88	N 112°43'56"E	49	276.84	132.19	2720.38	N 68°15'42"E	
21	145.05	205.06	6905.46	202.88	N 112°43'56"E	50	276.84	132.19	2720.38	N 68°15'42"E	
22	145.05	205.06	6905.46	202.88	N 112°43'56"E	51	276.84	132.19	2720.38	N 68°15'42"E	
23	145.05	205.06	6905.46	202.88	N 112°43'56"E	52	276.84	132.19	2720.38	N 68°15'42"E	
24	145.05	205.06	6905.46	202.88	N 112°43'56"E	53	276.84	132.19	2720.38	N 68°15'42"E	
25	145.05	205.06	6905.46	202.88	N 112°43'56"E	54	276.84	132.19	2720.38	N 68°15'42"E	
26	145.05	205.06	6905.46	202.88	N 112°43'56"E	55	276.84	132.19	2720.38	N 68°15'42"E	
27	145.05	205.06	6905.46	202.88	N 112°43'56"E	56	276.84	132.19	2720.38	N 68°15'42"E	
28	145.05	205.06	6905.46	202.88	N 112°43'56"E	57	276.84	132.19	2720.38	N 68°15'42"E	
29	145.05	205.06	6905.46	202.88	N 112°43'56"E	58	276.84	132.19	2720.38	N 68°15'42"E	
30	145.05	205.06	6905.46	202.88	N 112°43'56"E	59	276.84	132.19	2720.38	N 68°15'42"E	
31	145.05	205.06	6905.46	202.88	N 112°43'56"E	60	276.84	132.19	2720.38	N 68°15'42"E	
32	145.05	205.06	6905.46	202.88	N 112°43'56"E	61	276.84	132.19	2720.38	N 68°15'42"E	
33	145.05	205.06	6905.46	202.88	N 112°43'56"E	62	276.84	132.19	2720.38	N 68°15'42"E	
34	145.05	205.06	6905.46	202.88	N 112°43'56"E	63	276.84	132.19	2720.38	N 68°15'42"E	
35	145.05	205.06	6905.46	202.88	N 112°43'56"E	64	276.84	132.19	2720.38	N 68°15'42"E	
36	145.05	205.06	6905.46	202.88	N 112°43'56"E	65	276.84	132.19	2720.38	N 68°15'42"E	
37	145.05	205.06	6905.46	202.88	N 112°43'56"E	66	276.84	132.19	2720.38	N 68°15'42"E	
38	145.05	205.06	6905.46	202.88	N 112°43'56"E	67	276.84	132.19	2720.38	N 68°15'42"E	
39	145.05	205.06	6905.46	202.88	N 112°43'56"E	68	276.84	132.19	2720.38	N 68°15'42"E	
40	145.05	205.06	6905.46	202.88	N 112°43'56"E	69	276.84	132.19	2720.38	N 68°15'42"E	
41	145.05	205.06	6905.46	202.88	N 112°43'56"E	70	276.84	132.19	2720.38	N 68°15'42"E	
42	145.05	205.06	6905.46	202.88	N 112°43'56"E	71	276.84	132.19	2720.38	N 68°15'42"E	
43	145.05	205.06	6905.46	202.88	N 112°43'56"E	72	276.84	132.19	2720.38	N 68°15'42"E	
44	145.05	205.06	6905.46	202.88	N 112°43'56"E	73	276.84	132.19	2720.38	N 68°15'42"E	
45	145.05	205.06	6905.46	202.88	N 112°43'56"E	74	276.84	132.19	2720.38	N 68°15'42"E	
46	145.05	205.06	6905.46	202.88	N 112°43'56"E	75	276.84	132.19	2720.38	N 68°15'42"E	
47	145.05	205.06	6905.46	202.88	N 112°43'56"E	76	276.84	132.19	2720.38	N 68°15'42"E	
48	145.05	205.06	6905.46	202.88	N 112°43'56"E	77	276.84	132.19	2720.38	N 68°15'42"E	
49	145.05	205.06	6905.46	202.88	N 112°43'56"E	78	276.84	132.19	2720.38	N 68°15'42"E	
50	145.05	205.06	6905.46	202.88	N 112°43'56"E	79	276.84	132.19	2720.38	N 68°15'42"E	
51	145.05	205.06	6905.46	202.88	N 112°43'56"E	80	276.84	132.19	2720.38	N 68°15'42"E	
52	145.05	205.06	6905.46	202.88	N 112°43'56"E	81	276.84	132.19	2720.38	N 68°15'42"E	
53	145.05	205.06	6905.46	202.88	N 112°43'56"E	82	276.84	132.19	2720.38	N 68°15'42"E	
54	145.05	205.06	6905.46	202.88	N 112°43'56"E	83	276.84	132.19	2720.38	N 68°15'42"E	
55	145.05	205.06	6905.46	202.88	N 112°43'56"E	84	276.84	132.19	2720.38	N 68°15'42"E	
56	145.05	205.06	6905.46	202.88	N 112°43'56"E	85	276.84	132.19	2720.38	N 68°15'42"E	
57	145.05	205.06	6905.46	202.88	N 112°43'56"E	86	276.84	132.19	2720.38	N 68°15'42"E	
58	145.05	205.06	6905.46	202.88	N 112°43'56"E	87	276.84	132.19	2720.38	N 68°15'42"E	
59	145.05	205.06	6905.46	202.88	N 112°43'56"E	88	276.84	132.19	2720.38	N 68°15'42"E	
60	145.05	205.06	6905.46	202.88	N 112°43'56"E	89	276.84	132.19	2720.38	N 68°15'42"E	



PARTITION PLAN NO. 199811  
**LAND PARTITION**  
 THE PARTITIONING OF A PARCEL OF LAND SITUATED IN  
 SEC. 35 & SEC. 36, T13S, R11E, W.M.,  
 JEFFERSON COUNTY, OREGON  
 SHEET 2 OF 3



## EXHIBIT D

### Otto and Fay Keller Property usage and soils information

Ted W Netter  
70535 NW Lower Bridge Way  
Terrebonne, OR 97760  
B.S. General Agriculture (OSU)  
Post Graduate studies: (OSU)  
Ag-Education  
Animal Science  
Soils

#### Jefferson County Planning Commission

I am writing in support of the approval of conditional use permit case file 23-NFD-02, 451-23-000173-PLNG. Please consider the following information as my testimony, I am unable to attend in person.

#### Background and ties to the subject property:

I am a Farmer/Rancher in the Lower Bridge area of Deschutes and Jefferson County, I own land that abuts other property owned by the applicant to the east, and have had a “handshake” agreement with the Keller family to “Manage and use” their property including the property subject to this application for over 10 years. I have acted as an “agent of the landowner” on wildlife and trespassing issues, fire suppression and easement issues (application for, design and installation of an easement from subject property to 160 acres west of the subject property). Prior to Keller ownership of the property I had been recreating on and around the property since the early to mid 1990’s. Currently I firmly believe that I have the most extensive knowledge of and experience with the subject property and surrounding lands available. Furthermore as a full time farmer and a former Agriculture and soils Teacher, I have the experience and education to directly address some of the questions brought up in this appeal.

#### Information related directly to subject property:

For over 10 years I have had free access to pursue agricultural activities on the subject property and the 700 plus adjacent acres that belong to the Keller family, I own cows and yet I have never grazed cows on the property. The reasoning is simple there is no profit in it. The land is primarily shallow soils with low available water holding capacity and does not produce enough forage to sustain grazing naturally. Over the years I have made several attempts to see if it was possible to augment natural forage production with dry-land grains and grasses, I have also attempted to use them to rehab wildfire damage, all attempts have failed. The land is non-tillable due to its rocky/cobble nature and shallow depth. The property has no natural water source for livestock use and no ability to become part of an irrigation district. ORS 308A.056 Defines “Farm use” as “the current employment of land for the primary purpose of obtaining a profit in money”. In my professional opinion and from personal experience; this property can not meet that definition either as a standalone property or in-conjunction with other land.

Addressing specific points in the appeal:

**JCZO 301.6(I)(2). The decision errs in finding the subject property is generally unsuitable for the production of farm crops or livestock. The soils of the subject property are rated Class I-VI by the NRCS and the property is presumptively suitable for farm use.**

**Response:** The NRCS mapping of this property was done by aerial survey and large order classification based on land-forms, vegetation and assumption rather than on the ground facts. To ascertain a more accurate soil classification an Order 3, or 4 study is done.

USDA/NRCS definitions:

Order 3 —Extensive (e.g., range, community planning) Soil boundaries are plotted by observation and interpretation of remotely sensed data. They are verified by traversing representative areas and by some transects. 1.6 to 16 acres. Includes Phases of soil series or taxa above the series; misc.

Order 4 —Extensive (e.g., general soil information for broad statements concerning land use potential and general land management) Soil boundaries are plotted by interpretation of remotely sensed data. They are verified by traversing representative areas and by some transects. 16 to 252 acres includes Phases of soil series or taxa above the series; misc.

NRCS mapping and information used for the application shows potential soil types of 3B, 86A, 118D and 119D. A more detailed evaluation of the NRCS map includes 106D on the western portion of the property (soils descriptions are attached with map). Over the years my evaluation of the subject property meets the scientific standards for an Order 3, or 4 soil survey.

The following is a summary of my findings. 106D soil complex dominates the western portion of the property and prevails west to east across the property at approximately the 2980 ft elevation line on a topographic map. North of that elevation line the soil type continues to be predominately 106 Lickskillit to approximately the 2950 ft elevation line. North and east of the 2950 ft line the soil type closer resembles 118D Ruckles. South of the 2980 Ft line are soils that can fit the description of 86A except they include a cobble component that is not consistent with Madras series soils, and is present in 106D Redslide soils. I have included maps that show listed soil types with topographic lines, and the adjusted soil types and locations please excuse their rudimentary nature. Along with the maps are NRCS soils classifications and descriptions of the main soil types.

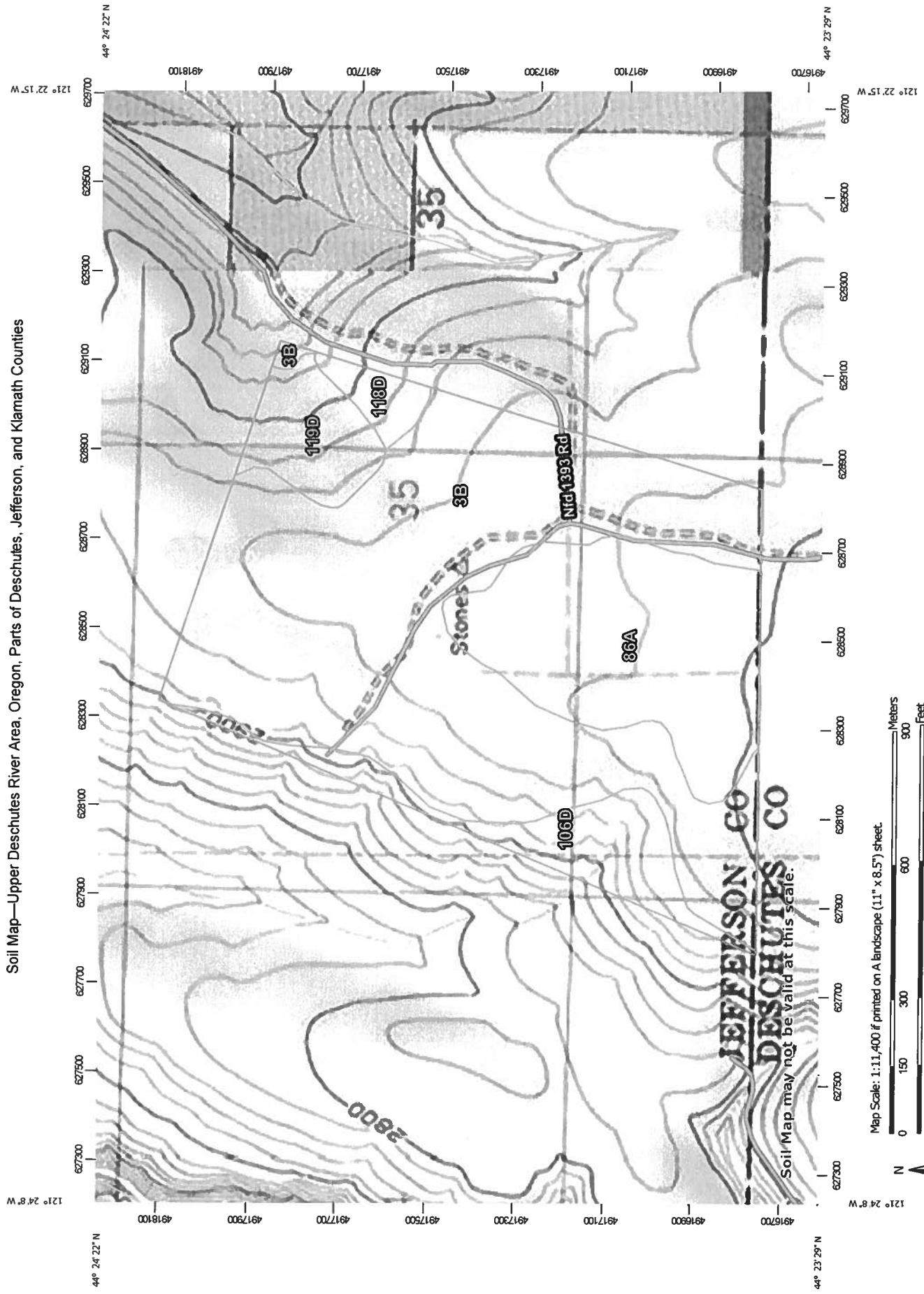
Conclusions: As Jefferson county staff points out in their findings the subject property is non-irrigated causing major limitation to any soil type present. The majority of the 180 acre property consists of two soil types Lickskillit and Ruckles both class 7 soils. Although a small portion of the subject property (around 15%) on the south/eastern property line could use further soil examination for exact classification I am confident the subject property is predominantly Class 7 soil.

Sincerely

Ted W Netter  
541-788-0229

PS I am out of town on business during this hearing but may be reachable by phone with any questions, feel free to reach out.

Soil Map—Upper Deschutes River Area, Oregon, Parts of Deschutes, Jefferson, and Klamath Counties



Map Scale: 1:11,400 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 10N WGS84

Soil Map may not be valid at this scale.

## MAP LEGEND

	Area of Interest (AOI)		Spoil Area
	Soils		Stony Spot
	Soil Map Unit Polygons		Very Stony Spot
	Soil Map Unit Lines		Wet Spot
	Soil Map Unit Points		Other
	Special Point Features		Special Line Features
	Blowout		Water Features
	Borrow Pit		Streams and Canals
	Clay Spot		Transportation
	Closed Depression		Rails
	Gravel Pit		Interstate Highways
	Gravelly Spot		US Routes
	Landfill		Major Roads
	Lava Flow		Local Roads
	Marsh or swamp		Background
	Mine or Quarry		Topographic Map
	Miscellaneous Water		Aerial Photography
	Perennial Water		
	Rock Outcrop		
	Saline Spot		
	Sandy Spot		
	Severely Eroded Spot		
	Sinkhole		
	Slide or Slip		
	Sodic Spot		

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

**Warning:** Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
 Web Soil Survey URL:  
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Upper Deschutes River Area, Oregon, Parts of Deschutes, Jefferson, and Klamath Counties  
 Survey Area Data: Version 21, Sep 8, 2023

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 7, 2020—Jun 2, 2020

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
3B	Agency-Madras complex, 0 to 8 percent slopes	181.6	61.6%
86A	Madras sandy loam, 0 to 3 percent slopes	65.6	22.3%
106D	Redslide-Lickskillet complex, 15 to 30 percent north slopes	24.3	8.2%
118D	Simas-Ruckles complex, 15 to 40 percent north slopes	6.2	2.1%
119D	Simas-Ruckles complex, 15 to 40 percent south slopes	17.1	5.8%
<b>Totals for Area of Interest</b>		<b>294.7</b>	<b>100.0%</b>

## Land Capability Classification

The land capability classification of map units in the survey area is shown in this table. This classification shows, in a general way, the suitability of soils for most kinds of field crops (United States Department of Agriculture, Soil Conservation Service, 1961). Crops that require special management are excluded. The soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management. The criteria used in grouping the soils do not include major and generally expensive landforming that would change slope, depth, or other characteristics of the soils, nor do they include possible but unlikely major reclamation projects. Capability classification is not a substitute for interpretations designed to show suitability and limitations of groups of soils for rangeland, for forestland, or for engineering purposes.

In the capability system, soils are generally grouped at three levels: capability class, subclass, and unit.

*Capability classes*, the broadest groups, are designated by the numbers 1 through 8. The numbers indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

- Class 1 soils have slight limitations that restrict their use.
- Class 2 soils have moderate limitations that restrict the choice of plants or that require moderate conservation practices.
- Class 3 soils have severe limitations that restrict the choice of plants or that require special conservation practices, or both.
- Class 4 soils have very severe limitations that restrict the choice of plants or that require very careful management, or both.
- Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.
- Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.
- Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.
- Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.

*Capability subclasses* are soil groups within one class. They are designated by adding a small letter, *e*, *w*, *s*, or *c*, to the class numeral, for example, 2*e*. The letter *e* shows that the main hazard is the risk of erosion unless close-growing plant cover is maintained; *w* shows that water in or on the soil interferes with plant growth or cultivation (in some soils the wetness can be partly corrected by artificial drainage); *s* shows that the soil is limited mainly because it is shallow, droughty, or stony; and *c*, used in only some parts of the United States, shows that the chief limitation is climate that is very cold or very dry.



In class 1 there are no subclasses because the soils of this class have few limitations. Class 5 contains only the subclasses indicated by *w*, *s*, or *c* because the soils in class 5 are subject to little or no erosion.

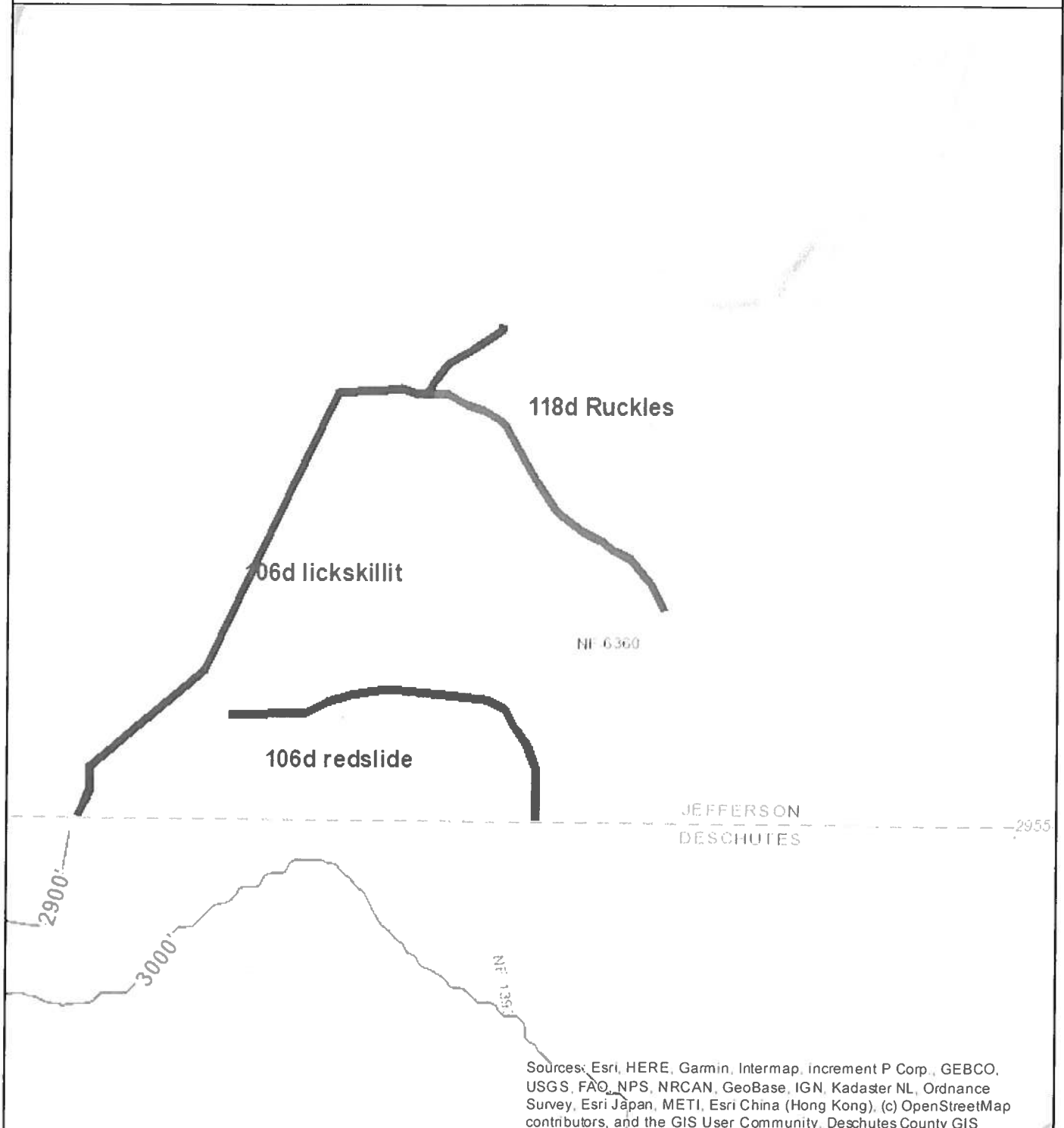
## Report—Land Capability Classification

Land Capability Classification—Upper Deschutes River Area, Oregon, Parts of Deschutes, Jefferson, and Klamath Counties				
Map unit symbol and name	Pct. of map unit	Component name	Land Capability Subclass	
			Nonirrigated	Irrigated
3B—Agency-Madras complex, 0 to 8 percent slopes	45	Agency	4e	3e
	40	Madras	4e	3e
86A—Madras sandy loam, 0 to 3 percent slopes	85	Madras	4c	3c
	50	Redslide, north	6e	6e
106D—Redslide-Lickskillet complex, 15 to 30 percent north slopes	35	Lickskillet, north	7e	7e
	50	Simas, north	6e	—
118D—Simas-Ruckles complex, 15 to 40 percent north slopes	35	Ruckles, north	7e	—
	50	Simas, south	6e	—
119D—Simas-Ruckles complex, 15 to 40 percent south slopes	35	Ruckles, south	7e	—

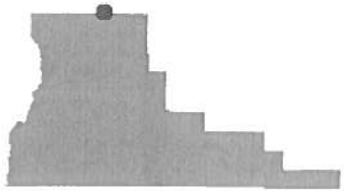
### Data Source Information

Soil Survey Area: Upper Deschutes River Area, Oregon, Parts of Deschutes, Jefferson, and Klamath Counties  
 Survey Area Data: Version 21, Sep 8, 2023

# Keller soil map adjustment



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Deschutes County GIS



Date: 1/4/2024



LOCATION LICKSKILLET OR+ID+WA

Established Series  
Rev. AON/TDT/RWL  
09/2010

## LICKSKILLET SERIES

The Lickskillet series consists of shallow, well drained soils that formed in stony colluvium consisting of loess, rock fragments and residuum weathered from basalt and rhyolite. Lickskillet soils are on uplands and have slopes of 0 to 120 percent. The mean annual precipitation is about 12 inches, and the mean annual temperature is about 48 degrees F.

**TAXONOMIC CLASS:** Loamy-skeletal, mixed, superactive, mesic Aridic Lithic Haploxerolls

**TYPICAL PEDON:** Lickskillet very stony loam - rangeland. (Colors are for dry soil unless otherwise noted.)

**A--**0 to 4 inches; brown (10YR 5/3) very stony loam, very dark grayish brown (10YR 3/2) moist; weak thin platy structure parting to weak fine granular; slightly hard, friable, slightly sticky and slightly plastic; many very fine roots; many very fine irregular pores; 20 percent basalt gravel; 10 percent cobbles and 20 percent stones on surface; neutral (pH 6.9); clear wavy boundary. (3 to 8 inches thick)

**BA--**4 to 9 inches; brown (7.5YR 5/3) gravelly loam, dark brown (7.5YR 3/3) moist; weak and moderate fine and medium subangular blocky structure; slightly hard, friable, slightly sticky and slightly plastic; many very fine roots; common very fine tubular pores; 25 percent basalt gravel and 5 percent cobbles; neutral (pH 7.2); abrupt wavy boundary. (3 to 8 inches thick)

**Bw1--**9 to 13 inches; brown (7.5YR 5/4) very gravelly loam, dark brown (7.5YR 3/4) moist; moderate fine and medium subangular blocky structure; hard, friable, moderately sticky and moderately plastic; common very fine roots; common very fine tubular pores; 30 percent basalt gravel and 20 percent cobbles; neutral (pH 6.8); clear wavy boundary. (3 to 8 inches thick)

**Bw2--**13 to 19 inches; brown (7.5YR 5/4) extremely gravelly clay loam, dark brown (7.5YR 3/4) moist; moderate fine and medium subangular blocky structure; hard, firm moderately sticky and moderately plastic; common very fine roots; common very fine tubular pores; 40 percent basalt gravel and 25 percent cobbles; neutral (pH 6.6); abrupt wavy boundary. (1 to 10 inches thick)

**2R--**19 inches; basalt

**TYPE LOCATION:** Sherman County, Oregon; about 200 feet downslope from road in the NE1/4SW1/4NW1/4 sec. 6, T. 4 S., R. 15 E.

**RANGE IN CHARACTERISTICS:** The soil is dry for one-half to three-fourths of the time when the soil temperature is above 41 degrees F; dry for minimum of 90 consecutive days. The mean annual soil temperature is 47 to 54 degrees F. Thickness of solum and depth to bedrock is 12 to 20 inches. Some pedons have free carbonates in coatings on the lower sides of rock fragments and extending into cracks in the underlying rock. The solum has 10YR or 7.5YR hue.

The A horizon has value of 4 or 5 dry, 2 or 3 moist and chroma of 2 or 3 dry or moist. Texture of the fine-earth fraction is loam, sandy loam, and silt loam. Rock fragment content is 5 to 70 percent and are dominantly stones and cobbles. Organic matter ranges from 1 to 2 percent. Combined thickness of the A and BA horizons, or AB

horizon when present, is 7 to 15 inches. Reaction is slightly acid to moderately alkaline.

The Bw horizon has value of 4 to 6 dry and 3 to 5 moist and chroma is 2 to 4 dry or moist. Texture of the fine-earth fraction is loam, silt loam, clay loam, sandy clay loam, fine sandy loam, or sandy loam and averages more than 18 percent clay and 35 to 85 percent rock fragments dominantly cobbles and gravel. Reaction is neutral to moderately alkaline.

Some pedons have a Bk horizon or a thin Btk or Bt horizon with clay films on some rock fragments, in pores and extending into fractures in the bedrock.

**COMPETING SERIES:** These are the Aldax, Bakeoven, Bodacious, Bodell, Couleedam, Hendap, Johntom, Limekiln, Oakside, Plaskett, Rockly, Sanikara (T), and Venator series.

Aldax soils particle-size control section with less than 18 percent clay

Bakeoven soils 4 to 10 inches to a lithic contact (basalt)

Bodacious soils dry for less than 90 consecutive days following the summer solstice

Bodell soils dry for less than 90 consecutive days following the summer solstice; 10 to 30 percent volcanic glass in the upper 4 to 6 inches

Couleedam soils particle-size control section with less than 18 percent clay and 35 to 60 percent rock fragments of granitic origin

Hendap soils particle-size control section with less than 18 percent clay and 40 to 70 percent rock fragments of granitic origin; calcium carbonate equivalent ranging from 1 to 10 percent throughout

Johntom soils dry for less than 90 consecutive days following the summer solstice; particle-size control section of less than 18 percent clay and 5 to 20 percent volcanic glass

Limekiln soils dry for less than 90 consecutive days following the summer solstice; depth to a calcic horizon is 7 to 12 inches

Oakside soils dry for less than 90 consecutive days following the summer solstice; mean annual soil temperature of 52 to 59 degrees F.; particle-size control section dominated by channer shaped rock fragments of phyllite or schist origin; organic horizon present in most pedons

Plaskett soils dry for less than 90 consecutive days following the summer solstice; mean annual soil temperature of 55 to 58 degrees F.; organic horizon present in most pedons; 6 to 20 inches to a lithic contact (sandstone)

Rockly soils dry for less than 90 consecutive days following the summer solstice

Sanikara soils these soils cannot be competed as the OSD is not in the database

Venator soils dry for less than 90 consecutive days following the summer solstice; 12 to 20 inches to a lithic contact (shale); particle-size control section has 40 to 80 percent rock fragments dominated by channer shaped rock fragments of shale origin

**GEOGRAPHIC SETTING:** The Lickskillet soils are typically on south-facing canyon and mountain side slopes at elevations of 200 to 4,500 feet. In eastern and northcentral Washington, it is on benches, shoulders of plateaus, canyon side slopes, hills, and ridgetops. Slope gradients are commonly 40 to 70 percent and range from about 0 to 120 percent. The soils formed in shallow stony colluvium mixed with loess and rock fragments weathered from the underlying basalt or rhyolite. Some pedons in north-central Washington, have minor amounts of glacial till mixed into the soil profile. The climate is characterized by cool wet winters and hot dry summers. The mean annual precipitation is typically 9 to 14 inches but ranges up to 20 inches on south slopes in MLRA 43c. The mean annual temperature is 45 to 52 degrees F, mean winter temperature is 31 to 35 degrees F, and mean summer temperature is 62 to 66 degrees F. The frost-free period is 80 to 200 days.

**GEOGRAPHICALLY ASSOCIATED SOILS:** These are the competing Bakeoven soils and the Cantala, Condon, Curant, Gem, Morrow, Redcliff, Ruckles, Starbuck, Walla Walla and Wrentham soils. Bakeoven soils are on benches, hills, plateaus, and canyon slopes. Cantala and Condon soils are fine-silty and are on plateaus. Currant soils are fine-silty and are on hillslopes. Gem soils are fine family and on uplands. Morrow soils are fine-silty and on plateaus. Redcliff soils are moderately deep to bedrock and are on hills. Ruckles soils are clayey-skeletal and are on hills and canyon slopes. Starbuck soils are loamy and are on hillslopes and benches. Walla Walla soils are coarse-silty and are on hills. Wrentham soils are moderately deep and are on north-facing canyon slopes.

**DRAINAGE AND PERMEABILITY:** Well drained; moderate permeability.

**USE AND VEGETATION:** These soils are dominately used for livestock grazing. Other uses include watershed, recreation, and wildlife habitat. Vegetation is bluebunch wheatgrass, Sandberg bluegrass, Thurber needlegrass, western yarrow, and Wyoming big sagebrush.

**DISTRIBUTION AND EXTENT:** Eastern Oregon, eastern and northcentral Washington and southern Idaho; MLRA 6, 8, 10, and 43c. The series is extensive.

**MLRA SOIL SURVEY REGIONAL OFFICE (MO) RESPONSIBLE:** Portland, Oregon

**SERIES ESTABLISHED:** Sherman County, Oregon; 1961.

**REMARKS:** Diagnostic horizons and features recognized in this pedon include:

Mollic epipedon - from the surface to 9 inches (A and BA horizons).

Cambic horizon - from 9 to 19 inches (Bw1 and Bw2 horizons).

Lithic contact - 19 inches

PSCS - from 10 to 19 inches

Aridic soil moisture regime

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National Cooperative Soil Survey  
U.S.A.

## Upper Deschutes River Area, Oregon, Parts of Deschutes, Jefferson, and Klamath Counties

### 106D—Redslide-Lickskillet complex, 15 to 30 percent north slopes

#### Map Unit Setting

*National map unit symbol:* 23ys

*Elevation:* 2,000 to 4,000 feet

*Mean annual precipitation:* 10 to 12 inches

*Mean annual air temperature:* 47 to 52 degrees F

*Frost-free period:* 70 to 100 days

*Farmland classification:* Farmland of statewide importance

#### Map Unit Composition

*Redslide, north, and similar soils:* 50 percent

*Lickskillet, north, and similar soils:* 35 percent

*Estimates are based on observations, descriptions, and transects of the mapunit.*

#### Description of Redslide, North

##### Setting

*Landform:* Canyons

*Landform position (two-dimensional):* Toeslope

*Landform position (three-dimensional):* Base slope

*Down-slope shape:* Concave

*Across-slope shape:* Linear

*Parent material:* Volcanic ash over colluvium derived from volcanic rock

##### Typical profile

*H1 - 0 to 4 inches:* stony sandy loam

*H2 - 4 to 21 inches:* very cobbly sandy loam

*H3 - 21 to 34 inches:* extremely cobbly sandy loam

*H4 - 34 to 44 inches:* unweathered bedrock

##### Properties and qualities

*Slope:* 15 to 30 percent

*Depth to restrictive feature:* 20 to 40 inches to lithic bedrock

*Drainage class:* Well drained

*Capacity of the most limiting layer to transmit water (Ksat):* High (1.98 to 5.95 in/hr)

*Depth to water table:* More than 80 inches

*Frequency of flooding:* None

*Frequency of ponding:* None

*Calcium carbonate, maximum content:* 3 percent

*Maximum salinity:* Nonsaline to very slightly saline (0.0 to 2.0 mmhos/cm)

*Available water supply, 0 to 60 inches:* Very low (about 2.4 inches)

### Interpretive groups

*Land capability classification (irrigated):* 6e  
*Land capability classification (nonirrigated):* 6e  
*Hydrologic Soil Group:* B  
*Ecological site:* R010XA083OR - Juniper Shrubby North 9-12 PZ  
*Hydric soil rating:* No

### Description of Lickskillet, North

#### Setting

*Landform:* Canyons  
*Landform position (two-dimensional):* Backslope  
*Landform position (three-dimensional):* Side slope  
*Down-slope shape:* Linear  
*Across-slope shape:* Linear  
*Parent material:* Colluvium derived from volcanic rock

#### Typical profile

*H1 - 0 to 7 inches:* very stony sandy loam  
*H2 - 7 to 14 inches:* very cobbly sandy loam  
*H3 - 14 to 24 inches:* unweathered bedrock

#### Properties and qualities

*Slope:* 15 to 30 percent  
*Depth to restrictive feature:* 12 to 20 inches to lithic bedrock  
*Drainage class:* Well drained  
*Capacity of the most limiting layer to transmit water (Ksat):* Moderately high to high (0.57 to 1.98 in/hr)  
*Depth to water table:* More than 80 inches  
*Frequency of flooding:* None  
*Frequency of ponding:* None  
*Available water supply, 0 to 60 inches:* Very low (about 1.0 inches)

#### Interpretive groups

*Land capability classification (irrigated):* 7e  
*Land capability classification (nonirrigated):* 7e  
*Hydrologic Soil Group:* D  
*Ecological site:* R010XA025OR - Juniper Shallow North 10-12 PZ  
*Hydric soil rating:* No

## Data Source Information

Soil Survey Area: Upper Deschutes River Area, Oregon, Parts of Deschutes, Jefferson, and Klamath Counties  
Survey Area Data: Version 21, Sep 8, 2023