



Mailing Date:
Tuesday, May 14, 2024

Coos County Community Development

FILE NUMBER: ACU-23-074/FP-23-012

HEARING DATE: **Thursday, May 23, 2024 at 1:30 PM**

HEARING LOCATION: 201 N. Adams Street, Coquille Oregon 97423
This meeting can be attended virtually at
Board of Commissioners Hearings
Please join my meeting from your computer, tablet or smartphone.
<https://meet.goto.com/964495293>
You can also dial in using your phone.
Access Code: 964-495-293
United States: [+1 \(571\) 317-3122](tel:+15713173122)

APPLICANT(s): Fred Messerle, Beaver Drainage District
Caley Sowers, Coos Soil and Water District Manager
Fred Messerle, Treasure, Fred Messerle & Sons, Inc.
Cynthia Henson, President, Everett-Ona Isenhardt Ranch, Inc.
Laura and John Isenhardt, Trustee, Isenhardt Living Trust
Sara Gregory, ODFW, Umpqua Watershed District Manager
Luke Fitzpatrick, Trustee, The Bridges Family Trust
Juliana Ruble, District 7 Permit Specialist

STAFF CONTACT: Jill Rolfe, Planning Director
Phone: 541-396-7770
Email: planning@co.coos.or.us

HEARINGS BODY: Board of Commissioners

RECORD: [Record items can be viewed and downloaded from the website](#)

SUMMARY/REQUEST: The applicants have requested an Administrative Conditional Use Review. There have been some public concerns raised with this request and the Board of Commissioners called the matter up during a work session on March 5, 2024. The Winter Lake Phase III project entails a working lands infrastructure rehabilitation effort proposed on 1,290 acres within the 1,790-acre Beaver Slough Drainage District and two additional parcels totaling 99 acres in the Coaledo Drainage District. The project aims to replace/consolidate a total of 42 pasture culverts with associated tidegates, install over 90,000 ft of new and reconstructed tidal/farm drainage channels, repair five segments of failing berms, excavate deposited sediments from China Camp Creek, and install up to nine heavy-use watering site troughs.

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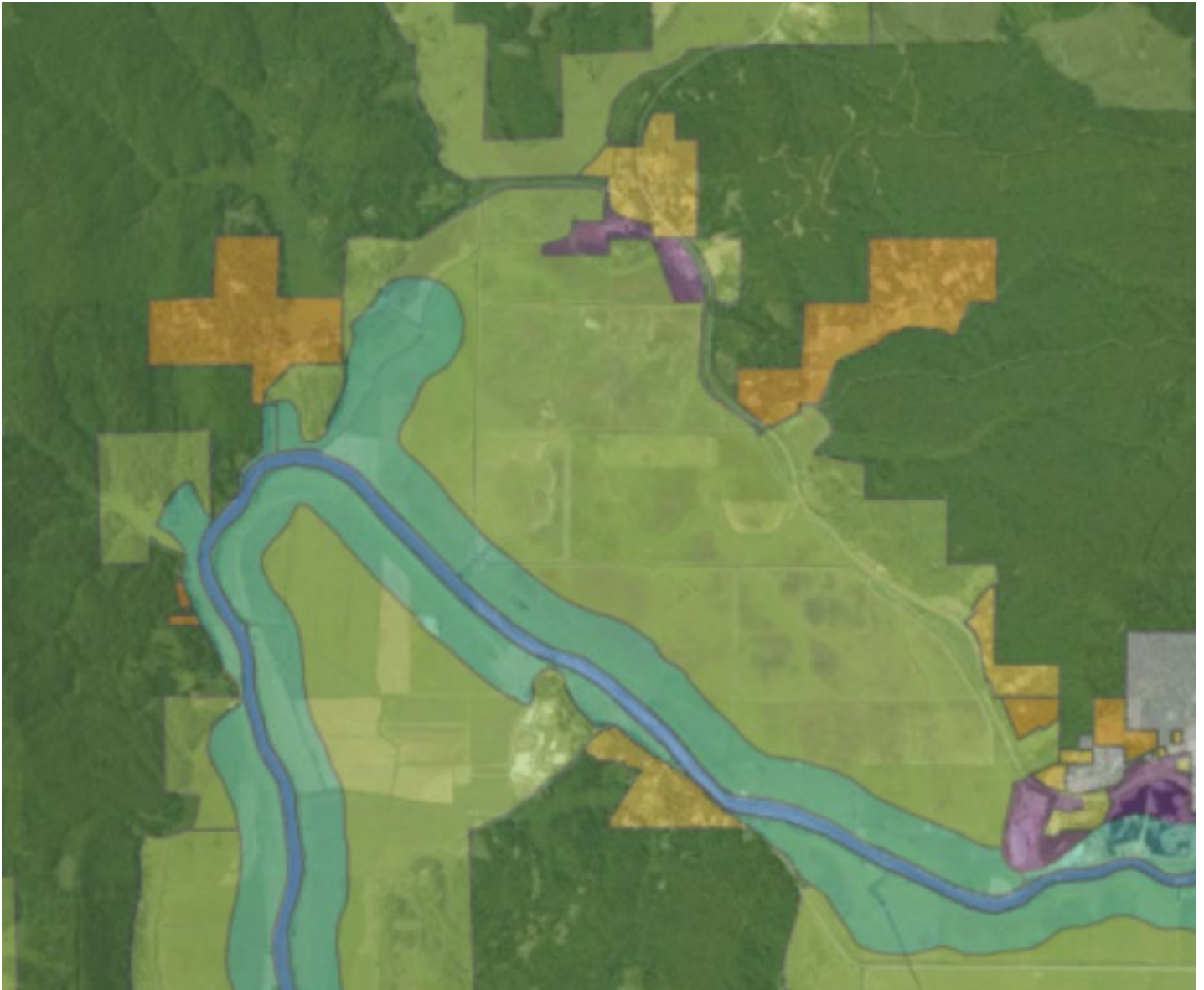
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- Zoning: Exclusive Farm Use (EFU)
Coquille River Estuary Management Segments:
- CREMP-Exclusive Farm Use Shoreland Segment CREMP EFU 43,
 - CREMP Aquatic 21 Conservation Aquatic

The project will take place in the Exclusive Farm Use and Coquille River Estuary Management Plan Zoning . In the EFU the proposal is permitted and in the Coquille River Estuary the proposal is regulated through an Administrative Conditional Use (ACU).



I. APPLICABLE CRITERIA

COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE (CCZLDO)

CHAPTER III – ESTUARY ZONES

SECTIONS

- 3.3.710(2) – Coquille River Estuary Management Plan - Exclusive Farm Use (CREMP-EFU) Shoreland Segments - Administrative Conditional Development and Use: Drainage and Tide Gating
- 3.3.730 – Criteria and Review Standards for Conditional Use Permits (Both Administrative & Hearings Body)
- § 3.3.740 – Development and Use Standards

Coquille River Estuary Policies

- Policy #14 – General Policy Uses within the Rural Coastal Shorelands
- Policy #18 – Protection of Historic, Cultural, and Archaeological Sites
- Policy #19 – Management of “Wet-Meadow” wetlands within Coastal Shorelands
- Policy #22 – Mitigation Sites: Protection against Pre-emptory Uses
- Policy #23 – Riparian Vegetation/Streambank Protection
- Policy #27 – Floodplain Protection within Coastal Shorelands

CHAPTER IV - BALANCE OF COUNTY ZONES, OVERLAYS & SPECIAL CONSIDERATION

SECTIONS

- 4.6.200(8) – Exclusive Farm Use – Use Table - Diking, drainage, tide-gating, fill, mitigation, non-shoreland stabilization, dredge material disposal and restoration
- 4.11.243(4) – Duties and Responsibilities of the Floodplain Administrator – Alteration of Watercourses
- 4.11.251 – Floodplain - General Standards – Other Development


CHAPTER V – ADMINISTRATION

SECTIONS

- 5.0.600 Board of Commissioners Review of Applications and Appeals *** The Board of Commissioners reserves the right to pre-empt any permit review process or appeal process and hear any permit application or appeal directly. The Board also reserves the right to appoint a Hearings Officer or Hearings Body to hear and consider any permit application or appeal. Notice of appeals of administrative actions shall be promptly forwarded to the Board of Commissioners, which may elect to hear the appeal instead of the Planning Commission.

II. BACKGROUND:

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PROPOSAL: According to the applicants the Winter Lake Phase III project is a working lands infrastructure rehabilitation project proposed on 1,290 acres of the 1,790 acre Beaver Slough Drainage District and two additional parcels totaling 99 acres in the Coaledo Drainage District. The project will replace/consolidate a total of 42 pasture culverts with associated tidegates, install over 90,000 ft of new and reconstructed tidal/farm drainage channel, repair five segments of failing berm, excavate deposited sediments from China Camp Creek, and install up to nine heavy use watering site troughs (see 404 Fill and Removal permit application and associated Additional Materials). The project area is fully within properties that are zoned as EFU, EFU/CREMP, and or EFU/IND. As such the proposed actions to rehabilitate drainage infrastructure for farming use are facilitatively allowed under the Coos County Planning Code. The lands are within the FEMA floodway Zone A. An engineer floodplain certification application documenting that the project complies with FEMA guidelines is in preparation for submission separately to accompany the 404 Fill and Removal permit application materials to the County Planning Department.

Please note that the portion of the property that is regulated and not permitted outright is the portions of the project that are located within the Coquille River Estuary Management Plan.


The Board of Commissioners choose to pre-empt the Planning Director’s review of the matter and hold a public hearing. An administrative conditional use process (Staff Decision) does not provide for interaction with the public and agency comments to understand concerns or allow the applicant to respond. A hearing was held on this matter on April 17, 2024. At the hearing testimony and evidence was taken in accordance with public testimony laws. The Board of Commissioners continued the meeting to allow for additional written testimony and the applicants final rebuttal. The record is officially closed and the hearing on May 23, 2024 is for deliberation only.

PUBLIC COMMENTS: The Planning Department mailed notice of the conditional use application to all property owners within 500 feet of the subject property on February 14, 2024 prior to the work session and then again on March 7, 2024 for the public hearing . Staff complied with all notice requirements of Section 5.0.900. Exhibits 1 through 18 were received and summarized in the prior staff report. Since the time of the last staff report Exhibits 19 through 33 are summarized below and transmitted with this report.

- Exhibit 19 - Coquille Indian Tribe Written Comments – The comments cover the history of the proposal but for clarification on page 3 of the comments it seems to misunderstand the purpose of a work session and the report that was provided to the Board of Commission on February 27, 2024. A work session is not to make a decision on a hearing but if a matter should be called up (pre-empted) and the staff report did not require findings but requested guidance on the process. There had been comments made to the Board of Commissioners regarding negative impacts regarding this and related wetland projects in the area. This report achieved the intent and findings were offered in the next report.

The testimony continues to urge the Board of Commissioner to look at the applicant’s testimony and evidence that supports approval of the application. There is no new information proved.

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- Exhibit 20 Coos SWCD and Oregon Department of Fish and Wildlife – The applicant provided a report to further provide clarification regarding the issues raised in other testimony outlined in the March 21, 2024 staff report. This report address the issues raised. The testimony addresses the methodology for the impacts analysis, altered drainage patterns and loss of water sources, increased maintenance responsibilities, potential pest and invasive plant management and loss of agricultural lands.
- Exhibit 21 – Email string between Christopher Claire, ODFW and Richard Hallmark, Environmental Health Manager, Coos Health and Wellness. The conversation is about mosquitos
- Exhibit 22 – Beaver Slough Drainage District – The comments submitted represent the Beaver Slough Drainage District and affirm that all applicable standards and criteria have been met. While the testimony responds to the staff report, it overlooks potential impacts on adjoining farm and forest practices, such as increased pests and invasive weeds. The testimony should focus on explaining why these impacts will not occur, rather than criticizing the staff for suggesting potential issues. The staff acknowledges that the criteria can be met, but also highlights valid concerns from neighboring property owners that need addressing. The initial step should be to acknowledge the possibility of unintentional significant impacts and to detail how these would be mitigated if they occurred
- Exhibit 23 - Coos SWCD and Oregon Department of Fish and Wildlife – This appears to be a reiteration of the testimony received in Exhibit 20 up to page 15. Starting on page 15, the project team provides additional information about Phases I and II. Subsequently, the testimony shifts to discuss mosquito trends, indicating that mosquitoes originate from various areas, not primarily from the subject property. For the record, it's important to note that decision-makers cannot click on links; therefore, all pertinent information should be included directly in the record to ensure everyone has the same opportunity to respond.
- Exhibit 24 – The Bridges Foundation has submitted a letter affirming their support for the project, clearly articulating that they do not anticipate any adverse effects on their property as a result of the proposed developments.
- Exhibit 25 – Coquille Tidal Wetland Conservation Project – Bridges Foundation web page information referenced in oral testimony. This page explains the projects that the Bridges Foundation have been working on.
- Exhibit 26 - Gail Olsen - Submitted written testimony highlighting the challenges of being removed from the Beaver Slough Drainage District, along with her disapproval of the current application. She expresses her concerns that the applicant is not acknowledging any responsibility for the mosquito issues. Furthermore, Olsen argues that the project's focus appears to be more on creating fish habitats rather than on enhancing agricultural productivity. Her testimony underscores a need for clarity on the project's objectives and for addressing community concerns effectively.
- Exhibit 27 – Sharon Waterman - Submitted written testimony detailing her and her husband's ownership of their land for 45 years before selling the property to Detlefsen, located off North Bank Lane. She notes that during their tenure, they did not have issues with mosquitoes. After researching the current project, Waterman believes it is primarily focused on restoration, with irrigation and drainage being

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secondary considerations. She provides a rationale for her opinion and recommends that the vector control committee be reinstated. Waterman suggests that this committee should include members from the landowners affected by the project. Additionally, she advises utilizing tools from the Oregon Department of Fish and Wildlife's (ODFW) Coquille Valley Management Plan and Vector Control Plan to facilitate proper mosquito assessments. This approach aims to ensure that all stakeholders have a say in managing the environmental impacts related to the project.

- Exhibit 28 – Coos Health & Wellness – Submitted a PowerPoint of the mosquito questionnaire response.
- Exhibit 29 – Sharon Waterman – Submitted a letter from Department of Fish and Wildlife addressed to her regarding the Coquille Valley Wildlife Area Management (CVWA) with assurance that the CVWA will use adaptive management to ensure compatibility with neighbor land use.
- Exhibit 30 – Screenshot of Bridges Foundation webpage showing info on channel enhancements, hydrologic bulbs, wetland ponds & elevated wildlife mounds.
- Exhibit 31 – Eric Olsen – Submitted written testimony questioning the honesty of the Beaver Slough Drainage District and ODFW. His testimony explains that effects that prior marsh projects has had on the neighboring properties. The project, as presented, does not seem to be for farmland.
- Exhibit 32 – Richard Hallmark, Environmental Health Manager – Summarized a conversation he had with Mr. Messerle regarding Winter Lakes Properties. He also offered a solution by having monitoring for mosquito larvae on properties in the Winter Lakes area.
- Exhibit 33 – Applicant's Rebuttal – The applicant addresses the issue and made some suggested conditions of approval which seem reasonable to ensure that project does not force impacts.

Suggested conditions by the applicant:

1. A project-area mosquito monitoring and treatment plan be developed.
2. Plan development will be led by a designated representative of BSDD and a designated representative of Coos Health and Wellness (CHW).
3. The designated representatives of BSDD and CHW will enlist the volunteer assistance of mutually agreed upon third representative with mosquito mitigation experience and training that is not formally associated with the project, the BSDD, or Coos County government.
4. The representatives from BSDD, CHW, and an independent third party will develop a mosquito monitoring plan that:
 - a. Consider, and is informed by any and all relevant information included in the BSDD application, and the record materials developed in the Board of Commissioner's review process.
 - b. The CCPD suggestions in the April 10, 2024 staff report includes off-project monitoring area(s) for comparative purposes over time.
 - c. Is not unduly burdensome in its implementation activities or costs for BSDD and/or CHW.

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- d. Is completed and mutually agreed upon by BSDD and CHW within 1-year of the date of issuance of ACU-23-07 4/FP-23-012 approval.

BSDD will not object to or appeal issuance of ACU-23-074/FP-23-012 approval that includes the proposal stated in 1-4 above. BSDD reserves its right to revoke the proposal and reserves all its appeal rights and options should different or additional conditions of any nature be included or if the permit is denied.

Along with applicant's rebuttal is a document from the project team to address all testimony submitted during the open record period.

III. SUGGESTED FINDINGS & CONCLUSIONS

Coos County Zoning and Land Development
Chapter III – Estuary Zones


Coquille River Estuary Management Plan - Exclusive Farm Use (CREMP-EFU) Shoreland Segments

- *Exclusive Farm Use Shoreland Segments 23 (23-EFUS) and 26 (26-EFUS) shall be managed for the continuation of farm use as defined in ORS 215.203 (2) (a) and such other non-farm uses as are conditionally permitted in ORS 215.213. Mitigation shall also be permitted, and designated mitigation sites shall be protected against pre-emptory uses.*
- *Exclusive Farm Use Shoreland Segments: 27 (27-EFUS), 28 (28-EFUS), 31(31-EFUS), 32(32-EFUS), 33 (33-EFUS), 34 (34-EFUS), 36 (36-EFUS), 37 (37-EFUS), 41 (41-EFUS), 42 (42-EFUS), 43 (43-EFUS), 44 (44-EFUS), 47(47-EFUS), 53(53-EFUS), 55 (55-EFUS), 56 (56-EFUS), 60 (60-EFUS), 62 (62-EFUS), 73 (73-EFUS), 75 (75-EFUS) shall be managed for the continuation of farm use as defined in ORS 215.203 (2)(a) and such other farm uses as are conditionally permitted in ORS 215.213.*

FINDING: In the Estuary Zones the applicant is required to show how a proposal meets the management objective. The applicant is required to show that the use will continue and for the property to be managed for uses as defined in ORS 215.203 and such other farm uses as are conditionally permitted in ORS 215.213.

The applicant submitted supplemental application information on March 19, 2024 to address the estuary requirements regarding impacts to adjacent properties. The applicant explains that Proposed modifications to channels have been designed to provide tidal inflow access as well as improve drainage from interior pasture locations. All proposed new channels and any modifications to existing channel networks have been engineered on-grade to fully accommodate proper drain out and to address habitats where water could otherwise pond and develop conditions where there was potential for mosquito production. The overall Winter Lake Phase III project goals include:

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- substantively increasing pasture grass production through maintenance and enhancement of existing agricultural drainage infrastructure
- Substantively increasing capability of the project area to facilitate salmonid (specifically juvenile coho) access to and use of overwintering and rearing habitats
- Implementing generally accepted best management practices for the protection of agricultural water quality and reducing non-point source pollution.

Farm use is defined by ORS 215.203, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees or land described in ORS 321.267 (Lands not eligible for special assessment) (3) or 321.824 (Lands not eligible for special assessment) (3).

Given the understanding of the proposal is to facilitate enhanced pasture land for the purpose of farm use and increase aquatic and bird habitat the project complies with the management unit objective.


SECTION 3.3.710 ADMINISTRATIVE CONDITIONAL DEVELOPMENT AND USE:

The following uses and their accessory uses may be allowed as administrative conditional uses in the “CREMP-EFU” zone subject to applicable requirements in Sections 3.3.730 and 3.3.740.

- 1. Diking (construction and maintenance). CREMP Policies #14, #18, #19, #22, #23, and #27.*
- 2. Drainage and tide-gating. The applicable review criteria are CREMP Policies #14, #18, #19, #22, #23, and #27.*
- 3. Fill. CREMP Policies #14, #18, #19, #22, #23, and #27. Use not permitted in Segment 26.*
- 13. Shoreland structural stabilization. Flood elevation certificate required. CREMP Policies #9, #14, #23, #27, #18, #19, and #22. Use not permitted in Segment 47.*

FINDING: Policies #14, #18, #19, #22, #23, and #27 and Sections 3.3.730 and 3.3.740 are required to be addressed as part of this project for the portions that will occur in the Coquille River Estuary Management Plan. The applicant has stated the project is consistent with the criteria and did submit supplemental documentation to further address Sections 3.3.730.

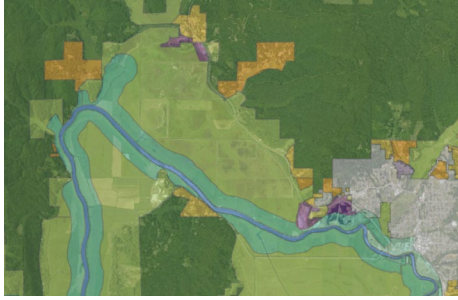
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The area identified as bluish in color are subject to the estuary zone. The areas outside of the blue area are zoned Elusive Farm Use and not subject to the policies identified in this section.

Coquille River Estuary Policies

- Policy #14 – General Policy Uses within the Rural Coastal Shorelands
- I. Coos County shall manage its rural areas with the "Coquille River Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan, except for areas where mandatory protection is prescribed by LCDC Goal #17 and #18:
- a. farm uses as provided in ORS 215;
 - b. propagation and harvesting of forest products consistent with the Oregon Forest Practices Act;
 - c. private and public water-dependent recreation developments;
 - d. aquaculture;
 - e. water-dependent commercial and industrial uses, water-related uses and other uses only upon a finding by the county that such uses satisfy a need which can not be accommodated on uplands or in urban and urbanizable areas or in rural areas built upon or irrevocably committed to non-resource use;
 - f. single family residences on lots, parcels, or units of land existing on January 1, 1977 when it is established that:
 1. the dwelling is in conjunction with a permitted farm or forest use, or
 2. the dwelling is in a documented "committed" area, or
 3. the dwelling has been justified through a goal exception, or
 4. such uses do not conflict with the resource preservation and protection policies established elsewhere in this Plan;
 - g. any other uses, provided that the Board of Commissioners determines that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this Plan.

This strategy recognizes (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration, and (2) that LCDC Goal #17 places strict limitations on land divisions within coastal

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shorelands. This strategy further recognizes that rural uses "a" through "g" above, are allowed because of need and consistency findings documented in the "factual base" that supports this plan.

FINDING: The applicant has provided information to show how the use is consistent with a use permitted under ORS 215. Therefore, this has been addressed.

- Policy #18: Protection of "Historical, Cultural and Archaeological Sites"

Local government shall provide special protection to historic and archaeological sites and shall continue to refrain from widespread dissemination of site-specific information about identified archaeological sites.


I. This strategy shall be implemented by requiring review of all development proposals involving an archaeological or historical site to determine whether the project as proposed would protect the historical and archaeological values of the site.

II. The development proposal, when submitted shall include a site development plan showing, at a minimum, all areas proposed for excavation, clearing and construction. Within three (3) working days of receipt of the development proposal, the local government shall notify the Coquille Tribe in writing, together with a copy of the site development plan. The Coquille Tribe shall have the right to submit a written statement to the local government within Thirty (30) days of receipt of such notification, stating whether the project as proposed would protect the historical and archaeological values of the site, or, if not, whether the project could be modified by appropriate measure to protect those values. "Appropriate measures" may include, but shall not be limited to, the following:

- a. retaining the historic structure in-situ or moving it intact to another site; or
- b. paving over the site without disturbance of any human remains or cultural objects upon the written consent of the Tribe; or
- c. clustering development so as to avoid disturbing the site; or
- d. setting the site aside for non-impacting activities, such as storage; or
- e. if permitted pursuant to the substantive and procedural requirements of ORS 97.750 and 358.920, contracting with a qualified archaeologist to excavate the site and remove any cultural objects and human remains and reintering the human remains at the developer's expense.
- f. Using civil means to ensure adequate protection of the resources, such as acquisition of easements, public dedications, or transfer of title.

If a previously unknown or unrecorded archaeological site is encountered in the development process, the above measures shall still apply. Land development activities, which violate the intent of this strategy, shall be subject to penalties prescribed in ORS Chapter 97.990.

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- III. Upon receipt of the statement by the Tribe, or upon expiration of the Tribe thirty day (30) response period, the local government shall conduct an administrative review of the development proposal and shall:
- a. approve the development proposal if no adverse impacts have been identified, as long as consistent with other portions of this Plan, or
 - b. approve the development proposal subject to appropriate measures agreed upon by the landowner and the Tribe, as well as any additional measures deemed necessary by the local government to protect the historical and archaeological values of the site. If the property owner and the Tribe cannot agree on the appropriate measures, then the governing body shall hold a quasi-judicial hearing to resolve the dispute. The hearing shall be a public hearing at which the governing body shall determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body to protect the historical and archaeological values of the site.
 - c. Through the "overlay concept" of this policy and the Special Considerations Map, unless an Exception has been taken, no uses other than propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low-intensity water-dependent recreation shall be allowed unless such uses are consistent with the protection of the historic and archaeological values, or unless appropriate measures have been taken to protect the historic and archaeological values of the site.

This strategy recognizes that protection of historical and archaeological sites is not only a community's social responsibility, is also legally required by ORS 97.745. It also recognizes that historical and archaeological sites are non-renewable cultural resources.

FINDING: Staff provided notice to the Coquille Tribe. The Tribe has been involved with the project through the Corp permitting process and made comments regarding the project found at Exhibit 10. However, the comments are supporting the project and not addressing Policy #18. The time period has expired for comments to be submitted under Policy #18. Therefore, this has been addressed.

- Policy #19: Management of "Wet-Meadow" Wetlands within Coastal Shorelands
- I. Coos County shall protect for agricultural purposes those areas defined as 'wet meadow' wetlands by the U.S. Fish and Wildlife Service but currently in agricultural use or with agricultural soils and not otherwise designated as "significant wildlife habitats" or "major marshes", unless an Exception allows otherwise. Permitted uses and activities in these areas shall include farm use and any drainage activities, which are necessary to improve agricultural production. Filling of these areas, however, shall not be permitted, so as to retain these areas as wildlife habitats during periods of seasonal flooding and high water tables, with the following exceptions:
- a. for transportation corridors where an Exception has been taken to Goal #3 (Agricultural Lands); or
 - b. agricultural buildings, where no alternative site exists on the applicant's property; or
 - c. minor improvements for which there is no practical alternative; or
 - d. where no fill permit is required under Section 404 of the Water Pollution Control Act; or
 - e. for priority dredged material disposal sites designated by this Plan for protection from pre-emptory uses.

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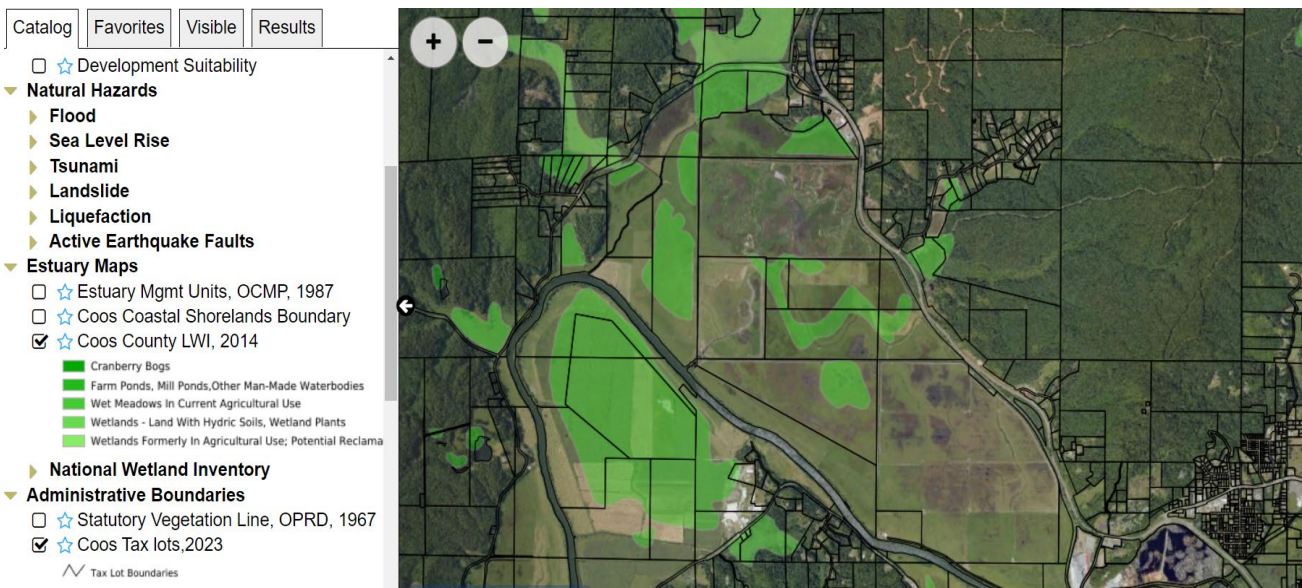


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Any activity or use requires notification of Division of State Lands, with their comments received prior to the issuance of any permits.

- II. This policy shall be implemented by designating these lands as "Agricultural Lands" on the Special Considerations Map and by making findings in response to a request for comment by the Division of State Lands, which show whether the proposed action is consistent with the Comprehensive Plan. This strategy recognizes:
 - a. that protection of these areas for agricultural use is necessary to ensure the continuation of the local agricultural economy;
 - b. that improved drainage is necessary to maintain or enhance productivity by establishing preferred forage types;
 - c. that the present system of agricultural use in the Coquille Valley is compatible with wildlife habitat values because the land is used for agriculture during the season when the land is dry and therefore not suitable as wetland habitat, and provides habitat areas for wildfowl during the flooding season when the land is unsuitable for most agricultural uses; and
 - d. that these habitat values will be maintained provided filling is not permitted.

FINDING: This property does have identified wet meadow wetlands. The wetlands are hydraulic soils and wetland plants but not identified as protected wetlands subject to this policy. Therefore, this policy is not applicable.



- Policy #22: Mitigation Sites: Protection Against Pre-emptory Uses

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Consistent with permitted uses and activities:

- ~ "High Priority" designated mitigation sites shall be protected from any new uses or activities which could pre-empt their ultimate use for this purpose.
- ~ "Medium Priority" designated mitigation sites shall also be protected from uses which would pre-empt their ultimate use for this purpose.


However, repair of existing dikes or tidegates and improvement of existing drainage ditches is permitted, with the understanding that the permitting authority (Division of State Lands) overrides the provisions of Policy #38. Wetland restoration actions designed to answer specific research questions about wetland mitigation and/or restoration processes and techniques, may be permitted upon approval by Division of States Lands, and as prescribed by the uses and activities table in this Plan.

- ~ "Low Priority" designated mitigation sites are not permanently protected by the Plan. They are intended to be a supplementary inventory of potential sites that could be used at the initiative of the landowner. Pre-emptory uses shall be allowed on these sites, otherwise consistent with uses and activities permitted by the Plan. Any change in priority rating shall require a Plan Amendment.

Except as provided above for research of wetland restoration and mitigation processes and techniques, repair of existing dikes, tidegates and improvement of existing drainable ditches, "high" and "medium" priority mitigation sites shall be protected from uses and activities which would pre-empt their ultimate use for mitigation.

- I. This policy shall be implemented by:
 - a. Designating "high" and "medium" priority mitigation sites in the plan inventory.
 - b. Implementing an administrative review process that allows uses otherwise permitted by this Plan but proposed within an area designated as a "high" or "medium" priority mitigation site only upon satisfying all of the following criteria:
 1. The proposed use must not entail substantial structural or capital improvements (such as roads, permanent buildings or non-temporary water and sewer connections);
 2. The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site (such as extensive site grading/excavation or elevation from fill); and
 3. The proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat; or
 4. For proposed wetland restoration research projects in "medium" priority mitigation sites the following must be submitted:
 - i. A written approval of the project from Division of State Lands, and

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- ii. A description of the proposed research, resource enhancement and benefits expected
- c. Local government's review of and comment on state and federal waterway permit applications for dike/tidegate and drainage ditch actions.

This policy recognizes that potential mitigation sites must be protected from pre-emptory uses. However, "low priority" sites are not necessarily appropriate for mitigation use and are furthermore in plentiful supply. It further recognizes that future availability of "medium priority" sites will not be pre-empted by repair of existing functional dikes, tidegates and drainage ditches or otherwise allowed by this policy. This insures the continuation of agricultural production until such time as sites may be required for mitigation. This policy also recognizes that research activities designed to gain further understanding of wetland, restoration and mitigation processes and techniques are needed. The consideration of "medium priority" mitigation sites for this purpose will facilitate future identification and successful use of mitigation sites (OR 95-11-010PL 1/24/96).

FINDING: According to the CCCP map this property is not located within a mitigation site. Therefore, this policy does not apply.

- Policy #23: Riparian Vegetation and Streambank Protection
 - I. Local government shall strive to maintain riparian vegetation within the shorelands of the estuary, and when appropriate, restore or enhance it, as consistent with water-dependent uses. Local government shall also encourage use of tax incentives to encourage maintenance of riparian vegetation, pursuant to ORS 308.792 - 308.803.

Appropriate provisions for riparian vegetation are set forth in the CCZLDO Section 3.2.180 (OR 92-05-009PL).

- II. Local government shall encourage streambank stabilization for the purpose of controlling streambank erosion along the estuary, subject to other policies concerning structural and non-structural stabilization measures.

This strategy shall be implemented by Oregon Department of Transportation (ODOT) and local government when erosion threatens roads. Otherwise, individual landowners in cooperation with the Ports of Bandon and Coquille, Coos Soil and Water Conservation District, Watershed Council, Division of State Lands and Oregon Department of Fish & Wildlife shall be responsible for bank protection.


This strategy recognizes that the banks of the Coquille Estuary are susceptible to erosion and has threatened valuable farm land, roads and other structures.

FINDING: The applicant has provided a plan for stabilization of any disturbed areas but there are none anticipated within this project. The work is internal. Therefore, this has been addressed.

- Policy #27: Floodplain Protection within Coastal Shorelands

The respective Flood Regulations of local governments set forth requirements for uses and activities in identified flood areas; these shall be recognized as implementing ordinances of this Plan.

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This strategy recognizes the risk of substantial loss of stock and property damage resulting from the widespread flooding of the Coquille River Valley floor which occurs during most winters.

FINDING: The applicant is required to address Section 4.11.251 for compliance with the relevant floodplain ordinance. This is done further on in the staff report.

Section 3.3.730 – Criteria and Review Standards for Conditional Use Permits (Both Administrative & Hearings Body)
A use may be allowed provided the following requirements are met:

1. Such uses will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
2. Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
3. Siting Standards for Dwellings and Structures in the EFU Zone. (Not Applicable)


FINDING: The applicant is required to do an impacts analysis showing that the proposed use will not force a significant change in accepted farm or forest practices on surrounding properties zoned and devoted to farm or forest. The applicant shall address how the proposal will not increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. The analysis is required to define the study area, look at current practices within that area and then make a determination if the current proposal will significantly force a change in accepted farm and forest practices and if it would increase the cost of accepted farm or forest practices. The applicant submitted this information on March 19, 2024. The full results of the study are found in the Application Submittal.

The methodology used by the applicant is as follows:

The Geographic Scope of this analysis includes all parcels within an approximate 1-mile radius of the project area. For this analysis, only lands zoned for farm and/or forestry practices were considered. Properties with industrial, commercial, rural residential, or other zoning were not evaluated for impacts unless combined with a farm or forest plan zoning. It should be noted here that most of the Garden Valley area parcels are zoned RR-5 and were not analyzed according to the selected evaluation criteria.

The results provided a total of 234 parcels for consideration, 15 of which are already included in the proposed project area. Project Area parcels were evaluated separately (see applicants Appendix A. Winter Lake Phase III Project Area and Surrounding Lands Impacts Analysis Tables 1. And 2.) as well as in combination with surrounding land parcels.

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CHAPTER IV - BALANCE OF COUNTY ZONES, OVERLAYS & SPECIAL CONSIDERATION

Section 4.6.200(8) – Exclusive Farm Use – Use Table - Diking, drainage, tide-gating, fill, mitigation, non-shoreland stabilization, dredge material disposal and restoration.

FINDING: In the EFU portion of the properties that are not located in the CREMP the use is permitted subject to notifications to Department of State Lands and the local Tribes. This is a permitted outright use and does not have any discretionary criteria. Therefore, there are no standards to apply. However, the property is subject to floodplain standards which is addressed in the next section.

Section 4.11.243(4) – Duties and Responsibilities of the Floodplain Administrator – Alteration of Watercourses

4. Alteration of Watercourses

- a. Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance & Mitigation Administration.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

Section 4.11.251 – Floodplain - General Standards – Other Development ***


7. Other Development. Includes mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of a special flood hazard, but does not include such uses as normal agricultural operations, fill less than 12 cubic yards, fences, road and driveway maintenance, landscaping, gardening and similar uses which are excluded from definition because it is the County’s determination that such uses are not of the type and magnitude to affect potential water surface elevations or increase the level of insurable damages.

Review and authorization of a floodplain application must be obtained from the Coos County Planning Department before “other development” may occur. Such authorization by the Planning Department shall not be issued unless it is established, based on a licensed engineer’s certification that the “other development” shall not:

- a. Result in any increase in flood levels during the occurrence of the base flood discharge if the development will occur within a designated floodway; or,
- b. Result in a cumulative increase of more than one foot during the occurrence of the base flood discharge if the development will occur within a designated flood plain outside of a designated floodway.

FINDING: The applicant is required to address the cumulative increase as addressed by a licensed engineer. The applicant submitted a report that was completed by Ryan Wesley Kilgren, Kilgren Water Resources, LLC. Mr. Kilgren is a registered licensed professional civil engineer. The report documents hydraulic analysis demonstrating the proposed project will maintain the flood carrying capacity of the watercourse, and with no cumulative increase in the associated base flood inundation or base flood levels per Coos County Zoning and Land Development Ordinances Chapter 4 Section 4.11.251(7b) General Standards for other development. This hydraulic analysis evaluated the existing conditions and proposed conditions for the 1-percent annual chance exceedance flood event (i.e., the base flood) conditions documented in the FEMA Flood Insurance Study (FIS) for

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Coos County, Oregon and Incorporated Areas (FIS Number 41011CV001C with a revised date of December 7, 2018; FEMA 2018c). The analysis and this report provide documentation and support for compliance with Coos County Zoning and Land Development Ordinances Chapter 4 Section 4.11.251(7b) General Standards for other development, and the National Flood Insurance Program (NFIP) regulations governed by Title 44 of the Code of Federal Regulations (CFR) Section 60.3(d)(3). The full report is part of Attachment A.

IV. STAFF RECOMMENDATIONS – While the applicant has addressed these concerns comprehensively in their report, staff has made suggestions to specifically address impacts from pest (mosquito) and invasive plant (Parrots feather) management to ensure there are no significant impacts to adjacent farm and forest practices as these seem to be the most relevant issues raised.

These issues are can be addressed with conditions of approval and accepting the staff findings.

Suggested conditions by the applicant:


- 1. A project-area mosquito monitoring and treatment plan be developed.**
- 2. Plan development will be led by a designated representative of BSDD and a designated representative of Coos Health and Wellness (CHW).**
- 3. The designated representatives of BSDD and CHW will enlist the volunteer assistance of mutually agreed upon third representative with mosquito mitigation experience and training that is not formally associated with the project, the BSDD, or Coos County government.**
- 4. The representatives from BSDD, CHW, and an independent third party will develop a mosquito monitoring plan that:**
 - a. Consider, and is informed by any and all relevant information included in the BSDD application, and the record materials developed in the Board of Commissioner's review process.**
 - b. The CCPD suggestions in the April 10, 2024 staff report includes off-project monitoring area(s) for comparative purposes over time.**
 - c. Is not unduly burdensome in its implementation activities or costs for BSDD and/or CHW.**
 - d. Is completed and mutually agreed upon by BSDD and CHW within 1-year of the date of issuance of ACU-23-07 4/FP-23-012 approval.**

One additional condition of approval:

- 5. Provide a management plan for controlling the provide a plan for treating Parrots feather (*Myriophyllum aquaticum*) to help prevent future spread. This could be an agreement with Coquille Watershed to assist with control.**

ATTACHMENTS A – Testimony (Exhibits 19-23)

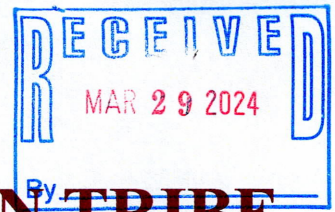
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COQUILLE INDIAN TRIBE

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March 25, 2024

Coos County Community Development
Land Use Planning Department
60 E. Second Street
Coquille, Oregon 97243

RE: Comments of Coquille Indian Tribe for Administrative Record in Support of ACU 23-074/FP 23-012 – Beaver Slough Drainage District/Winter Lake Phase III

I. Introduction and Background

The Coquille Indian Tribe is a federally recognized Indian Tribe, with lands of historic and modern interest encompassing a broad swath of Southwest Oregon. Since time began, the Coquille River and the full of the Coquille River watershed have been central to the identity, culture, and survival of Coquille people. The Coquille people are the original stewards of the Coquille River basin, and restoring its once abundant salmon, steelhead, lamprey, other native populations and ecological function and health is an urgent priority. Furthermore, the Coquille Indian Tribe is a cooperative manager (“co-manager”) of the fish and wildlife resources in Coos, Curry, Douglas, Jackson, and Lane Counties pursuant to the Coquille Indian Tribe/State of Oregon Memorandum of Agreement (*See Oregon Administrative Rules 635-800-0100*).

The Coquille Indian Tribe, a sovereign co-manager of fish and wildlife resources in the Coquille River basin, employs a traditional ecological knowledge based, holistic philosophy to protection and restoration of native species and their habitats in the Coquille River basin. The Tribe seeks to implement, and support, an array of activities that will restore an abundance of salmon, steelhead, and all native aquatic species to the Coquille River. Categories of such

actions include habitat protection and restoration, water quality improvements, and hatchery practices. The Coquille Tribe's holistic, abundance-based management philosophy will restore the Coquille River's once mighty salmon runs for the benefit of tribal members, all Coos County residents, and the many others that will visit our region to fish, boat, and enjoy the beauty and abundance of our shared homelands.

The Tribe's vision of restored and shared abundance requires that we use all the tools at our disposal that have proven to be effective in salmon restoration – not one single tool or approach will suffice to restore healthy, harvestable populations of salmon. The Winter Lake project deploys one of the necessary restoration tools – a “working lands” construct - where private property agriculturalist landowners partner with fisheries restoration agencies like the Tribe and Oregon Department of Fish and Wildlife to enhance the productivity of their lands for agriculture, while also providing key benefits to native species such as coho salmon. Even more, this private landowner/restoration agency partnership model leverages very significant amounts of “outside” federal, state, and Tribal funding to enhance both the agricultural and fisheries economic sectors of Coos County at a scale and pace that the County simply cannot fund.

The Coquille Tribe has invested itself in the Winter Lakes project. Over the last fifteen years, the Tribe has provided foundational support including technical expertise, special projects funding, and in-kind staff resources. In 2016 and 2017 the Tribe secured and committed two large federal funding grant awards totaling over \$700,000 for Winter Lake project implementation. Further, during this time the Coquille Tribe Natural Resources Office staff have attended many project-related public meetings, held Tribal Council informational meetings, and offered Tribal community meetings to educate and provide valuable information to our local communities on the complexities and benefits of these types of habitat restoration projects. Coquille Tribe Natural Resources Office staff have been technical advisors working with the Beaver Slough Drainage District (BSDD), ODFW, The Nature Conservancy, the Bridges Foundation, and others to ensure that the work being conducted is fiscally and scientifically sound, and inclusive of traditional knowledge.

II. Procedural History Regarding the BSDD Permit Application

The Beaver Slough Drainage District, through its District Manager Fred Messerle, and authorized agent Caley Sowers, Coos Soil and Water Conservation District, District Manager,

submitted ACU-23-074/FP-23-012 (hereinafter, “BSDD Application”) to the Coos County Planning Department (hereinafter, “CCPD”) on February 9, 2023 (*See County Commission Workshop Staff Report, February 27, 2023, Appendix A*) (hereinafter, “County Staff Report - 2/27/24”). The “Coos County Conditional Use Land Use Application” form provided by the Coos County Planning Department was utilized and completed by the BSDD applicant. It is necessary for the Board of County Commissioners (and public) to clearly understand who the real party in interest applicant is for ACU 23-074/FP 23-012 – it is the Beaver Slough Drainage District on behalf of its landowner patrons. There are multiple consulting technical and funding partners assisting the BSDD in its project, but the one and only applicant in this matter are the agricultural landowners and producers of the BSDD.

The Board of County Commissioners conducted a public workshop/hearing in Coquille, Oregon on March 5, 2024. The CCPD provided public notice of the workshop/hearing on February 7, 2024, and a written Staff Report was made publicly available. That Staff Report identified, for the interested public, each of the criteria that the BBSD permit application was subject to under the Coos County Land Development Code. Additionally, that Staff Report included the full detailed BSDD permit application for public inspection.

The primary purpose of the March 5, 2024, workshop was to provide the Board of County Commissioners an opportunity to engage the permit applicant, its partners including the Tribe, and the general public about the work that BSDD seeks to enable with the ACU. The Staff Report states: “In this case, there appears to be some controversy with this matter which led to the decision to have the Board of Commissioners review the matter to see if they would be the decision-maker in place of the planning department.” (*See Staff Report, February 27, 2024, p. 9*). While the Staff Report does not elaborate on the nature or extent of the “controversy” causing the Board of County Commissioners to take the uncommon step of a public hearing to determine if it will supplant the Planning Director as the decision maker on this ACU, it does include seven letters from the public – six of which generally express some concern about possible effects of the Winter Lake Phase III project (principally mosquito production and water incursion) and one letter expressing strong support for the project. Likewise, the Staff Report did not provide the written findings and conclusions relative to the Coos County applicable criteria. As noted in the Staff Report: “In this report, staff is providing the criteria and

explaining what needs to be addressed. A full analysis will be completed once the Board of Commissioners chooses a pathway for review.” (Staff Report, p. 13).

The March 5, 2024 workshop/hearing lasted over two hours. The first hour was dedicated to BSDD and project partners providing a detailed explanation of the Winter Lake project, and the Phase III element subject to the ACU permit application. Thereafter, every member of the public wishing to comment or having questions was permitted an opportunity to address the Board of Commissioners and/or BSDD and partner representatives. Ultimately, and after a motion by one Commissioner to forego exercising the Board’s preemption authority and allow the Planning Director to make the decision on the ACU in the normal course failed for lack of a second, the Board decided to exercise its preemptive authority and act as the decision maker for the BSDD permit application. The hearing/workshop was recorded. (By this reference, CIT incorporates the recording of the March 5, 2024, session as an appendix to these comments, and in doing so makes that recording a part of the administrative record for the Board’s action on the BSDD application, and for any and all appeal/review proceedings that might follow.

<https://www.youtube.com/watch?v=9TNeUaNt4TA>.

On March 7, 2024, the CCPD posted and mailed public notice of the Board of County Commissioners hearing on the BSDD application set for March 28, 2024, in Coquille, Oregon inviting written comment/testimony on the BSDD permit application. The Coquille Indian Tribe offers these written comments and testimony for the official record.

III. The BSDD Application has Been Deemed “Complete” by Coos County – This Means that BSDD has Presumptively “Adequately Addressed” All Applicable Coos County Zoning and Land Use Criteria and Standards.

The Coos County Conditional Land Use Application Form completed by the BSDD applicant contains clear instructions that the Commissioners must be mindful of as it exercises its preemption authority to make the decision on the permits requested by BSDD:

- D. **ATTACHED WRITTEN STATEMENT.** With all land use applications, the “burden of proof” is on the applicant. It is important that you provide information that clearly describes the nature of the request and indicates how the proposal complies with all of the applicable criteria within the Coos County Zoning and Land Development Ordinance (CCZLDO). **You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete.** A planner will explain which sections of the Ordinance pertain to your specific request. The information described below is required at

the time you submit your application. **The processing of your application does not begin until the application is determined to be complete.** An incomplete application will postpone the decision or may result in denial of the request. Please mark the items below to ensure your submittal is complete. (Emphasis added).

- I. PROPOSAL AND CRITERIA. A written statement of intent, attached to this application, with necessary supporting evidence which fully and factually describes the following:
 1. Project summary and details including timelines.
 2. **A complete explanation of how the request complies with the applicable provisions and criteria in the Zoning Ordinance.** A planner will explain which sections of the Ordinance pertain to your specific request. **You must address each of the Ordinance criteria on a point-by-point basis in order for this application to be deemed complete.** This shall be addressed on the supplemental criteria page (see staff for criteria). (Emphasis added).

Further, the CCLDZO requires that the BSDD permit application be “deemed complete” before it can be “acted upon” by the decision-maker – in this case the Board of County Commissioners:

SECTION 5.0.200 APPLICATION COMPLETENESS (ORS 215.427): 1. An application will **not be acted upon** until it has been **deemed complete** by the Planning Department. In order to be deemed complete, the application must comply with the requirements of Section 5.0.150, **and all applicable criteria or standards must be adequately addressed in the application.** (Emphasis added).

The Commissioners should take careful note of the requirements of the Coos County ACU permit application document instructions, as well as County staff and Commission actions on the BSDD application to date. In particular:

- The BSDD application has been deemed “**complete**” by Coos County.
- Because the BSDD application has been deemed complete, it is (and has been) subject to “**processing**” by Coos County. The “processing” of the application includes the following actions taken by Coos County: 1) the CCPD developed a preliminary Staff Report (February 27, 2024), 2) conducting a publicly noticed workshop/hearing (March 5, 2024), 3) CCPD issued Notice of Public Hearing on merits of BSDD application (set for March 28, 2024), and 4) CCPD completed a subsequent Staff Report (March 21, 2024).
- The March 28, 2024, hearing before the Board of Commissioners is being conducted so that the application may be “**acted upon**” by the Board.

As stated repeatedly in the CCZLDO, and in the Coos County ACU permit application the BSDD application must have **already “adequately addressed”** the applicable criteria in order for it to be subject to the “processing” actions already taken by the County. (See ACU permit application, Section D, above). Likewise, CCZLDO section 5.0.200 (above) provides that the County will “act[] upon” the BSDD application **only** if “**all applicable criteria or standards [are] adequately addressed in the application.**” Because the BSDD application has been subject to “processing”, and further, because the Board of Commissioners has set a public hearing for March 28, 2024, so that it may “act upon” that application, the County has **necessarily already presumptively found that the BSDD has, “on a point-by-point basis” “adequately addressed all applicable criteria/standards” on the face of the submitted ACU application.** The BSDD has consistently stated this to be its position - that its ACU permit application, by itself, has adequately addressed all applicable criteria.

The plain reading of the CCLDZO demonstrates that the BSDD ACU permit application could not be processed and may not be acted upon by the County at or after the March 28, 2024, hearing if BSDD had not **already** adequately addressed all applicable criteria. Said another way, the fact that the Board has set a hearing so that it may act upon the application **means** that BSDD has already met its “burden of proof” with respect to compliance with the CCLZDO and ACU permit requirements. BSDD has met its burden of proof with information and evidence already in the record. The CCZLDO makes it clear that we could not be at this stage of application processing and ready for decision action if BSDD had failed to adequately address any applicable criteria. Therefore, the “burden of proof” has **shifted** to opponents of permit issuance (if any) to demonstrate how the application falls short in meeting the applicable criteria. Without substantial and “point by point” **evidence** submitted at the hearing that one or more applicable criteria are **not met** by BSDD, the Board may not deny the BSDD application under the CCZLDO.

IV. The CCPD Staff Report Findings Are that BSDD Has Satisfied All Applicable CCZLDO Criteria and Standards.

The Tribe agrees that the CCPD Planning Director’s March 21, 2024, Staff Report identifies all criteria and standards applicable to the BSDD permit application. (By this reference, and link below, Coquille Indian Tribe incorporates the March 21, 2024 Staff Report as

an appendix to these comments, and in doing so, makes that report a part of the administrative record for the Board's action on the BSDD application, and for any and all appeal/review proceedings that might follow.

https://www.co.coos.or.us/sites/default/files/fileattachments/community_development/page/24140/acu-23-074_staffreport_for_hearing_3-21-24.pdf). In addition, with the caveat below related to discussion in the Staff Report related to compliance with Section 3.3.730, the Tribe agrees that with the March 21, 2024, Staff Report "Findings" in Section II and Section III. That is: **the BSDD has provided substantial evidence and information affirmatively demonstrating full compliance with, and satisfaction of all applicable criteria.**

With respect to CCLZDO 3.3.730, the ultimate Finding and Conclusion is that BSDD has demonstrated compliance. That ultimate Finding and Conclusion states:

Overall, the wetland enhancement project is not likely to bring significant changes to accepted farm or forest practices and associated costs for adjacent landowners. The applicants have provided a comprehensive study to show that the project does not intend to have any significant changes to adjacent accepted farm or forest practices or significantly change the cost of Farm or Forest Practices. The applicant did provide additional information specific to the reductions of mosquito population as a result of this project. Therefore, the applicant has addressed the criteria. (Staff Report, p. 22.).

Although the official Finding and Conclusion is that BSDD has complied with the criteria, the Report includes a fair amount of discussion not germane to CCLZDO 3.3.730. This appears to be motivated by an effort to respond to eight comment letters received that express some measure of concern about possible effects of the Winter Lake Phase III project to be permitted. It is laudable that the County has heard and spoken in depth in its Staff Report to these citizens. However, we believe that it is important to remember that the County Code was developed to protect the property rights of all landowners, including those that are patrons of the BSDD that seek to improve the agricultural productivity of their lands. There is, and must always be balance, and the County's adopted code must guide how that balance is stricken so that citizens and landowners have certainty for the use of their private property – those "rules" can't change permit by permit, landowner by landowner, or as Commissioners or staff come and go over time. The plain and clear code and strict application of its language is what provides the stability.

In addition, the Tribe believes that BSDD and all of its project partners have heard the speculative concerns made by several landowners and have designed a project that has proactively addressed the concerns about mosquitos and invasive weed species. Again, the Tribe respects the County's attention to the concerns expressed, and will continuously encourage BSDD and our Winter Lake project partners to be good neighbors with the full of the community once and if negative unintended consequences should emerge in the future. This should be done simply as good neighbors. In this case, we are confident that a great pro-Ag/pro-salmon project has been designed and the concerns imagined now will not be realized.

That being said, we do believe it should be noted how some of the narrative in this portion of the Staff Report strays a good bit from the criteria of Section 3.3.730, which provides:

Criteria and Review Standards for Conditional Use Permits (Both Administrative & Hearings Body): A use may be allowed provided the following requirements are met:

1. Such uses will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.
2. Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
3. Siting Standards for Dwellings and Structures in the EFU Zone. (Not Applicable)

The Staff Report, Pp. 21 - 22, includes narrative drawn from comment letters organized in subsections 1-4. However, the Staff Report narrative does not adequately and specifically address the criteria at hand. First, it does not indicate which, if any, of the commenters own land in farm/forest zoning. While it is fair for any landowner to raise concerns with governmental entities, including those with residential properties, this criteria relates only to lands with farm or forest zoning. Second, the staff narrative does not indicate if any of the concerns raised in comments are from surrounding landowners who are not only in the relevant zoning designations but also currently devoting their land to farm use – as the Staff Report notes on page 14, “farm use” is defined by ORS 215.203, and the key element is that the “primary purpose” of the land is dedicated to obtaining profit through specified agricultural endeavors. The Staff Report does not link its narrative to any evidence in the record about possible effects on specific lands currently devoted to the primary purpose of agricultural enterprise profit-making. It is possible that there are such landowners and properties, but these linkages required by 3.3.730 needed to be made for this portion of the report to be considered at all by the Commissioners. It is literally impossible

to conclude that a “significant change . . . in use” will be “force[d]” on surrounding property farm use without these specific facts and linkages.

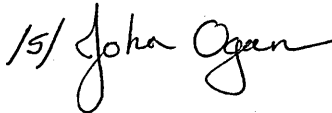
Next, in this portion of the Staff Report narrative (Pp. 21-22, items 1-4) the staff narrative is overly speculative. It repeatedly uses the phrasing “*landowners may need*” to take some type of responsive action as a consequence of the project. Again, it is laudable for the County to hear its citizens, and this “worst case scenario” discussion is understandable to an extent as a “good government” approach. However, it misses the mark of the County Code and evidence that its application requires. The code is in place to protect the property rights of all landowners, including BSDD patrons, ODFW, and others. This is almost certainly why the ultimate Finding and Conclusion is that BSDD has fully satisfied the 3.3730 standard. Without credible and substantial evidence in the record that the permitted project will force significant cost increases on lands currently devoted to profit production from “farm use” (ORS 215.203) the staff discussion cannot bear on the Board of Commissioners’ decision.

Last, the staff discussion that is item 4 on page 22 about loss of agricultural land does not appear to be germane to 3.3.730. We are unable to reconcile the discussion with the plain and clear standards of this criterion being analyzed by the staff. Again, the County Code is the complete package of local regulation that strikes a balance and provides all landowners with certainty about how they may use and enjoy their properties. Building in a new and additional “no ag-land loss” standard to 3.3.370 is not appropriate. That said, the BSDD has explained in detail and repeatedly how completing Phase III of this project will enhance agricultural productivity on project lands, and if loss of agricultural productivity is considered at all by the Board, the increase in agricultural productivity in the County is the only evidence in the record it has to entertain this non-code issue.

In summary, the Tribe appreciates the obvious amount of hard work and time that went into the creation of the March 21, 2024, Staff Report. It also respects the landowners who have voiced concerns with this project, and as a partner in the project, it will remain mindful of the issues raised and be an advocate with its partners to find ways to address any unintended negative impacts on neighbors if they materialize in the future. We are all in this together and have the same vision – bringing our once abundant salmon runs and fishing opportunities back to the Coquille River **and** supporting private property rights and agriculture in Coos County. We also applaud the County for giving so much transparency and public input – this is not typical for

an Administrative Conditional Use permit application where the vast majority of actions planned are outright permitted uses on the EFU zoned properties. We concur with the Staff Report's ultimate Findings and Conclusions that BSDD has met all applicable criteria. We respectfully submit that these ultimate Findings and Conclusion should be adopted by the Board of Commissioners and the BSDD ACU 23-074/FP 23-012 be approved.

Sincerely,

A handwritten signature in black ink that reads "15/ John Ogan". The signature is written in a cursive style.

John Ogan
Executive Director, Natural Resource Office
Coquille Indian Tribe

Exhibit 20

Winter Lake Phase III Team
Response to Coos County Development
Staff Report on File # ACU-23-074/FP-23-012
Directly in Regard to the Impacts Analysis Findings

Date of Staff Report
Thursday March 21, 2024



Prepared by

Caley Sowers
Coos SWCD Director

Christopher W. Claire
Oregon Department of Fish and Wildlife

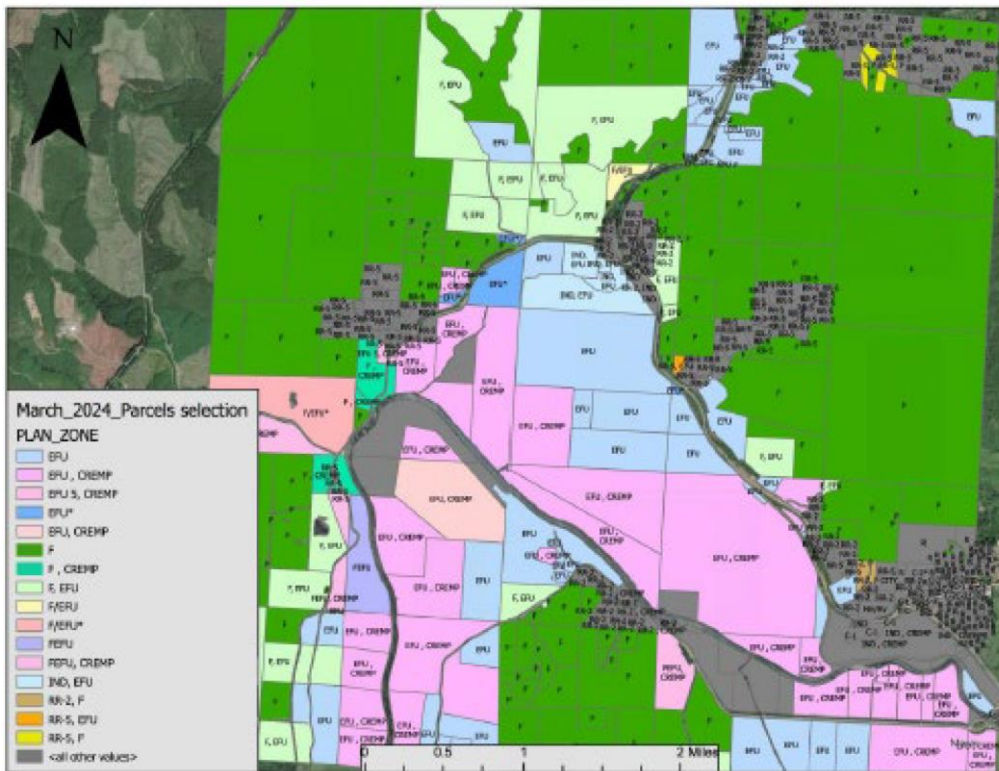
County Planning Finding in 03/21/24 Staff Report

FINDING: The applicant is required to do an impacts analysis showing that the proposed use will not force a significant change in accepted farm or forest practices on surrounding properties zoned and devoted to farm or forest. The applicant shall address how the proposal will not increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. The analysis is required to define the study area, look at current practices within that area and then make a determination if the current proposal will significantly force a change in accepted farm and forest practices and if it would increase the cost of accepted farm or forest practices. The applicant submitted this information on March 19, 2024. The full results of the study are found at Attachment A, Application Submittal.

The methodology used by the applicant is as follows:

The Geographic Scope of this analysis includes all parcels within an approximate 1-mile radius of the project area. For this analysis, only lands zoned for farm and/or forestry practices were considered. Properties with industrial, commercial, rural residential, or other zoning were not evaluated for impacts unless combined with a farm or forest plan zoning. It should be noted here that most of the Garden Valley area parcels are zoned RR-5 and were not analyzed according to the selected evaluation criteria.

The results provided a total of 234 parcels for consideration, 15 of which are already included in the proposed project area. Project Area parcels were evaluated separately (see applicants Appendix A. Winter Lake Phase III Project Area and Surrounding Lands Impacts Analysis Tables 1. And 2.) as well as in combination with surrounding land parcels.



Based on the provided details of this enhancement project within the Beaver Slough Drainage District and the Coaledo Drainage District, here are the anticipated significant changes in accepted farm or forest practices and associated costs for adjacent landowners that have been raised:

- 1. Altered Drainage Patterns and Loss of Water Sources: The replacement and consolidation of pasture culverts, installation of new drainage channels, and repair of failing berms may alter the drainage patterns within the affected areas. This could impact the way adjacent landowners manage water on their properties, potentially requiring adjustments to irrigation systems, drainage infrastructure, water sources or land grading practices. Landowners may need to invest in new equipment or infrastructure to adapt to the changed drainage conditions.**

Winter Lake Project Team Response 03/26/24

The project is specifically designed to establish more natural pathways of drainage in the low-lying elevations. This process incorporated using LiDAR and contracted engineering in the ground surveys. The new and reconstructed channel density will be roughly 2x the existing density per acre over the current and with extended distribution in order to both deliver water during irrigation effectively, however, more importantly to provide for greatly improved drainout in spring and following rainfall or irrigation. These advancements in the channel layout will have strongly positive effects for water management and pasture irrigation on the action area lands. Adjacent lands are not affected by the Phase III actions. The Winter Lake C3P main tidegate controls water delivery to the project area in the Beaver Slough Drainage District (BSDD) and the Coaledo Tidegate serves as the control in the Coaledo Drainage District (CDD). The proposed Phase III work is subservient to the main tidegates and the 39 culverts that will be installed serve internal pastures, not main delivery routes to adjacent properties. The pastures served by the Phase III culverts and tidegates are within pastures with berms. Surrounding lands of pastures within the project area are largely upslope (above elevation 8.0ft) or not directly connected hydrologically in a manner where project actions have potential to cause water delivery effects. Berm repairs are aligned along interior project land parcels. These repairs are not boundary berms between adjacent lands and thus are only control features for irrigation and floodwater controls on the project area.

Through the past 25+ yrs no channel cleaning has occurred in the action area. This has resulted in filling of channels through time. The pasture areas have become very difficult to drain in some locations with strong increases in non-palatable pasture plants. Without reestablishing the drainage within the project area EFU pasture operations are economically decreasing in productive capacity. The continued inability to implement Phase III proposed actions will incur an undue forced economic decline on the project area ranchers. All landowners within the project area are ground level advocates for the actions that will provide for improved water management.

The drainage networks that will be reconstructed through Phase III are not directly connected to adjacent lands. The project will install 9 new watering locations for livestock in the project area that has 4 watering locations currently, thus an overall increase. Water delivery to other off-project lands for livestock is not hydrologically connected at the summer elevations and thus unaffected. Irrigation on the project lands are through passive tidal inflow. Neighboring off-project area lands do not irrigate currently or where it does occur are not using either the Coaledo or BSDD C3P tidegate. No new infrastructure will be necessary for off-site landowners related to current and future actions within the Phase III project area.

- 2. Increased Maintenance Responsibilities: The installation of new infrastructure, such as tidedgates, drainage channels, and watering site troughs, may require ongoing maintenance by adjacent landowners. This could involve tasks such as cleaning debris from channels, inspecting and repairing tidedgates, or managing vegetation around watering sites. Landowners may need to allocate resources for regular maintenance activities and potentially invest in equipment or labor to ensure the proper functioning of the infrastructure.**

Winter Lake Project Team Response 03/26/24

The Phase III project will install advanced culverts with new long-life HDPE materials (as noted in the 404 Fill and Removal permit application). These culverts have a 50yr lifespan, which is 100% longer than any existing steel culverts on site and roughly 40% longer than the ADP culverts in use currently. The new side-hinged aluminum tidedgates are aircraft grade aluminum with a 50yr life expectancy. As is shown in the image on the cover sheet of this document, the existing wooden infrastructure is undersized and largely wooden tidedgate materials with a lifespan of 10-12yrs maximum. The project is anticipated to result in a greatly reduced maintenance effort on the project area.

The existing channel networks on the project area are largely linear and do not follow the low-lying topography alignment with acuity. This results in areas following rainfall, irrigation, or flooding where fish can become stranded and water stagnate unmoving with potential for mosquito production. Sticklebacks, mosquitofish, and juvenile coho all eat mosquito larvae. However, with the current channel networks largely filled with years of sediment and failing to follow topography, fish instinctively will not leave canals where they reside continuously and travel long distances to interior pasture locations. Additionally, the low-lying areas where water ponds currently, are not connected to main and secondary interior channels with fish present. The deteriorating infrastructure on the project area (channels filled with sediment/vegetation, failing tidedgates, degrading berms) are all components that are not providing adequate water management for agricultural actions on the project land area. A notable number of the interior culverts are perched, which does not allow for the current channel networks to be on-grade with the low point at the downstream delivery to main canals. Accordingly, there is greatly reduced ability to provide for both drainout and delivery of irrigation waters. These perched pipes also reduce the time period for fish passage during tidal and flooding cycles. All culverts on site are currently undersized for the hydrology. Without addressing these issues economic output for the landholders will continue to be damaged and in decline. The new/reconstructed channel networks are designed with on-grade slope from interior locations to the main canals. This was not the original construction design in 1908. The on-grade designs will allow for transport of sediment that accumulates to prevent premature clogging of channels.

The project lands are installing internal infrastructure that is within bermed topography. No actions through Phase III will occur at the BSDD C3P main tidedgate or the Coaledo tidedgate. Winter flooding eliminates all controls as berms are overtopped and thus the 39 culverts/tidedgates are irrelevant with flooding above elevation 5.0ft. The infrastructure that will be installed in the project area serves internal pastures of project area lands and these channels do not serve as through pathway infrastructure to other adjacent lands. Thus no costs are maintenance changes are possible for adjacent lands through Phase III actions. There are no tidedgates within the Winter Lake Phase III interior pasture network culverts or tidedgates that are not being replaced through the project. Few if any tidedgates are presently in operation on any adjacent lands. No allocation need for additional maintenance on adjacent lands infrastructure will be incurred by Phase III.

- 3. Potential Pest and Invasive Plant Management: Wetlands can serve as breeding grounds for mosquitoes and other pests, which may pose a nuisance to adjacent landowners, particularly during certain times of the year. The change the land may also bring in invasive plants and that can spread to adjacent properties. Landowners may need to implement pest and/or invasive plan management strategies to mitigate the impact of increased pest or plant populations on their farming or forestry activities. This could involve measures such as insecticide application, pesticide applications, habitat modification, or the installation of mosquito control devices, which may entail additional costs.**

Winter Lake Project Team Response 03/26/24

Many tidal wetlands inherently do not produce many mosquitoes. This is due to the factors needed to produce mosquitoes. In order for a water feature to provide habitat suitable for mosquito production three factors are necessary:

- a). Water must remain non-moving in a stagnant state during warmer months for the life-cycle of larvae.*
- b). The location where larvae are hatched must remain fishless until pupae transform into adults after stage-5, otherwise they will be predated on as mosquito larvae are a high value food item for fish;*
- c). The water must not dry up or soak into the ground prior to fly-off following stage-5. This is a minimum 7-8 days and at a maximum under cooler conditions 14-20 days;*

If any of the conditions are not met, larvae may hatch, however, then be consumed by fish or the habitat will dry up prior to sufficient time for them to become adults or moving water will reduce algae/food production or egg hatching. The Winter Lake Phase III project will address all three factors linked to mosquito production. The extended and on-grade channel networks will prevent ponding of rainwater/floodwater/irrigation water in locations where currently there are ponding conditions. The new and reconstructed channel networks will provide for movement of water, which will disrupt the life-cycle. The project is also designed to allow for much greater distribution of native three-spined sticklebacks and non-native mosquitofish to potential locations where mosquitoes might hatch and then be consumed. The Winter Lake Phase III project is directly engineered to address mosquito production habitats eliminating the need for direct chemical pest management actions. Overall, the Winter Lake Phase III project will directly improve conditions for pasture grass production, which is benefitted by actions that reduce ponded water areas where mosquitoes are able to be successful.

*It has been noted that other invasive species such as Brazilian Water-Milfoil, a.k.a. parrot feather (*Myriophyllum aquaticum*), may colonize the Winter Lake project area. None of the project actions will enhance the ability for this plant or other non-native invasive plant. Parrot feather has been present in the Coquille Valley since at least 2009 in a lake in the lower Coquille River. Likely released as from a home aquarium. In the Coquille River basin it has been noted as heavily established in Johnson Mill pond. Photos from 2002 identified Milfoil sp. in mid-winter in Johnson Mill pond with stem features typical of parrot feather during winter (Figure 1), however, positive I.D. was not made at the time. Brazilian Water-Milfoil is known to be heavily present in Johnson Mill Pond currently (Figure 2). Brazilian Milfoil is spread only by vegetative reproduction when a portion of stem is broken, such as during floodwaters and transported to a new location where it roots. The population of Brazilian Milfoil in Johnson Mill Pond is located where floodwaters are able to carry broken stems to all lands downstream of that location that are connected to the main Coquille River.*



Figure 1. Milfoil sp. in Johnson Mill Pond, image taken December of 2002.



Figure 2. Brazilian Water-Milfoil in late winter emergent stage. Johnson Mill Pond, March 23, 2024.

- 4. Loss of Agricultural Lands: The project could contribute to the ongoing loss of agricultural lands due to various factors. Firstly, the installation of new infrastructure and drainage systems may require the conversion of agricultural land into construction sites or water management areas, directly reducing the available acreage for farming activities. Additionally, alterations in drainage patterns and the introduction of wetlands as part of the project may render certain portions of agricultural land less suitable for cultivation, further diminishing the overall area available for farming. Furthermore, the potential increase in maintenance responsibilities for adjacent landowners could divert resources and attention away from agricultural activities, leading to reduced productivity or abandonment of agricultural land.**

Winter Lake Project Team Response 03/26/24

The Winter Lake Phase III project has been specifically designed to provide strong economic benefits for agricultural landowners within the project area and with special consideration to eliminate effects/impacts to adjacent landowners. The new channel on-grade design and installation on the landscape will provide for invigorated improvement in pasture grass production without substantive effects to total acreage of grass. Without the new channel networks and cleaning of the remainder, existing sediment filled channels will continue to fail to provide for proper drainage. Pasture grasses are struggling on large areas of the action area due to excessively wet conditions into early summer from poor transport channel capacity and connectivity to main outflow canals. The project will also provide strong access for overwintering juvenile coho into high value rearing habitat. During winter drainout is impossible due to higher river levels and thus use by fish is considered a strong and collaborative “Working Lands” benefit. Recreational fisheries are estimated to generate \$280 per adult salmon caught to the Oregon economy through angler purchase of motels, food, fuel, boats, vehicles, and fishing equipment.

The project will not implement any actions on adjacent non-participating landownerships. The action area construction sites are temporary staging areas, most of which are upland off of North Bank Lane or Highway 42, where there currently is not EFU pasture production. No long-term effects/impacts to pasture production will occur due to staging areas. Troughs installed for livestock watering will provide enhanced livestock health due to higher quality water for their consumption compared to current conditions.

The lands within the Phase III Project area are all currently classified as wetlands under the USFWS National Wetlands Inventory (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>) . The wetland pasture grass production from these sites is due to species of grass (bent grass and reed canary grass), predominating, which are facultative wetland plants. The project is unable to and will not create any new wetlands as the project is already wetland.

Channel networks will provide more natural hydrology similar to historical that will enhance the vigor of these wetland adapted pasture grasses. The new/reconstructed channel networks are specifically aligned in a manner different “altered drainage patterns” than existing in some locations to enhance the drainout, which will improve quantifiably the pasture grass production, while protecting ecology of the lands within the CREMP for the specified goals and values. Without this project the lands will continue to decrease in economic viability due to increased retention of water, which yields more unpalatable plant species such as smartweed and Pacific silverweed.

The project action areas are within surrounding berms to elevation 5.0ft. Culverts/tidegates/channels that will be installed are not directly connected to adjacent lands and thus will not be impacting hydrology or productive capacity of those lands. The culverts/tidegates that will be addressed with Phase III are subservient to delivery of water through the main BSDD C3P and Coaledo tidegates. No actions will occur through Phase III at those main tidegate locations.



NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

Coos County Planning
60 E. Second St.
Coquille, OR 97423
<http://www.co.coos.or.us/>
Phone: 541-396-7770

Date of this Decision: March 30, 2023

File No: ACU-23-008

RE: Request for approval of replacement of tide gates, bridge and stream enhancements (blackberry removal, fencing, log installation, and native plantings) within the Coquille River Estuary Management 43-Exclusive Farm Use and adjacent Exclusive Farm Use Zone.

Applicant(s): Coaledo Drainage District with Assistance from Coquille Watershed

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.”

The requested proposal has been Approved Denied subject to the findings to the criteria found in Exhibit A. The decision is based on findings and facts represented in the staff report.

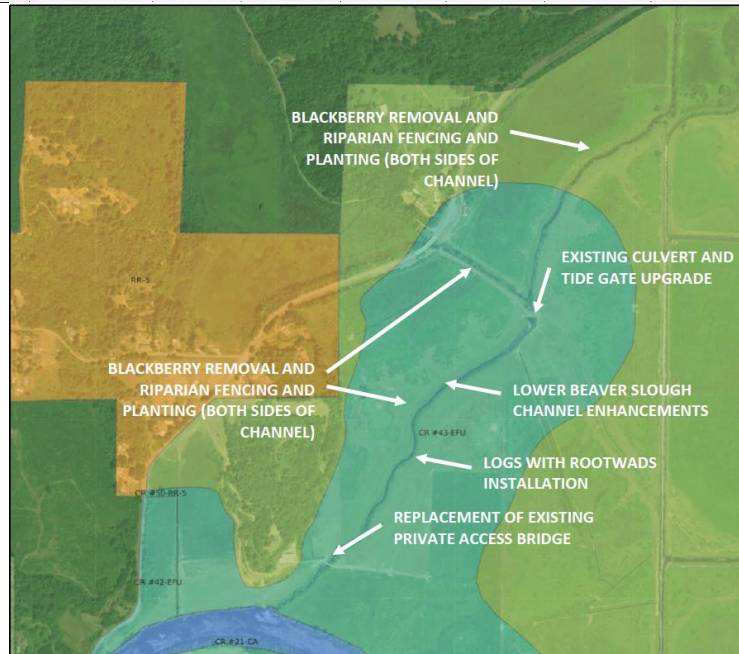
SUBJECT PROPERTY INFORMATION

Location: The majority of the work for this proposal is located within waters of the state (Beaver Slough) with some adjacent upland work and supporting structures.

Taxlot #:	Owner:	Contact:
27S 13W 20 TL 1503	The Bridges Foundation	Luke Fitzpatrick, Conservation Director
27S 13W 29 TL 101,	Account # 99916787	P.O. Box 1123, Turner, OR 97392
103	Account # 99916790	Phone: 503-930-9431
	Account # 717600	
27S 13W 29 TL 200,	Domenighini Family LTD	Rob Domenighini, Manager
201	Partnership	94774 Labrador Ln, Coquille, OR 97423
	Account # 717800	Phone: 541-954-6218
	Account # 718700	

Project Element and Property Ownership

Project Element	Township	Range	Section	1/4 Section	1/16 Section	Taxlot	Account #	Zone
Tide Gate	27S	13W	29	NE	NE	101	717600	CREMP
						103	99916787	CREMP
Channel Enhancement - Downstream	27S	13W	29	NE	-	101		
				NE	-	103		
				NE	-	200	717800	CREMP
				SW/SE	-	201	718700	CREMP
Channel Enhancement - Upstream	27S	13W	20	SE	SE	1503	99916790	EFU
Bridge Replacement	27S	13W	29	SW/SE	NE	201		CREMP
Riparian Fencing	27S	13W	29	SE	-	1503		
				NE	-	101		
				NE	-	103		
				NE	-	200		
				SW/SE	-	201		
Off-channel Watering	27S	13W	29	SW/SE	-	201		
Large Wood Placement	27S	13W	29	NE	SW	200		



Proposal: Request for Planning Director Approval for replacement of tide gate and bridge replacement, streambank enhancements within the Coquille River Estuary Manamgne Plan 43-EFU and upland EFU zoning governed in Sections 3.3.710 and Section 4.6.200. Work in the floodplain also requires a Flood Hazard Application regulated by Section 4.11.200.

Decision: This request meets the criteria subject to conditions of approval found at Exhibit A. Approval is based on findings and facts represented in the staff report.

This notice is to serve as public notice and decision notice and if you have received this notice by mail it is because you are a participant, adjacent property owner, special district, agency with interest, or person with interest in regard to the following land use application. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided by the Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423, but if an appeal is not received in the office by the time and date noted in this decision it will not be accepted. An appeal shall not be directly filed with the Land Use Board of Appeals until all local appeals have been exhausted. If appealed, failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 60 East Second Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page or if available may be viewed at <https://www.co.coos.or.us/community-dev/page/land-use-applications-submitted>. Staff makes every effort to place all noticeable decisions on the webpage but it is not a legal requirement. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is the person that prepared the report and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 4:30 p.m. on April 11, 2023 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

Authorized by: Jill Rolfe

Date: March 30, 2023

Jill Rolfe, Planning Director

EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

Exhibit C: Staff Report (only provided to the applicant, PC and BOC)

The Exhibits below are mailed to the Applicant and Planning Commission and Board of Commissioners only. Copies are available upon request (planning@co.coos.or.us) or may be found on the website or by visiting the Coos County Community Development page on www.co.coos.or.us, or by visiting the office at 60 East Second St, Coquille OR 97423. If you have any questions, please contact staff at (541) 396-7770.

EXHIBIT "A"

The applicant shall comply with the following conditions of approval with the understanding that all costs associated with complying with the conditions are the responsibility of the applicant(s) and that the applicant(s) are not acting as an agent of the county. If the applicant fails to comply or maintain compliance with the conditions of approval the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval and if you have any questions contact planning staff.

CONDITIONS OF APPROVAL

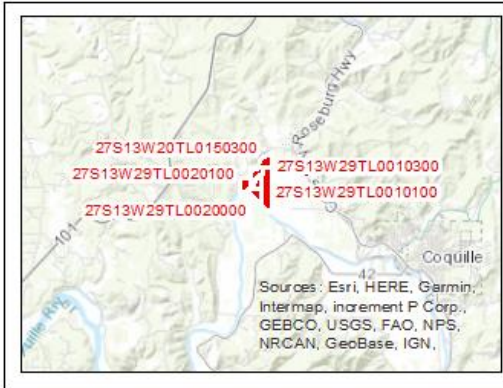
1. All applicable federal, state, and local permits shall be obtained prior to the commencement of any development activity. If there were comments from any other agency were provided as part of this review, it is the responsibility of the property owner to comply.
2. Erosion control methods shall be used when working on banks to control any sediment into the river.
3. Any staging area shall be removed at the end of the project and the land returned to the condition it was prior to use.

**EXHIBIT B
Vicinity Map**



COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423
 Physical Address: 60 E. Second, Coquille Oregon
 Phone: (541) 396-7770
 TDD (800) 735-2900



File: ACU-23-008
 Applicant/ Owner: Coaledo Drainage District
 Various
 Date: March 29, 2023
 Location: Township 27S Range 13W
 Section 20/29 TL 1503/101,103,200,201
 Proposal: Administrative Conditional Use

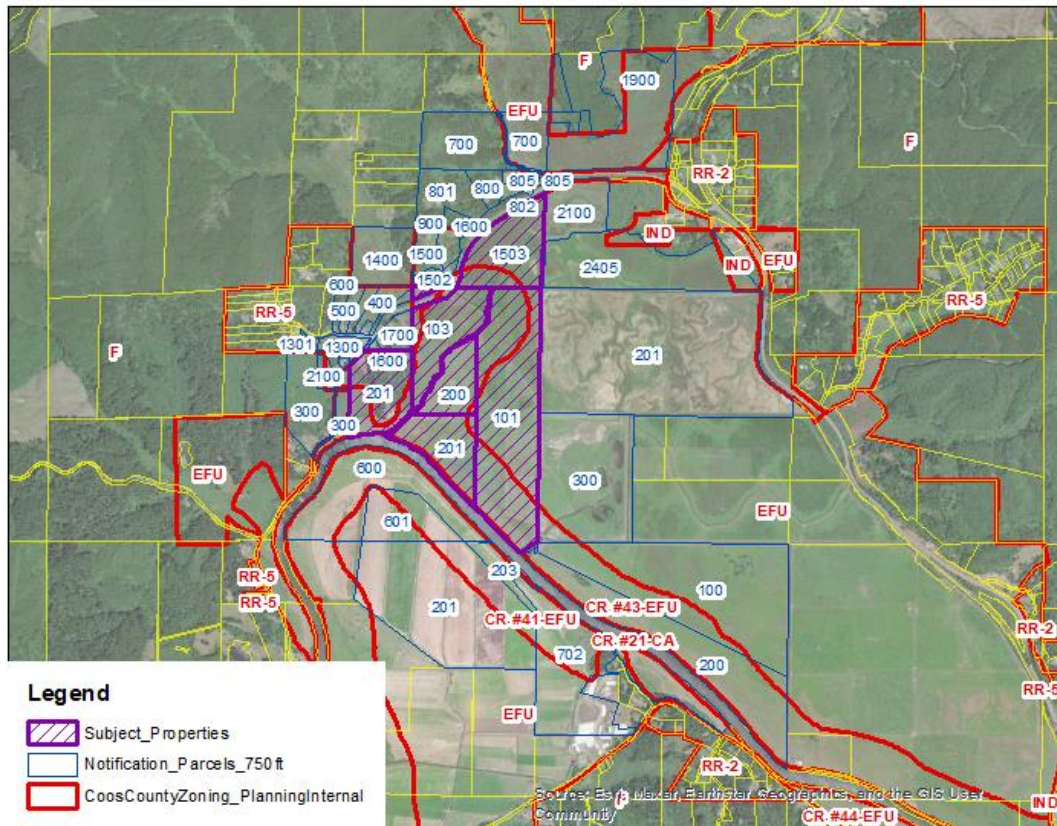


EXHIBIT "C"

Staff Report

Reviewing Staff: Jill Rolfe, Coos County Community Development Director
Date of Report: March 27, 2023

I. PROPERTY DESCRIPTION AND PROPOSAL

Project Elements

- Upgrade the existing culverts and tide gates with infrastructure that maximizes fish passage while balancing the needs of working lands. This will include replacing the failing tide gates with a three-bay concrete box culvert with each bay fitted with a 10-ft wide by 8-ft tall side hinged aluminum tide gate, Muted Tidal Regulator (MTR), and an adjustable aperture (slide) gate for independent water control. – *Structure Owned by Coaledo Drainage District (CDD) on property owned by The Bridges Foundation. Zone CR #43-EFU*
 - Implement a Water Management Plan (WMP) that balances winter fish use and summer land management. The WMP was based on existing conditions, known fish use, and the objective of improved ecological function while not negatively impacting upstream landowners.
- Perform channel enhancements on Lower Beaver Slough to maximize the tidal prism and hydrologic connection to the Coquille River. This includes removing grade control humps and excavation of a new flowline for 3,700’ below the tide gate. Excavated sediments to be “thinly” spread over adjacent farmland at a depth of ~3-in to allow for natural vegetation growth through the material. Material placement to blend with natural ground contouring, thus not significantly altering the drainage or shape of existing ground. – *Properties owned by The Bridges Foundation and Domenighini Family LTD Partnership. Zone CR #43-EFU*
- Replace an existing private access bridge downstream of the tide gate infrastructure to accommodate the restored hydrologic connectivity. – *Structure and Property owned by Domenighini Family LTD Partnership. Zone CR #43-EFU*
- Restore 3 miles of riparian habitat to create a thermal corridor for cold water from the Coquille Valley Wildlife Area to reach the Coquille River. This includes planting 13 acres of riparian forest, building 16,000’ of livestock exclusion fencing, and installing 5 off-channel watering areas. – *Fencing on both The Bridges Foundation and Domenighini Family LTD Partnership properties. Off-channel livestock watering on Domenighini Family LTD property only. Zone EFU & CR #43-EFU*
- Install logs with rootwads for bank stabilization at a critical stress point in the lower Beaver Slough channel. - *Property owned by The Bridges Foundation. Zone CR #43-EFU*

II. BACKGROUND INFORMATION

According to the application the Coaledo Tide Gate Replacement and Fish Passage Project will restore fish passage in the 9,800 acre Beaver Slough sub-basin to a level more similar to historical condition. This project is in partnership with the Coaledo Drainage District (CDD), who owns the Coaledo tide gates and represents 30+ landowners upstream. Project implementation is planned for Summer 2023 during the ODFW In-water work window.

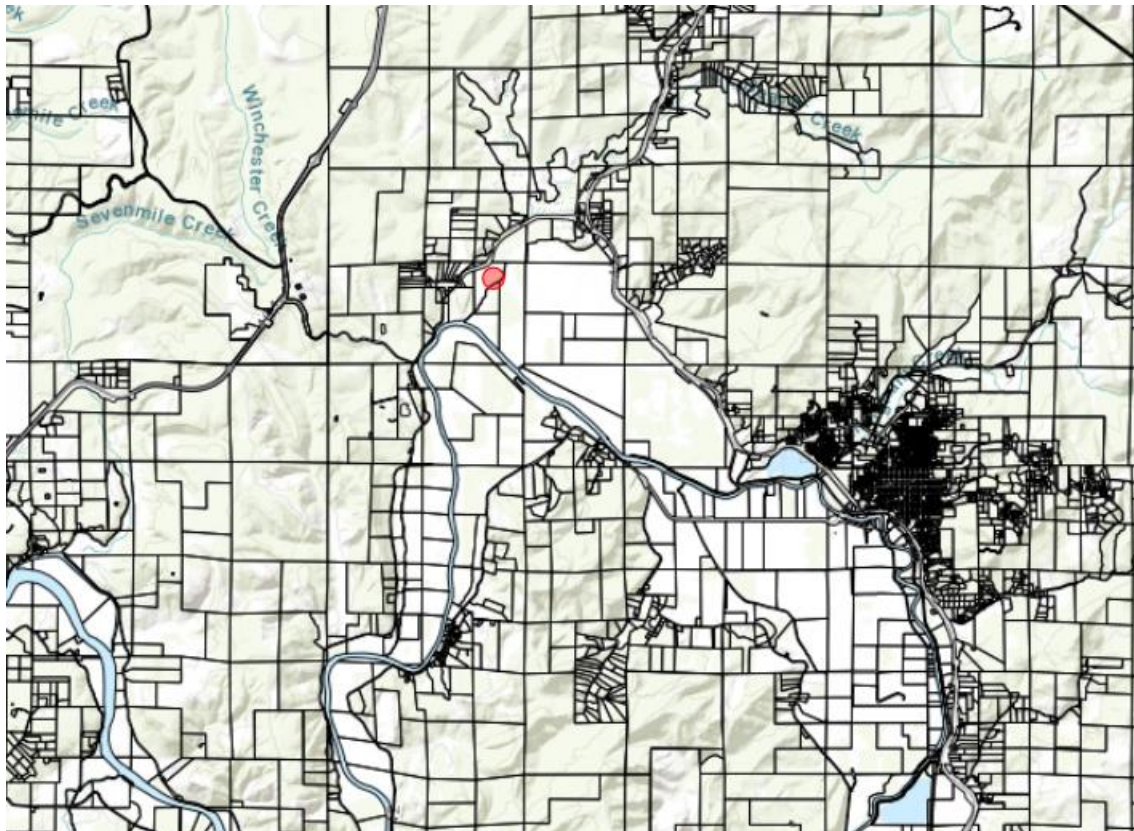
The CDD agricultural tide gate infrastructure is located on Beaver Creek to the south of North Bank Lane within the freshwater tidally influenced floodplain of the Coquille River near river mile 20. The tide gate structure, owned by CDD, is located on private property, owned by the Bridges Foundation.

The area around the tide gate consists primarily of agricultural pasture grazing lowlands and forested hill upslope.

The existing tide structure is an earthen embankment across the Beaver Creek channel with three ± 50 ft long metal culverts through the embankment. The site is located 3,600 ft (0.7 miles) upstream from the confluence of Beaver Slough with the Coquille River. Two of the culverts have a diameter of 6-ft and the third culvert diameter is 5-ft. The corrugated metal culverts are nearing the end of their serviceable lifespan and replacement is required, without which flooding of the pasturelands and some road infrastructure would occur on a near daily basis. The existing Coaledo tide gates mounted to engage the downstream end of the culvert barrels consist of three top-hinged wooden “dungeon door” style tide gates that open at $<20\%$ by upstream water head pressure during outgoing tide. This obstruction has restricted passage of salmonids, primarily juveniles, seeking overwinter refuge habitats and summer thermally tolerant locations upstream of the tide gate structure.

One of the largest factors suppressing juvenile fish use of the tidal channels and adjacent floodplains upstream of the tide gate has been the elimination of the normal signal of tidal inflow and access onto low lying floodplains that would have comprised a portion of extensive tidally influenced wetlands historically. The Coaledo tide gates are severely restricting fish access to high quality wetland habitat and are creating water quality issues by not allowing more tidal exchange. The selected tide gate infrastructure improvement and Water Management Plan (WMP) aim to be compliant with ODFW Fish Passage and National Marine Fisheries Service (NMFS) Anadromous Salmonid Passage Facility Design guidelines while meeting the needs of drainage district landowners. The purpose of this document is to provide the justification necessary for obtaining Coos County Planning approval.

LOCATION: This project is located Northwest of the city of Coquille parallel to North Bank Lane.



IV. APPROVAL CRITERIA & FINDINGS OF FACT

- **Exclusive Farm Use Shoreland Segments: 27 (27-EFUS), 28 (28-EFUS), 31(31-EFUS), 32(32-EFUS), 33 (33-EFUS), 34 (34-EFUS), 36 (36-EFUS), 37 (37-EFUS), 41 (41-EFUS), 42 (42-EFUS), 43 (43-EFUS), 44 (44-EFUS), 47(47-EFUS), 53(53-EFUS), 55 (55-EFUS), 56 (56-EFUS), 60 (60-EFUS), 62 (62-EFUS), 73 (73-EFUS), 75 (75-EFUS)** shall be managed for the continuation of farm use as defined in ORS 215.203 (2)(a) and such other farm uses as are conditionally permitted in ORS 215.213.

SECTION 3.3.700 DEVELOPMENT AND USE PERMITTED:

*The following uses and activities are permitted outright in the in the CREMP-EFU. ****

5. *Non-structural shoreland stabilization.*

SECTION 3.3.710 ADMINISTRATIVE CONDITIONAL DEVELOPMENT AND USE:

The following uses and their accessory uses may be allowed as administrative conditional uses in the "CREMP-EFU" zone subject to applicable requirements in Sections 3.3.730 and 3.3.740.

1. *Diking (construction and maintenance).The applicable review criteria are CREMP Policies #14, #18, #19, #22, #23, and #27.*
2. *Drainage and tide-gating. The applicable review criteria are CREMP Policies #14, #18, #19, #22, #23, and #27.*
3. *Fill. The applicable review criteria are listed in CREMP Policies #14, #18, #19, #22, #23, and #27 may be applicable. The use is not permitted in Segment 26.*
4. *Mitigation. The applicable review criteria are found in CREMP Policies #14, #18, #19, #22, #23 and #27. Although mitigation may be permitted, voluntary restoration not required as mitigation would require an exception. This condition does not apply to Segment 53. This use is not permitted in Segment 47. ****
13. *Shoreland structural stabilization is subject to Natural hazards Policy 5.11 as explained in this subsection. Coos County shall promote protection of valued property from risks associated with critical stream bank and ocean front erosion through necessary erosion-control stabilization measures, preferring nonstructural solutions where practical. Coos County shall implement this strategy by making "Consistency Statements" required for State and Federal permits (necessary for structural stream bank protection measures) that support structural protection measures when the applicant establishes that non-structure measures either are not feasible or inadequate to provide the necessary degree of protection. This strategy recognizes the risks and loss of property from unabated critical stream bank erosion, and also, that state and federal agencies regulate structural solutions. A flood elevation certificate is required for a stabilization which will occur in the identified flood hazard area. In addition CREMP Policies #9, #14, #23, #27, #18, #19, and #22 may be applicable. The use is not permitted in Segment 47.*

FINDING: Policies: 9, 14, 18, 19, 22, 23 and 27 are required to be addressed for the proposed activities.

#9 Solutions to Erosion and Flooding Problems

Local government shall prefer nonstructural solutions to problems of erosion and flooding to structural solutions. Where shown to be necessary, water and erosion control structures such as jetties, bulkheads, seawalls and similar protective structures and fill whether located in the waterways or on shorelands

above ordinary high water mark shall be designed to minimize adverse impacts on water currents, erosion and accretion patterns.

- I. Further, where listed as an "allowable" activity within the respective management units, riprap may be allowed in Development Management Units upon findings that:
 - a. Land use management practices and nonstructural solutions are inadequate; and
 - b. Adverse impacts on water currents, erosion and accretion patterns are minimized; and
 - c. It is consistent with the Development management unit requirements of the Estuarine Resources Goal.***

Implementation of this strategy shall occur through local review of and comment on state and federal permit applications for such projects.

This strategy is based on the recognition that nonstructural solutions are often more cost-effective as corrective measures, but that carefully designed structural solutions are occasionally necessary. The strategy also recognizes LCDC Goal #16 and #17 requirements and the Oregon Administrative Rule classifying Oregon estuaries (OAR 660-17-000 as amended June, 1981).

FINDING: The applicant states that the existing tide structure is an earthen embankment across the Beaver Creek channel with three ±50 ft long metal culverts through the embankment. The site is located 3,600 ft (0.7 miles) upstream from the confluence of Beaver Slough with the Coquille River. Two of the culverts have a diameter of 6-ft and the third culvert diameter is 5-ft. The corrugated metal culverts are nearing the end of their serviceable lifespan and replacement is required, without which flooding of the pasturelands and some road infrastructure would occur on a near daily basis. The existing Coaledo tide gates mounted to engage the downstream end of the culvert barrels consist of three top-hinged wooden "dungeon door" style tide gates that open at <20% by upstream water head pressure during outgoing tide. This obstruction has restricted passage of salmonids, primarily juveniles, seeking overwinter refuge habitats and summer thermally tolerant locations upstream of the tide gate structure.

Log with rootward installation for bank stabilization at critical stress point in the lower Beaver Slough channel (Structural Shoreline Stabilization) – Large wood placement is intended to provide bankline roughness to address existing spots of erosion along the lower Beaver Slough channel. Wood is proposed as a natural structural means of addressing erosion while providing aquatic habitat.

Bankline riprap placement associated with reconstructed agricultural structures, tide gate and bridge (Structural Shoreline Stabilization) – Riprap is proposed to be placed adjacent to both structures along the Beaver Slough channel banklines to resist potential increased velocities and shear stress associated with the replacement of the tide gate structure and to provide abutment scour protection at the bridge location. Riprap is proposed as the most commensurate with the scope of the project means of providing post channel bankline armoring. The project did evaluate both nonstructural and structural solutions; however, due to the fact that this is a replacement of the existing infrastructure there was no way to create a nonstructural solution.

The proposal will protect both the Exclusive Farm Land and the waterway for aquaculture habitat. Therefore, Policy # 9 has adequately been addressed.

#14 General Policy on Uses within Rural Coastal Shorelands

- I. *Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management units of this Plan, except for areas where mandatory protection is prescribed by LCDC Goal #17 and CBEMP Policies #17 and #18:*
- a. *Farm uses as provided in ORS 215.203;*
 - b. *Propagation and harvesting of forest products;*
 - c. *Private and public water-dependent recreation developments;*
 - d. *Aquaculture;*
 - e. *Water-dependent commercial and industrial uses, water-related uses, and other uses only upon a finding by the Board of Commissioners or its designee that such uses satisfy a need which cannot be accommodated on uplands or shorelands in urban and urbanizable areas or in rural areas built upon or irrevocably committed to non-resource use.*
 - f. *Single-family residences on lots, parcels, or units of land existing on January 1, 1977, when it is established that:*
 - 1. *The dwelling is in conjunction with a permitted farm or forest use, or*
 - 2. *The dwelling is in a documented "committed" area, or*
 - 3. *The dwelling has been justified through a goal exception; and*
 - 4. *Such uses do not conflict with the resource preservation and protection policies established elsewhere in this Plan;*
 - g. *Any other uses, including non-farm uses and non-forest uses, provided that the Board of Commissioners or its designee determines that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this Plan.*

This strategy recognizes (1) that Coos County's rural shorelands are a valuable resource and accordingly merit special consideration, and (2) that LCDC Goal #17 places strict limitations on land divisions within coastal shorelands. This strategy further recognizes that rural uses "a through "g" above, are allowed because of need and consistency findings documented in the "factual base" that supports this Plan.

FINDING: This project will enhance farm use and aquaculture. Therefore, the proposal is consistent with Policy #14.

#18 Protection of Historical, Cultural and Archaeological Sites

Local government shall provide protection to historical, cultural and archaeological sites and shall continue to refrain from widespread dissemination of site-specific information about identified archaeological sites.

- I. *This strategy shall be implemented by requiring review of all development proposals involving a cultural, archaeological or historical site, to determine whether the project as proposed would protect the cultural, archaeological and historical values of the site.*
- II. *The development proposal, when submitted shall include a Plot Plan Application, showing, at a minimum, all areas proposed for excavation, clearing and construction.*

Within three (3) working days of receipt of the development proposal, the local government shall notify the Coquille Indian Tribe and Coos, Siuslaw, Lower Umpqua Tribe(s) in writing, together with a copy of the Plot Plan Application. The Tribe(s) shall have the right to submit a written statement to the local government within thirty (30) days of receipt of such notification, stating whether the project as proposed would protect the cultural, historical and archaeological values of the site, or if not, whether the project could be modified by appropriate measures to protect those values.

"Appropriate measures" may include, but shall not be limited to the following:

- a. Retaining the prehistoric and/or historic structure in site or moving it intact to another site; or*
- b. Paving over the site without disturbance of any human remains or cultural objects upon the written consent of the Tribe(s); or*
- c. Clustering development so as to avoid disturbing the site; or*
- d. Setting the site aside for non-impacting activities, such as storage; or*
- e. If permitted pursuant to the substantive and procedural requirements of ORS 97.750, contracting with a qualified archaeologist to excavate the site and remove any cultural objects and human remains, reintering the human remains at the developer's expense; or*
- f. Using civil means to ensure adequate protection of the resources, such as acquisition of easements, public dedications, or transfer of title.*

If a previously unknown or unrecorded archaeological site is encountered in the development process, the above measures shall still apply. Land development activities, which violate the intent of this strategy shall be subject to penalties prescribed in ORS 97.990.

III. Upon receipt of the statement by the Tribe(s), or upon expiration of the Tribe(s) thirty day response period, the local government shall conduct an administrative review of the Plot Plan Application and shall:

- a. Approve the development proposal if no adverse impacts have been identified, as long as consistent with other portions of this plan, or*
- b. Approve the development proposal subject to appropriate measures agreed upon by the landowner and the Tribe(s), as well as any additional measures deemed necessary by the local government to protect the cultural, historical and archaeological values of the site. If the property owner and the Tribe(s) cannot agree on the appropriate measures, then the governing body shall hold a quasi-judicial hearing to resolve the dispute. The hearing shall be a public hearing at which the governing body shall determine by preponderance of evidence whether the development project may be allowed to proceed, subject to any modifications deemed necessary by the governing body to protect the cultural, historical and archaeological values of the site.*

IV. Through the "overlay concept" of this policy and the Special Considerations Map, unless an exception has been taken, no uses other than propagation and selective harvesting of forest products consistent with the Oregon Forest Practices Act, grazing, harvesting wild crops, and low intensity water-dependent recreation shall be allowed unless such uses are consistent with the protection of the cultural, historical and archaeological values, or unless appropriate measures have been taken to protect the historic and archaeological values of the site.

This strategy recognizes that protection of cultural, historical and archaeological sites is not only a community's social responsibility; it is also legally required by ORS 97.745. It also recognizes that cultural, historical and archaeological sites are non-renewable cultural resources.

FINDING: The applicant is working closely with the tribes to ensure that any potential cultural, historical or archaeological sites are not affect by this project. The proposal in a mapped inventoried historical, archeological or scientific area of importance. Therefore, this has been addressed.

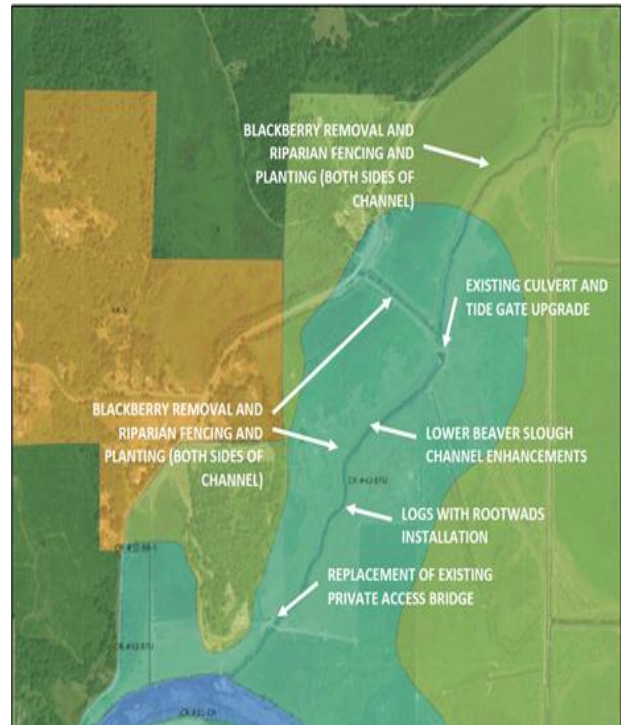
#19 Management of "Wet-Meadow" Wetlands within Coastal Shorelands

- I. Coos County shall protect for agricultural purposes those rural areas defined as "wet-meadow" wetlands by the U.S. Fish and Wildlife Service but currently in agricultural use or with agricultural soils and not otherwise designated as "significant wildlife habitats" or major marshes", unless an Exception allows otherwise. Permitted uses and activities in these areas shall include farm use and any drainage activities which are necessary to improve agricultural production. Filling of these areas, however, shall not be permitted so as to retain these areas as wildlife habitats during periods of seasonal flooding and high water tables, with the following exceptions:*
- a. For transportation corridors where an exception has been taken to Goal #3 (Agricultural Lands); or*
 - b. For agricultural buildings, where no alternative sites exist on the applicant's property; or*
 - c. Minor improvements for which there is no practical alternative; or*
 - d. Where no fill permit is required under Section 404 of the Water Pollution Control Act; or*
 - e. For priority dredged material disposal sites designated by this Plan for protection from pre-emptory uses.*

Any activity or use requires notification of Division of State Lands, with their comments received prior to the issuance of any permits.

- II. This policy shall be implemented by designating these lands as "Agricultural Lands" on the Special Considerations Map and by making findings in response to a request for comment by the Division of State Lands (DSL), which show whether the proposed action is consistent with the Comprehensive Plan:*
- a. That protection of these areas for agricultural use is necessary to ensure the continuation of the local agricultural economy;*
 - b. That improved drainage is necessary to maintain or enhance productivity by establishing preferred forage types;*
 - c. That the present system of agricultural use in the Coos Bay area is compatible with wildlife habitat values, because the land is used for agriculture during the season when the land is dry and therefore not suitable as wetland habitat, and provides habitat areas for wildfowl during the flooding season when the land is unsuitable for most agricultural uses; and*
 - d. That these habitat values will be maintained provided filling is not permitted.*

FINDING: The proposed project will not take place in a mapped meadow wetland area. The inventory map is shown below. Therefore, this has been addressed.



#22 Mitigation Sites: Protection Against Pre-emptory Uses

Consistent with permitted uses and activities:

- ~ *"High Priority" designated mitigation sites shall be protected from any new uses or activities which could pre-empt their ultimate use for this purpose.*
- ~ *"Medium Priority" designated mitigation sites shall also be protected from uses which would pre-empt their ultimate use for this purpose.*

However, repair of existing dikes or tidegates and improvement of existing drainage ditches is permitted, with the understanding that the permitting authority (Division of State Lands) overrides the provisions of Policy #38. Wetland restoration actions designed to answer specific research questions about wetland mitigation and/or restoration processes and techniques, may be permitted upon approval by Division of States Lands, and as prescribed by the uses and activities table in this Plan.

- ~ *"Low Priority" designated mitigation sites are not permanently protected by the Plan. They are intended to be a supplementary inventory of potential sites that could be used at the initiative of the landowner. Pre-emptory uses shall be allowed on these sites, otherwise consistent with uses and activities permitted by the Plan. Any change in priority rating shall require a Plan Amendment.*

Except as provided above for research of wetland restoration and mitigation processes and techniques, repair of existing dikes, tidegates and improvement of existing drainage ditches, "high" and "medium" priority mitigation sites shall be protected from uses and activities which would pre-empt their ultimate use for mitigation.

- I. *This policy shall be implemented by:*
 - a. *Designating "high" and "medium" priority mitigation sites on the Special Considerations Map; and*

- b. *Implementing an administrative review process that allows uses otherwise permitted by this Plan but proposed within an area designated as a "high" or "medium" priority mitigation site only upon satisfying the following criteria:*
1. *The proposed use must not entail substantial structural or capital improvements (such as roads, permanent buildings or nontemporary water and sewer connections); and*
 2. *The proposed use must not require any major alteration of the site that would affect drainage or reduce the usable volume of the site (such as extensive site grading/excavation or elevation from fill); and*
 3. *The proposed use must not require site changes that would prevent the expeditious conversion of the site to estuarine habitat; or*
 4. *For proposed wetland restoration research projects in "medium" priority mitigation sites the following must be submitted:*
 - i. *A written approval of the project, from Division of States Lands, and*
 - ii. *A description of the proposed research, resource enhancement and benefits expected to result from the restoration research project.*
- c. *Local government's review and comment on state and federal waterway permit applications for dike/tidegate and drainage ditch actions.*

This policy recognizes that potential mitigation sites must be protected from pre-emptory uses. However, "low priority" sites are not necessarily appropriate for mitigation use and are furthermore in plentiful supply. It further recognizes, that future availability of "medium priority" sites will not be pre-empted by repair of existing dikes, tidegates and drainage ditches or otherwise allowed by this policy. This insures the continuation of agricultural production until such time as sites may be required for mitigation. This policy also recognizes that research activities designed to gain further understanding of wetland, restoration and mitigation processes and techniques are needed. The consideration of "medium priority" mitigation sites for this purpose will facilitate future identification and successful use of mitigation sites (OR 95-11-010PL 1/24/96).

FINDING: The project will not be located in a mapped mitigation site. See map below. Therefore, these criteria has been addressed.



#23 Riparian Vegetation and Streambank Protection

- I. *Local government shall strive to maintain riparian vegetation within the shorelands of the estuary, and when appropriate, restore or enhance it, as consistent with water-dependent uses. Local government shall also encourage use of tax incentives to encourage maintenance of riparian vegetation, pursuant to ORS 308.792 - 308.803.*

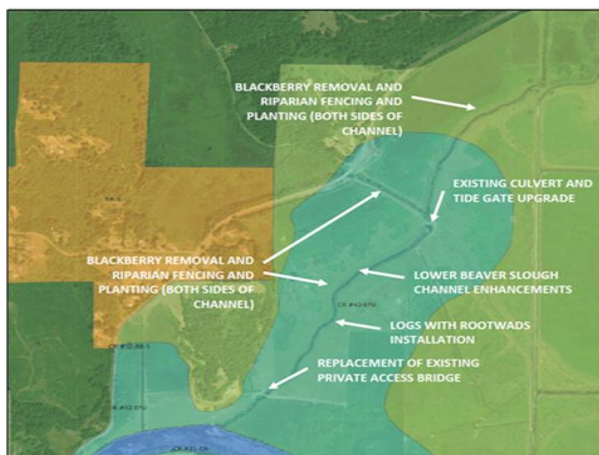
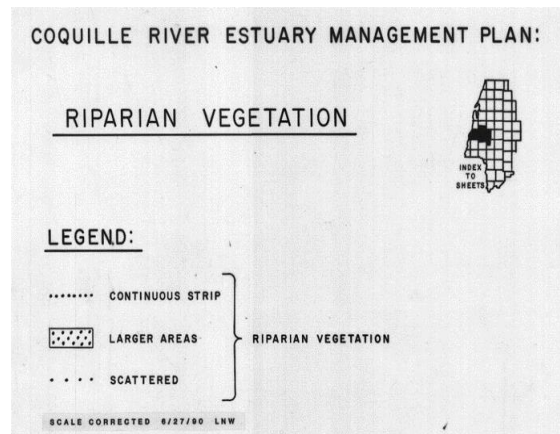
Appropriate provisions for riparian vegetation are set forth in the CCZLDO Section 3.2.180 (OR 92-05-009PL).

- II. *Local government shall encourage streambank stabilization for the purpose of controlling streambank erosion along the estuary, subject to other policies concerning structural and non-structural stabilization measures.*

This strategy shall be implemented by Oregon Department of Transportation (ODOT) and local government where erosion threatens roads. Otherwise, individual landowners in cooperation with the Oregon International Port of Coos Bay, and Coos Soil and Water Conservation District, Watershed Councils, Division of State Lands and Oregon Department of Fish & Wildlife shall be responsible for bank protection.

This strategy recognizes that the banks of the estuary, particularly the Coos and Millicoma Rivers are susceptible to erosion and have threatened valuable farm land, roads and other structures.

FINDING: As part of the project there will be riparian vegetation enhancements and replanting in area of development. Below is the riparian mapped inventory. The project will be out of the mapped vegetation resource area.



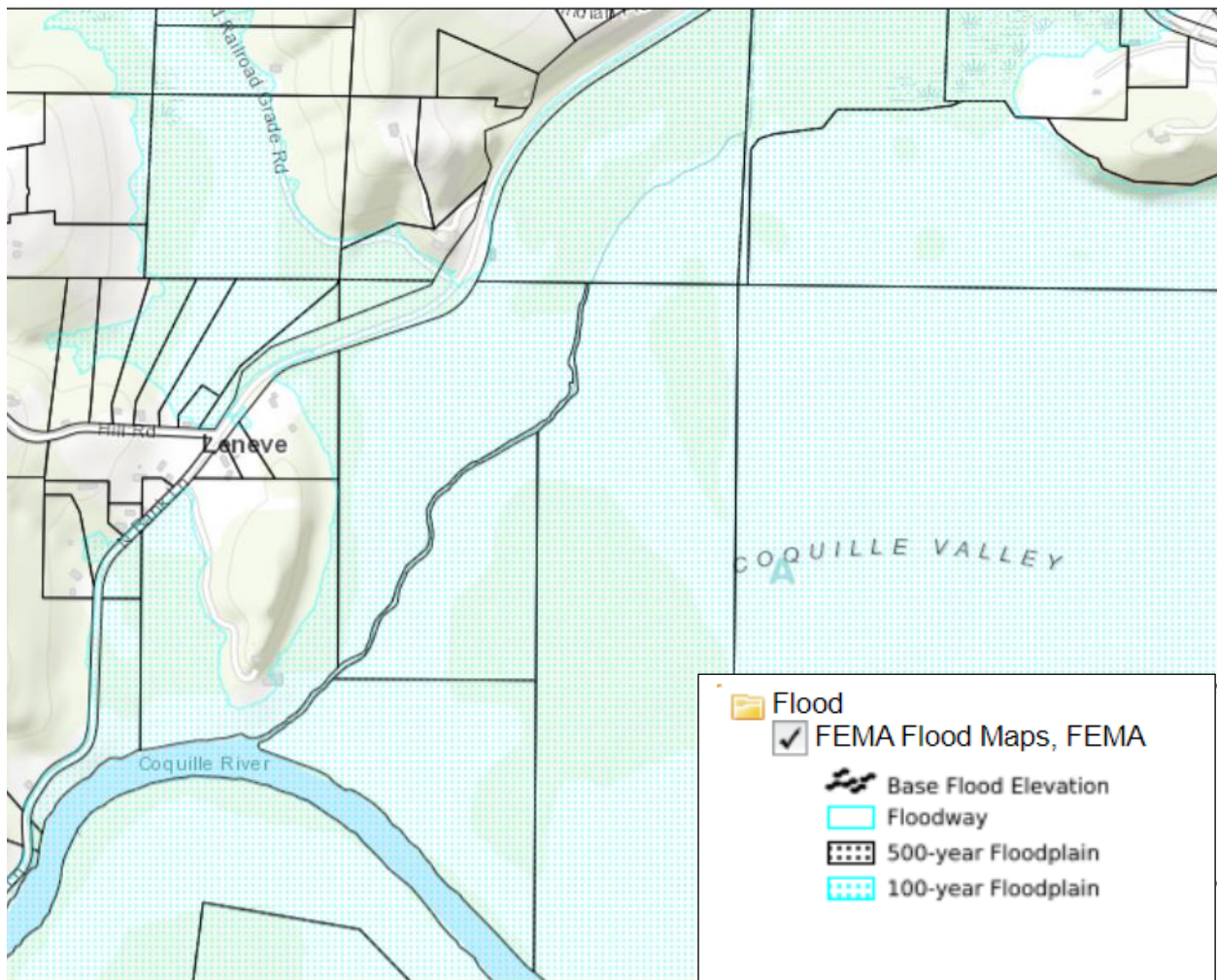
Therefore, the project is consistent with policy #23.

#27 Floodplain Protection within Coastal Shorelands

The respective flood regulations of local government set forth requirements for uses and activities in identified flood areas; these shall be recognized as implementing ordinances of this Plan.

This strategy recognizes the potential for property damage that could result from flooding of the estuary.

FINDING: This policy will be address through the flood hazard provisions set out in Section 4.11. The project will be in the floodplain Zone A



“AREA OF SPECIAL FLOOD HAZARD” is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHB. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, AI-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or VI-30, VE, or V. For purposes of these regulations,

the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

When base flood elevation data has not been provided (A and V Zones) in accordance with Section 4.11.232, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the local administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 4.11.252, SPECIFIC STANDARDS, and 4.11.254 FLOODWAYS.

The application submitted a floodplain application (File Number FP-23-002) to address this policy and Section 4.11.

River Design Group, Inc. (RDG) was retained by the Coquille Watershed Association (CoqWA) to provide professional services for the Coaledo Drainage District fish passage project (Project). The Project site is located within an unincorporated portion of Coos County near Coquille, Oregon. The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) for Beaver Slough at the project site is contained in Community Number 410042 (Coos County, Unincorporated Areas) and on the Flood Insurance Rate Map (FIRM) 41011C0510F which has an effective date December 7, 2018.

The Beaver Slough/Coquille River floodplain is mapped FEMA Zone A (Figure 1) within the vicinity of the Project site. This mapping designation identifies Special Flood Hazard Areas (SFHA) with a one-percent chance of being inundated by the 100-year base flood with mapping determined by approximate methods with no base flood elevations (BFEs) or floodway delineation. Project elements are proposed to be compliant with Coos County Zoning Code Section 4.11.251(7)(b) for “other development” within the floodplain by showing no cumulative increase greater than 1.0 ft during the occurrence of the base flood discharge. This is shown by zero-net rise in the base flood elevation resultant of Project actions.

The Project aims to develop a tide gate design and Water Management Plan (WMP) to enhance natural stream processes, improve ecological function, and maximize potential working lands within the 490 acres located upstream of the Coaledo Drainage District’s (CDD) main tide gate. The Project includes replacing the existing main tide gate infrastructure, slough channel enhancements, replacement of an existing agricultural stream crossing, cattle exclusion fencing, and site revegetation.

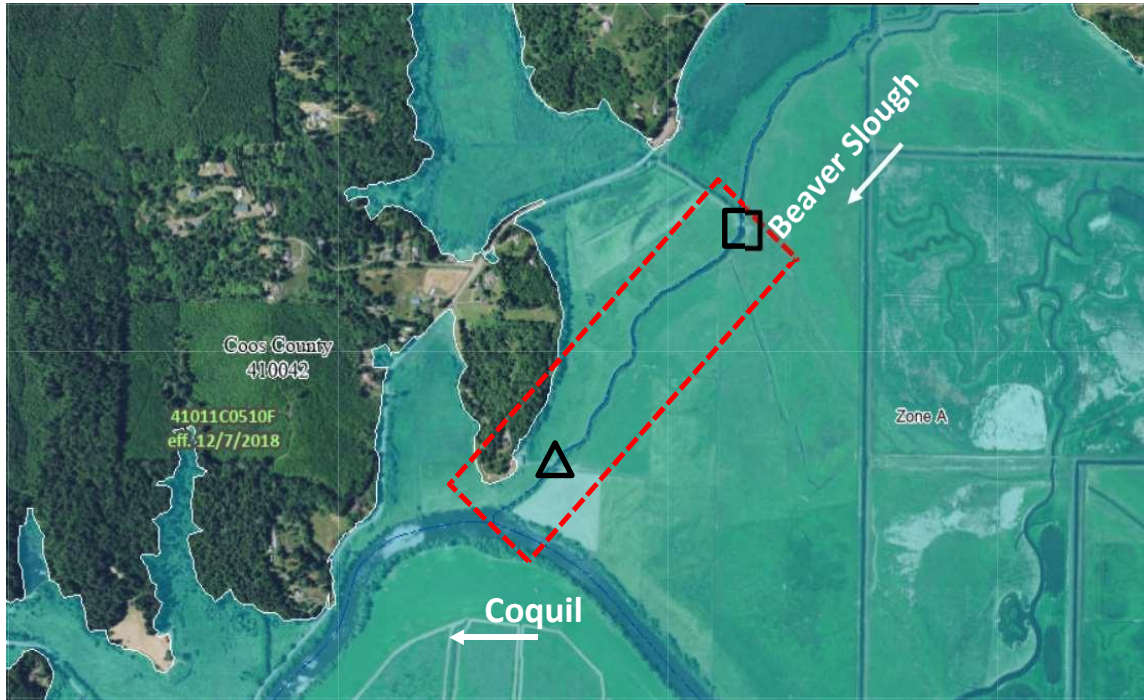


Figure 1. FEMA NFHL Viewer (June 2, 2022) showing location of Project area in red polygon. Figure is oriented with North to the top and water flow from right to left on figure. Tide gate location noted with square and agricultural bridge noted with triangle.

- **SECTION 4.11.235 ESTABLISHMENT OF DEVELOPMENT PERMIT**

- 1. Floodplain Application Required

A floodplain application shall be submitted and approved before construction or regulated development begins within any area of special flood hazard established in Section 4.11.232. The permit shall be for all structures including manufactured homes, as set forth in the “DEFINITIONS,” and for all development including fill and other activities, also as set forth in the “DEFINITIONS.”

- 2. Application

An application shall be made on the forms furnished by the Planning Department and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. *Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures which may be submitted by a registered surveyor;*
- b. *Elevation in relation to mean sea level of floodproofing in any structure;*
- c. *Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 4.11.252; and*
- d. *Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.*
- e. *Plot plan drawn to scale showing the nature, location and dimensions and elevation referenced to mean sea level, or NAVD 88, whichever is applicable, of the area in question including existing and proposed structures, fill, storage of materials, and drainage facilities. Applicants shall submit certification by an Oregon registered professional engineer or land surveyor of the site's ground elevation and whether or not*

the development is located in a flood hazard area. If so, the certification shall include which flood hazard area applies, the location of the floodway at the site, and the 100 year flood elevation at the site. A reference mark shall be set at the elevation of the 100 year flood at the site. The location, description, and elevation of the reference mark shall be included in the certification; and

- f. Any other information required to show compliance.*
- g. Applications for variance, water course changes or staff determinations will be noticed with an opportunity to appeal in the same manner as a conditional use (see Chapter V). Non-discretionary determination of compliance with the standards will be processed in the same manner as a Compliance Determination (see Article 5.10)*

• **SECTION 4.11.251 GENERAL STANDARDS**

*In all areas of special flood hazards, the following standards are required:****

- 7. *Other Development.* *Includes mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of a special flood hazard, but does not include such uses as normal agricultural operations, fill less than 12 cubic yards, fences, road and driveway maintenance, landscaping, gardening and similar uses which are excluded from definition because it is the County's determination that such uses are not of the type and magnitude to affect potential water surface elevations or increase the level of insurable damages.*

Review and authorization of a floodplain application must be obtained from the Coos County Planning Department before "other development" may occur. Such authorization by the Planning Department shall not be issued unless it is established, based on a licensed engineer's certification that the "other development" shall not:

- a. Result in any increase in flood levels during the occurrence of the base flood discharge if the development will occur within a designated floodway; or,*
- b. Result in a cumulative increase of more than one foot during the occurrence of the base flood discharge if the development will occur within a designated flood plain outside of a designated floodway.*

FINDING: While the applicant did not complete the application form with the information, a report was provided by Russell Bartlett, PE River Design Group, Inc. to address the relevant criteria.

The methodology used was a one-dimensional, steady-state HEC-RAS models, this was used to analyze existing and post-project floodplain conditions. The Effective Approximate Hydraulic Analysis conducted by STARR in 2016 was obtained from the FEMA Engineering Library and their model was used as the basis for the net-rise analysis. A segment of the STARR model domain was recreated for the Beaver Slough analysis with duplicated existing STARR cross sections transecting the Project site and unaltered portions of the Beaver Slough floodplain upstream of Project. HEC-RAS input data obtained from the STARR 2016 analysis included an estimate for the 100-year peak flow, roughness estimates, and the reach boundary condition.



Figure 2. Plan view of hydraulic model layout showing cross-section locations. Figure is oriented with North to the top and water flow from right to left on figure.

STARR notes that no survey was used in their analysis and no hydraulic structures (bridges) were included in their model geometry. Thus, for the net-rise analysis, existing condition (EG) model geometry updates were made to include the existing agricultural bridge and tide gate structures and provide additional detail along the Beaver Slough channel within the Project extents (Figure 2). The EG terrain was developed from ground geometry comprised of 2009 DOGAMI LiDAR and topographic/bathymetric survey data collected by RDG between 2019 and 2021.

Typical Manning’s roughness “n” values were obtained from the Effective STARR model as applicable. An in-channel “n” of 0.04 was noted within the Effective Model, which is typical of stream channels and was used in the EG model. Floodplain roughness “n” values were found to vary, but typically in the range of 0.1 to 0.12 dependent on the location within the floodplain. A standard floodplain “n” value of 0.1 was used in the EG model.

A with-project/finished ground (FG) hydraulic model was developed by editing the section geometry as appropriate to depict proposed site improvements. This included the proposed modification to the “blocked obstruction” at the tide gate location to represent proposed changes to the embankment associated with the structure, updating the bridge bottom chord and top curb elevations, updated channel geometry along Beaver Slough between the confluence with the Coquille River and the tide gate to represent proposed channel enhancements, and modification to floodplain elevations to depicted native fill disposal. The FG model represents the as-designed topography throughout the Project and represents unaltered portions of ground adjacent to, upstream, and downstream from proposed Project actions. The FG model was run using the same flow, roughness, and boundary conditions as the existing conditions model. Results from the models were used to evaluate water surface elevation changes.

Base flood water surface elevations (WSELs) from the with-project model were compared to WSELs from the existing conditions model to isolate rise impacts to base flood water surface elevations attributable to the Project. A comparison of WSELs is summarized in Table 1 showing no rise, thus the proposed Project actions are compliant with Coos County Zoning Code Section 4.11.251(7)(b).

Table 1. Base flood WSEL HEC-RAS model output comparing existing (EG) to with-project (FG) conditions.

HEC-RAS Station (ft)	WSELs Existing (EG) (Existing Conditions)	WSELs Proposed (FG) (With-Project)	WSEL Difference (FG-EG) ¹	Placemark
6521	23.83	23.83	0.00	
5538	23.83	23.83	0.00	
4864	23.83	23.83	0.00	
3871	23.83	23.83	0.00	
3423	23.83	23.83	0.00	End of Project
2860	23.83	23.83	0.00	
2237	23.83	23.83	0.00	
1872	23.83	23.83	0.00	
1578	23.83	23.83	0.00	
1318	23.83	23.83	0.00	
805	23.83	23.83	0.00	
713	23.83	23.83	0.00	
698	23.83	23.83	0.00	
671	23.83	23.83	0.00	
645	23.83	23.83	0.00	
514	23.83	23.83	0.00	
360	23.83	23.83	0.00	
233	23.83	23.83	0.00	Start of Project

¹negative number denotes post-project water surface lowering

Based on the hydraulic analysis of existing and with-project conditions, the letter conveys

assurance the proposed Project as analyzed by RDG will not produce a rise in the base flood. Hence, the Project meets the intent of Coos County Zoning Code Section 4.11.251(7)(b) for “other development” within the floodplain. All materials proposed for the Project that will become permanent features in the floodplain are designed to be resistant to flood damage.

Staff agrees with the study and information provided. Therefore, the project satisfies both the Policy #27 as well as Section 4.11.251(7)(b) for other development in the floodplain.

- EXCLUSIVE FARM USE (EFU)

SECTION 4.6.200 EXCLUSIVE FARM USE – USE TABLES

Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone. The tables describe the use, type of review, applicable review standards and Section 4.6.210 Development and Siting Standards. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.

Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone

As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3). Agricultural Land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

8.	Diking, drainage, tide-gating, fill, mitigation, non-shoreland stabilization, dredge material disposal and restoration	CD	CD
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FINDING: This is permitted in the Exclusive Farm Use zoning district subject to development standards. There are no applicable development standards to address. The applicant did go through and address the applicable criteria. Therefore, this criterion has been addressed.

SECTION 5.0.150 APPLICATION REQUIREMENTS:

Applications for development or land use action shall be filed on forms prescribed by the County and shall include sufficient information and evidence necessary to demonstrate compliance with the applicable criteria and standards of this Ordinance and be accompanied by the appropriate fee.

An application shall not be considered to have been filed until all application fees have been paid. All applications shall include the following:

- 1. Applications shall be submitted by the property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign.*
- 2. An application for a variance to the requirements of the Airport Surfaces Overlay zone may not be considered unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within twenty (20) days after receipt, the Planning Director may act to grant or deny said application.*
- 3. One original and one exact unbound copy of the application or an electronic copy shall be provided at the time of submittal for all applications.*

An application may be deemed incomplete for failure to comply with this section.

The burden of proof in showing that an application complies with all applicable criteria and standards lies with the applicant.

FINDING: The application was provided on the appropriate forms and the information was addressed. Staff did reach out on some clarification question but overall the application was found to be complete. The applicant has addressed some additional criteria that was not relevant to the request but staff appreciates more information.

SECTION 5.0.175 APPLICATION MADE BY TRANSPORTATION AGENCIES, UTILITIES OR ENTITIES:

- 1. A transportation agency, utility company or entity with the private right of property acquisition pursuant to ORS Chapter 35 may submit an application to the Planning Department for a permit or zoning authorization required for a project without landowner consent otherwise required by this ordinance.*
- 2. For any new applications submitted after the effective date of this section, such transportation agency, utility, or entity must mail certified notice to the Planning Department and any owner of land upon which the proposed project would be constructed at least ten (10) days before submitting an application to the Planning Department. Said notice shall state the transportation agency, utility, or entity's intent to file the application and must include a map, brief description of the proposed project, and a name and telephone number of an official or representative of the available to discuss the proposed project.*
- 3. Such transportation agency, utility or entity (applicant) must comply with all other applicable requirements of this ordinance including property owners that were provided with notice of any hearing on any hearing on the application pursuant to ORS 197.76.*
- 4. Notwithstanding any other requirement of this ordinance, approvals granted to such transportation agency, utility or entity shall not become effective for construction on a property under the approval until the transportation agency, utility or entity obtains either the written consent of the property owner or the property rights necessary for construction on that property.*

5. *Any permit subject to this section will be valid for two (2) years unless a request for renewal for another two (2) years is received from the transportation, utility or entity agency within 2 years after the date of approval, in which case renewal will be automatic to a maximum of 5 renewals. The date of approval is the date the appeal period has expired and no appeals have been filed, or all appeals have been exhausted and final judgments are effective.[OR-92-07-012PL]*

SECTION 5.0.200 APPLICATION COMPLETENESS (ORS 215.427):

1. *An application will not be acted upon until it has been deemed complete by the Planning Department. In order to be deemed complete, the application must comply with the requirements of Section 5.0.150, and all applicable criteria or standards must be adequately addressed in the application. If the County Road Department recommends traffic impact analysis (TIA) the application will not be deemed complete until it is submitted.*
2. *For land within an urban growth boundary and applications for mineral aggregate extraction, the governing body of a county or its designee shall take final action on an application for a permit, limited land use decision, including resolution of all appeals under ORS 215.422 (Review of decision of hearings officer or other authority), within 120 days after the application is deemed complete unless an application has been deemed incomplete, voided or extended as discussed in this section. The governing body of a county or its designee shall take final action on all other applications for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 215.422 (Review of decision of hearings officer or other authority), within 150 days after the application is deemed complete, unless an application has been deemed incomplete, voided or extended as provided for in this section.*
3. *If an application for a permit or limited land use decision is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection 2 upon receipt by the governing body or its designee of:*
 - a. *All of the missing information;*
 - b. *Some of the missing information and written notice from the applicant that no other information will be provided; or*
 - c. *Written notice from the applicant that none of the missing information will be provided.*
4. *If the application was complete when first submitted or the applicant submits additional information, as described in Subsection 3, within 180 days of the date the application was first submitted and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251 (Compliance acknowledgment), approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.*
5. *If the application is for industrial or traded sector development of a site identified under Section 11 below, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with Section 4 above.*
6. *On the 181st day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (3) of this section and has not submitted:*

- a. *All of the missing information;*
 - b. *Some of the missing information and written notice that no other information will be provided; or*
 - c. *Written notice that none of the missing information will be provided.*
7. *The period set in Subsection 2 of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided in Section 12 of this section for mediation, may not exceed 215 days.*
 8. *The period set in Section 2 of this section applies:*
 - a. *Only to decisions wholly within the authority and control of the governing body of the county; and*
 - b. *Unless the parties have agreed to mediation as described in Section 11 of this section or ORS 197.319(2)(b) (Procedures prior to request of an enforcement order)*
 9. *Timelines as described in this section do not apply to a decision of the county making a change to an acknowledged comprehensive plan or dependent on the approval of a comprehensive plan amendment.*
 10. *Except when an applicant requests an extension of the timelines, if the governing body of the county or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after the application is deemed complete, the county shall refund to the applicant either the unexpended portion of any application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.*
 11. *A county may not compel an applicant to waive the period set in ORS 215.429 (Mandamus proceeding when county fails to take final action on land use application within specified time) as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.*
 12. *The periods set forth in this section may be extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning the application will be mediated. [1997 c.414 §2; 1999 c.393 §§3,3a; enacted in lieu of 215.428 in 1999; 2003 c.800 §30; 2007 c.232 §1; 2009 c.873 §15; 2011 c.280 §10]*

FINDING: The application was found to be complete and staff has reviewed the merits of the project.

SECTION 5.0.250 TIMETABLE FOR FINAL DECISIONS (ORS 215.427):

(Legislative decisions are not subject to the time frames in this section)

1. *For lands located within an urban growth boundary, and all applications for mineral or aggregate extraction, the County will take final action within 120 days after the application is*

deemed complete. For land divisions within the urban growth boundary or lands designated as Regionally Significant Industrial Areas (RSIA) see Article 5.12 for processing and time tables.

2. *For all other applications, the County will take final action within 150 days after the application is deemed complete.*
3. *These time frames may be extended upon written request by the applicant.*
4. *Time periods specified in this Section shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, legal holiday or any day on which the County is not open for business, the time deadline is the next working day. [OAR 661-010-0075]*
5. *The period for expiration of a permit begins when the appeal period for the final decision approving the permit has expired and no appeals have been filed, or all appeals have been exhausted and final judgments are effective.*

FINDING: The formal application was submitted and then the fee was paid. The review time for this project was just over thirty days.

SECTION 5.0.300 FINDINGS REQUIRED [ORS 215.416(9)-(10)]:

Approval or denial of an application shall be in writing, based upon compliance with the criteria and standards relevant to the decision, and include a statement of the findings of fact and conclusions related to the criteria relied upon in rendering the decision.

FINDING: The decision is to approve the application and the findings of staff have been reduced to a written investigative report (staff report) to analyze the criteria and response provided by the applicant. The staff report provides findings of the facts in the matter to support the decision.

SECTION 5.0.350 CONDITIONS OF APPROVAL:

1. *Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.*
2. *An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.*
3. *At an applicant's request, the County may modify or amend one or more conditions of approval for an application previously approved and final. Decisions to modify or amend final conditions of approval will be made by the review authority with the initial jurisdiction over the original application using the same type of review procedure in the original review.*

FINDING: Staff has listed some conditions of approval to ensure this proposal will comply with CCZLDO.

SECTION 5.0.400 CONSOLIDATED APPLICATIONS:

1. *Applications for more than one land use decision on the same property may be submitted together for concurrent review. If the applications involve different review processes, they will be heard or decided under the higher review procedure. For example, combined applications involving an administrative review and hearings body reviews, will be subject to a public hearing.*
2. *Applications that are paired with a Plan Amendment and/or Rezone application shall be contingent upon final approval of the amendment by the Board of Commissioners. If the Board denies the amendment, then any other application submitted concurrently and dependent upon it shall also be denied.*

FINDING: This is a consolidated application with Administrative Conditional Use and Floodplain.

VI. DECISION:

There is evidence to support the replacement of tide gates, bridge and stream enhancements (blackberry removal, fencing, log installation, and native plantings) within the Coquille River Estuary Management 43-Exclusive Farm Use and adjacent Exclusive Farm Use Zone. There are conditions that apply to this use that can be found at Exhibit "A".



Exhibit 21

Coos Soil & Water Conservation District CoosSWCD <info@cooswcd.org>

Mosquito_Discussion

5 messages

CLAIRE Christopher w * ODFW <Christopher.w.CLAIRE@odfw.oregon.gov>

Thu, Mar 7, 2024 at 8:01 AM

To: "richardhallmark@co.coos.us" <richardhallmark@co.coos.us>

Cc: Coos SWCD <info@cooswcd.org>

Rick,

Hope your week has been good. Was hoping to visit a bit on mosquitoes through email.

- Is there any legitimate and printed or other information indicating that Coos County has had malaria in the County at any point?
- Is the mosquito that can carry malaria present in Coos County?
- Has there been any cases of Zika virus in Coos County?
- Does the mosquito that can carry Zika virus live in Coos County?
- Has there been any confirmed cases of West Nile virus in Coos County?
- Does the mosquito that can carry West Nile Virus live in Coos County?
- Has there been any cases of Dengue fever in Coos County?
- Does the mosquito that can carry Dengue fever live in Coos County?
- Has there been any cases of encephalitis directly attributed to mosquitoes in Coos County?

Thanks much,

Chris

Christopher W. Claire

Habitat Protection Biologist

Oregon Dept. of Fish and Wildlife

P.O. Box 5003

Habitat Protection Biologist

Oregon Dept. of Fish and Wildlife

Charleston, OR 97420

wk cell: 541-551-1631

*Just because you have created hydrologic
chaos does not necessarily mean you have*

created habitat.



CLAIRE Christopher w * ODFW <Christopher.w.CLAIRE@odfw.oregon.gov>
To: Hallmark Richard <Richard.Hallmark@chw.coos.or.us>
Cc: Coos SWCD <info@coosswcd.org>

Thu, Mar 7, 2024 at 8:02 AM

Christopher W. Claire
Habitat Protection Biologist
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[63538 Boat Basin Drive](#)
[Charleston, OR 97420](#)
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Cc: Coos SWCD <info@coosswcd.org>
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CLAIRE Christopher w * ODFW <Christopher.w.CLAIRE@odfw.oregon.gov>
To: Coos SWCD <info@coosswcd.org>, Fred Messerle <bsdd.bos@gmail.com>

Sat, Mar 23, 2024 at 11:43 AM

Caley, Fred,

I sent an email to Rick Hallmark, the Environmental Health Program Manager of Coos Health and Wellness concerning mosquito borne disease. I would offer that we definitely should include this as part of our record for the Winter Lake Phase III documents. It may prove to be very helpful to be in the record (see below response).

Best,

Chris

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 P.O. Box 5003
 63538 Boat Basin Drive
 Charleston, OR 97420
 wk cell: 541-551-1631

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From: Richard Hallmark <Richard.Hallmark@chw.coos.or.us>
Sent: Friday, March 22, 2024 4:26 PM
To: CLAIRE Christopher w * ODFW <Christopher.w.CLAIRE@odfw.oregon.gov>
Cc: Tim Lynch <Tim.Lynch@chw.coos.or.us>; Eric Gleason <Eric.Gleason@chw.coos.or.us>
Subject: FW: Mosquito_Discussion

You don't often get email from richard.hallmark@chw.coos.or.us. [Learn why this is important](#)

Chris, For the most part the mosquito species identified in Coos County in recent years are NOT competent in transmitting disease. Species I see have been identified here are: *Aedes nigromaculis*, *Aedes squaminger*, *Aedes increpitus*, *Aedes vexans*, *Coquillettidia perturbans*, ***Culex tarsalis***, ***Culex pipiens***, *Culiseta inornata*, *Culiseta particeps*, *Ochlerotatus dorsalis*, *Ochlerotatus implicates*, and *Ochlerotatus washinoi*. You will note that the bolded *Culex* sp. are competent carriers of mosquito borne disease.

The table below shows in the first column what the CDC includes as the most common types of mosquitoes that can spread germs in the United States (<https://www.cdc.gov/mosquitoes/about/mosquitoes-in-the-us.html>). ***Culex tarsalis***, and ***Culex pipiens*** are listed. The second column reflects the top result in an internet search of "What disease does mosquito species x cause?"

Mosquito Genus Species	Some Possible Disease(s) Carried
<i>Aedes aegypti</i>	Dengue virus, yellow fever virus, chikungunya virus, Zika virus

<i>*Culex pipiens</i>	West Nile Virus
<i>*Culex tarsalis</i>	St. Louis Encephalitis, Western Equine Encephalitis
<i>Culex quinquefasciatus</i>	St. Louis encephalitis, Western equine encephalitis, West Nile fever
<i>Anopheles freeborni</i>	Malaria
<i>Anopheles quadrimaculatus</i>	Malaria

*Despite the presence of *Culex pipiens* and *Culex tarsalis* there are no documented cases of mosquito borne illness in Coos County. As to your questions:

- A local newspaper article from the 70's notes a Coos County case of encephalitis. We can speculate the disease resulted from a *Culex* sp. mosquito bite, but no good record supports/denies the possibility AND even "if true" the disease reservoir has since evaporated.
- Malaria outbreaks have been documented in Oregon [territory] since 1830. Effective in 1947 the CDC aggressively provided mosquito treatment nationwide to eliminate malaria in counties where it was reported to have been prevalent (https://www.cdc.gov/malaria/about/history/elimination_us.html#:~:text=The%20program%20commenced%20operations%20on,spray%20applications%20had%20been%20made). There is not a record obvious to me showing where treatment was provided in Oregon that might substantiate malaria's presence (or not) in Coos County. As the *Anopheles* sp. is the only mosquito to carry the parasite that causes malaria, it has to be here for mosquito transmission to occur.
- None of the emergent diseases listed as possibly carried by *Aedes aegypti* have been seen in Coos County. Considering those diseases, the way we prioritize mosquito control will certainly change if/when *Aedes aegypti* arrives.

I only guess why no recorded case of mosquito borne illness exists in Coos County – particularly when over the last twenty years West Nile Virus has spread around the state including immediately east in Douglas County. Though, it appears there is an invisible wall excluding mosquito borne disease away from Oregon's south coast, common sense dictates with the dynamics of living creatures Coos County will eventually see cases of mosquito borne illness.

Rick Hallmark, EHS

Environmental Health Program Manager

Coos Health & Wellness

Together, inspiring healthier communities

281 LaClair St.

Coos Bay, OR 97420

p. 541-266-6744

f. 541-888-8726

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Sent: Thursday, March 7, 2024 8:02 AM
To: Richard Hallmark <Richard.Hallmark@chw.coos.or.us>
Cc: Coos SWCD <info@coosswcd.org>
Subject: RE: Mosquito_Discussion

This Message originated outside your organization.

Christopher W. Claire
Habitat Protection Biologist
Oregon Dept. of Fish and Wildlife
P.O. Box 5003
63538 Boat Basin Drive
Charleston, OR 97420
wk cell: 541-551-1631

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bsdd.bos@gmail.com <bsdd.bos@gmail.com>

Sat, Mar 23, 2024 at 1:03 PM

To: CLAIRE Christopher w * ODFW <Christopher.w.CLAIRE@odfw.oregon.gov>, Coos SWCD <info@coosswcd.org>

Could you send me a copy of the Coaledo tide gate ACU or the link to it on the planning website.

FRM

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To: Coos SWCD <info@coosswcd.org>
Cc: CLAIRE Christopher w * ODFW <Christopher.w.CLAIRE@odfw.oregon.gov>

Tue, Mar 26, 2024 at 6:27 PM

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created habitat.*



From: Richard Hallmark <Richard.Hallmark@chw.coos.or.us>
Sent: Friday, March 22, 2024 4:26 PM
To: CLAIRE Christopher w * ODFW <Christopher.w.CLAIRE@odfw.oregon.gov>
Cc: Tim Lynch <Tim.Lynch@chw.coos.or.us>; Eric Gleason <Eric.Gleason@chw.coos.or.us>
Subject: FW: Mosquito_Discussion

You don't often get email from richard.hallmark@chw.coos.or.us. [Learn why this is important](#)

Chris, For the most part the mosquito species identified in Coos County in recent years are NOT competent in transmitting disease. Species I see have been identified here are: *Aedes nigromaculis*, *Aedes squamiger*, *Aedes increpitus*, *Aedes vexans*, *Coquillettidia perturbans*, ***Culex tarsalis***, ***Culex pipiens***, *Culiseta inornata*, *Culiseta particeps*, *Ochlerotatus dorsalis*, *Ochlerotatus implicates*, and *Ochlerotatus washinoi*. You will note that the bolded *Culex* sp. are competent carriers of mosquito borne disease.

The table below shows in the first column what the CDC includes as the most common types of mosquitoes that can spread germs in the United States (<https://www.cdc.gov/mosquitoes/about/mosquitoes-in-the-us.html>). ***Culex tarsalis***, and ***Culex pipiens*** are listed. The second column reflects the top result in an internet search of "What disease does mosquito species x cause?"

Mosquito Genus Species	Some Possible Disease(s) Carried
<i>Aedes aegypti</i>	Dengue virus, yellow fever virus, chikungunya virus, Zika virus
*<i>Culex pipiens</i>	West Nile Virus
*<i>Culex tarsalis</i>	St. Louis Encephalitis, Western Equine Encephalitis
<i>Culex quinquefasciatus</i>	St. Louis encephalitis, Western equine encephalitis, West Nile fever
<i>Anopheles freeborni</i>	Malaria
<i>Anopheles quadrimaculatus</i>	Malaria

*Despite the presence of *Culex pipiens* and *Culex tarsalis* there are no documented cases of mosquito borne illness in Coos County. As to your questions:

- A local newspaper article from the 70's notes a Coos County case of encephalitis. We can speculate the disease resulted from a *Culex* sp. mosquito bite, but no good record supports/denies the possibility AND even "if true" the disease reservoir has since evaporated.
- Malaria outbreaks have been documented in Oregon [territory] since 1830. Effective in 1947 the CDC aggressively provided mosquito treatment nationwide to eliminate malaria in counties where it was reported to have been prevalent (https://www.cdc.gov/malaria/about/history/elimination_us.html#:~:text=The%20program%20commenced%20operations%20on,spray%20applications%20had%20been%20made). There is not a record obvious to me showing where treatment was provided in Oregon that might substantiate malaria's presence (or not) in Coos County. As the *Anopheles* sp. is the only mosquito to carry the parasite that causes malaria, it has to be here for mosquito transmission to occur.
- None of the emergent diseases listed as possibly carried by *Aedes aegypti* have been seen in Coos County. Considering those diseases, the way we prioritize mosquito control will certainly change if/when *Aedes aegypti* arrives.

I only guess why no recorded case of mosquito borne illness exists in Coos County – particularly when over the last twenty years West Nile Virus has spread around the state including immediately east in Douglas County. Though, it appears there is an invisible wall

excluding mosquito borne disease away from Oregon's south coast, common sense dictates with the dynamics of living creatures Coos County will eventually see cases of mosquito borne illness.

Rick Hallmark, EHS

Environmental Health Program Manager

Coos Health & Wellness

Together, inspiring healthier communities

281 LaClair St.

Coos Bay, OR 97420

p. 541-266-6744

f. 541-888-8726

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From: CLAIRE Christopher w * ODFW [<mailto:Christopher.w.CLAIRE@odfw.oregon.gov>]

Sent: Thursday, March 7, 2024 8:02 AM

To: Richard Hallmark <Richard.Hallmark@chw.coos.or.us>

Cc: Coos SWCD <info@cooswcd.org>

Subject: RE: Mosquito_Discussion

This Message originated outside your organization.

Christopher W. Claire

Habitat Protection Biologist

Oregon Dept. of Fish and Wildlife

P.O. Box 5003

63538 Boat Basin Drive

Charleston, OR 97420

wk cell: 541-551-1631

*Just because you have created hydrologic
chaos does not necessarily mean you have
created habitat.*



From: CLAIRE Christopher w * ODFW
Sent: Thursday, March 07, 2024 8:01 AM
To: richardhallmark@co.coos.us
Cc: Coos SWCD <info@coosswcd.org>
Subject: Mosquito_Discussion

Rick,

Hope your week has been good. Was hoping to visit a bit on mosquitoes through email.

- Is there any legitimate and printed or other information indicating that Coos County has had malaria in the County at any point?
- Is the mosquito that can carry malaria present in Coos County?
- Has there been any cases of Zika virus in Coos County?
- Does the mosquito that can carry Zika virus live in Coos County?
- Has there been any confirmed cases of West Nile virus in Coos County?
- Does the mosquito that can carry West Nile Virus live in Coos County?
- Has there been any cases of Dengue fever in Coos County?
- Does the mosquito that can carry Dengue fever live in Coos County?
- Has there been any cases of encephalitis directly attributed to mosquitoes in Coos County?

Thanks much,

Chris

Christopher W. Claire
Habitat Protection Biologist
Oregon Dept. of Fish and Wildlife
P.O. Box 5003
Habitat Protection Biologist
Oregon Dept. of Fish and Wildlife
Charleston, OR 97420
wk cell: 541-551-1631

*Just because you have created hydrologic
chaos does not necessarily mean you have*

created habitat.



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60196 Old Wagon Road
Coos Bay, OR 97420
541-404-6105
bsdd.bos@gmail.com

Coos County Board of Commissioners
250 N. Baxter Street
Coquille, Oregon 97423 April 17, 2024

Re: ACU-23-074/FP-23-012 Hearing, April 17, 2024

The Beaver Slough Drainage District (District) appreciates the opportunity to provide additional comments regarding our ACU-23-074/FP-23-012 application.

BSDD and CCPD Concur – All Applicable Standards and Criteria are Met

The District and our landowner applicants believe application ACU-23-074/FP-23-012 meets all the criteria required by the COOS COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE (CCZLDO) for approval. The CCPD has reached this same conclusion on two separate occasions now in two separate staff reports.¹ The Commissioners should also find BSDD has met all applicable criteria and standards.

The bulk of the project actions are in the EFU Zone and are outright permitted uses in the EFU Zone. Project actions in the CREMP/EFU Zone are a minor portion of the project and the only actions subject to ACU approval or additional conditions. Again, the Commissioners should take note of its staff's determinations that all applicable standards and criteria have been satisfied as it makes its own determination.

CCPD Recommended Conditions Are Not Appropriate

The applicable standard for approval of this application is there are no **significant** changes to accepted farm and forest practices on surrounding lands and no increased costs of accepted farm and forest practices on lands devoted to farm and forest use. The District has submitted extensive supplemental information to address issues identified in the ACU-23-074/FP-23-012 3.21.2024 and 4.10.2024 Staff Reports regarding the potential impacts of project actions. This information, along with prior application documents, demonstrate that there are no anticipated impacts that will force significant changes and significant cost to existing farm and forest practices. The Section 3.3.730 findings of CCPD provide no specific information or evidence regarding **significant** impact or costs to surrounding farm or forest properties. Rather, speculative terms such as "may," "could," "potential," "if" are used by CCPD, and these subjective terms are untethered to any factual basis in the record.

¹ "Overall, the wetland enhancement project is not likely to bring significant changes to accepted farm or forest practices and associated costs for adjacent landowners. The applicants have provided a comprehensive study to show that the project does not intend to have any significant changes to adjacent accepted farm or forest practices or significantly change the cost of Farm or Forest Practices. The applicant did provide additional information specific to the reductions of mosquito population because of this project." (CCPD 4.10.2024 Staff Report, p.26; CCPD 3.21.2024 Staff Report, p.22).

This is an Agricultural Lands Productivity Enhancement Project with Salmon Habitat Benefits

CCPD Staff Report 4.10.2024, page 26, paragraph one refers to “the wetland enhancement project”. This is an inaccurate statement. The project actions in the application are clearly to enable maintenance and improvement of agricultural infrastructure that has been in place for over one hundred years.

CCPD Misinterprets Evidence Provided in Support of the Application

CCPD Staff Report 4.10.2024, page 26, paragraph two the second sentence, “In the applicant’s testimony, it is suggested that there may have been unintentional creation of mosquito habitat during phases I and II of the project, as indicated in Exhibit 11 and 12.” is also inaccurate. Exhibits 11 and 12 are comments from mosquito experts familiar with the application and are both supportive of the project actions having a positive impact on reducing mosquito populations. Additionally, phases I and II were designed and reviewed to ensure all reasonable precautions were taken to not create mosquito habitat.

CCPD Staff Report 4.10.2024, page 26, paragraph three again references “potential unintended mosquito habitat created during prior phases of the project”. To clarify, phases I and II did not create unintended mosquito habitat. The purpose of the phase III application is to provide for maintenance and improvement of infrastructure that was not included in phases I and II due to permitting and timing constraints. BSDD objects to the CCPD characterization of the record on this point and, again for clarity, states that the project is specifically designed to prevent negative impacts from mosquitos and no negative impacts are anticipated.

The County Treatment of this Application is Not Consistent with Its Past Actions

We would also note ACU 23-008, which was for similar infrastructure improvements in much of the same CREMP area in this application, was approved administratively with no hearings just a year ago in 2023. No conditions were recommended or imposed.

To reiterate, this application is simply requesting approval for the maintenance and upgrading of our interior infrastructure to allow us to manage water in a manner that meets individual landowner’s objectives while maintaining productivity and value. Failure to approve this application will result in continued loss of productivity and value for the affected landowners in the District.

Mosquito and Invasive Weed Issues are Regional and Should be Addressed Regionally

Mosquito and invasive weed species management are regional issues – those are outside the scope of this one site-specific project and application. We have clearly addressed the positive impact of the project actions to reduce mosquito and invasive

weed habitat. Additionally, our impact analysis identifies no **significant** changes to accepted farm and forest practices or increased costs on adjacent farm and forest land.

Refusing to approve this application denies the District and our applicant landowners the ability to take the necessary actions, recommended by our engineers and consultants, to remove the conditions that enable mosquitos to be a problem.

Resolving mosquito and invasive weed issues encompasses much more than just the project area in our application. We do not believe a mosquito monitoring and control program for individual entities is a workable solution to resolve a regional mosquito problem. A structured entity with authority to define the scope and size of the mosquito problem and provide viable and timely control measures is necessary. With no clear authority to investigate or provide solutions beyond district or individual property line boundaries the “finger pointing” and controversy will only continue within the community. It is in everyone’s best interests to seek a comprehensive solution for the entire region.

Climate change is also a relevant factor in that warmer temperatures over a longer season combined with unpredictable seasonal rains will provide for more opportunities to produce mosquitos throughout the area.

ORS 452, Vector Control, provides the legal structure and organization to identify the sources of mosquitos within the community and provide the necessary resources to control the problem. Creating a Vector Control District is clearly the responsibility of Coos County and requires its leadership.

Additionally, there are resources and programs already in place within the county to address invasive weed problems. Parrot feather weed is widespread and has been documented in the county for over twenty years.

The district, our landowners, and stakeholders are supporters of and would be willing co-operators in advancing the discussion concerning mosquitos and invasive weeds to create viable solutions for the entire area.

The CCLZDO Does Not Allow Imposing Conditions Here

The CCPD states in its report at page 26: “[The] project is not likely to bring significant changes to accepted farm or forest practices and associated costs for adjacent landowners.” After making that determination, the CCPD admits in its report on page 29 that the record does not contain clear and convincing evidence there will actually be any mosquito or invasive weed issues caused by the project: “These issues have the potential to increase accepted costs and management practices for surrounding property owners. However, the record is not definitive in showing how substantial this increase may or may not be on actual farm and forest practices.

The Commissioner’s should consider those two statements from CCPD and find that the CCLZDO does not allow conditioning this permit if those statements are accurate.

SECTION 5.0.350 CONDITIONS OF APPROVAL: 1. Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.

First, the Code allows conditioning of a permit when a condition is “necessary to ensure compliance.” Here, the CCPD recommended Finding is that BSDD has satisfied all ordinance provisions with the information it has presented. That is, there is nothing to be added that is “necessary” for compliance. Without a finding of necessity, the Code does not allow imposing burdensome and expensive conditions on the permit. The Code requires that any condition imposed to be proportional to the extent and amount of anticipated impacts. The CCPD directly says that the record is “not definitive” on whether or not there might be any impacts at all.² The Commissioners should understand that if the record lacks this definition, it is impossible to meet the Code’s requirement than any conditions it imposes must be proportional to the extent and amount of impact. The Code does not give the Commissioners or the CCPD authority to impose conditions on a permit that meets all applicable standards and criteria and when the record is unclear if there “may or may not” actually have an impact at all.

Again, we request approval of the ACU-23-074/FP-23-012 application so we can move forward with resolving our infrastructure issues for the benefit of the District, our landowners, stakeholders, and the community.

Regards,



Fred R. Messerle, District Manager

60196 Old Wagon Road, Coos Bay, OR 97420

Phone (541)-404-6105

Email: bsdd.bos@gmail.com

² BSDD disagrees with the CCPD statement in that it believes that the record is clear that the project is designed and will be implemented without any significant impacts to established farm/forest uses and that it will not force any significant cost increases on existing farm/forest activities.

Exhibit 23

**Winter Lake Phase III Team
Response to Coos County Development
Staff Report on File # ACU-23-074/FP-23-012**

Date of Coos County Staff Report
Wednesday April 10th, 2024



Prepared by

Caley Sowers
Coos SWCD Director

Christopher W. Claire
Oregon Department of Fish and Wildlife

Introduction

The Winter Lake Phase III Project Team (Project Team) has prepared this response feedback in regard to the 04/10/24 County Planning Staff Report. The Project Team has found that four findings submitted in the County Staff Report on 03/21/24 (below) are repeated verbatim in the 04/10/24 Staff Report. The Project Team fully addressed these items previously on 03/26/24; regardless, the four findings were repeated. Our Project Team response to the 04/10/24 County Planning Staff Report maintains previous responses and are presented below. It is important to note that County Planning staff have determined that the sum of applicable criteria were appropriately addressed through the Conditional Use permit application materials submitted as noted in the County Planning staff report (Staff Report 03/21/24).

- Policy #14 – General Policy Uses within the Rural Coastal Shorelands
- Policy #18 – Protection of Historic, Cultural, and Archaeological Sites
- Policy #19 – Management of “Wet-Meadow” wetlands within Coastal Shorelands
- Policy #22 – Mitigation Sites: Protection against Pre-emptory Uses
- Policy #23 – Riparian Vegetation/Streambank Protection
- Policy #27 – Floodplain Protection within Coastal Shorelands

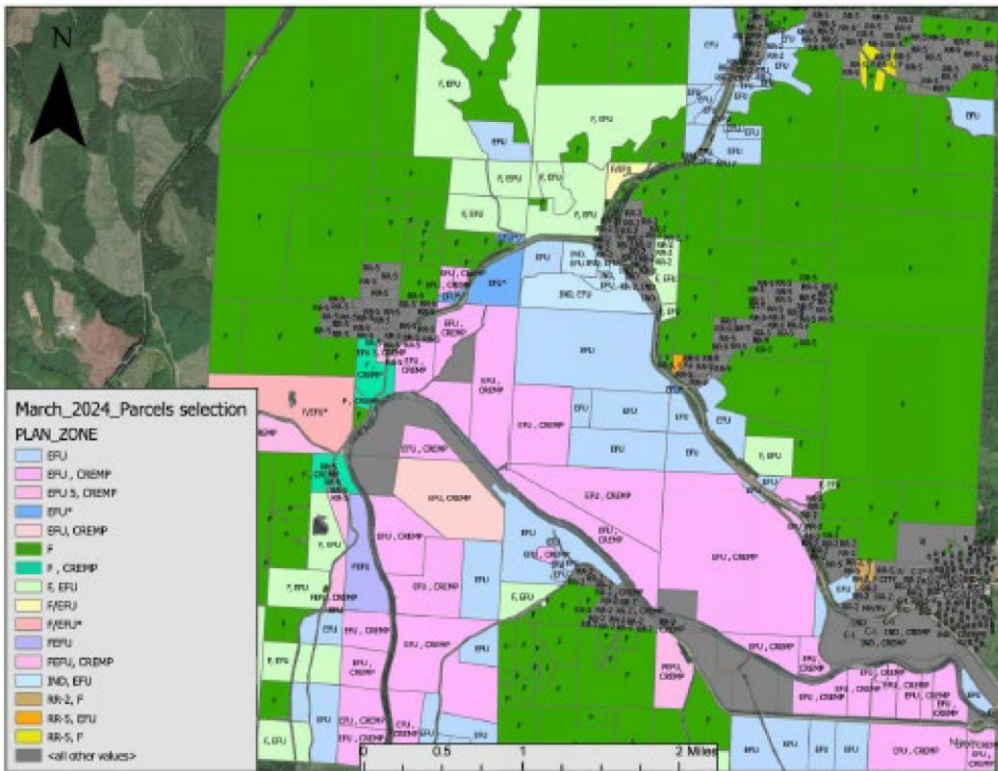
County Planning Finding in 03/21/24 Staff Report (pg. 20) repeated by County Staff Report on 04/10/24 (pg. 24).

FINDING: The applicant is required to do an impacts analysis showing that the proposed use will not force a significant change in accepted farm or forest practices on surrounding properties zoned and devoted to farm or forest. The applicant shall address how the proposal will not increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. The analysis is required to define the study area, look at current practices within that area and then make a determination if the current proposal will significantly force a change in accepted farm and forest practices and if it would increase the cost of accepted farm or forest practices. The applicant submitted this information on March 19, 2024. The full results of the study are found at Attachment A, Application Submittal.

The methodology used by the applicant is as follows:

The Geographic Scope of this analysis includes all parcels within an approximate 1-mile radius of the project area. For this analysis, only lands zoned for farm and/or forestry practices were considered. Properties with industrial, commercial, rural residential, or other zoning were not evaluated for impacts unless combined with a farm or forest plan zoning. It should be noted here that most of the Garden Valley area parcels are zoned RR-5 and were not analyzed according to the selected evaluation criteria.

The results provided a total of 234 parcels for consideration, 15 of which are already included in the proposed project area. Project Area parcels were evaluated separately (see applicants Appendix A. Winter Lake Phase III Project Area and Surrounding Lands Impacts Analysis Tables 1. And 2.) as well as in combination with surrounding land parcels.



Based on the provided details of this enhancement project within the Beaver Slough Drainage District and the Coaledo Drainage District, here are the anticipated significant changes in accepted farm or forest practices and associated costs for adjacent landowners that have been raised:

1. **Altered Drainage Patterns and Loss of Water Sources:** The replacement and consolidation of pasture culverts, installation of new drainage channels, and repair of failing berms may alter the drainage patterns within the affected areas. This could impact the way adjacent landowners manage water on their properties, potentially requiring adjustments to irrigation systems, drainage infrastructure, water sources or land grading practices. Landowners may need to invest in new equipment or infrastructure to adapt to the changed drainage conditions.

Project Team Response from 03/26/24 (pg. 3); retained in this document addressing the 04/10/24 County Planning Staff Report (pg. 25), which included #1 above from 03/26/24 Response.

The project is specifically designed to establish more natural pathways of drainage in the low-lying elevations. This process incorporated using LiDAR and contracted engineering in the ground surveys. The new and reconstructed channel density will be roughly 2x the existing density per acre over the current and with extended distribution in order to both deliver water during irrigation effectively, however, more importantly to provide for greatly improved drainout in spring and following rainfall or irrigation. These advancements in the channel layout will have strongly positive effects for water management and pasture irrigation on the action area lands. Adjacent lands are not affected by the Phase III actions. The Winter Lake C3P main tidegate controls water delivery to the project area in the Beaver Slough Drainage District (BSDD) and the Coaledo Tidegate serves as the control in the Coaledo Drainage District (CDD). The proposed Phase III work is subservient to the main tidegates and the 39 culverts that will be installed serve internal pastures, not main delivery routes to adjacent properties. The pastures served by the Phase III culverts and tidegates are within pastures with berms. Surrounding lands of pastures within the project area are largely upslope (above elevation 8.0ft) or not directly connected hydrologically in a manner where project actions have potential to cause water delivery effects. Berm repairs are aligned along interior project land parcels. These repairs are not

boundary berms between adjacent lands and thus are only control features for irrigation and floodwater controls on the project area.

Through the past 25+ yrs no channel cleaning has occurred in the action area. This has resulted in the filling of channels through time. The pasture areas have become very difficult to drain in some locations with strong increases in non-palatable pasture plants. Without reestablishing the drainage within the project area EFU pasture operations are economically decreasing in productive capacity. The continued inability to implement Phase III proposed actions will incur an undue forced economic decline on the project area ranchers. All landowners within the project area are ground level advocates for the actions that will provide for improved water management.

The drainage networks that will be reconstructed through Phase III are not directly connected to adjacent lands. The project will install 9 new watering locations for livestock in the project area that has 4 watering locations currently, thus an overall increase. Water delivery to other off-project lands for livestock is not hydrologically connected at the summer elevations and thus unaffected. Irrigation on the project lands is through passive tidal inflow. Neighboring off-project area lands do not irrigate currently or where it does occur are not using either the Coaledo or BSDD C3P tidegate. No new infrastructure will be necessary for off-site landowners related to current and future actions within the Phase III project area.

2. Increased Maintenance Responsibilities: The installation of new infrastructure, such as tidegates, drainage channels, and watering site troughs, may require ongoing maintenance by adjacent landowners. This could involve tasks such as cleaning debris from channels, inspecting and repairing tidegates, or managing vegetation around watering sites. Landowners may need to allocate resources for regular maintenance activities and potentially invest in equipment or labor to ensure the proper functioning of the infrastructure.

Project Team Response on 03/26/24 (pg. 4); retained in this document addressing the 04/10/24 County Planning Staff Report (pg. 25), which included #2 above from 03/26/24 Response.

The Phase III project will install advanced culverts with new long-life HDPE materials (as noted in the 404 Fill and Removal permit application). These culverts have a 50yr lifespan, which is 100% longer than any existing steel culverts on site and roughly 40% longer than the ADP culverts in use currently. The new side-hinged aluminum tidegates are aircraft grade aluminum with a 50yr life expectancy. As is shown in the image on the cover sheet of this document, the existing wooden infrastructure is undersized and largely wooden tidegate materials with a lifespan of 10-12yrs maximum. The project is anticipated to result in a greatly reduced maintenance effort on the project area.

The existing channel networks on the project area are largely linear and do not follow the low-lying topography alignment with acuity. This results in areas following rainfall, irrigation, or flooding where fish can become stranded, and water stagnate unmoving with potential for mosquito production. Sticklebacks, mosquitofish, and juvenile coho all eat mosquito larvae. However, with the current channel networks largely filled with years of sediment and failing to follow topography, fish instinctively will not leave canals where they reside continuously and travel long distances to interior pasture locations. Additionally, the low-lying areas where water ponds currently are not connected to main and secondary interior channels with fish present. The deteriorating infrastructure on the project area (channels filled with sediment/vegetation, failing tidegates, degrading berms) are all components that are not providing adequate water management for agricultural actions on the project land area. A notable number of the interior culverts are perched, which does not allow for the current channel networks to be on-grade with the low point at the downstream delivery to main canals. Accordingly,

there is greatly reduced ability to provide for both drainout and delivery of irrigation waters. These perched pipes also reduce the time period for fish passage during tidal and flooding cycles. All culverts on site are currently undersized for hydrology. Without addressing these issues economic output for the landholders will continue to be damaged and in decline. The new/reconstructed channel networks are designed with on-grade slope from interior locations to the main canals. This was not the original construction design in 1908. The on-grade designs will allow for transport of sediment that accumulates to prevent premature clogging of channels.

The project lands are installing internal infrastructure that is within bermed topography. No actions through Phase III will occur at the BSDD C3P main tidegate or the Coaledo tidegate. Winter flooding eliminates all controls as berms are overtopped and thus the 39 culverts/tidegates are irrelevant with flooding above elevation 5.0ft. The infrastructure that will be installed in the project area serves internal pastures of project area lands and these channels do not serve as through pathway infrastructure to other adjacent lands. Thus, no costs are maintenance changes are possible for adjacent lands through Phase III actions. There are no tidegates within the Winter Lake Phase III interior pasture network culverts or tidegates that are not being replaced through the project. Few if any tidegates are presently in operation on any adjacent lands. No allocation need for additional maintenance on adjacent lands infrastructure will be incurred by Phase III.

3. Potential Pest and Invasive Plant Management: Wetlands can serve as breeding grounds for mosquitoes and other pests, which may pose a nuisance to adjacent landowners, particularly during certain times of the year. The change to the land may also bring in invasive plants and that can spread to adjacent properties. Landowners may need to implement pest and/or invasive plant management strategies to mitigate the impact of increased pest or plant populations on their farming or forestry activities. This could involve measures such as insecticide application, pesticide applications, habitat modification, or the installation of mosquito control devices, which may entail additional costs.

Project Team Response on 03/26/24 (pg. 5); retained in this document addressing the 04/10/24 County Planning Staff Report (pg. 25), which included #3 above from 03/26/24 Response.

Many tidal wetlands inherently do not produce many mosquitoes. This is due to the factors needed to produce mosquitoes. In order for a water feature to provide habitat suitable for mosquito production three factors are necessary:

- a). Water must remain non-moving in a stagnant state during warmer months for the life-cycle of larvae.
- b). The location where larvae are hatched must remain fishless until pupae transform into adults after stage-5, otherwise they will be predated on as mosquito larvae are a high value food item for fish;
- c). The water must not dry up or soak into the ground prior to fly-off following stage-5. This is a minimum 7-8 days and at a maximum under cooler conditions 14-20 days.

If any of the conditions are not met, larvae may hatch, however, then be consumed by fish or the habitat will dry up prior to sufficient time for them to become adults or moving water will reduce algae/food production or egg hatching. The Winter Lake Phase III project will address all three factors linked to mosquito production. The extended and on-grade channel networks will prevent ponding of rainwater/floodwater/irrigation water in locations where currently there are ponding conditions. The new and reconstructed channel networks will provide for movement of water, which will disrupt the life-cycle. The project is also designed to allow for much greater distribution of native three-spined sticklebacks and non-native mosquitofish to potential locations where mosquitoes might hatch and then be consumed. The Winter Lake Phase III project is directly engineered to address mosquito production

habitats eliminating the need for direct chemical pest management actions. Overall, the Winter Lake Phase III project will directly improve conditions for pasture grass production, which is benefitted by actions that reduce ponded water areas where mosquitoes are able to be successful.

It has been noted that other invasive species such as Brazilian Water-Milfoil, a.k.a. parrot feather (*Myriophyllum aquaticum*), may colonize the Winter Lake project area. None of the project actions will enhance the ability for this plant or other non-native invasive plant. Parrot feather has been present in the Coquille Valley since at least 2009 in a lake in the lower Coquille River. Likely released as from a home aquarium. In the Coquille River basin it has been noted as heavily established in Johnson Mill Pond. Photos from 2002 identified Milfoil sp. in mid-winter in Johnson Mill Pond with stem features typical of parrot feather during winter (Applicant Figure 1), however, positive I.D. was not made at the time. Brazilian Water-Milfoil is known to be heavily present in Johnson Mill Pond currently (Applicant Figure 2). Brazilian Milfoil is spread only by vegetative reproduction when a portion of stem is broken, such as during floodwaters and transported to a new location where it roots. The population of Brazilian Milfoil in Johnson Mill Pond is located where floodwaters are able to carry broken stems to all lands downstream of that location that are connected to the main Coquille River.

The Winter Lake Phase III recognizes that Brazilian Water-milfoil (a.k.a. parrot feather) has been documented in Johnson Mill Pond likely as early as 2002. Parrot feather is spread by stem transport through water flow, bird transport, water craft, and other means, followed by vegetative establishment of those stems. Winter Lake did not have any restoration actions until 2017-2018. Parrot feather was first noted by ODFW staff within the Winter Lake lands in 2020. Extensive surveys of the property in 2010-2019 did not detect the plant on the property. Pfeifer and Randall 2024 documents parrot feather in Johnson Mill Pond as well as Fat Elk Drainage District in addition to Winter Lake.



Applicant Figure 1. Milfoil sp. in Johnson Mill Pond, image taken December of 2002.



Applicant Figure 2. Brazilian Water-Milfoil in late winter emergent stage. Johnson Mill Pond, March 23, 2024.

4. **Loss of Agricultural Lands:** The project could contribute to the ongoing loss of agricultural lands due to various factors. Firstly, the installation of new infrastructure and drainage systems may require the conversion of agricultural land into construction sites or water management areas, directly reducing the available acreage for farming activities. Additionally, alterations in drainage patterns and the introduction of wetlands as part of the project may render certain portions of agricultural land less suitable for cultivation, further diminishing the overall area available for farming. Furthermore, the potential increase in maintenance responsibilities for adjacent landowners could divert resources and attention away from agricultural activities, leading to reduced productivity or abandonment of agricultural land.

Project Team Response on 03/26/24 (pg. 7); retained in this document addressing the 04/10/24 County Planning Staff Report (pg. 25-26), which included #4 above from 03/26/24 Response.

The Winter Lake Phase III project has been specifically designed to provide strong economic benefits for agricultural landowners within the project area and with special consideration to eliminate effects/impacts to adjacent landowners. The new channel on-grade design and installation on the landscape will provide for invigorated improvement in pasture grass production without substantive effects to total acreage of grass. Without the new channel networks and cleaning of the remainder, existing sediment filled channels will continue to fail to provide for proper drainage. Pasture grasses are struggling on large areas of the action area due to excessively wet conditions into early summer from poor transport channel capacity and connectivity to main outflow canals. The project will also provide strong access for overwintering juvenile coho into high value rearing habitat. During winter drainout is impossible due to higher river levels and thus use by fish is considered a strong and collaborative “Working Lands” benefit. Recreational fisheries are estimated to generate \$280 per adult salmon caught to the Oregon economy through angler purchase of motels, food, fuel, boats, vehicles, and fishing equipment.

The project will not implement any actions on adjacent non-participating landownerships. The action area construction sites are temporary staging areas, most of which are upland off of North Bank Lane or Highway 42, where there currently is not EFU pasture production. No long-term effects/impacts to pasture production will occur due to staging areas. Troughs installed for livestock watering will provide enhanced livestock health due to higher quality water for their consumption compared to current conditions.

The lands within the Phase III Project area are all currently classified as wetlands under the USFWS National Wetlands Inventory (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>) . The wetland pasture grass production from these sites is due to species of grass (bent grass and reed canary grass), predominating, which are facultative wetland plants. The project is unable to and will not create any new wetlands as the project is already wetland.

Channel networks will provide more natural hydrology similar to historical that will enhance the vigor of these wetland adapted pasture grasses. The new/reconstructed channel networks are specifically aligned in a manner different “altered drainage patterns” than existing in some locations to enhance the drainout, which will improve quantifiably the pasture grass production, while protecting ecology of the lands within the CREMP for the specified goals and values. Without this project the lands will continue to decrease in economic viability due to increased retention of water, which yields more unpalatable plant species such as smartweed and Pacific silverweed.

The project action areas are within surrounding berms to elevation 5.0ft. Culverts/tidegates/channels that will be installed are not directly connected to adjacent lands and thus will not be impacting hydrology or productive capacity of those lands. The culverts/tidegates that will be addressed with Phase III are subservient to delivery of water through the main BSDD C3P and Coaledo tidegates. No actions will occur through Phase III at those main tidegate locations.

The Winter Lake Phase III Project Team here restates that Phases I and II projects within the Beaver Slough Drainage District (BSDD) and Winter Lake floodplain in 2017 and 2018 respectively are separate from Winter Lake Phase III. Phase I was a tidegate only reconstruction with Phase II occurring only within Unit 2 (Applicant Figure 1). The Phase III applicant is BSDD with CoosSWCD and ODFW as the core additional project team members. Phase III will occur in Units 1, 3, and a small portion of the Coaledo Drainage District. It is critical to note that no work to date addressing reconfiguration of channels, installation of new culverts, cleaning of channels from years of sedimentation, and installation of new tidegates has occurred in Units 1 and 3. Dysfunctional hydrology that can produce mosquito habitat will be addressed with Phase III. Unit 2 (the Restoration Unit) has not been producing substantive numbers of mosquitoes as has been documented through ODFW staff monitoring using dipper methods and adult trapping. Similar to the work above limited mosquito production in Unit 2 is largely in part due to the reconfiguration of channel networks and measures included in the designs to prevent areas of ponded water when the project was implemented in 2017.

County Planning Staff Report of 04/10/24 (pg. 26, paragraph two, line two), “*In the applicant’s testimony, it is suggested that there may have been unintentional creation of mosquito habitat during phases I and II of the project, as indicated in Exhibit 11 and 12.*”

Project Team Response; New Materials

Phase I was rehabilitation of the C3P main tidegate (<https://www.youtube.com/watch?v=G6jAmfR2qp4>) at the river connection of BSDD main canals with the Coquille River. County Planning has indicated in the above note that this effort may have developed unintentional creation of mosquito habitat. Mosquito habitats are typified by stagnant ponded water areas that persist for at least 7-14 days during warm weather. These locations must also be absent of predatory fish that will otherwise eat mosquito larvae. The C3P tidegate Phase I structure is a 7-bay concrete culvert structure. No other work was completed with that Phase other than to connect to the main canals. No ability exists for this action (installation of concrete culverts) to in itself to establish habitat for mosquitoes.

- Phase II was fully within Unit 2 (see applicant Figure 1). Unit 2 is hydrologically isolated up to elevation 6.5ft NAVDD88. Part of the project was reconstruction of all dikes/berms to elevation 6.5ft that provide for isolation of the land area hydrology. If waters rise above elevation 6.5ft NAVDD88 Unit 2 hydrologically then connects to Units 1 and 3 (see applicant Figure 1). In the months of June through October when the mainstem Coquille River is at moderate or lower flows and there is control of water into Unit 2. There is never purposeful delivery of irrigation water that would hydrologically reach an elevation above elevation 6.5ft during summer months.

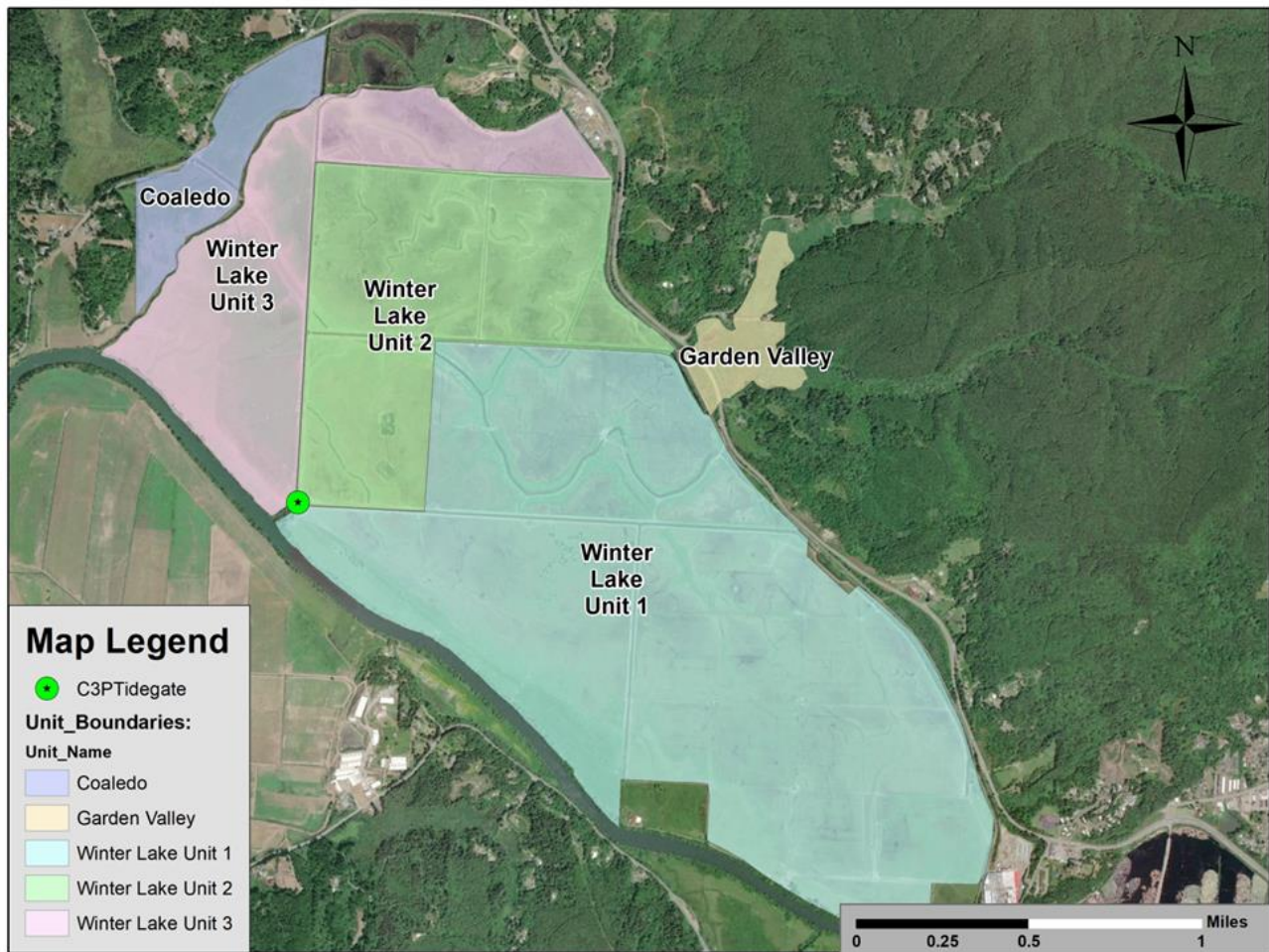
ODFW owns 286 acres of Unit 2 on the northern section and the China Camp Gun Club owns the southern leg at 122 acres. In 2018, 6.3 miles of channel was constructed in Unit 2. These channels connected to another 1.8 miles of existing tidal channels. Specific design criteria to directly reduce the pre-project undulations and swales that were likely to create ponded water were incorporated into the designs to address potential for those locations to produce mosquitoes and reduce fish stranding. Dan Markowski (with Vector Disease Control International VDCI, now with the American Mosquito Control Association, exhibit 11) was consulted in 2015 on site as to methodologies and adjustments needed to address channel construction layout for minimization of mosquito habitat. This feedback was incorporated into the designs prior to construction in 2018. Unit 2 is now plumbed to reduce the potential for mosquito production.

The Water Management Plan during summer months (June through October) is to maintain water at the channel bank height below intrusion onto pastures in Unit 2. Channels that maintain water in Unit 2 in the summer all have numerous mosquitofish (*Gambusia* sp.) and three-spined sticklebacks (*Gasterosteus aculeatus*) present, which are strong mosquito larva predators. In summer Unit 2 is kept in a dry state other than channels where those fish are present, other than the very Northeast corner where on ~5.0 acres some water creeps out through matted vegetation. ODFW conducts dipper surveys following VDCI and the Center for Vector Biology (O’ Malley 1995) protocol for larva in ponded areas of water within ODFW owned lands. Dipper surveys have been conducted during summer in 2019, 2021-2023 where substantive ponded water occurs within ODFW owned Unit 2 lands where fish are not present. Some locations where fish are present are occasionally sampled as a control. Mosquito larva have never been captured in waters with fish present despite hundreds of samples. Larval sampling in the Restoration Unit 2, has yielded few larvae on the ~5 acres where some water is present without fish during summers. Capture of larva through dipping methods over an average of 1.0 larvae per dip remains within a low range, but minimum threshold for evaluation if treatment is needed.

Larval dipping in the Restoration Unit 2 ODFW lands in 2019, 2021, 2022, and 2023 has documented densities that have remained mostly below 0.5 larvae per dip with the peak reaching 0.92.

The statement above by the County is not supported with any of the language of Exhibits 11 or 12 or other materials in the Phase III application. Exhibit 11 notes “I do understand the past and current concern that this restoration project may have to produce excessive mosquito production,” however, Exhibit 11 and 12 make no reference indicating concerns with Phase I and II actions that might have had effects that resulted in increased mosquito production. The Phase III Team is unclear as to the incongruity as there are no materials provided supporting the pathway for the County Planning staff conclusion/statement: ***“In the applicant’s testimony, it is suggested that there may have been unintentional creation of mosquito habitat during phases I and II of the project, as indicated in Exhibit 11 and 12.”***

The Phase III project has been developed to reduce floodplain ponding features that were a result of the 1908 linear cross-elevational channel reconfiguration drainage project for Winter Lake. Those early channel construction efforts by early land speculators simplified the tidal channel configuration. These designs were invoked due to limited economic capability/feasibility in 1908. Little change has occurred since 1908 in the design layout. This discontinuity that currently contributes to ponding of water that can stagnate, reduce pasture production, and produce mosquitoes, has been targeted for remediation in the current designs of Phase III. Phase III actions will get at the root habitat features within the project area to produce mosquitoes. The restoration of proper flow from the land areas has also been inhibited by 20+yrs of the inability to excavate accumulated sediments in channels, partially related to permitting processes. These obstructed flow paths are in dire need of reexcavation in order to reduce ponding of water following rainfall, flooding, and irrigation events.



Applicant Figure 3. Winter Lake Phase III project area, denoting individual units.

The Winter Lake Phase III Project Team has a high degree of knowledge for developing restoration projects with considerations to reduce habitat capability for production of mosquitoes. All core Team members have direct mosquito habitat elimination experience. Caley Sowers (CoosSWCD) has sampled for mosquitoes serving the data to Coos Health and Wellness Rick Hallmark. Sowers also served as project manager in 2018-2024 on the Lower Coquille River Working Landscapes tidal restoration project where development of tidal channels to address fish passage limitations also included design features to prevent formation of mosquito habitat.

Christopher Claire (ODFW) served on the 22-person interstate team to develop habitat modifications in 2013-2015 to remediate mosquito production on Bandon Marsh following the initial restoration. Claire has also served as the mosquito monitoring staff lead for the ODFW Winter Lake Coquille Valley Wildlife Area for the past seven years, also conducting monitoring across the center of Coos County at over 17 locations. Claire has 15yrs of tidal and floodplain restoration experience on six tideland projects, which all included consideration for design development that improved conditions over existing for reduction of mosquito habitats.

Fred Messerle (BSDD Manager) served as the project manager for Winter Lake Phase I and BSDD project coordinator for Winter Lake Phase II and has had full exposure to mosquito habitat reduction designs for wetland restoration projects. In 2020 Claire and Messerle worked collaboratively to restore water control on lands east of Lillian Slough where failure of a tidegate resulted in heavy inundation of

pastures and production of high levels of mosquitoes. The Team has a strong interest and background in improving hydrology in a manner that reduces the habitat areas that can serve as mosquito habitat. This is in part as there is a direct and strong correlation to: 1) Improving pasture drainage for agriculture; 2). Eliminating locations where fish may become stranded; 3). Improving overall wetland/pasture health and function accentuating the Coos County Coquille Estuary Management Plan goals.

Mosquito Trends

Coos Health and Wellness has documented that mosquito production is occurring in a number of locations within Coos County outside of Winter Lake. Mosquitoes can, but largely don't move more than 7-10 miles from the location of hatching. In 2020 project team member Christopher Claire (ODFW) assisted training the Coos Health and Wellness intern Michael Dudle with dipper and adult trapping methods to sample mosquitoes. Claire and Dudle sampled two locations in 2020 1.5 miles upstream of the Chandler Bridge on Coos River and just off East Bay Drive near Echo Springs Creek. Traps were set overnight using a standard light/CO² trap. At the Coos River site 1,405 adult mosquitoes were captured with 268 at the East Bay drive location. The Coos River site was 430% higher in adult abundance per trap night than any other of the 17 total locations sampled in Coos County in 2020. This high number was reflective of a pasture where a tidegate had failed with tidal inflow in a pasture where channel networks were highly altered.

Mosquito numbers in Coos County for all locations where there is habitat, likely reflect a general trend evident in Oregon and the western United States. A longer number of warm weather days during summer months in the past 10 years are contributing to a greater number of "mosquito days" annually. Mosquito-days, are defined as days per year being within a desired temperature and humidity for production of mosquitoes. The Climate Central organization (<https://www.climatecentral.org/graphic/mosquito-days-2023?graphicSet=Local+Mosquito+Days&location=Portland,+OR&lang=en>) has noted that "Mosquitoes thrive in warm and humid conditions that are becoming more frequent in 173 U.S. locations." Applicant Figures 4, 5, 6, and 7 demarcate the trend in the capacity of climactic conditions to contribute to mosquito production for Bend, Eugene, Portland, and Medford Oregon. Although Coos County is not a selected zone for the study, there are ramifications for local mosquito production as well.

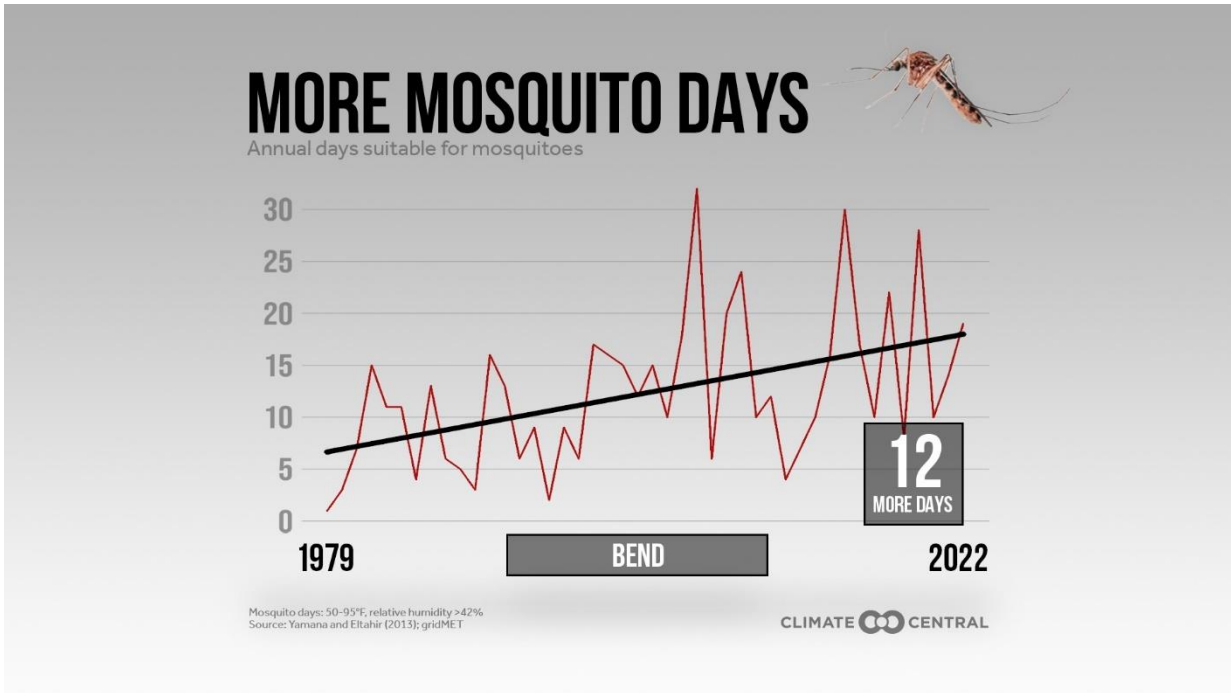


Figure 4. Climate Central mosquito days information for Bend, OR 1979-2022.

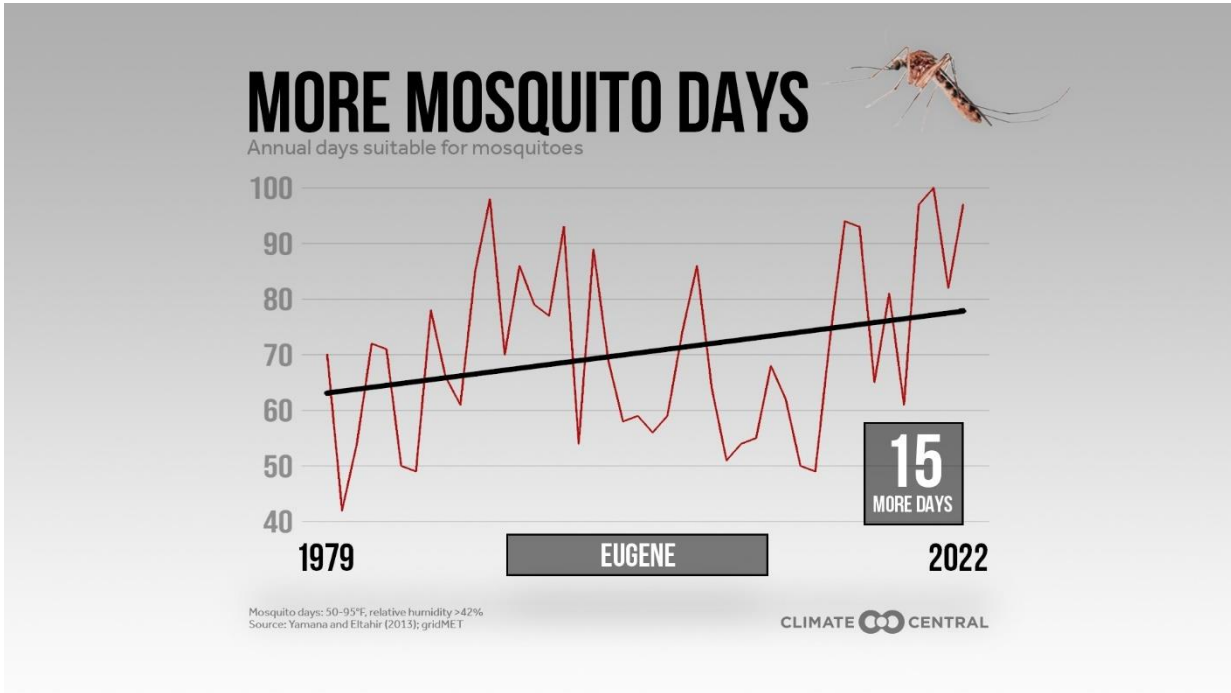


Figure 5. Climate Central mosquito days information for Eugene, OR 1979-2022.

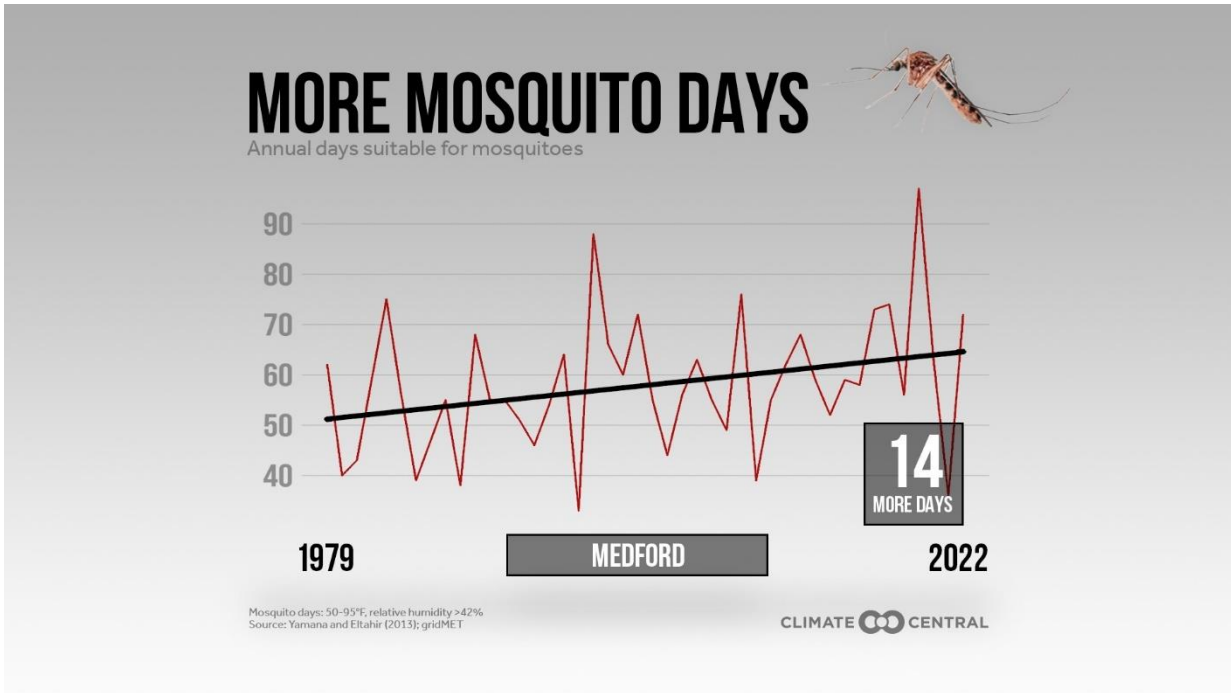


Figure 6. Climate Central mosquito days information for Medford, OR 1979-2022.

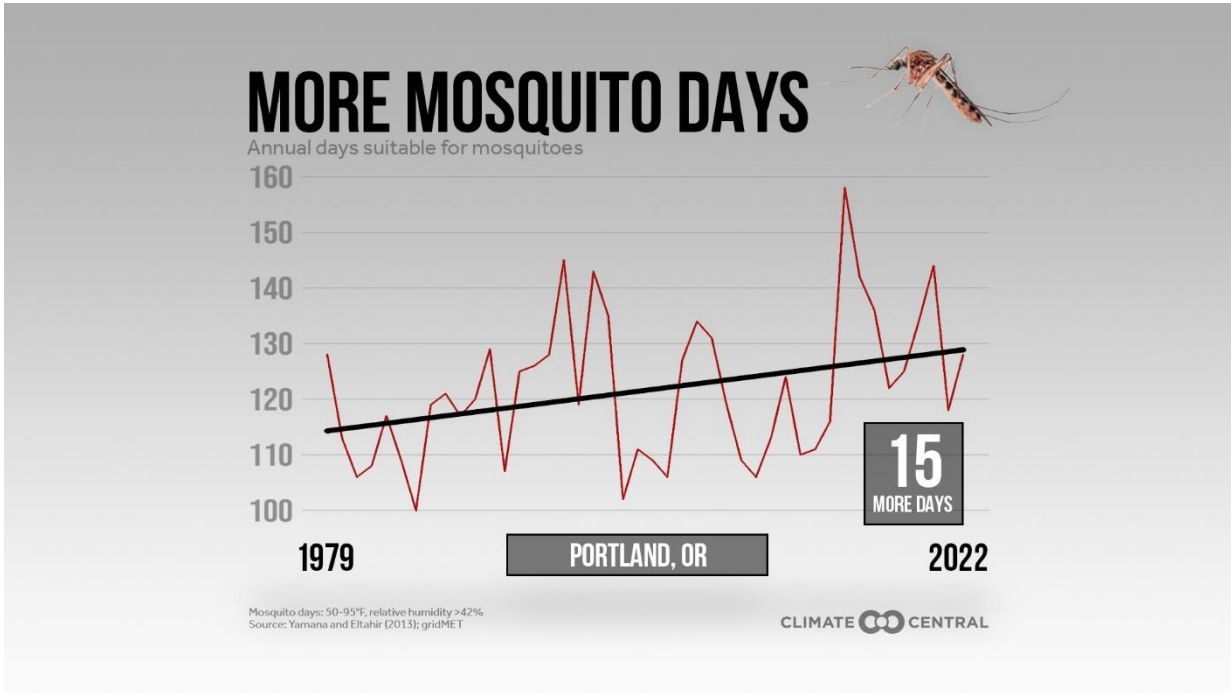


Figure 7. Climate Central mosquito days information for Portland, OR 1979-2022.

Literature Cited

O' Malley, C. 1995. Seven Ways to a Successful Dipping Career. *Wing Beats*, vol 6(4) 23-24.

Pfeifer, A. and I. Randall 2024. *Myriophyllum aquaticum*: Presence and Abundance in the Coquille Watershed, Oregon. Coquille Watershed Association report. 2024:83p.



PO Box 1123 Turner, OR 97392
www.thebridgesfoundation.info

Coos County Community Development
250 N Baxter
Coquille, Oregon 97423

March 27, 2024

Re: File # ACU-23-074-FP-23-012

Dear Coos County Community Development,

I am writing regarding the permit submitted for Winter Lake Phase III project by the Beaver Slough and Coaledo Drainage Districts, with additional assistance provided by the Coos Soil and Water and Oregon Department of Fish and Wildlife.

As background, I own and operate Santiam Valley Aquaculture based in Turner, Oregon. On my ranch, I own the largest warm-water fish aquaculture facility in the State, operate five waterfowl hunting areas, manage a heard of approximately 50 beef cattle and support working lands through the Wetland Reserve Program. I operate my property for the dual purpose of an economic return for my family as well as a balance with nature. I pride myself in the diversity of wildlife and waterfowl on my property and manage my lands in a way that promotes thousands of birds to use it each year as a migratory stopover.

In addition, as a child I grew up on the neighboring property, Santiam Valley Ranch in Turner, Oregon. There I learned about aquaculture and helped to manage a 300 sheep operation, including pasture management and irrigation. My college degree in Forest Management and Wildland Fire Science brings additional training and expertise toward ecosystem management.

My lifetime commitment to farming and ranching, coupled with my effort to support agroecosystem management, I also participate as a Trustee for The Bridges Foundation where I serve as Conservation Director. Through this effort, The Bridges Foundation owns 529 acres located in the Winter Lake area which is served by the Beaver Slough and Coaledo Drainage Districts for summer irrigation for cattle pasture and for winter drainage. A chief goal for the districts is to provide upgraded infrastructure needed for

addressing fisheries habitat management, particularly involving coho, steelhead and lampreys, and for which The Bridges Foundation has particular interest to support.

While the farm in Coquille generates revenue, it is not enough to pay for the major infrastructure upgrades that are needed to promote good drainage on the property, meet statutory fish passage requirements, allow cattle and equipment to move effectively around the fields, or fully utilize the primary tide gates which are now in marked disrepair.

In my opinion, the project proposed known as Winter Lake Phase III will not result in any negative impacts to The Bridges Foundation's property. Instead, the Phase III effort will resolve several problems farmers and ranchers currently face. In addition to promoting a lasting partnership bringing considerable financial resources to our drainage district property owners, it will also provide modern and high functioning infrastructure essential for wildlife, waterfowl and fisheries conservation and the farming community.

Thank you,

A handwritten signature in black ink, appearing to read "Luke Fitzpatrick", written over a light blue horizontal line.

Luke Fitzpatrick, Conservation Director
The Bridges Foundation
503-930-9431

Exhibit 25

THE BRIDGES FOUNDATION

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Coquille Tidal Wetland Conservation Project

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Bridges
Foundation**

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**Project History:
Grow Cattle in the
Summer,
Grow Salmon and
Migratory Waterfowl
in the Winter**

Project Manager

Luke Fitzpatrick,
Conservation
Director

The Bridges

Foundation

Luke.Fitzpatrick@thebridgesfoundation.info

o

Project Partners

Nate Chisholm &

Hanna E. Hart

Craft3

The Nature

Conservancy

Wild Rivers Coastal

Alliance

Greenfield Hartline

Habitat Conservation

Fund

Beaver Slough

Drainage District

Coaledo Drainage

District

Coos Soil & Water

Conservation District

Coquille Indian Tribe

Coquille Watershed

Council

Oregon Department

of Fish & Wildlife

On March 1, 2022, The Bridges Foundation purchased 528 acres of tidal wetland, known as Hart's River Ranch, in Coquille, Oregon.

Assistance was provided by Craft3, Wild Rivers Coastal Alliance and The Nature Conservancy. The acreage is certified organic and is in use for cattle pasture grazing during the summer months.

Locals refer to this portion of the Coquille Valley as "Winter Lake" due to extensive flooding during the winter months. The primary focus is to use the existing infrastructure supporting agriculture consisting of tide gates, dikes and channels, while also focusing on conservation most notably addressing the survival of native fish species, primarily Fall chinook, Coho and Pacific lamprey, along with improving migratory waterfowl habitat.



SHADED AREAS REFLECT 528 ACRES KNOWN AS HART'S RIVER RANCH. (CREDIT: GOOGLE EARTH)

Site History:

The main stem of the Coquille River is 36 miles long. It drains 1,059





NATE CHISHOLM AND LUKE FITZPATRICK, VIEWING HART'S RIVER RANCH, COQUILLE, OREGON, SEPTEMBER 20, 2021.
(PHOTO CREDIT: JULIE FITZPATRICK)

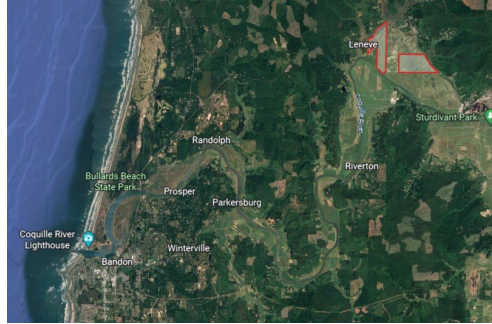
The Role for The Bridges Foundation:

Luke Fitzpatrick, Conservation Director for The Bridges Foundation, and its Trustees, Kathy Bridges and Jake Fitzpatrick, offer their talents and expertise to work with community partners to develop strategies addressing the following:

- investigate and select the long-term holder of a perpetual conservation easement or public ownership for the 528 acres and to protect the

square miles originating in the Coastal Range and enters the Pacific Ocean at the City of Bandon which is located on the Southern Oregon Coast in Coos County.

Hart's River Ranch is located at river mile 25.



THE 528 ACRE PROPERTY IS LOCATED 25 RIVER MILES UPSTREAM FROM BANDON OUTLINED IN RED ON THE UPPER RIGHT. (CREDIT: GOOGLE EARTH)

Coquille River is a “tidal-effect river” wherein the head of the tide can extend up to 41 miles upriver from its mouth at Bandon. Coquille Valley is characterized as a “drowned river valley,” or one that was formed by the partial submergence of an unglaciated valley that remains open to the sea.

Before the pioneers, the Coquille River was home to Coho, Fall chinook, Winter steelhead and Pacific lamprey, and were considered prized food by the Coquille Indian Tribe. The Coquille Valley played, and continues to play, a primary role in the Pacific Flyway for migratory waterfowl.

conservation values for future generations.

- coordinate with regional, State, tribal and federal agencies to design and implement strategies needed to promote the health of native fish populations and other wildlife including migratory waterfowl.
- lower water temperature which is essential for salmon by planting riparian vegetation along the channels and provide improved summer habitat for fish fingerlings and smolts by installing

With the arrival of pioneers in 1855, those settling within the Coquille Valley enjoyed the fertile valley lowlands surrounded by the timbered coast range. Early enterprises included timber harvest, production of dairy products and mining of coal. Because of the rise and fall of water levels and extensive flooding during the winter, Coquille Valley was channeled, enabling its fertile soil to provide lush summer pasture. Steam-powered sternwheelers, burning wood or coal, used the channels to barge timber and coal from the foothills. The 17,000 acres of prime fish and wildlife habitat was converted into pastureland and by the 1990s, only 373 acres of tidally influenced wetlands remained. The Coquille Valley enjoys the most numerous species of waterfowl and shorebirds during migration and wintering periods between San Francisco and the Columbia River. It also harbors the Coho salmon, now considered “Threatened” under the Endangered Species Act.

Today, the Coquille Valley bears a crisscross of channels, dikes and channels. While offering lush summer irrigated pasture, its effect over many years has significantly impacted native fish populations. Blockage to streams by tide gates, many of which are now in disrepair, along with destruction of fingerling

hydrologic bulbs and deeper aquatic pools.

- coordinate with Beaver Slough and Coaledo Drainage Districts and others to repair tide gates in a manner that maximizes the survival opportunity for native fish while continuing agricultural use of the land.
- coordinate with the Coquille Indian Tribe to address native plantings as part of the restoration efforts.
- support restoration activities for salmonid species on-site including scientific evaluation and fish tagging.

and smolt habitat, have played a significant role in the declining of success within native fish species. This has been further compromised by the introduction of nonnative predatory species in the Coquille River, including Hybrid Striped bass and Smallmouth bass, which feast on emerging salmon smolts headed from freshwater to the Pacific Ocean.



WINTER VALLEY WAS ONCE TIDAL MARSH. IT WAS DRAINED BY CONSTRUCTING CHANNELS, DIKES AND TIDE GATES. TODAY WINTER VALLEY PROVIDES LUSH IRRIGATED PASTURE USED IN THE SUMMER FOR CATTLE GRAZING. (PHOTO CREDIT: LUKE FITZPATRICK)



TIDAL GATE CURRENTLY IN DISREPAIR IN THE COALEDO DRAINAGE DISTRICT. (PHOTO CREDIT: LUKE FITZPATRICK)

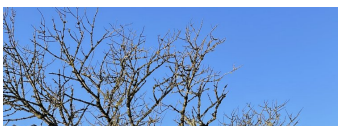


CATTLE PASTURE: RIPARIAN VEGETATION WAS REMOVED, WHICH INCREASED WATER TEMPERATURES AND REDUCED HABITAT. (PHOTO CREDIT: LUKE FITZPATRICK)

- promote public education about the project within the Coquille/Bandon community, within Coos County and with the public-at-large.
- coordinate with past owners of Hart's River Ranch to ensure adequate summer pasture grazing continues as a working farm and as part of the overall restoration effort.



(PHOTO CREDIT: KATHY BRIDGES)



Why Does the Bridges Foundation Need Donations to Support Conservation Projects?

The Bridges Foundation is a family operated private foundation and donations are needed to provide support to continue these types of activities.

For this project, The Bridges Foundation received a donation from The Nature Conservancy, with substantial assistance provided by the Wild Rivers Coastal Alliance, and a loan from Craft3. In order to pursue these types of projects, The Bridges Foundation needs support from donors to pay for property taxes, water rights, travel to sites with goals to promote local networking and long-term strategies, and to pay the interest on the loan. The Bridges Foundation's past track record and its ability to network and coordinate with others, the Trustees are excited to participate in this conservation effort. The following efforts have been made to improve native fishery habitat on the Coquille



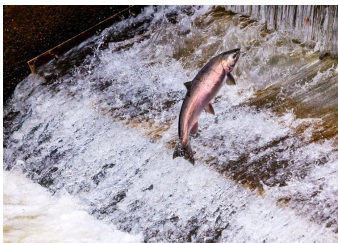
(PHOTO CREDIT: LUKE FITZPATRICK)



PACIFIC LAMPREY. (CREDIT: ADOBESTOCK.COM)



COHO SALMON FINGERLINGS. (CREDIT: ADOBESTOCK.COM)



FALL CHINOOK. (CREDIT: ADOBESTOCK.COM)

Tidal Wetland Conservation Project.

Beaver Slough Tide Gate

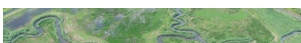
In 2017, construction began on new infrastructure to restore and improve agriculture and natural resources on 1,700 acres of land within the Beaver Slough Drainage District. The \$10 million project was paid with support from federal and state grants following eight years of planning, surveying, and securing funding.



LUKE FITZPATRICK WITH FRED MESSERLE, BEAVER SLOUGH & COALEDO DRAINAGE DISTRICTS. (PHOTO CREDIT: KATHY BRIDGES)



TIDE GATE FOR BEAVER SLOUGH DRAINAGE DISTRICT. (PHOTO CREDIT: LUKE FITZPATRICK)





(PHOTO CREDIT: LUKE FITZPATRICK)

Photos above and below are from the adjoining property purchased in 2013-2015 by the Oregon Department of Fish & Wildlife. The adjoining 589 acres is known as Coquille Valley Wildlife Area (CVWA). Aerial photos indicate restoration of waterways and planting of riparian vegetation along their banks. The objectives established by the Oregon Department of Fish & Wildlife include: “(1) To protect, enhance, and restore fish and wildlife habitats located on CVWA, and (2) to provide a wide variety of wildlife-oriented recreational and educational



MAJOR TIDE GATE RESTORATION FOR THE BEAVER SLOUGH DRAINAGE DISTRICT EMPTYING INTO THE COQUILLE RIVER. (PHOTO CREDIT: LUKE FITZPATRICK)

Coaledo Tide Gate Replacement, Riparian Planting, Livestock Fencing & Livestock Watering Sites

To date, \$2.2 Million has been secured by a joint application from the Coquille Watershed Association and Coquille Indian Tribe from NOAA Pacific Coastal Salmon Recovery Fund and the Wild Rivers Coast Alliance. Input from The Bridges Foundation laid the groundwork for 50’ wide riparian boundaries including planting of native cultural plants indigenous to the cultural traditions and heritage of the Coquille Indian Tribe.

The Water Management Plan for the “Coaledo Tide Gate

opportunities to the public.”



(PHOTO CREDIT: LUKE FITZPATRICK)

Since 2008, The Nature Conservancy and others have focused attention on conserving and restoring the Coquille River and Coquille Valley. Quick review of videos provides ample historical information and efforts of community partnerships working to address a new vision for the future.

Additional Resources Below

- Winter-Lake-Effectiveness-Monitoring-Year1-2019.pdf (coquillewatershed.org)

Replacement & Fish Passage Project” awaits approval from members of the Coaledo Drainage District. Following approval, permits will be sought from U. S. Army Corps of Engineers and Oregon Division of State Lands.



CYNDI CURTIS, COQUILLE WATERSHED ASSOCIATION AT HART'S RIVER RANCH. (PHOTO CREDIT: KATHY BRIDGES)



ROBIN HARKINS AND HELENA LINNELL, COQUILLE INDIAN TRIBE. (PHOTO CREDIT: KATHY BRIDGES)

Channel Enhancements, Hydrologic Bulbs,

- Winter-Lake-Effectiveness-Monitoring-Year-2-2020-Compressed.pdf (coquillewatershed.org)
- Winter Lake Effectiveness Monitoring Year3.pdf - Google Drive
- Restoring Tidal Wetlands at Winter Lake | TNC in Oregon (nature.org)
<https://www.facebook.com/NatureConservancyOR/videos/341102690054481/>
- Oregon Habitat Restoration Project Improves Tidal Management, Benefiting Farmers and Fish | NOAA Fisheries



Wetland Ponds & Elevated Wildlife Mounds

To date, Coos Soil & Water Conservation District and Oregon Department of Fish & Wildlife are preparing the design and related permit requests to be submitted to U. S. Army Corps of Engineers and Oregon Division of State Lands with the goals to improve summer fish habitat. Input from The Bridges Foundation laid the groundwork for enlarging hydrologic bulbs and wetland ponds for fish and added elevated wildlife mounds for migratory waterfowl.



CHRIS CLAIRE, OREGON DEPARTMENT OF FISH & WILDLIFE (RIGHT). OTHERS INCLUDE KEN DUNDER; CALEY SOWERS, COOS COUNTY SOIL & WATER CONSERVATION DISTRICT AND JENA CARTER, THE NATURE CONSERVANCY. (PHOTO CREDIT: KATHY BRIDGES)

HART'S RANCH. (PHOTO CREDIT:
LUKE FITZPATRICK)



CATTLE GRAZING IN THE SUMMER.
(PHOTO CREDIT: LUKE FITZPATRICK)

With your generous donation, you are making it possible for The Bridges Foundation to continue to pursue these types of projects. Thank you for supporting the Foundation's efforts.

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Donate to The Bridges Foundation to Continue and Expand Efforts to Conserve Habitat

October 2022 Progress
Report (PDF)

Oregon Watershed Enhancement Board, Pacific Coast Salmon Recovery Fund, Wild Rivers Coastal Alliance and Oregon Department of Fish & Wildlife Commits **\$3,487,291** for Tide Gate Replacement and Fish Passage Project

In March of 2023, Oregon Department of Fish & Wildlife awarded an additional \$503,415 to support the project.

Riparian Vegetation Along Beaver Slough: On November 9, 2022, \$683,876 was awarded by the Oregon Watershed Enhancement Board to the Coquille Watershed Association to support the "Coaledo Tide Gate Replacement and Beaver Slough Fish Passage Project." The purpose of the grant is to improve stream water quality by removing non-native vegetation and planting native tree species along Beaver Slough. Exclusion fencing up to 50' will be installed to prevent livestock from accessing the stream. The restoration activities will enhance the

nearby tide gate replacement work. Rushal Sedlemyer, Restoration Project Manager, and Anna Pfeifer, Riparian Habitat Project Manager, will oversee native plant restoration and will coordinate with the Coquille Indian Tribe to ensure native cultural plants are incorporated into the riparian design.

Coaledo Tide Gate Replacement & Fish Passage Project Water

Management Plan Approved: On September 26, 2022, the Coaledo Drainage District approved the "Coaledo Tide Gate Replacement & Fish Passage Project" prepared by Cyndi Curtis, Restoration Program Coordinator, Coquille Watershed Association.

Replace the Coaledo Tide Gate: On June 3, 2022, \$2.2 Million dollars was approved by the Pacific Coast Salmon Recovery Fund (NOAA) to replace the Coaledo Tide Gate on the property. Funds were provided through a joint-grant partnership application prepared by the Coquille Watershed Council and the Coquille Indian Tribe with a letter of support from The Bridges Foundation. An additional \$100,000 from Wild Rivers Coastal Alliance has been allocated to assist.

“The Coaledo Tide Gate Replacement and Fish Passage Project proposes “the removal of existing tide gate infrastructure and the installation of three 8’x10’ concrete box culverts that support side-hinged aluminum tide gates controlled by Muted Tidal Regulators (MTR). The MTR device will allow for controlled inflow of tidal waters to a level that can be set and is controlled by a float on the upstream side of the structure governing the mechanical MTR device. In addition to the MTRs, each gate will be equipped with a smaller 3’x3’ slide gate incorporated into the door that can be opened vertically, allowing for additional management independent of the side-hinged door openness. The overall intent for the project is to allow for maximum tidal ‘breathability’ to the greatest degree possible, accentuating ecological goals, while accommodating the needs of landowners and infrastructure, within coordinated management goals. A major outcome of this project is the adjustment of the tide gate to meet seasonal tidal inflow/outflow

goals as guided by the Water Management Plan (WMP), collaboratively developed with Oregon Department of Fish & Wildlife, the Coaledo Drainage District landowners, and regulatory agencies.”

— Cyndi Curtis, Restoration Program Coordinator, Coquille Watershed Association

***The Bridges Foundation
Coquille Tidal Wetland
Conservation Project
Luke Fitzpatrick, Project
Manager***

Luke Fitzpatrick grew up on a livestock farm located in Turner, Oregon (south of Salem). He received his bachelor’s degree from Oregon State University majoring in Forest Management with a minor in Wildlife Fire Science.

Previously, Luke worked for U.S. Forest Service, Oregon Department of Forestry, U.S. Geological Survey and private timber companies and has done timber cruising in the Coos County area.

Aquaculture: Luke took on the management of his family’s aquaculture business which began in 1982. Today, Luke operates Santiam Valley Aquaculture, a warm-water fish propagation facility licensed in Oregon, Washington and Idaho. Luke



LUKE FITZPATRICK AT HART’S RIVER RANCH, COQUILLE, OREGON, MARCH 2022.
(PHOTO CREDIT: KATHY BRIDGES)



(PHOTO CREDIT: KATHY BRIDGES)

has developed a unique expertise in pond/lake design and management working with natural topography and native plant species and provides pond/lake consulting services in all three states.

Working Wetland or

“Swamp Farming”: On his 350 acres, Luke uses cattle as “ungulates,” replacing the elk and deer that once roamed. The goal is to disturb the soil, creating primary micro- and macro- organisms that in turn provide nutritious habitat for fish and migrating waterfowl. During winter months, Luke operates five waterfowl hunting clubs.

Habitat Conservation &

Restoration: Luke has nearly 100 acres enrolled in the U.S.D.A. Natural Resource Conservation Program, Wetland Reserve Program (WRP).

The Bridges Foundation:

Luke serves as Trustee and Conservation Director and brings extensive experience, expertise and awareness to this tidal wetland project in Coquille.

(Banner Photo Credit: Kathy Bridges)

Web site developed and maintained by Jake Fitzpatrick, Technology Director & Trustee.

Photo Credit Kathy Bridges, Executive Director, unless otherwise noted.

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April 22, 2024

Dear Coos County Commissioner

+ *Gail Rolfe, Planning Director*

I have lived out Garden Valley since 1975. I have gone to BSDD meetings since 2014. Verna Rose is telling the truth about us trying to get out of the drainage district. She and I and others have turned in paper work to be removed from the district. As President of the drainage district Fred Messerle said he'd look into it and help us. This was years ago. He never kept his word. We were a small group that used to come to BSDD meetings in 2015. Mostly it was BSDD board of directors and Garden Valley residents. I was the only one in the drainage district that didn't have internet and e mail. I asked Fred to please call me when we were having meetings. He said he would. He never called me.

BSDD and ODFW take no responsibility for the mosquitoes. They even admit in the Coquille Valley Wildlife Management Plan -April 22, 2016- that there was no mosquitos before their project. "If mosquitos become a problem, we will take care of them quickly." Now Fred says "They might be coming from Johnson Mill Pond, Roseburg log pond, or Global Warming." Good grief, Fred! He will take No responsibility.

BSDD and ODFW have known there was a life robbing mosquito problem before they started in earnest to prepare Phase III. Never once did ODFW talk nice to us about solving this problem.

Now Fred blames us- "No one asked to come on my property to check for mosquitos." Poor man! Why didn't he take some initiative to meet with us? Why didn't he try to solve this problem for his neighbors since all reasonable explanations are his phase 1 & 2 project. Put BSDD and ODFW Phase III Project on hold until this mosquito problem is taken care of first! What is Fred's big hurry? He could put some energy and money into helping us. We need an expert not involved in this project to find out the truth and help us resolve the mosquito problem. Fred and ODFW could use their stockpile of BTI to help the people of Coquille.

Mark Hallmark, Environmental Health Director, (Bless him) believes the mosquitos are from this project because he knows there were no mosquitos before this project.

Let them wait a year or two before Phase III is approved.

Why are Fred's improvements the same as Bridges Corp, when Bridges Corp's. purpose is to make wetlands?

Why are 15 miles of drainage channel going to make his pasture land better for production of beef and hay? Why? Don't believe what he says. If you are serious about drainage, a straight line is a better drainage channel than 15 miles of switch backs in a small area. Fred's project looks just like Bridges which is intended to be a wetland. 90,000 feet of switch backs with big wood and big root wads to improve the flow?? This will improve the flow and drainage for better beef and hay production?? How can you maintain a curving ditch with big trees and big root wads in it?

Please vote to hold off on Phase III until they get rid of the mosquitos first. What's their big hurry?

They did not do what they promised before to get rid of the mosquitos. Why should Phase III help to get rid of the mosquitoes that phase I and II created? Use the BTI! How can we believe that they will help us?

Please, NO on Phase III until the mosquitos are gone from our valley!

We the people of this beautiful valley deserve to live in health and peace! We have worked hard to get what we have.

This is still America! Please help us. I very much appreciate and thank you for the way you stood up for us and the mosquito problem at the Hearing of April 17.

Thank you.

Sincerely, Gail Olsen
92757 Layton Lane, Coquille
541-3964727

Gail Olsen

Exhibit 27

April 23, 2024

RE: ACU-23-074 & FP-23-012 Beaver Slough Drainage District

Chair Taylor, Commissioners Main and Sweet, and Coos County Planning:

We owned the Detlefsen property on North Bank Lane for 45 years and purchased three additional properties in the BSDD and Coaledo DD over those years. Charlie and I worked those properties, improved their infra-structure, made hay and raised livestock. After all those years, we have no recollection of mosquitos ever being a problem at any time.

Having attended both hearings and listening to the people, I would like to provide some clarification to several issues as well as a resolution to the primary concern, **mosquitos**.

In my opinion, this is a restoration project and irrigation and drainage are not a priority. Attached are documents talking about the goal being "restoration". The other issue is that the project places 200 pieces of "large wood" (see attachments for placements) in the channels which again is restoration. If a rancher's priority is to move water in and out for irrigation and drainage, in my opinion he would not be placing large wood in the channels or drainage ditches. I already submitted my opinion on the hydraulic bulbs as potential mosquito habitat. Attached are highlighted documents from the "Department of State Land's Joint Permit#APP0064526; Applicant: Beaver Slough Drainage District; **Activity Types: Culvert, Fish Habitat Enhancement, Removal-Fill**" to clarify my points.

That being said I appreciate Jill Rolfe's comments concerning how to handle the mosquito issue which appears to be the primary concern with this Conditional Use application. We own property and a house next from the project area. Your decision on this issue will determine if we feel forced to once again put our property up for sale due to these Winter Lake projects. We felt forced to sell our ranch properties (currently Bridges Foundation property) because of these Winter Lake Projects. What I see is a total lack of respect for private property rights and there is a lack of consideration for the community who is suffering due to the mosquitos.

The Coos County Planning has already approved Winter Lake Phase 1 and Phase 2. I believe the County Board of Commissioners need to put Phase 3 on hold and hire a team of professionals to complete a full assessment of the project area for mosquito habitat as well as the areas where fingers were being pointed at by various speakers as the cause as noted in the hearing (Johnson Creek Pond and Roseburg Forest Products' Log pond). The goal is to determine a direction after identifying the sources on how to resolve the mosquito problem for the health, safety, and wellbeing of the community now and for the future. The project partners should be paying for the investigation because they provided up front assurances that they would control the mosquitos to the landowners and community prior to the start date of these projects. The Wild Rivers Coast Alliance, The Nature Conservancy, Beaver Slough Drainage District, Oregon Watershed Enhancement Board, Coquille Tribe, NOAA and Oregon Department of Fish and Wildlife should all be contributing funds to a restricted Coos County account to fund this endeavor. All landowners in the project area should be required to provide public access to these properties for the assessment. Reinstate the Vector Control Committee again with impacted landowners to assist with this process. The tools in ODFW's Coquille Valley Management Plan and Vector Control plan should be utilized. **Resolve this mosquito issue first before Winter Lake 3 Restoration Project is approved.**

Thank you.



**Winter Lake Phase III
Tidal Restoration Project**

**Tidal Area Restoration Programmatic
(TARP)**

**Project Design Criteria - General Construction Measures
Assessment**

*Christopher W. Claire; Oregon Dept. of Fish and Wildlife
and*

Caley Sowers; Coos SWCD

02/03/23

Project Summary

*The Winter Lake Phase III Tidal Restoration project developed by the Coos Soil and Water District has been specifically designed to maximize ecological uplift while retaining early summer/summer/fall pasture grass farming operations. The site located at RM 20.5 in the Coquille River estuary. The project area is upstream of the C3P tidegates and C3P provides the overarching water control under the Beaver Slough Drainage District (BSDD) NMFS/ODFW water management plan. The land area, 1,290 acres below elevation 8.0ft and two pastures comprising 99 acres) within the Coaledo Drainage District (CDD) were historically a tidal forested freshwater complex with elevations that were predominantly below elevation 8.0ft. The project area has complex hydrology dominated by tidal amplitudes in dryer months, however, heavily influenced by rising river levels and floodwater in winter. The site plant species historically included red alder (*Alnus rubra*), however, predominantly Oregon ash (*Fraxinus latifolia*) and willow (*Salix spp.*). Vegetative species typified by slough sedge (*Carex obnupta*), small fruited bullrush (*Scirpus microcarpus*), and bur reed (*Sparganium Americanum*). This vegetative community would have in turn provided a strong detrital macroinvertebrate energy source. The site conditions as examined by LiDAR imagery indicate that there were substantial tidal channels penetrating the project area from the mainstem Coquille River prior to human alteration. These channels would have provided the rearing habitat for native salmonid and estuarine fish to feed within the marsh plain on the heavy loading of macroinvertebrate food items that were produced. In 1907-1908 pathways were cleared through the wetland forest, a new exit location was excavated through the Coquille River natural levee, tidegates were installed, the land area was drained during dry months and burned to create grazing land pastures.*

The Project Team has proposed installing over 90,000ft of new/reconstructed channel. The project will address 42 aging culverts with fish passage obstructive top-hinged tidegates. These culverts are placed to provide for individual water management precision through interior low elevation berms. Culverts will be upsized to appropriately meet the site hydrology (see Hydrologic Assessment). Tidegates will be replaced with side-hinged aluminum tidegates fitted with devices to allow doors to be held open in the fall/winter/early spring allowing for maximization of fish passage into reconstructed channels. The full network of channels upstream of C3P main tidegates is under the BSDD Water Management Plan. Overall the project is anticipated to have a substantive ability to increase access for juvenile coho production and other native fish compared to the current conditions.

Winter Lake Phase III Restoration Project
Coos SWCD/ODFW

USACE

Request For Additional Information 2

Coos SWCD/ODFW

11/11/23

From: White, Darla J CIV USARMY USACE (USA) <Darla.J.White@usace.army.mil>
Sent: Wednesday, October 11, 2023 7:55:12 PM
To: Coos SWCD <info@coosswcd.org>
Cc: Fred Messerle <bsdd.bos@gmail.com>; CLAIRE Christopher w * ODFW
<christopher.w.claire@odfw.oregon.gov>; Krug, Tyler J CIV USARMY CENWP (USA)
<Tyler.J.Krug@usace.army.mil>
Subject: Winter Lake Phase III Request for Additional Information (RAI), NWP-2014-92-4

Dear Caley et al.,

I hope this finds you well. As mentioned previously, I am working on the Public Notice draft for Winter Lake Phase III, NWP-2014-92-4. During the review process, some additional details were identified that need to be included, so I have an additional request for information. We are so close, but this may take a little time and I understand that Chris may be on vacation. I've pored over the volumes of materials and if I missed any of these details therein, please point me to its location. Let me know if you have any questions or need clarification about this request.

We are trying to pin this info down for our Public Notice process and to hopefully provide NMFS all of the information they need up front when consult with them under the ESA/MSA. Their fish passage engineer will likely have questions given the complexity of this project and its intersection with fish passage.

Team Response Introduction:

The Winter Lake Phase III Project and location hydrology are highly dynamic. The project will incorporate likely 5-6 funding sources and thus there is a strong need to maintain flexibility in the type of materials for culverts, although all will be the same dimensions as noted in Table 5 in the Design and Engineering. The Ordinary High Water (OHW) and Ordinary High Tide (OHT) level are at ~7.5ft NAVDD88 for the entire 1,383 acre project area on both the Beaver Slough Drainage District and Coaledo Drainage District. Accordingly, all the 38 interior culvert locations would be 2.5ft under water during winter regularly as the maximum berm height for all culvert locations will be designed to be 5.0ft NAVDD88 with final construction. The BSDD Water Management Plan has an October to March goal of 4.5-5.5ft NAVDD88, although water levels are often higher than this elevation and have reached elevation 17.0ft in the past five years on at least one occasion during flood conditions. An example for a typical 5.0ft culvert installation will be at -1.0ft NAVDD88. This will result in the upper extent of the pipe being at elevation 4.0ft NAVDD88 and there will be 12" of fill cover over the top to reach the 5.0ft berm elevation.

water gaps will be needed for this project through the fence. b. i-x. Livestock will be able to move across channel locations outside of fenced reaches. Interior culverts will be installed to facilitate crossings in a manner that reduces environmental impacts to water quality and turbidity. All interior culverts will be sized appropriately to provide for fish passage and water conveyance at the location and pasture area that is upstream of the location. c. i-viii. Nine off-site interior pasture livestock watering locations have been proposed and are noted in the 404 Fill and Removal permit app. The total number may be reduced depending on landowner preference for watering tactics. Water availability has been identified by Oregon Water Resources Proper fish screening for withdrawal from canals in order to provide water for troughs will be incorporated. Tanks will be specifically placed in locations that assist with minimizing livestock effects to channels and active flow. Individual landowners within the BSDD have water rights for irrigation. Oregon Water Law provides that livestock watering does not require a Water Right as relegated to landowners under ORS 537.141; https://oregon.public.law/statutes/ors_537.141.

#38. Piling and other Structure Removal

a-b). Removal of piling is not planned with this project. Short piling associated with tidegates on existing culverts will be removed at the individual culvert installation locations.. No piling are known to be within the project area that have been treated with creosote. It is thought that these poles that have been inserted to support chain networks for top-hinged tidegates have only been inserted to a depth of 5-6ft, thus removal with an excavator should proceed without event.

39. Beaver Habitat Restoration

This project will not incorporate Beaver Habitat Restoration as a project action. That said the development of new/reconstructed tidal channels and planting within fenced areas are anticipated to improve conditions for beaver use of the project area.

#40. Wetland Restoration

The overall goals of this project include restoration of tidal wetland function. The site grading plans (see Engineering/Designs) work with the existing landscape topography to create a connective tidal floodplain. The project is designed with "Zero" fill-removal framework where no fill is imported or hauled off-site. No wetland habitats will be converted to new upland that does not already exist. Five wetland mounds will be constructed to provide the ability to plant Sitka spruce (*Picea sitkensis*), which increase wetland habitat diversity. The maximum elevation of these mounds (8.0ft) will not exceed water elevations where the feature is altered to no longer be wetland habitat.

New and reconstruction of tidal channels will provide tidal network densities that mimic historical condition, while allowing for the landowners to maintain a level of pasture haying or grazing production. The excavation plan will not result in hydrology where fish will become stranded or water will be entrapped, which would produce summer salt marsh (*Aedes dorsalis*) mosquitoes. Grading will also not create new upland that does not already exist or eliminate habitat types that are currently found on the project area. The project area is currently Freshwater Emergent wetland PEM1Ch and PEM1Ah and Shrub Scrub.

The installation of the new culverts/tidegates will allow for tidal inflow that is controlled through the main downstream C3P tidegates. The Water Management Plan for C3P has been designed to provide for a higher elevation in winter months (see BSDD Water Management Plan) and lower elevations in late spring/summer/early fall. These elevations provide for increased access for native salmonid fishes in the winter months and pasture grazing water management in the summer/early fall. (see Hydraulic Assessment). Improved hydrologic connectivity is anticipated to improve conditions for native wetland vegetative species that historically would have been wetted twice daily by tides followed by dewatering on

- The project actions are directly developed to provide restoration for historically damaged wetlands, while retaining farming capability, with effects that have been tailored to fit under TARP, and for most actions under Nationwide 27 other than some conversion of wetlands to open water. Effects are self-mitigating through benefits for uplift with hydrology, improved water quality, wetland plantings, and fish passage improvements. Further descriptions of project mitigative benefits to habitats is expanded on in the 404 Fill and Removal permit application Section 5 and Section 6 pg. 17 under Hydrology.

Endangered Species Act (ESA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA)

In the project vicinity, a number of fish and wildlife species have been listed as threatened or endangered under the ESA. Under the Corps' federal permit program, permit applications are reviewed for the potential impact on threatened and endangered species pursuant to the ESA. The ESA requires federal agencies, such as the Corps, to take action as necessary to ensure they do not authorize, fund, or carry out actions that are likely to jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of designated critical habitat for such species. To fulfill our obligations required under the ESA, the Corps, through consultation with the National Marine Fisheries Service (NMFS) and/or the U.S. Fish and Wildlife Service (USFWS), must evaluate the potential impact of the proposed work on listed species.

The MSA established procedures designed to identify, conserve, and enhance Essential Fish Habitat (EFH) for those species regulated under a federal fisheries management plan. The MSA requires federal agencies to consult with the NMFS on all actions, or proposed actions, authorized, funded, or undertaken by the agency, that may adversely affect EFH. The project area includes EFH for Pacific salmon and Coastal pelagic species.

Normally an applicant must prepare and submit information to address impacts to all listed or proposed species in the project vicinity and to EFH. The Corps would then use this information to complete an individual consultation with the NMFS and/or the USFWS. However, to streamline the ESA and MSA process the Corps has completed programmatic consultation with the NMFS and the USFWS through standard local operating procedures (SLOPES) for certain categories of work. To qualify for SLOPES the project must meet specific design and construction requirements.

The Corps is coordinating with the NMFS to determine if the project may meet the requirements under the Tidal Area Restoration programmatic (TARP) biological opinion. The Corps recommends you review the TARP opinion in its entirety, which you may obtain online at: <https://www.nwp.usace.army.mil/environment/>.

- The project is specifically designed as restoration to enhance overwintering habitat for Oregon Coast coho and fall Chinook, which are Magnuson Stevens Act NOAA jurisdictional species. The Project Team prepared and submitted a full review of the TARP PDC's 8-14, 29-22, 24, 27-29, 32, 36, 37 and 40 with the original 404 Fill and Removal permit application.

Based on my initial review, for the project to qualify for TARP you will need to make the following changes to your project and/or provide the following information:

See Section 9.

If yes, provide a copy of the survey and/or documentation of correspondence with this application to the Corps only. Do not describe any resources in this document. Do not provide the survey or documentation to DSL.

Is the project part of a DEQ Cleanup Site? No Yes Permit number _____
DEQ contact. _____

Will the project result in new impervious surfaces or the redevelopment of existing surfaces? Yes No
If yes, the applicant must submit a post-construction stormwater management plan as part of this application to DEQ's 401 WQC program for review and approval, see <https://www.oregon.gov/deq/FilterDocs/401wqcertPostCon.pdf>

Identify any other federal agency that is funding, authorizing or implementing the project.

Agency Name	Contact Name	Phone Number	Most Recent Date of Contact
None			

List other certificates or approvals/denials required or received from other federal, state or local agencies for work described in this application.

Agency	Certificate / approval / denial description	Date Applied
None		

Other DSL and/or Corps Actions Associated with this Site (Check all that apply.)

Work proposed on or over lands owned by or leased from the Corps (may require authorization pursuant to 33 USC 408). These could include the federal navigation channel, structures, levees, real estate, dikes, dams, and other Corps projects.

<input type="checkbox"/> State owned waterway	DSL Waterway Lease #:	
<input type="checkbox"/> Other Corps or DSL Permits	Corps #	DSL #
<input type="checkbox"/> Violation for Unauthorized Activity	Corps #	DSL #
<input type="checkbox"/> Wetland and Waters Delineation	Corps #	DSL #

Submit the entire delineation report to the Corps; submit only the concurrence letter (if complete) and approved maps to DSL. If not previously submitted to DSL, send under a separate cover letter

(9) IMPACTS, RESTORATION/REHABILITATION, AND COMPENSATORY MITIGATION

A. Describe unavoidable environmental impacts that are likely to result from the proposed project. Include permanent, temporary, direct, and indirect impacts.

Archeology Note: In March 2016 Tetrattech completed and submitted the following document "Cultural Resources Reconnaissance and Water Control System Recording for the Winter Lake and China Camp Creek Restoration Projects, Coquille, Coos County, Oregon" This cultural review covers substantive cultural resource information on the project area. This document is on file with Oregon SHPO.

This project is designed to be restorative with actions that improve function for wetlands, tidal regimes, and more ecological uplift. A number of measures will be incorporated to minimize impacts associated with construction. As the project is considered restorative no Compensatory Mitigation is proposed.

1. Installation of New HDPE Culverts

There will be disturbance of earth through the berms when old culverts are excavated and new channels are excavated through pasture berms. All work will be completed during the NMFS and ODFW approved July 1 to September 15th In-Water work window. Excavators will work from top of

APPENDIX A.

Winter Lake Phase III Restoration Project

Assessment of Project Actions and Coos County Planning/Zoning



Prepared by,

*Christopher W. Claire
Habitat Protection Biologist
ODFW
Charleston, OR*

*Caley Sowers
District Manager
Coos Soil and Water Conservation District
Coquille, OR*

Table 1. Analysis of Impacts and Benefits for Winter Lake Phase III proposed actions.

Note: All disturbance actions are considered to be recovered/revegetated from disturbance 3yrs post project. Majority of attributes are designed to produce uplift that result in "Net Benefit" ecologically

Action	Impact	Impact to Ecology Time of Construction Yes/No	Severity of Impact High/Med/Low	Healed by Year 2 Yes/No	Net Ecologic Benefit by Yr 3 Yes/No	Benefit Power High/Med/Low	Explanation
Installation of new proper sized culverts	Earth Work interior berms	Yes, due to soil disturbance	Low	Yes	Yes, immediate uplift	High	New culverts allow for more natural hydrologic flow of water to interior pasture channels. greatly improved fish passage and wetland function. Net benefit strong much greater than impacts from time zero forward
Channel construction/reconstruction; Excavation	Excavation/soil disturbance	Yes, soil disturbance	Medium	Yes	Yes, immediate uplift	High	New/reconstructed channels provide for more natural hydrologic flow of water to interior pastures, greatly improved fish passage and wetland function. Net benefit much greater than impacts from time zero forward.
Channel construction/reconstruction; soil Thin-spread	Soil distribution to 3" on wetlands	Yes, plant disturbance, unvegetated soils	Medium	Yes	Neutral by year 3	Neutral by year 3	Soils that are distributed on wetland pastures will be thin-spread on average to 3" in depth; they will be integrated into pasture grasses as wetland plants are fully able to grow through this application fall of year 1 with full healing by year 2.
Channel Reconstruction bank sloping 1:1 and 2:1	Soil disturbance	Yes, soil disturbance	Medium	Yes	Uplift by year 2	Medium	Current pasture drainage channels have vertical banks that lead to bank sloughing and provide little if any edge habitats for fish when winter flows fill channels. Sloping of banks of channels will provide edge for growth of vegetation/fish cover, reduce erosion, and sediments
Construction of Hydrologic Bulbs	Soil disturbance	Yes, soil disturbance	Low	Yes	Yes, immediate uplift	High	Hydrologic bulbs will be installed at upper reaches of channel networks in selected locations. These bulbs will be excavated to an elevation that during winter months they provide long-term wetted habitat for juvenile coho. These also increase hydrologic exchange of water, which results in greater flushing of channels during tidal inflow/outflow. This prevents channels from accumulating sediments and provides long term channel life expectancy with little or no reexcavation to "clean" sediment. These bulbs also allow for greater volume capacity of channel networks during inflow/outflow events, which provide for exchange of water in channels and canals improving water quality.
Excavation of China Camp/Unit 1 Canal S.E.	Direct Substrate Disturbance/Turbidity	Yes, remove substrates, organisms, turbidity	Medium	Yes	Neutral by year 3	Neutral by year 3	Initial excavation will remove substrates that have macroinvertebrates and lamprey present. This action will, however, be carried out where banks of canals are not denuded of established grass cover. Skip Planting will be employed in these reaches on pasture side of berm. Spreading of spoils to 3.0" in adjacent pastures is anticipated provide for stabilization in year 1.
Berm Reconstruction		Yes, soil disturbance	Low	Yes	Neutral by year 2	Neutral by year 2	Locations where berms are reconstructed will be seeded/mulched. They are expected to be fully revegetated by year by end of growing season year 2.
Fence installation	Some soil disturbance	Minimal	Very Low	Yes	Yes	Medium	Fencing of selected segments of channels provides immediate benefits to water quality and longer term establishment of riparian vegetative and woody plants for fish habitat complexity.
Large Woody Debris Installation large channels	Some soil disturbance	Minimal	Very Low	Yes	Yes	High	Installation of LWD rootwads in first 500ft of larger channels will fully provide uplift through providing complexity for fish and other aquatic organisms.
Planting of Trees on large and selected secondary channels	N/A	N/A	N/A	N/A	N/A	High	Skip planting of trees will be implemented on large and selected medium channels in segments where fence is installed. Additionally, individual caged trees will be planted. Skip planting will be three trees planted in a single 8x8ft plot every 100ft on large channels and selected medium channel reaches (Sheets 24-26). Tree species will be either Oregon Ash, Black Cottonwood, or Spruce.

Net Estimated Project Overall Ecological Benefit by Year 1 Medium

Net Estimated Project Overall Ecological Benefit by Year2 High

Table 1. Beaver Slough Drainage District Water Management Plan (DWMP).

BEAVER SLOUGH DRAINAGE DISTRICT - OPERATING PROTOCOLS

SEASON	UNIT	WATER LEVEL	TARGET ELEVATION RANGE
WINTER - Oct to Mar:			
	Units 1&3		
		Basic Flush Level until first flood event or cattle are pulled	3.0 to 3.5
		After first flood event transition to Over Winter Habitat Level	4.5 to 5.5
	Unit 2		
		Complete transition to Over Winter Habitat Level	4.5 to 5.5
SPRING DRAIN OUT - Apr to May:			
	Units 1&3		
		Maximum Dry Out - maximum elevation	2.0 to 4.0
		Transition to Basic Flush Level as conditions allow	3.0 to 3.5
	Unit 2		
		Transition back to Basic Flush Level	3.5 to 4.0
SUMMER - Jun to Sep:			
	Units 1&3		
		Complete Transition from Maximum Dry Out to Basic Flush Level	3.0 to 3.5
		Irrigation Level - Every 10 to 14 days as per coordinated request from landowners	4.0 to 4.5
	Unit 2		
		Basic Flush Level	3.5 to 4.0
		Sept to October begin transition to Over Winter Habitat Level	4.5 to 5.5

1. Water Elevation Management:

NOTE: there currently are locations where the interior berms in Units 1 and 3 are below elevation 5.5ft NAVDD88 and in need of repair. This section discusses the water management goals with berms reconstructed to the goal height of elevation 5.5ft. The CDD tidegate (Figure 3) on Beaver Creek consists of three 6.0ft CMP's with top-hinged tidegates. There is no MTR capability at that site thus water is managed for Drain-out only. At the BSDD C3P tidegates water is able to be managed for Drain-out and inflow. At C3P VSFTG's are able to be opened to allow for inflow or outflow and secondary side-hinged aluminum tidegates allow for outflow only.

- a) When floodwaters are above elevation 10.5ft NAVDD88 water moves up Beaver Creek and subsequently flows over the low portions of the Beaver Creek levee just downstream of the CDD tidegate then moving across the pastures. At this elevation



Figure 4. Installation process of LWD at an SWCD/ODFW project tidal channel, North Bank Working Landscapes Project, in September 2023. Stem is pushed fully into the soil until rootwad is at ground level. The stem with soil friction provides maintains LWD stable in place.



Figure 5. LWD fully installed North Bank Working Landscapes Project, in September 2023.

quality concerns as there is no base rock. These trough base improvements will greatly reduce soil damage, which currently leads to turbidity when the wetland floods and winter breezes stir water over the unprotected deeply hoofed areas. Substantial wetland water quality improvement is anticipated for the new locations following installation. The existing older sites will be seeded and mulched.

- c. For adaptive management and maintenance activities, including emergency repairs, provide a list of all anticipated activities and related impacts. A table format is suggested. The activities will need to be evaluated if you are seeking authorization for them.
 - Fred Messerle (BSDD Manager) with the Beaver Slough Drainage District has developed proposed long term adaptive maintenance excavation estimations. There are not any foreseen emergency repairs. These proposed long-term maintenance actions are in Appendix A. At the end of this response letter.
- d. For the installation of 200 pieces of large woody debris to be placed at strategic locations at the individual owner's discretion, provide the location of these large wood placements, the size and length of the large wood, volume and area of impact to wetlands and/or waters. Clarify if rock fill material would be utilized to hold the large wood in place; if rock fill material is proposed clarify its location, dimensions, and area of impact as described above.
 - We have developed Figure 25. C. in Attachment A. Figures and Photos FINAL revised9_15_23, denoting the locations for LWD. The total yardage for LWD placement per log of 2.9cy per log with a total CYs of 586.1. Logs with root wad attached will be placed inserted at 45° or lesser angle to a minimum insertion depth of 8.0ft. The insertion depth will result in sufficient skin friction on the stem to maintain LWD stable without dislodging during flooding events. The upright placement also reduces floatation effects as there is not the ability for buoyancy leverage on the log stem. Figure 1. below is a typical insertion depiction as denoted for another SWCD project.

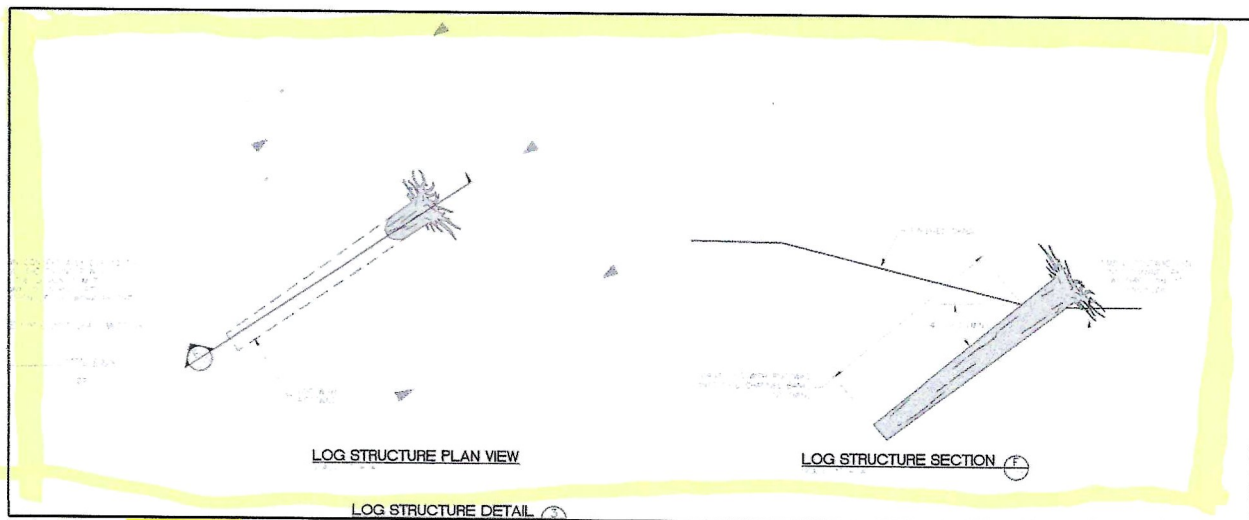


Figure 1. Depiction of LWD placement angle and depth of placement.

higher than this elevation and have reached elevation 17.0ft in the past five years on at least one occasion during flood conditions and commonly reach over up to 8.0ft..

There are five total, segments of main canal that will be excavated on the Winter Lake Phase III project. The drawings and cross-sectional are shown for the China Camp Creek canal. In addition to the China Camp Creek Canal there are four (locations Figure 6 and Sheets 23-25 in Design/Yardages Document and Figure 6 in this document . **Note**, Figure 6 was edited to show excavation work location in Unit 3 NE canal only shown previously in Sheet 25).

#1). China Camp Creek main canal, 1,262ft, for a total of 3,675cy (Design/Yardage document Figures 6 and Sheet #23 and Figure 7 in this document).

#2). The second is in the Unit 1 canal SE segment just southeast of where the main Unit 1 canal turns along Hwy 42 (Figure 6 Design/Yardages and noted in Sheet 24, however, no cross-section; labeled as #2 in Figure 6 of this document). One-Hundred twenty feet will be excavated to a depth of -3.0ft NAVDD88. This segment cross-section is shown in Cross-Section Figure 8 of this document. A segment of 120ft will be excavated with total of 667cy will be removed.

#3). The third site (Figure 6 Design/Yardages, no Sheet; labeled #3 site and Figure 6 this document) is at the Bridge site where 456cy will be removed at the bridge site to repair hydrology where a sediment wedge has accumulated upstream and downstream of the currently undersized culvert at that location. Excavation will occur over a 100ft segment, 50ft upstream and 50ft downstream of the bridge site, down to -3.0NAVDD88; (Cross-Section Figure 9).

#4). The remaining segment in Unit 1 is near the end of the southeast Unit 1 canal, where 900ft will be excavated back to original design depth of -2.0ft NAVDD88 (Design/Yardages Figure 6, however, no cross-section; Cross-Section Figure 10 in this document), with a total quantity removed of 1,333cy.

#5). In Unit 3 NE, there will be a total quantity of 1,116cy of material excavated from an 840ft segment of canal down to original constructed depth of -3.0ft NAVDD88 (Design/Yardages document Sheet # 25, however, no cross-section; Cross-Section Figure 11 in this document).

USACE 6). Provide the dimensions of the Large Woody Debris. Fill in the blanks or modify this sentence to communicate a range of sizes:

The applicant would add 200 pieces of large woody debris measuring approximately ____ feet long and ____ inches wide at 12 locations to restore fish habitat.

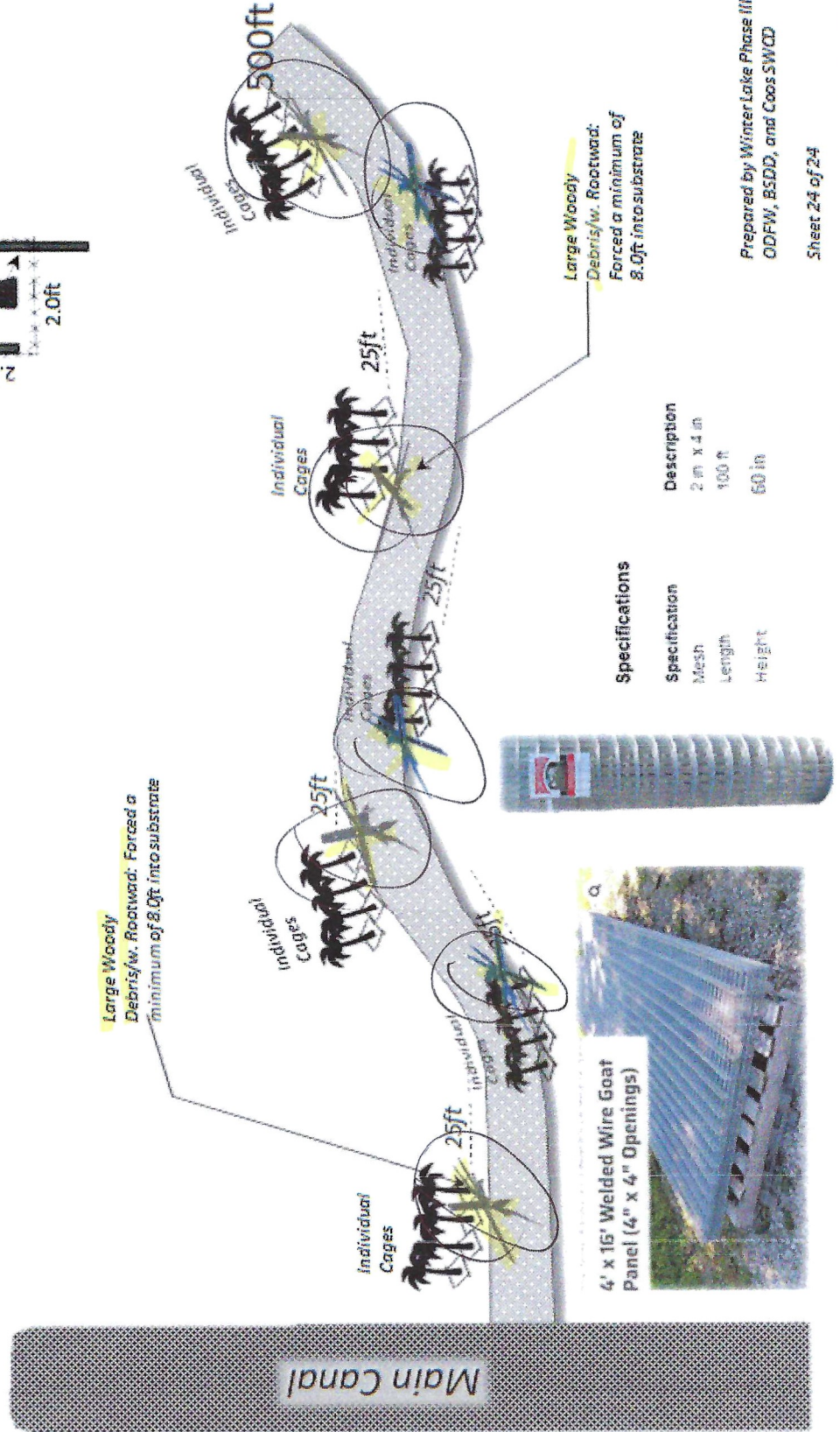
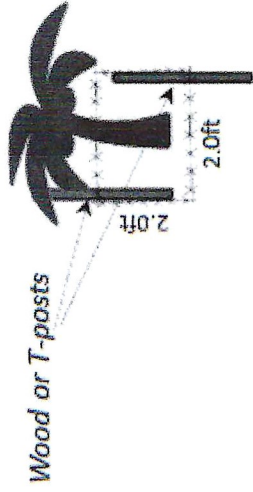
Team Response: The Large Woody Debris will be installed with the stem inserted into the soils to a depth where only the rootwad is exposed (Figures 4 and 5). The stems will average 12ft in length and the average log will be 15" in diameter..

Large/Medium Connecting Channel Skip Planting Concepts

Option #3

Expanded Plot View

Planting Plots #2: Welded panels or wire around individual trees planted in groups of 4 trees with 8ft spacing alternating every 25 ft of channel. Trees planted (cottonwood or ash) inside. Plantings on large and medium channels that connect to main canals for first 500ft. **Note: Welded panels or wire is needed with 4"x4" mesh to protect trees from livestock and beaver.**



Prepared by Winter Lake Phase III Team
ODFW, BSSD, and Coos SWCD

Sheet 24 of 24



Coos Health & Wellness


Together, Inspiring Healthier Communities



Mosquito Questionnaire Response

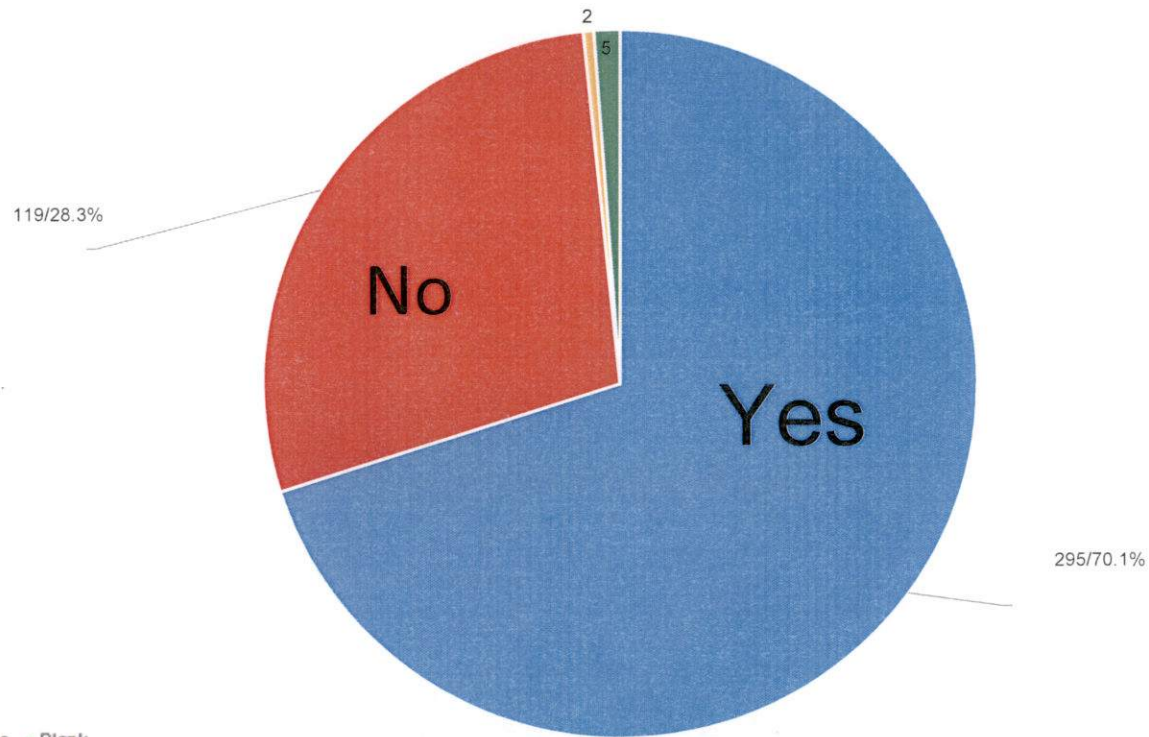


Data Collection:

- Coos Health & Wellness distributed 1600 letters to addresses within the Greater Coquille Area.
 - Of the 1600 letters we received 421 responses, or a 26.3% response rate.
- 

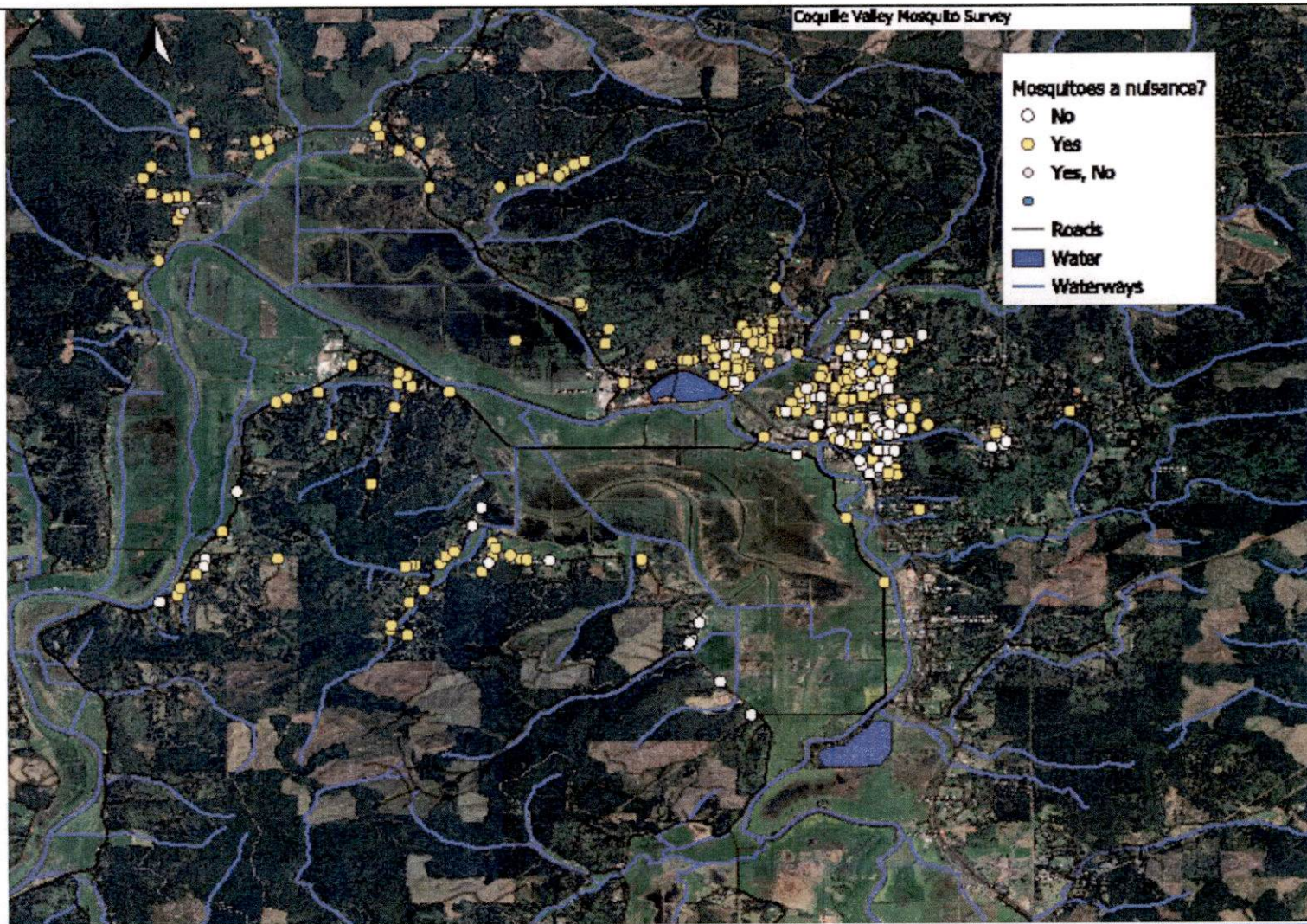
Question #1:

- Were mosquitoes a nuisance at this address this summer?



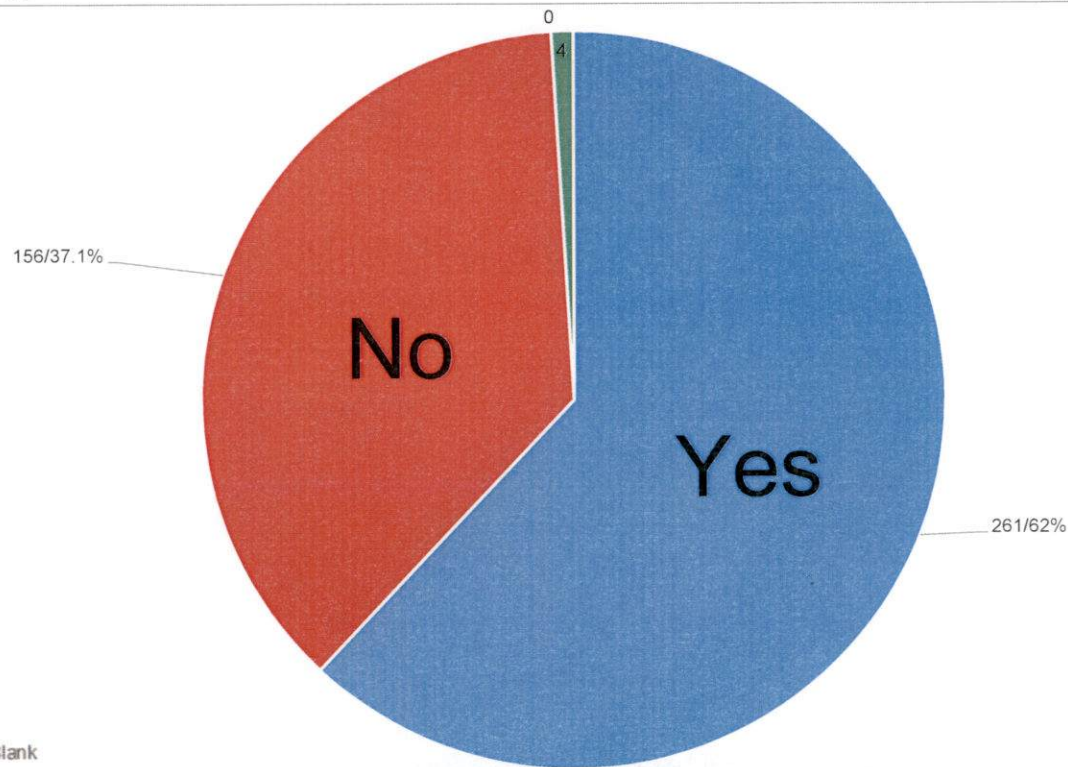
• Yes • No • Yes, No • Blank

Coquille Valley Mosquito Survey

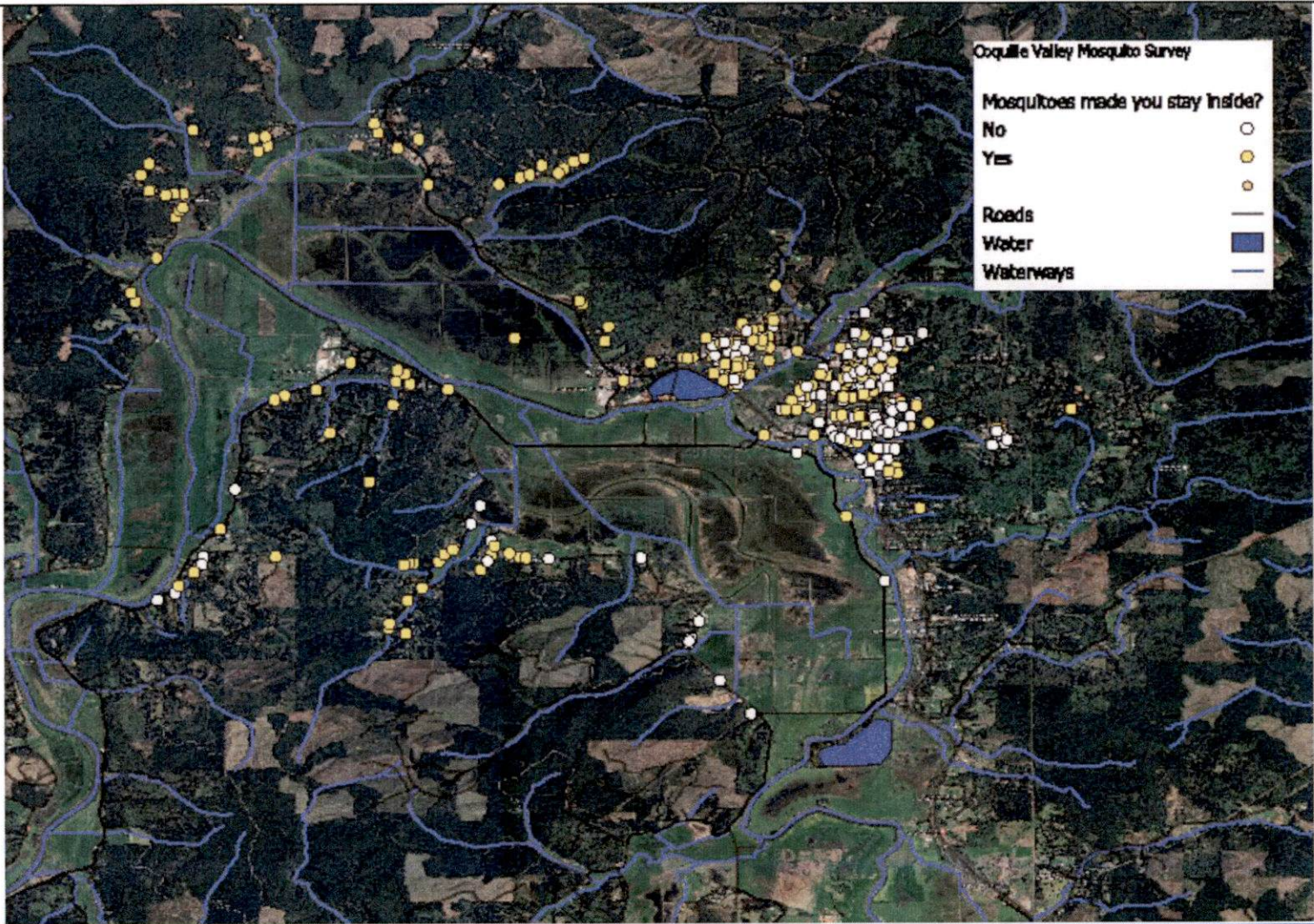


Question #2:

- Were there times when you stayed indoors because of the mosquitoes?

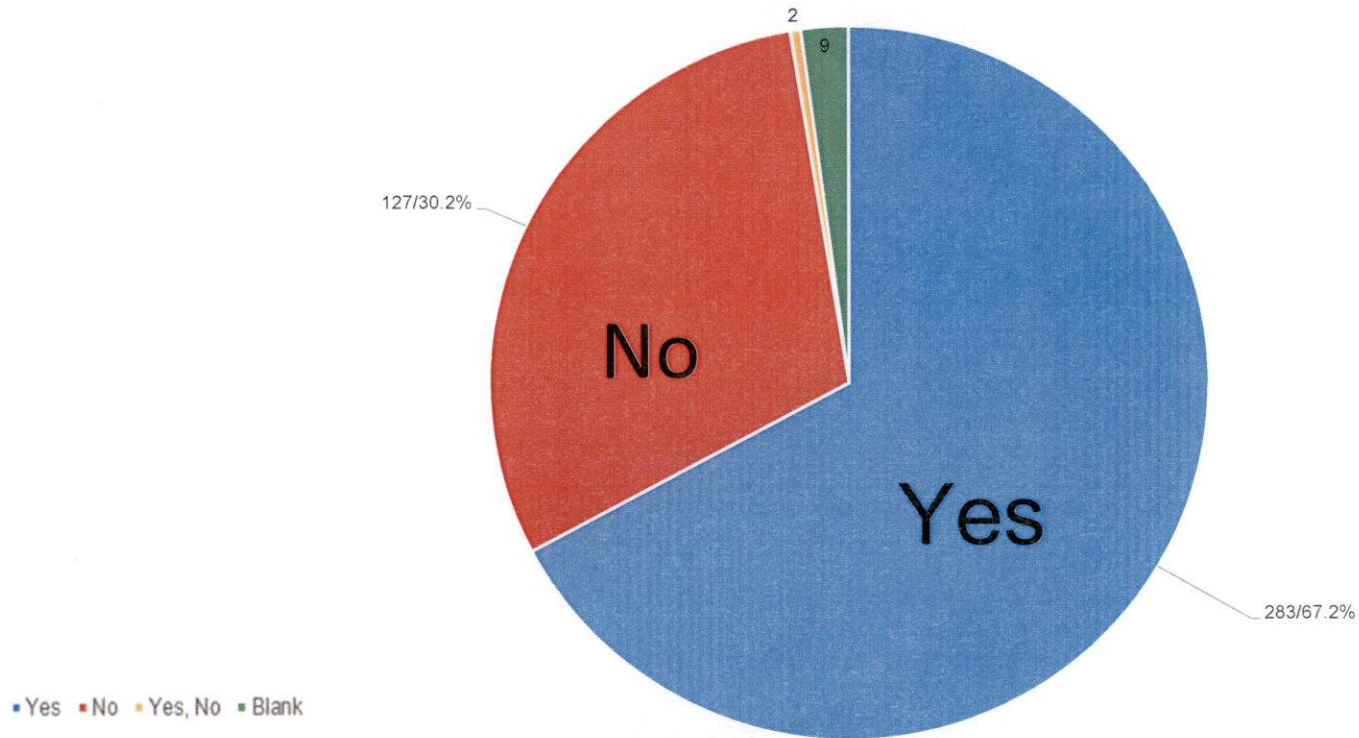


■ Yes ■ No ■ Yes, No ■ Blank



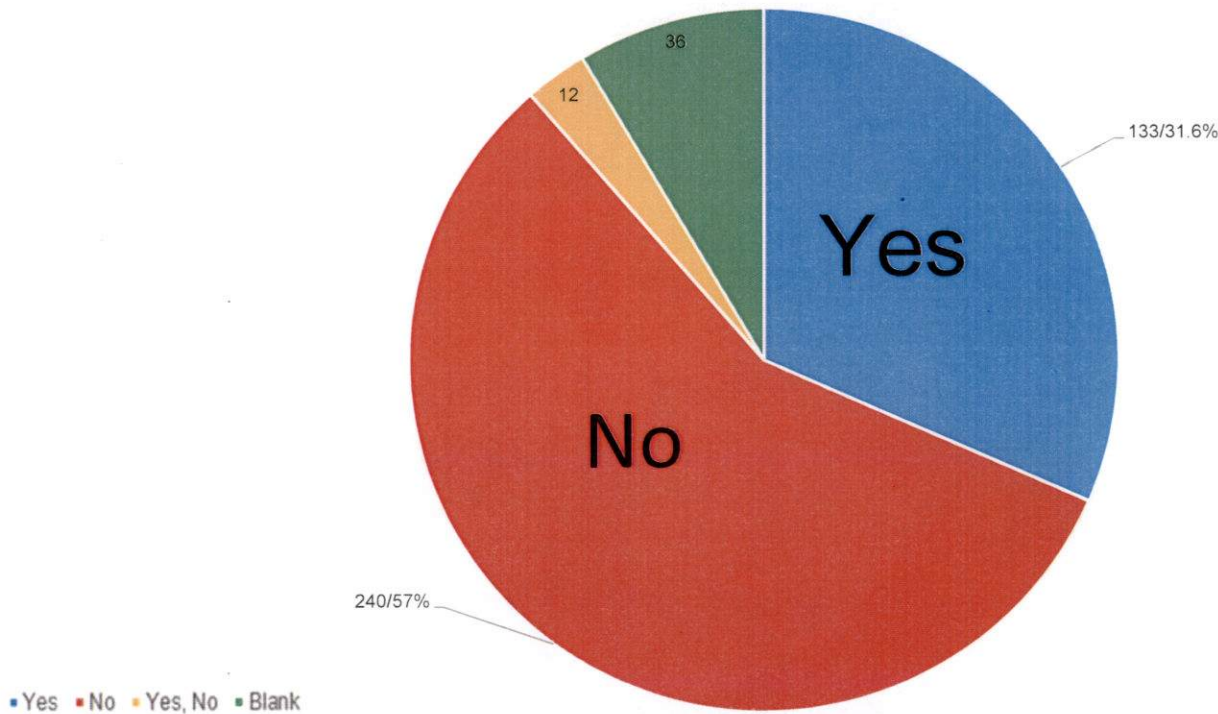
Question #3:

- Would you allow a mosquito specialist to check mosquito conditions on your property ? ?



Question #4:

- Would you consider financially supporting a mosquito control plan in the Coquille area?





Oregon

Kate Brown, Governor

Exhibit 29

Department of Fish and Wildlife
Office of the Director
4034 Fairview Industrial Drive SE
Salem, OR 97302
(503) 947-6044
FAX (503) 947-6042
odfw.com

February 25, 2016

Sharon Waterman, Member and Trustee
C & S Waterman Ranch, LLC
Charlie and Sharon Waterman Trust
87518 Davis Creek Lane
Bandon, Oregon 97411
541-347-3453



RE: Coquille Valley Wildlife Area Management

Dear Ms. ^{Sharon} Waterman:

This letter is in response to your recent request for a letter of assurance related to potential impacts to your adjacent properties resulting from the restoration and management of Coquille Valley Wildlife Area.

The Oregon Department of Fish and Wildlife (ODFW) proposes to restore and operate the Winter Lake Unit of the Coquille Valley Wildlife Area (CVWA) in a manner that is compatible with neighboring land use. Specific management goals and objectives will be presented to the Oregon Fish and Wildlife Commission for approval in April this year.

Within the management plan and through the public outreach meetings, ODFW has made a commitment to use adaptive management to ensure ODFW initiated actions related to wetland restoration and water level management within the wildlife area will not adversely modify hydrology on neighboring properties. In addition, as part of our vision statement, the draft management plan states that: "*Management of CVWA will protect, enhance, and restore aquatic, riparian and upland habitats in the Coquille Valley in a manner that is compatible with neighboring land use.*"

Thank you for communicating your concerns. Please let me know if you have any additional questions regarding this matter.

Sincerely,

Curt Melcher
Director
Oregon Department of Fish and Wildlife

Exhibit

Channel Enhancements, Hydrologic Bulbs, Wetland Ponds & Elevated Wildlife Mounds

To date, Coos Soil & Water Conservation District and Oregon Department of Fish & Wildlife are preparing the design and related permit requests to be submitted to U. S. Army Corps of Engineers and Oregon Division of State Lands with the goals to improve summer fish habitat. Input from The Bridges Foundation laid the groundwork for enlarging hydrologic bulbs and wetland ponds for fish and added elevated wildlife mounds for migratory waterfowl.

4-24-24

Eric Olsen

Garden Valley Rd

In opposition to Phase 3 and wetlands expansion.

I do not trust the honesty of either Beaver Slough Drainage District, or of ODFW. They have often avoided answering candidly and stated untruths. The ODFW has said they will have no negative impact on neighboring lands and land owners. Their effects on the water table has effected some, the increased presence of "Government Officials" with apparent time on their hands to harass neighbors about their practices on their own property has had a negative effect as well. Not to mention the growing menace of the mosquitos and their spread.

Relating to the spread of mosquitos, many people can figure they likely began at the wetlands as the mosquito population increased immediately after the marsh began flooding. As for the location, we began noticing them in Garden Valley the year the project began with a slight rise in mosquito population. The effect has increased nearly every year, and spread from this local. Not from Roseburg mill pond, or Johnson Mill Pond, both of which has always been there, and the mosquitos spreading from those points outward. All other things remaining the same, the only two things that changed were the dramatic rise in mosquitos, and the flooding of the newly developed wetlands. It seems logical and reasonable to think they are likely coming from there. If BSDD and ODFW are so certain it is not them, I would think they would be very interested in not only clearing their name from the accusation, but to find the source of the problem wherever it may be, not pointing fingers elsewhere and suggesting suing people not proven to be responsible.

Regarding the engineering for phase 3. Common practice in farming is to have fields flat or slightly sloped with straight ditches. A field with little elevation change needs as short of a ditch as possible to drain as fast as possible. If there is one foot of elevation over 100 yards distance of ditched field and you double the ditch length without increasing elevation, the flow of the water is slowed substantially. A curved ditch is much more difficult to maintain than simply driving a backhoe or excavator in a straight line. Flow is further reduced by vegetation if the ditch isn't grazed or mowed, and of course a longer ditch has more room for obstacles. The PH3 plan further shows placement of wood in ditches, which is an unusual way to maintain flow, that seems more like a wetlands type of thing to do...

I would like to see if either Fred Messerle or ODFW would be interested in pledging not to sell Messerle property to ODFW as this seems to be designing wetlands to their specification. I already feel ODFW has bypassed voters and legislators by having Bridges foundation hold the property in their interest. Messerle has had a sign posted something like "Farmland (maybe Pasture) Wanted". This is a great opportunity for him to get some great pasture, as well as consolidate power in both Coaledo and Beaver Slough Drainage Districts.

Someone said Phase 3 is essential to the entire project. We have been assured multiple times the Tide gates were going to solve fish and drainage issues. Then the wetlands project. How can a project on someone else's property be the culmination of this multi million dollar salmon habitat of ODFW? Further, if this is for drainage and farm production, why the keen interest of all the ODFW and related agencies that are for the wetlands project?

When one person utters a lie, whether it is about improving drainage, or mosquitos, and no one else speaks in opposition to that lie, then I include all participants as party to the lie.

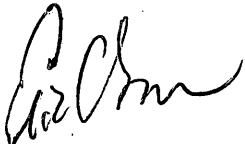


Exhibit 32

From: Richard Hallmark <Richard.Hallmark@chw.coos.or.us>

Date: April 20, 2024 at 1:28:15 AM PDT

To: Bob Main <rmain@co.coos.or.us>, Mike Rowley <Mike.Rowley@chw.coos.or.us>, Tim Lynch <Tim.Lynch@chw.coos.or.us>

Subject: Catching Slough Conversation

Commissioner Main,

I took an invitation to meet Fred Messerle at a Catching Slough property to see tide gate repairs he had made minimizing standing water on acreage there. In months past this was an area where CHW had received calls from residents frustrated with mosquitoes.

For the 60 plus minute tour Geoff Taylor, manager of Jackson County Vector Control District, was with me. I don't recall anyone else in the vicinity other than Fred Messerle.

At the end of the tour I went to Fred Messerle at his truck and stated that I wanted to find a long-term resolution to mosquitoes around Winter Lakes. He abruptly stated something like that he would not have interest in doing this without everyone else around there taking part.

I did not specifically ask him to give CHW permission to monitor mosquito larvae on his property. I did generalize the meaning of what he said to include "CHW not welcome" on his private property.

I think that monitoring for mosquito larvae on as many Winter Lakes' properties as possible is a necessary part of the solution. As such, in recent weeks I have repeated the "CHW not welcome" sentiment from Fred Messerle to persons I think able to encourage the Messerle and friends property owners that providing larvae monitoring might be in the best interest of all.

Rick Hallmark, 541-808-7640

In the office I can find the specific date of the Catching Slough meeting, if warranted. It may have been as long as 3 years ago when those tide gate repairs were done.

Sent from my iPad



60196 Old Wagon Road
Coos Bay, OR 97420
541-404-6105
bsdd.bos@gmail.com

May 2, 2024

Coos County Board of Commissioners
250 N. Baxter Street
Coquille, Oregon 97423

Re: ACU-23-074/FP-23-012 Rebuttal

All the rhetoric aside, the discussion breaks down to the following factors which are quite simple.

- Denial of the application provides absolutely no viable path to reduce mosquito populations or rearing habitat that may exist now or in the future in a timely manner.
- Without approval of ACU 23-074/FP-23-012, issuance of necessary State and Federal permits is not possible. Permitting provides a pathway to bringing outside funding resources for agriculture and fisheries improvements to Coos County.
- **NO PERMITS MEANS NO IMPLEMENTATION. IMPLEMENTATION = IMPROVED AGRICULTURAL PRODUCTIVITY ON BSDD & CDD LANDS, INCREASED COHO HABITAT, REDUCED MOSQUITO IMPACTS AND HABITAT.**
- Unmanaged tidal wetlands with hydro-modified channels that do not provide for drainage are a primary source of mosquitoes. Managed wetlands are not a source of mosquitos. The phase 3 project is not a "wetlands creation" project. The lands are already classified as wetland under the Coos County Planning Code. The project's purpose is to manage water effectively on project agricultural lands.
- The CCZLDO is quite clear that the requested project actions are appropriate for agricultural and habitat restoration enterprises which are all permitted uses under the ordinance.
- The agriculture vs habitat restoration debate is not relevant to this application. Both land uses are fully compatible for this project. The working lands model we are pioneering should be supported so the debate becomes outdated.
- Time and money are relevant factors. Delaying project implementation will see additional degradation of agricultural productivity with increased costs to remedy. Additionally, an appeals process will require time and resources that would more appropriately be dedicated to implementation and resolution to mosquito issues. Coos County and the applicant can both ill afford the time and expense of a LUBA appeal.

- The BSDD, and others, have submitted record evidence and testimony that the project activities to be approved reduce mosquito habitat and mosquito production potential in the project area. There is no reliable evidence in the record that has rebutted this information regarding mosquitos. There is no evidence that permitted activities will have any impact on existing farm/forest uses and cause significant expense to such existing uses.
- BSDD, and others, have submitted record evidence and testimony that the CCZLDO does not authorize affixing conditions on this permit because it meets all applicable CCZLDO criteria and standards without conditions. Because conditions are not necessary to meet the applicable standards and criteria, and further, because the conditions cannot be tailored to be proportional to potential impacts that “may or may not” be realized as required by the CCZLDO, BSDD’s position is that conditions may not be involuntarily imposed.
- The CCPD has recommended that the Board impose conditions of approval for the ACU-23-074/FP-23-012 application. The CCPD recommendation is reflected in the April 17, 2024 Staff Report at page 26-27, points 1 -7.
- However, without waiving, contradicting, or revoking these and other elements of testimony and evidence provided by BSDD and parties supporting issuance of the permit for purposes of any appeal proceeding in any forum, in the interest of a timely resolution of this matter, and to avoid costly appeals and litigation for all parties, BSDD proposes the following:
 1. A project-area mosquito monitoring and treatment plan be developed.
 2. Plan development will be led by a designated representative of BSDD and a designated representative of Coos Health and Wellness (CHW).
 3. The designated representatives of BSDD and CHW will enlist the volunteer assistance of a mutually agreed upon third representative with mosquito mitigation experience and training that is not formally associated with the project, the BSDD, or Coos County government.
 4. The representatives from BSDD, CHW, and an independent third party will develop a mosquito monitoring plan that:
 - a. Considers and is informed by any and all relevant information included in the BSDD application, and the record materials developed in the Board of Commissioner’s review process.
 - b. The CCPD suggestions in the April 10, 2024 staff report includes off-project monitoring area(s) for comparative purposes over time.

- c. Is not unduly burdensome in its implementation activities or costs for BSDD and/or CHW.
 - d. Is completed and mutually agreed upon by BSDD and CHW within 1-year of the date of issuance of ACU-23-074/FP-23-012 approval.
- BSDD will not object to or appeal issuance of ACU-23-074/FP-23-012 approval that includes the proposal stated in 1-4 above. BSDD reserves its right to revoke the proposal and reserves all its appeal rights and options should different or additional conditions of any nature be included or if the permit is denied.

We look forward to prompt approval of the ACU-23-074/FP-23-012 application which will allow moving forward with project implementation and resolution of mosquito issues in the mid-Coquille Valley area.

Regards,



Fred R. Messerle, District Manager

60196 Old Wagon Road, Coos Bay, OR 97420

Phone (541)-404-6105

Email: bsdd.bos@gmail.com

Winter Lake Phase III Team Response to Coos County Development Staff Report on File # ACU-23-074/FP-23-012

Feedback/Rebuttal of Information from the Phase III Project Application Hearing April 17th and New Items Uploaded by County Staff on 04/25/24

- “Working Lands” restoration projects are denoted by common ground benefits for traditional use (pasture grazing in this case) and beneficial actions for environmental components. Winter Lake Phase III is designed to increase channel capacity to provide better drainage for increasing pasture grass production. No aspect of the project is designed to decrease or have negative effects on pasture grass production. The restoration aspect of the project is twofold; 1). Restoration of pasture inflow/outflow capacity for agriculture pasture grass production and 2). Provide access for native coho salmon to enter floodplain areas, feed during winter (November through April 15th), and exit safely as waters recede. During this period, pasture grasses are dormant and Winter Lake landscapes are largely flooded irrespective of this project. The missing component for fish is that the flooding during many of those months is often only a couple inches of water and coho need access channels to the floodplain to overcome fear of stranding. Without proper channel networks, they will fail to leave deeper canals until major flooding inundates the entire landscape to greater than 2ft in depth. This only occurs intermittently.
- The Oregon Land Conservation and Development (DLCD) has established, under Oregon law, pathways for restoration in Coastal Community County Zoning Code. The Winter Lake Phase III project Conditional Use Application for both the CREMP and EFU lands has been deemed by County Planning staff as providing more than adequate information and denoting the project is in compliance with applicable Coos County Plan Policies:
 - Policy #14 – General Policy Uses within the Rural Coastal Shorelands
 - Policy #18 – Protection of Historic, Cultural, and Archaeological Sites
 - Policy #19 – Management of “Wet-Meadow” wetlands within Coastal Shorelands
 - Policy #22 – Mitigation Sites: Protection against Pre-emptory Uses
 - Policy #23 – Riparian Vegetation/Streambank Protection
 - Policy #27 – Floodplain Protection within Coastal Shorelands
- Winter Lake Phase I actions were isolated to installation of a large new tidegate array that meets compliance with fish passage criteria for the State of Oregon and National Marine Fisheries Service. The Phase I project installed seven new 8ft (h) x 10ft (w) concrete box culverts with both vertical slide tidegates and side-hinged aluminum tidegates. The culverts in place prior to the project were failing (rusting) and leaking badly. Without Phase I, there would have been total failure of the berm and daily inundation of 1,200 acres in Winter Lake by tidal influence.
- Water on pastures in the summer does not inherently allow for mosquito production. The water must be in a location where it ponds, does not drain, and fish are not present. Ponded water that does not drain restricts/inhibits grass growth. Winter Lake Phase III project:

1). Incorporates on-grade channels to facilitate drain out on low tides following delivery by flood flows or irrigation; 2). The channel network density and distribution on the land area will be greatly increased. This expansion has been designed to eliminate locations where water ponds and stagnates; 3). The new channel networks will provide access and livable space for fish. The project area has juvenile coho present in the winter and many other species, including those that are present in the summer (mosquitofish, three-spined sticklebacks), to access areas where larva might be produced.

Oregon has a population as of 2022 of just over 4.2 million. Increased wise use of land areas to serve the collaborative needs of the state citizens is paramount. Agricultural production in Oregon is 13% of the total economic output. Production of fish and wildlife and the use of these resources is also substantial, contributing over \$2.5 billion to Oregon's economy annually (Runyan 2009). Production of fish/wildlife in western Oregon is largely on private lands. Projects such as Winter Lake Phase III are critical for recovery of Oregon's salmon fisheries. Wild produced fish or hatchery salmonid fry released into the Coquille Basin upstream of the project area, critically utilize off-channel rearing areas for bolstered growth before migrating to the ocean.

- In 1908 when the original Winter Lake drainage canals/channels were constructed, little or no design was focused on the micro-topography of the landscape. Channels in 1908 were installed in a shortest distance, linear construct. This resulted in entrapment of water in hundreds of small swales. These swales prior to Euro-human settlement drained on low tides by a dendritic and natural channel layout. Fish can become stranded in these swales, and these are the locations where water now stagnates following rain events or irrigation. Phase III has been designed using land elevation measurements of the project area to install new channel into these swales to provide for active inflow/outflow. This will prevent fish stranding and eliminate any substantive mosquito production where it currently exists.
- Winter Lake Phase II in Unit 2 was designed with channels that penetrate most major swale areas that had been disconnected in 1908 when Winter Lake was initially drained. These new channels have reduced the potential for fish stranding and mosquito production. Water is managed in summer within Unit 2 to only channel bank height. There are a few low areas where water can enter pastures in summer, however, overall, this area is minimal (<10 acres). All other pasture locations in Unit 2 remain dry in summer, with water confined to channels, where fish are present. ODFW monitoring over the 2019-2023 period since construction has shown that few mosquitoes are being produced within the restored lands on the China Camp Gun Club or ODFW lands, (both within Unit 2). This limited production of mosquitoes is largely related to the new channel network layout as is proposed for Winter Lake Phase III.
- The Winter Lake Phase III project design/engineering was initiated in the late fall of 2017. At that time, Nate Chisholm owned the lands that are now properties of the Bridges Foundation. Phase III development/engineering continued for three years prior to ownership transfer of the Chisholm lands to a willing seller/buyer agreement with the Bridges Foundation. Winter Lake Phase III project development predates the acquisition by the Bridges Foundation of properties within the Phase III area and is unrelated to the proposed land acquisition of Bridges Foundation properties by ODFW.
- Winter Lake Phase III project is designed to reestablish a greater level of financial production from primarily EFU lands and a small portion of CREMP/EFU. Nearly 30yrs of restrictions on the ability of landowners to obtain permitting to excavate the tidal drainage ditches has resulted in severe economic effects on pasture performance and their livestock operations. This project seeks to work collaboratively to improve pasture performance fully within environmental compliance framework of the Coos County Planning Policies, Oregon agencies--DSL, DEQ, DLCD, and the federal government

USACE, NMFS. It is the hope of the BSDD that Coos County will support appropriate measures for agricultural landowners within the County to conduct land management actions to maintain economic viability.

- Winter Lake lands within the Phase III project area are all classified as wetland pastures currently (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>). The Winter Lake Phase III project is not designed or allowed under state and federal law to change project area lands to upland from their current wetland status. Excavation that will provide for improved inflow/outflow of water in the new channel networks will establish deeper networks in some locations, with some residual water in the channels, however, drainout benefits to pastures production will offset channels.
- Winter Lake Phase I and II have no elements that developed mosquito habitat. The Phase III application and supporting materials do not infer or directly indicate that mosquito habitat was or might have been created with Phase I or Phase II efforts. Phase I was construction of a seven bay concrete box culvert tidegate system. Phase II was construction of 6.3 miles of new tidal channel in Unit 2, specifically to provide hydrologic connection into floodplain pastures including the connection of swales where fish could be stranded. Those locations also were addressed to eliminate or greatly reduce inherent mosquito production potential. Dan Markowski with the American Mosquito Control Association was on site with ODFW as an advisor in 2015. His feedback was incorporated into final designs prior to implementation.
- Unit 2 channels were specifically oriented in locations where they would enter low swales where fish would strand, which are also the locations where there can be potential to produce mosquitoes. Mosquito sampling has been implemented by ODFW since 2019. Larval dipping methodology sampling has documented that this channel network layout is effective at restricting suitability of the habitats for mosquito production. Data to date indicates that few mosquitoes have been produced in Unit 2. The Winter Lake Phase III project will implement similar channel layout/design in Units 1 and 3 to address ponded water. Currently, those locations are potential stranding areas for juvenile coho in spring and retain water that can become disconnected, without fish, stagnant, and produce mosquitoes.
- Non-native fish such as largemouth bass, perch, crappie, and bluegill are present in all major floodplain canal networks in the Coquille Valley (e.g. Fat Elk, Foster Dairy, etc) and have been for the past 40+yrs. Smallmouth bass were illegally introduced into the Coquille River basin in 2008, 2009, or 2010. To date, smallmouth bass have not been detected in Winter Lake habitats. Juvenile coho that overwinter are using the wetland habitats heavily from December through early April, with a few fish remaining until May. During winter/spring months, warmwater fishes are largely dormant due to cold water temperatures and feed only moderately. To date, over 100 largemouth bass have been stomach sampled in the Winter Lake floodplain in locations where juvenile coho have been captured. No salmonid fish have been found in stomach samples during December through April. Water temperatures are lethally warm in summer and salmonids are not present for predatory fish to consume.
- To date, the Winter Lake Phase III project has obtained only a modest amount of engineering money. There was discussion of including the project in a larger NOAA grant with multiple projects in other areas of the state over the past year, however, it was dropped from that grant. At this time, there is no implementation grant application submitted or pending for the project. Commissioner Main asked about grant monies (PFA, OWEB) he had located on his phone referencing a tidal restoration project. The names of those grants indicated they are related to the Coaledo Tidegate Fish Passage Restoration Project. Grant monies are dedicated to and needed for the Coaledo Tidegate Fish Passage Restoration

Project. Grant funds approved for the Coaledo Tidegate Project would not be available for the Winter Lake Phase III Project.

- Coos Health and Wellness Mosquito Questionnaire: The Winter Lake Phase III Team applauds the efforts of the CHW to obtain information on public sentiment relating to vector control issues in the County. The CHW distributed a questionnaire to residents in the greater Coquille area asking four questions.
 - 1). Were mosquitoes a nuisance at this address this summer?
 - 2). Were there times when you stayed indoors because of the mosquitoes?
 - 3). Would you allow a mosquito specialist to check mosquito conditions on your property?
 - 4). Would you consider financially supporting a mosquito control plan in the Coquille Area?

The Winter Lake Project Team provides the following feedback on critical weaknesses of the CHW questionnaire effort:

Overall, the questionnaire served to obtain information from only the Coquille area. This fails to address noted known mosquito issues in several locations across the County (Prosper, Empire Lakes in spring months, Catching Slough Coos Bay). Obtaining information from only the Coquille Area does not provide a perspective reflecting County wide conditions and inserts a bias towards readership assumption that elsewhere in the County there are not mosquito concerns.

Direct Team Response to questions:

Response to County Survey Question #1: Asking if mosquitoes were a nuisance is highly subjective and without specificity as to what “nuisance” reflects. Does a response of “yes” reflect detection of a single mosquito or many?

Response to County Question #2: The Winter Lake Phase III Team does not have feedback on this question.

Response to County Question #3: Responding “yes” on an anonymous questionnaire does not necessarily reflect that landowners will allow access.

Response to Question #4: CHW has previously sampled several other locations in Coos County where there have been mosquito complaints. In 2020 ODFW worked to assist CHW staff to set CO² light traps on the Coos River near the Chandler bridge, due to a high number of mosquito complaints. It is difficult to ascertain from the questionnaire the voracity of citizens to fund a mosquito control plan unless the costs were demarcated (e.g. \$10 per year) specifically and spread fairly among all locations with mosquito issues.

- **Addressing the letter from Sharon Waterman on 04/23/24, uploaded by County Staff 04/25/26:** Juvenile coho are primarily present at Winter Lake from December through April. After late May, the water is warmer than preferable during early summer and lethal during mid-summer, thus they cannot live in the project area from June through September. The Winter Lake Phase III project is designed to improve drainage for agricultural landowners and overwinter habitat for juvenile coho.

Mrs Waterman: Last summer, Caley Sowers (SWCD) and Christopher Claire (ODFW) noted that the Bridges Foundation had errata on their webpage indicating that the Phase III project will provide for

summer habitat for juvenile coho in hydrologic bulbs. Sharon Waterman suggested that there would be concern with introduction of water into hydrologic bulbs during summer. The Team appreciates Sharon bringing up this question.

The hydrologic bulbs are designed on grade (thus with a base elevation that is higher than the outflow channel) into the receiving channel, which then delivers to the main canals. The bulbs are not designed to retain water. To produce mosquitoes; they would need to:

- 1) Retain water that does not drain, thus becomes stagnant.
- 2) The hydrologic bulbs would need to be without fish present; and
- 3) The water would need to remain in place stagnant for 8-14 days.

The bulbs are designed to drain on the outgoing tide. No water will be retained. The channel networks that provide outflow are designed to serve as routes for mosquitofish and three-spined sticklebacks to enter the hydrologic bulbs. If water is delivered to the bulbs for any reason, including irrigation, they are designed to not provide for production of mosquitoes at any time or month of the year including summer.

Mrs. Waterman: Sharon Waterman noted in her 04/23/24 letter that the project plans to install Large Woody Debris (LWD) in channels. This wood will be installed along channel margins and does not restrict inflow or outflow. It in no way increases water retention in pastures or affects pasture grass growth. These features will provide cover for juvenile coho and reduce predation on those fish by mink, otter, other predatory fish, and fish eating birds.

Mrs. Waterman: The letter by Mrs. Waterman indicates that they sold the old Waterman Ranch properties within Winter Lake in 2016-2017 due to the Phase I tidegate project. Without the installation of the new culverts and tidegates, the existing infrastructure would have totally failed, and the Waterman property would have been no longer able to be used for pasture production. The Phase III Team finds this statement as incongruous with the former Waterman Ranch needs. Nate Chisholm purchased the property and was a strong supporter of the Phase III project designs during his ownership of 2016-2020. The Team worked closely with Nate on channel layout. The Team does acknowledge that salable property values for the Waterman lands increased by over 200% between 2010 and 2016 when they sold to Nate Chisholm.

- Currently, Winter Lake Phase III has no implementation monies. Beaver Slough Drainage District staff have input a large quantity of in-kind, non-cash effort with the Winter Lake Phase III designs and project development; however, no monetary expense to date has been incurred to individual BSDD landowners. Once the project is permitted, BSDD and landowners will be able to contribute to expenses and provide in-kind services. There is a modest amount of engineering money that has been obtained from the Business Oregon Grant fund. The primary funding to date for project development and permitting has been SWCD and ODFW In-kind non-cash effort.
- A few statements at the hearing related to grant monies and how they are from income tax or property tax dollars. Of the larger grant funds such as OWEB, many of these large funds are derived from non-tax dollar fund sources. OWEB monies for example are generated from the Oregon Lottery. Fifteen percent of Oregon lottery dollars are earmarked for Oregon State Parks and watershed restoration projects.

The USFWS National Coastal Program is another large fund, which at times assists with funding these style of projects. *"The National Coastal Wetlands Conservation Grant Program annually provides grants of up to \$1 million to coastal and Great Lakes states, as well as U.S. territories, to protect, restore and enhance coastal wetland ecosystems and associated uplands. The grants are funded through the Sport*

Fish Restoration and Boating Trust Fund, which is supported by excise taxes on fishing equipment and motorboat fuel."

The Pittman-Robertson Act of 1937 is another large funding source at times for wildlife projects. **Note:** *Winter Lake serves as overwinter habitat for waterfowl where upwards of 60% of waterfowl on the Oregon Coast flight route spend some time in Winter Lake annually. This grant is now called the Federal Aid in Wildlife Restoration Act; "Funding for Pittman- Robertson programs come from federal excise taxes on firearms, ammunition, and archery equipment. All 50 states and the five major, permanently inhabited U.S. territories receive Pittman-Robertson funds."*

While some grants may have tax dollars infused into them, the Phase III Project Team believes the expenditure of existing committed grant monies to assist "Working Lands" projects that help agriculture, expend monies to local contractors and business during implementation, and restore fish/wildlife recreational opportunity to Coos County is money well spent.

Water Management Issues at Winter Lake

Phase II installed 6.3 miles of new channels, providing connectivity to low-lying swales to facilitate drainage and prevent ponding. Figure 1. Shows the water levels in Units 1, 2, and 3 on 04/18/24 demonstrating that drain out in the restoration Unit 2 has been strongly facilitated by the new channel networks. Unit 1 and 3 water levels reflect increasing refill following low tide drainout. This is directly due to the poor connectivity of existing channels to the locations in pastures where water is present and ponded. Following a low tide the tide gates close for all Units, however, due to strong and connected drain out in Unit 2 there are no interior ponded water areas refilling the main channel. In Units 1 and 3, there is restricted drainout that through time during the high tide cycle, refills the main canals. This drain out restriction from interior pasture locations in Units 1 and 3 results in delay by many days or weeks of the ability to remove standing water from the pastures. The delayed drainage results in stagnate water without fish present, that is ponded, and has potential for mosquito production in Units 1 and 3. Figures 2, 3, 4, and 5 denote drain out conditions on 04/18/24 for pasture locations in Units 2 and 1.

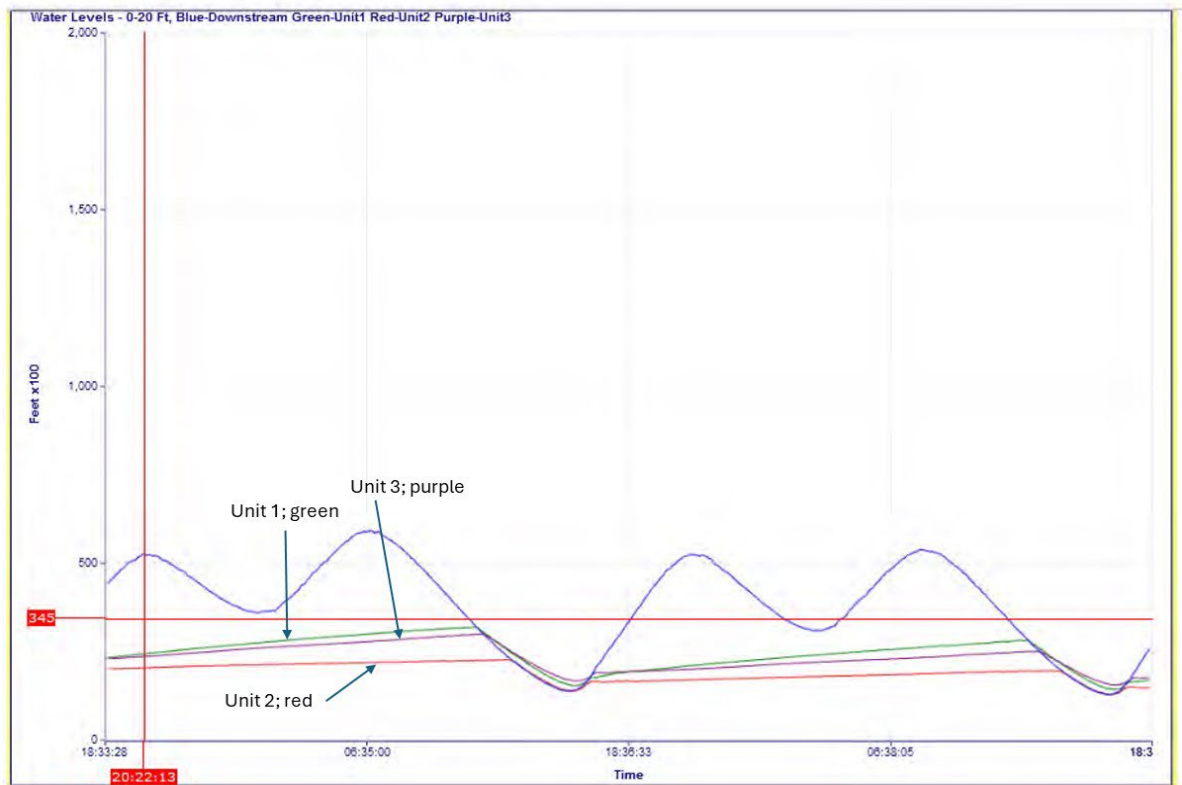


Figure 1. Water levels as measured at the C3P main tidegates for Units 1, 2, and 3 on 04/18/24.



Figure 2. Image of Unit 2 from the C3P tide gate on 04/18/24; note! no standing water, grass growing, and cattle grazing.



Figure 3. Image of Unit 1 pasture 04/18/24 east side, looking southwest; note! extensive water on pastures.



Figure 4, Image of Unit 1 pasture 04/18/24 looking south; note! extensive water on pastures.



Figure 5. Image of Unit 1 pasture 04/18/24 looking to southwest; note! extensive water on pastures.