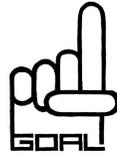


Cooperate and Collaborate Paper:

*Land Use Compatibility & BLM RIA/Resource Lands Allocation
In Westside Oregon*



**Hugo Land Use Committee
Hugo Neighborhood Association & Historical Society**

**Resource Lands Working Group
Rogue Advocates**

Goal One Coalition

Save Our Applegate Valley Environment (SAVE)

Draft March 22, 2011

Cooperate and Collaborate Paper:

Land Use Compatibility & BLM RIA/Resource Lands Allocation In Westside Oregon

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Acronyms

AMA	Adaptive Management Areas
BLM	Bureau Of Land Management
CLUPTF	Compatible Land Use Planning Task Force
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FLPMA	Federal Land Planning Management Act
FWS	Fish And Wildlife Service
GFMA	General Forest Management Areas
HLUC	Hugo Land Use Committee
ID	Interdisciplinary
JCCP	Josephine County Comprehensive Plan

LUBA	Oregon Land Use Board of Appeals
MDO	Medford District Office
NEPA	National Environmental Policy Act
NIMBY	Not In My Back Yard
NMFS	National Marine Fisheries Service
NWFP	Northwest Forest Plan
OARs	Oregon Administered Rules
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statutes
PAPA	Post-Acknowledgement Plan Amendment
RIA	Rural Interface Areas
RA	Rogue Advocates
RMP	Resource Management Plan
ROD	Record of Decision
RLDC	Josephine County Rural Land Development Code
SORA	Southern Oregon Resource Alliance
SAVE	Save Our Applegate Valley Environment
SEIS	Supplemental Environmental Impact Statement
USDI	United States Department of Interior
WOPR	BLM's Western Oregon Plan Revision

Cooperate and Collaborate Paper:

Land Use Compatibility & BLM RIA/Resource Lands Allocation In Westside Oregon

EXECUTIVE SUMMARY

Purpose. The purpose of this Cooperate and Collaborate Paper is an initial land use report of a proposal without any commitment to action; it is brainstorming. It is potentially the first step in enhancing the land use compatibility between private lands and nearby BLM-administered lands. It is about lands adjacent to or nearby lands to BLM Rural Interface Lands (RIA)/Resource Lands in Westside Oregon.

This paper is open ended. It can also be known as an initial consultation document proposing a BLM Westside Oregon management strategy to be considered during BLM's on-going evaluation of BLM Westside Districts' and the Klamath Falls Resource Area of the Lakeview District's 1995 resource management plans (RMPs). It is anticipated that it will be updated as it is refined through the involvement and networking of other co-sponsors.

Interest is growing with landowners adjacent to and nearby BLM RIA/Resource Lands, and land use groups in having the BLM play a significant role in land use compatibility planning for BLM RIA/Resource Lands. Although the BLM cannot dictate local land use policies, it can play a role in facilitating the coordination, cooperation, and collaboration between management of BLM RIA/Resource Lands and local, county, and regional planning agencies to ensure that compatible land use planning is considered around our nation's BLM RIA/Resource Lands.

This issue is not a BLM operational management issue about BLM project-level actions; it is a Western Oregon BLM and local government land allocation issue. For example, it is not about the seemingly never ending conflict over BLM project-level actions that can shift with a new Federal Executive Branch and Executive Departments.

Land Use Compatibility Issue. Although a Westside BLM Oregon land use compatibility issue, this paper in some cases focuses on its form in Josephine County, Oregon and the interior Rogue Valley.

In the 1990s the BLM in Westside Oregon, including the BLM Medford District Office (MDO), needed its own management tools to try to effectively manage public RIA resources lands it administered adjacent to or nearby the county's private RIAs as BLM's and local government's attempts to solve the conflicts between the activities on resource lands and adjacent residential lands had not been effective.

In most private RIAs concerns of the residents are related to forest and range management practices, wild fire, visual quality, and potential effects on domestic water sources and water supplies. More than 500,000 acres in the BLM MDO have been inventoried as RIA lands, 220,084 acres are private RIA lands (43 percent) and 292,096 are public RIA lands (57 percent).

Rural interface areas were a new innovative idea for the BLM's 1990s planning cycle for Westside Oregon. They were the result of the consistent and persistent concerns of the general public and the residential public living on lands adjacent to or nearby BLM managed resource lands. It had become difficult for BLM to accomplish its resource management job with the numerous public complaints and lawsuits, and BLM decided to address the public concern issue directly.

Addressing the public controversy of the management of BLM resource lands adjacent to or nearby rural residential living activities resulted in the RIA concept becoming standard for BLM's 1990s planning cycle Westside Oregon-wide, including the BLM MDO, because, in part, local governments mitigating measure/conditions of approval provided by the local government's planning systems were not effective in mitigating the conflicts between the management activities on BLM-administered resource lands and the home living activities on adjacent residential lands. This included Josephine County's planning efforts associated with ineffective conditions of approval and conflict preference covenants

The 1995 BLM MDO Record of Decision (ROD)/Resource Management Plan's (RMP) objective for the RIA is to consider the interests of adjacent and nearby rural residential land owners in the private RIA during analysis, planning, and monitoring activities occurring within the managed public RIA. These private interests include personal health and safety, improvements to property, and quality of life.

When adjacent or nearby private lands are allocated to residential under a local government's post-acknowledgement plan amendment (PAPA) proposal, their benefit as an impact buffer to BLM/RIA Resource Lands become lost and a portion of any nearby BLM Resource Lands could become a public RIA. In Josephine County the reallocation of adjacent or nearby private RIA lands from Woodlot Resource to Rural Residential 5 acres will be a loss of the impact buffer benefit to BLM and will interfere with accepted forest operations on BLM lands by significantly impeding or significantly increasing the cost of the practices or operations on the public RIA. This private allocation PAPA impact is not an isolated impact to individual tracks of public RIA, but part of a cumulative impact significantly increasing the cost of the forest management practices or operations to potentially 292,096 acres of public RIA lands in the Rouge Valley.

In the 1990s the BLM spent an enormous amount of energy recognizing the RIA issue, identifying the private and public RIA lands, lands with the highest potential to become conflict RIA lands, and developing RIA prescriptions to attempt to address adjacent residential landowners' concerns. All BLM Westside Oregon districts have this RIA management issue and RIA prescriptions in their existing RMPs because BLM and local government mitigating measures/conditions of approval were not effective.

History has since shown that BLM was no more successful than Josephine County in effectively mitigating the conflicts between resource use practices on BLM-administered lands adjacent to rural residential living activities.

In summary, the development of land uses that are not compatible with management of BLM RIA/Resource Lands is a growing concern across Westside Oregon. In addition to commercial

forestland management, there are other environmental impacts to land uses around BLM RIA/Resource Lands which need to be considered when addressing the overall issue of land use compatibility. Forest land includes lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices, and other forested lands that maintain soil, air, water and fish and wildlife resources.

Compatible Land Use Planning. The following ideas about compatible land use planning are open ended as is this entire paper. They are part of the brainstorming ideas identified in Section III or future ideas yet to be expressed. They are a draft recommendation for BLM Westside Oregon to consider framing a management strategy to consider compatible land use planning objectives.

If it occurs, it is assumed that it will occur on the existing checkerboard of BLM-administered forests Westside Oregon where the land is meant for timber production -- after laws like the Endangered Species Act are accommodated. Once the needs for those laws are satisfied, then BLM looks at what's left of its land base, and then it applies different management prescriptions to determine the allowable cut.

The main objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible with management of BLM RIA/Resource Lands, such as residential, schools, churches, etc., to locate away from BLM RIA/Resource Lands, and to encourage land uses that are more compatible, such as industrial, commercial, commercial forest, woodlot resource, agricultural, farm, etc. to locate adjacent to or nearby BLM RIA/Resource Lands.

There is known interest from neighbors and land use groups for BLM to provide guidance on how to establish and maintain compatible land uses around BLM RIA/Resource Lands, and/or, if not possible, for BLM to consider trading the existing BLM RIA/Resource Lands out and concentrate on higher elevation lands away from the normal conflicts with private residential property owners, including selling these BLM RIA/Resource Lands outright.

The BLM could consider establishing a one time Compatible Land Use Planning Task Force. The *Task Force* could be charged with identifying how to better cooperate, coordinate, and collaborate through the BLM RMP planning processes, and its local site specific projects with local government's comprehensive land use planning processes by considering the brainstorming issues. The *Task Force's* mission could be to develop a resource guide to assist local governments and BLM in identifying and implementing appropriate compatible land use tools (i.e., maintenance of forest land resource allocations, private RIA allocations, legal resource compatibility easements, compatible land use planning research papers, testimony papers on whether land falls within the Oregon Statewide Goal 4 definition of "forest lands, and other related compatibility issues) as one way to prevent or slow down the proliferation of incompatible land uses adjacent to or nearby BLM RIA/Resource Lands.

The *Task Force* could consist of representatives from National Environmental Policy Act (NEPA) interdisciplinary (ID) teams, land use planning consultants, city/county planning departments, state land use and resource departments, and BLM supervisors and managers. It

could be disbanded after the Compatible Land Use Planning Resource Guide was finalized and published.

The Compatible Land Use Planning Resource Guide could be developed by the *Task Force*. It would be a resource to local planners, governments, neighbors, and other interested parties and would not be construed as BLM regulations or official agency policy. Case studies could be contained within the *Guide* as examples to illustrate specific techniques and strategies of how and where some of the compatible land use tools across the country have been applied and implemented. Inclusion of these examples would not in any way represent official endorsement by the BLM.

Compatible land use planning research papers would be encouraged by the public, stakeholders, and cooperating agencies, including BLM professionals and work groups. These papers could cover the range of pros and cons of the land use compatibility issue. The papers might be published as determined appropriate by the public, stakeholders, and cooperating agencies, including BLM, on their web sites.

Significant Benefits of Compatible Land Use Planning. The objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible with management of BLM RIA/Resource Lands (e.g., residential, schools, churches, etc.) to locate away from BLM RIA/Resource Lands and to encourage land uses that are more compatible (e.g., industrial, commercial, commercial forest, woodlot resource, agricultural, farm, etc.) to locate adjacent to or nearby BLM RIA/Resource Lands, or, conversely, for BLM to consider trading the existing BLM RIA/Resource Lands out and concentrate on higher elevation lands away from the normal conflicts with private residential property owners, and/or sell these lands outright.

A public BLM education and outreach compatible land use planning program for BLM RIA/Resource Lands have a significant potential to provide benefits to BLM, local neighbors, and local governments. In a nut-shell there are opportunities for BLM to cooperate and collaborate with local governments, and especially private landowners adjacent to or nearby BLM RIA/Resource Lands located below approximately 2,000', that can be realized through the State of Oregon's land use planning system, especially the application of Oregon Statewide Goal 4 - Forest Land.

Compatible Land Use Planning Between Local Governments And BLM. A significant opportunity for BLM to meaningfully cooperate and collaborate with local governments and neighbors is the development of a compatible land use planning program. This could be one foundation element of any future collaborative planning effort toward the goal of developing consensus around BLM management alternatives which will bring together the support of the majority of the public, stakeholders, and cooperating agencies.

A major benefit could be compatible land use planning between local governments and BLM. The BLM could share with local government decision-makers its vision concerning the allocation and management of BLM RIA/Resource Lands as there appears to be a disconnect between local governments' normal support for BLM project-level actions, and their normal support for an expanded private residential RIA land allocation adjacent to or nearby BLM

RIA/Resource Lands. For example, local government's normal support of an expanded non-compatible private residential allocation is in conflict with their normal support of project-level BLM actions.

Local government's could share with BLM their desire to expand residential allocations adjacent to or nearby BLM RIA/Resource Lands, and the need for BLM to consider the goal of trading out or selling these low elevation BLM RIA/Resource Lands. BLM could eventually trade these lands out and concentrate on higher elevation lands away from the normal conflicts with private residential living activities, or just sell them outright reducing the forest land base.

Regardless of whether BLM stays or leaves, the objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible to locate away from BLM-administered lands and to encourage land uses that are more compatible to locate around BLM-administered lands. The objectives of compatible land use planning is not to encourage or have allocated incompatible land uses to be located adjacent to or nearby BLM RIA/Resource Lands.

BLM Expert Testimony Provides Foundation For Neighborhood Support Base. The BLM has opportunities to cooperate and collaborate with local governments, and especially private landowners located adjacent to or nearby BLM RIA/Resource Lands located below approximately 2,000' that can be realized through the State of Oregon's land use planning system, especially through Oregon Statewide Goal 4 - Forest Land.

Benefits to BLM could be the development of a neighborhood base that supports the management allocation for BLM RIA/Resource Lands in their communities' backyards (i.e., strive for a common vision on the allocation prescription of BLM RIA/Resource Lands).

Benefits to local neighbors could be the BLM as an expert witness testifying to the value of private forest lands adjacent to or nearby BLM RIA/Resource Lands remaining compatible forest lands: private resource lands and private RIA resource lands.

Promotes Employment And Economic Development Through Stable And Efficiently Managed BLM RIA/Resource Lands. In the long-term a stable land use pattern of BLM RIA/Resource Lands, that is effectively and efficiently managed, promotes local employment and economic development opportunities. The O & C lands in Westside Oregon have an obligation to generate revenue. BLM owes the counties some stability whatever that is, so that they have something to plan against. The issue of jobs, the issue of timber sale receipts as the law is currently structured, is critically important to them, and it's critically important to BLM.

When land allocations involve forest land, Oregon families depend on stewardship of BLM RIA/Resource Lands to promote the social welfare of the citizens of the area by working to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. Forest land includes lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices, and other forested lands that maintain soil, air, water and fish and wildlife resources.

If potentially harvestable timber lands are identified as one of the uses of the land under BLM's allocations to General Forest Management Areas (GFMA), Adaptive Management Areas (AMA), and Connectivity/Diversity Blocks, they should be effectively and efficiently managed toward the goal of the allocations in order to contribute to the economic stability of local communities, and providing recreational opportunities.

Compatible land use planning between local governments and BLM for BLM RIA/Resource Lands promotes a long-term stable land use pattern of BLM RIA/Resource Lands that can be effectively and efficiently managed. This efficiency promotes local employment and economic development opportunities by lower operating costs and increasing economic sustainability.

I. PURPOSE OF PAPER

This Cooperate and Collaborate Paper is an initial land use report of a proposal without any commitment to action; it is brainstorming. It is potentially the first step in enhancing the land use compatibility between private lands and nearby BLM-administered lands. It is about private lands adjacent to or nearby lands to BLM Rural Interface Lands (RIA)/Resource Lands in Westside Oregon. Rural interface areas are areas where BLM-administered lands are adjacent to or intermingled with privately owned lands zoned for 1 to 20-acre lots or that already have residential development. Westside Oregon is a term used to identify all BLM districts west of the Cascades.

This paper is open ended. It can also be known as an initial consultation document proposing a BLM Westside Oregon management strategy to be considered during BLM's on-going evaluation of BLM Westside Districts' and the Klamath Falls Resource Area of the Lakeview District's 1995 RMPs (Appendix A). It is anticipated that it will be updated as it is refined through the involvement and networking of other co-sponsors (Appendix B). Hopefully it can serve as part of a solution where BLM issues a paper released to launch a public consultation process, or perhaps establishes a Compatible Land Use Planning Task Force.

Interest is growing with landowners adjacent to and nearby BLM RIA/Resource Lands (Appendix B), and land use groups in having the BLM play a significant role in land use compatibility planning for BLM RIA/Resource Lands. Although the BLM cannot dictate local land use policies, it can play a role in facilitating the coordination, cooperation, and collaboration between management of BLM RIA/Resource Lands and local, county, and regional planning agencies to ensure that compatible land use planning is considered around our nation's BLM RIA/Resource Lands.

This issue is not a BLM operational management issue about BLM project-level actions; it is a Western Oregon BLM and local government land allocation issue. For example, it is not about the seemingly never ending conflict over BLM project-level actions that can shift with a new Federal Executive Branch and Executive Departments.

This paper is also a request to Westside Oregon BLM to provide guidance on how to establish and maintain compatible land uses adjacent to and nearby BLM RIA/Resource Lands.

II. LAND USE COMPATIBILITY ISSUE

Although a Westside BLM Oregon land use compatibility issue, this paper in some cases focuses on its form in Josephine County, Oregon and the interior Rogue Valley (Appendix C).

In the 1990s the BLM in Westside Oregon, including the BLM Medford District Office (MDO), needed its own management tools to try to effectively manage public RIA resources lands it administered adjacent to or nearby the county's private RIAs as BLM's and local government's attempts to solve the conflicts between the activities on resource lands and adjacent residential lands had not been effective.

In most private RIAs concerns of the residents are related to forest and range management practices, wild fire, visual quality, and potential effects on domestic water sources and water supplies. More than 500,000 acres in the BLM MDO have been inventoried as RIA lands, 220,084 acres are private RIA lands (43 percent) and 292,096 are public RIA lands (57 percent).

Rural interface areas were a new innovative idea for the BLM's 1990s planning cycle for Westside Oregon. They were the result of the consistent and persistent concerns of the general public and the residential public living on lands adjacent to or nearby BLM managed resource lands. It had become difficult for BLM to accomplish its resource management job with the numerous public complaints and lawsuits, and BLM decided to address the public concern issue directly.

Addressing the public controversy of the management of BLM resource lands adjacent to or nearby rural residential living activities resulted in the RIA concept becoming a standard element for BLM's 1990s planning cycle Westside Oregon-wide, including the BLM MDO, because, in part, local governments mitigating measure/conditions of approval provided by the local government's planning systems were not effective in mitigating the conflicts between the management activities on BLM-administered resource lands and the home living activities on adjacent residential lands. This included Josephine County's planning efforts associated with ineffective conditions of approval and conflict preference covenants

The 1995 BLM MDO Record of Decision (ROD)/Resource Management Plan's (RMP) objective for the RIA is to consider the interests of adjacent and nearby rural residential land owners in the private RIA during analysis, planning, and monitoring activities occurring within the managed public RIA. These private interests include personal health and safety, improvements to property, and quality of life.

When adjacent or nearby private lands are allocated to residential under a local government's post-acknowledgement plan amendment (PAPA) proposal, their benefit as an impact buffer to BLM/RIA Resource Lands become lost and a portion of any nearby BLM Resource Lands could become a public RIA. In Josephine County the reallocation of adjacent or nearby private RIA lands from Woodlot Resource to Rural Residential 5 acres will be a loss of the impact buffer benefit to BLM and will interfere with accepted forest operations on BLM lands by significantly impeding or significantly increasing the cost of the practices or operations on the public RIA. This private allocation PAPA impact is not an isolated impact to individual tracks of public RIA,

but part of a cumulative impact significantly increasing the cost of the forest management practices or operations to potentially 292,096 acres of public RIA lands in the Rouge Valley (Appendix C).

In the 1990s the BLM spent an enormous amount of energy recognizing the RIA issue, identifying the private and public RIA lands, lands with the highest potential to become conflict RIA lands, and developing RIA prescriptions to attempt to address adjacent residential landowners' concerns. All BLM Westside Oregon districts have this RIA management issue and RIA prescriptions in their existing RMPs because BLM and local government mitigating measures/conditions of approval were not effective.

History has since shown that BLM was no more successful than Josephine County in effectively mitigating the conflicts between resource use practices on BLM-administered lands adjacent to rural residential living activities.

In summary, the development of land uses that are not compatible with management of BLM RIA/Resource Lands is a growing concern across Westside Oregon. In addition to commercial forestland management, there are other environmental impacts to land uses around BLM RIA/Resource Lands which need to be considered when addressing the overall issue of land use compatibility. Forest land includes lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices, and other forested lands that maintain soil, air, water and fish and wildlife resources.

Although BLM Westside Districts include RIA standards or guidelines as part of their RMPs, the primary responsibility for integrating BLM RIA/Resource Lands considerations into the local land use planning process rests with local governments. The objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible with BLM RIA/Resource Lands (e.g., residential, schools, churches, etc.) to locate away from BLM RIA/Resource Lands, and to encourage land uses that are more compatible (i.e., industrial, commercial, commercial forest, woodlot resource, agricultural, farm, etc.) to locate around BLM RIA/Resource Lands.

III. BRAINSTORMING LAND USE COMPATIBILITY ISSUE

A. BLM RIA/Resource Lands-Related Land Use Planning

The objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible with BLM RIA/Resource Lands (e.g., residential, schools, churches, etc.) to locate away from BLM RIA/Resource Lands and to encourage land uses that are more compatible (i.e., industrial, commercial, commercial forest, woodlot resource, agricultural, farm, etc.) to locate around BLM RIA/Resource Lands.

B. Future Land Use Planning Processes Could Be To Cooperate and Collaborate

Many think that any future effort must be collaborative in order to develop consensus around alternatives which will bring together the support of the majority of the public, stakeholders, and cooperating agencies (Appendix D).

C. Application Of Oregon Statewide Goal 4: Forest Lands - OAR 660-015-0000(4)

Oregon Statewide Goal 4 defines forest lands and requires local governments to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses." A determination whether land falls within the Goal 4 definition of "forest lands" (Appendix E) requires analysis of:

- (1) whether the land is suitable for commercial forest uses;
- (2) whether the land is necessary to permit forest operations or practices on adjacent or nearby forest lands; and
- (3) whether the forested land is necessary to maintain soil, air, water and fish and wildlife resources.

The BLM has opportunities to cooperate and collaborate (Appendix D) with local governments, and especially private landowners located adjacent to or nearby BLM RIA/Resource Lands located below approximately 2,000' that can be realized through the State of Oregon's land use planning system, especially through Oregon Statewide Goal 4 - Forest Land (Appendix E).

Benefits to BLM could be the development of a neighborhood base that supports the management allocation for BLM RIA/Resource Lands in their communities' backyards (i.e., strive for a common vision on the allocation prescription of BLM RIA/Resource Lands). Benefits to local neighbors could be the BLM as an expert witness testifying to the value of private forest lands adjacent to or nearby BLM RIA/Resource Lands remaining compatible forest lands: private resource lands and private RIA resource lands.

D. Commercial Forest Operations Has Been Primary Driver

While not the only compatibility issue, commercial forest operations has been the primary driver for the land use compatibility conflict issue. Since the 1990s there has been a constant technical effort to reduce site specific project conflicts with neighbors. Although it is believed there has been a significant reduction in neighbors' concerns, little more is expected. Consequently another idea to reduce conflicts could focus on BLM RIA/Resource Lands and land use compatibility planning.

E. BLM Continues Managing Low Elevation BLM-Administered RIA/Resource Lands

This idea of this paper is probably only applicable if BLM's strategy is to continue to manage low elevation BLM-administered resource lands versus eventually trading them out and concentrating on higher elevation lands away from the normal conflicts with private residential property owners.

F. Benefits For BLM To Continued To Manage Low Elevation BLM-Administered RIA/Resource Lands

There is always the possibility that a future BLM strategy could be to eventually trade these lands out and concentrate on higher elevation lands away from the normal conflicts with private residential property owners. Some benefits of a stable BLM RIA/Resource Lands land use pattern follow.

1. **Compatible Land Use Planning.** Compatible land use planning by BLM and local governments could minimize the PAPA effects with fewer proposals approved by local governments. This could reduce the cumulative interference of non-compatible land uses with forest operations on BLM resource lands
2. **Employment And Economic Effects.** Compatible land use planning by BLM and local governments could contribute to significantly holding down increases in the cost of practices or operations on the public RIA. This positive impact is not the reduction of isolated impacts from individual PAPA's to site specific areas near or adjacent to the public RIA, but part of a cumulative impact significantly holding down the cost of the forest management practices or operations on potentially 292,096 acres of public RIA lands in the MDO.
3. **Neighborhood Support.** Benefits to BLM could be the development of a neighborhood base that supports the management allocation for BLM RIA/Resource Lands in their communities' backyards. This result could occur from BLM acting as an expert witness testifying to the value of private forest lands adjacent to or nearby BLM RIA/Resource Lands remaining compatible forest lands as BLM would be perceived as allies to local land owners.
4. **NIMBY Effects Minimized.** Adjacent or near-by neighbors and landowners have interests addressed, including personal health and safety, improvements to property, and quality of life. These interests are more effectively realized by BLM standards for citizen involvement involved with site specific projects and resource management operations versus the often lower standards of the Oregon Forest Practices Act.

G. Consensus: Majority Of The Public, Stakeholders, And Cooperating Agencies

If implemented, it is doubtful this approach would quickly develop into a consensus around BLM alternatives and/or management with a majority of the public, stakeholders, and cooperating agencies, especially for project-level actions. It does, however, have a significant potential as an effective tool that BLM has management control over in beginning a local collaborative process toward the goal of a common land allocation vision. A BLM program could start small with an educational and outreach program applicable to all Westside Oregon BLM districts with private and public RIAs. For example, a program could focus on web publications that is potentially expanded to include testimony for private site specific "Oregon Statewide Goal 4 - Forest Land" proposals to local governments (Appendix E). By private site specific actions it is meant private

land use PAPA proposals to change a local government's comprehensive plan allocations from resource to residential for lands adjacent to, or nearby, BLM-administered resource lands.

H. Compatible Land Use Guide

A compatible land use guide could be prepared for BLM managers, local land use planners, developers, and elected or appointed public officials. Its purpose would be to provide information on BLM programs and sources of support and to promote an understanding of land use compatibility planning issues around BLM RIA/Resource Lands that could result in improved compatibility on nearby or adjacent private lands to BLM RIA/Resource Lands.

The guide could identify a wide variety of possible land use methods as they relate to compatible land use planning efforts. The guide would also recognize that state and local governments are responsible for private land use planning, zoning and regulation, and could present options or tools that can assist in establishing and maintaining compatible land uses around BLM RIA/Resource Lands.

E. BLM Assistance

To assist in those efforts, the BLM could expend significant funds related to BLM RIA/Resource Lands planning and land use compatibility planning in Westside Oregon. These efforts can take the form of future RMPs, site specific projects, research on compatibility studies, land acquisition and/or compatibility easements, public consultation processes, and a Compatible Land Use Planning Task Force.

Interest is growing with landowners adjacent to and nearby BLM RIA/Resource Lands, and land use groups in having the BLM play a significant role in land use compatibility planning for BLM RIA/Resource Lands. Although the BLM cannot dictate local land use policies, it can play a role in facilitating the coordination, cooperation, and collaboration between management of BLM RIA/Resource Lands and local, county, and regional planning agencies to ensure that compatible land use planning is considered around our nation's BLM RIA/Resource Lands.

This paper is also a request to Westside Oregon BLM to provide guidance on how to establish and maintain compatible land uses adjacent to and nearby BLM RIA/Resource Lands. The authors of the paper are identified in Appendix A.

J. Roles and Responsibilities

There are many entities involved in implementing or supporting actions directed toward improved land use compatibility nearby or adjacent to BLM RIA/Resource Lands. These entities include the neighbors, BLM, ([list of users of BLM RIA/Resource Lands](#)), [Southern Oregon Resource Alliance \(SORA\)?](#), etc.), state and local governments, and the community at-large. Knowing the interwoven roles and responsibilities for land use compatibility planning and implementation is important to helping understand the responsibilities placed on each entity and individual involved.

K. Legislation and Regulations Relating to Management Of BLM RIA/Resource Lands and Compatible Land Use Planning

With the advent of comprehensive management and increasing site specific operations at the nation's BLM RIA/Resource Lands, along with the increasing conversion of private resource lands nearby or adjacent to BLM RIA/Resource Lands to non-compatible land uses (e.g., residential, schools, churches, etc.), it was recognized that site specific projects could become a major constraint on effective and efficient management of BLM RIA/Resource Lands. To address the issues of BLM RIA/Resource Lands and land use compatibility, future legislation and regulation could be considered.

1. Providing assistance to prepare and carry out BLM RIA/Resource Lands-compatibility programs.
2. Providing funding for BLM RIA/Resource Lands compatibility planning and projects.
3. Encouraging local government to consider their actions for compatibility land uses around BLM RIA/Resource Lands.
4. Other ideas.

L. Local Land Use Planning

Historically comprehensive plans and zoning prepared by local governments have only minimally recognized the implications of planning for BLM RIA/Resource Lands and off-site, BLM RIA/Resource Lands-related development. Local land use planning, as a method of determining appropriate (and inappropriate) use of properties nearby or adjacent to BLM RIA/Resource Lands could be an integral part of the land use policy and regulatory tools used by BLM managers and local land use planners. Very often such land use planning coordination is hampered by the fact that BLM RIA/Resource Lands can be surrounded by a multitude of individual local governmental jurisdictions, each with their own comprehensive planning process.

M. Coordination and Implementation of Future BLM RMPs, Including RIA/Resource Lands, and Local Land Use Planning

Coordination during the early stages of planning RMPs and local land use planning is extremely critical for ensuring some level of land use compatibility. Ideally, this coordination must occur before the creation, adoption, and implementation of both BLM RIA/Resource Lands and local land use plans.

In this case, BLM's RMPs and the local governments comprehensive plans and zoning maps are in place. Local governments' comprehensive plans and zoning maps are officially acknowledged in Westside Oregon by LCDC. The focus then could be on coordination, collaboration, and implementation of future revisions to BLM RMPs, including allocations to RIA/Resource Lands, and local land use planning allocations. Cooperating and collaborating with local governments, and especially private landowners adjacent to, or nearby, BLM RIA/Resource Lands located below approximately 2,000' would be critical to the success of compatible land use planning.

Such coordination requires open dialogue and, at the least, some type of basic understanding of each other's planning processes.

It turns out this issue is timely as the BLM Westside Districts and the Klamath Falls Resource Area of the Lakeview District are in the process to complete plan evaluations of their 1995 RMPs. The evaluations will evaluate the implementation of the RMPs through FY 2010. The evaluations will begin in January 2011 and will be completed by July 30, 2011. The Oregon State Office (OSO) will provide overall coordination for the evaluations and will complete the plan evaluation findings report with the assistance of the districts (Appendix A).

N. Public Education and Awareness Programs

BLM managers or local planning agencies that expect a reasonable chance of success in their planning efforts must provide for public education and awareness in the planning process.

1. Information Dissemination

Dissemination of information is a one-way flow of a desired message or philosophy. The type of audience may range from a very narrow one to the community at-large. Among the information dissemination opportunities are brochures, newsletters, paid advertising, newspaper inserts, and Internet Web pages.

2. Information Exchange

Information exchange is a two-way flow of information. Once the information is disseminated, a dialogue occurs that may be used to enhance the education process and ultimately improve land use compatibility planning and to determine the public's attitude toward or acceptance of the disseminated message. Among the information exchange opportunities are public workshops, public advisory committees, radio/T.V. talk shows, and speaking engagements.

O. Deference To Local Government's Interpretation: ORS 197.829(1)(d)

ODFW v. Josephine County, LUBA 2008-022, 6/18/2009 (Appendix E).

Where a local code provision mirrors a state statute, the local officials' interpretation of the local code provision is not entitled to the usual deference for interpretation of local code provisions. Rather, LUBA's standard of review, under ORS 197.829(1)(d), is whether the interpretation is contrary to the state law that the local law implements. That review requires interpretation of state law according to the usual LUBA rules of statutory construction.

Research Question: Do Josephine County PAPAs involving JCCP GOAL 11: Policy 3.C. and RLDC 46.050.B.C.) satisfy the *ODFW v. Josephine County* standard for a local code provision mirroring a state statute? If this connection is made *ODFW v. Josephine County* applies, and LUBA's standard for review would be Oregon Statewide Goal 4: Forest Lands - OAR 660-015-0000(4) and its applicable OARs.

P. Conclusion

Management of BLM RIA/Resource Lands and community planning processes are intertwined. To that extent, the material contained in this paper and the proposed compatibility land use guidebook would focused on communication and cooperation, and directed toward the establishment of those common goals that are necessary for the development of compatible land use programs.

IV. COMPATIBLE LAND USE PLANNING

The following ideas about compatible land use planning are open ended as is this entire paper. They are part of the brainstorming ideas identified in Section III or future ideas yet to be expressed. They are a draft recommendation for BLM Westside Oregon to consider framing a management strategy to consider compatible land use planning objectives (Appendix A).

If it occurs, it is assumed that it will occur on the existing checkerboard of BLM-administered forests Westside Oregon where the land is meant for timber production -- after laws like the Endangered Species Act are accommodated. Once the needs for those laws are satisfied, then BLM looks at what's left of our land base, and then it applies different management prescriptions to determine our allowable cut.

The main objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible with management of BLM RIA/Resource Lands, such as residential, schools, churches, etc., to locate away from BLM RIA/Resource Lands, and to encourage land uses that are more compatible, such as industrial, commercial, commercial forest, woodlot resource, agricultural, farm, etc. to locate adjacent to or nearby BLM RIA/Resource Lands.

A. Compatibility Guidance Interest

There is known interest from neighbors and land use groups for BLM to provide guidance on how to establish and maintain compatible land uses around BLM RIA/Resource Lands, and/or, if not possible, for BLM to consider trading the existing BLM RIA/Resource Lands out and concentrate on higher elevation lands away from the normal conflicts with private residential property owners, including selling these BLM RIA/Resource Lands outright.

B. Compatible Land Use Planning Task Force

The BLM could consider establishing a one time Compatible Land Use Planning Task Force. The *Task Force* could be charged with identifying how to better cooperate, coordinate, and collaborate through the BLM RMP planning processes, and its local site specific projects with local government's comprehensive land use planning processes by considering the brainstorming issues. The *Task Force's* mission could be to develop a resource guide to assist local governments and BLM in identifying and implementing appropriate compatible land use tools (i.e., maintenance of forest land resource allocations, private RIA allocations, legal resource compatibility easements, compatible land use planning research papers, testimony papers on

whether land falls within the Oregon Statewide Goal 4 definition of “forest lands, and other related compatibility issues) as one way to prevent or slow down the proliferation of incompatible land uses adjacent to or nearby BLM RIA/Resource Lands.

The *Task Force* could consist of representatives from National Environmental Policy Act (NEPA) interdisciplinary (ID) teams, land use planning consultants, city/county planning departments, state land use and resource departments, and BLM supervisors and managers. The *Task Force* could be disbanded after the Compatible Land Use Planning Resource Guide was finalized and published.

C. Compatible Land Use Planning Resource Guide

The Compatible Land Use Planning Resource Guide could be developed by the *Task Force*. It would be a resource to local planners, governments, neighbors, and other interested parties and would not be construed as BLM regulations or official agency policy. Case studies could be contained within the *Guide* as examples to illustrate specific techniques and strategies of how and where some of the compatible land use tools across the country have been applied and implemented. Inclusion of these examples would not in any way represent official endorsement by the BLM.

At a minimum of *Guide* could be published on the BLM Oregon-Washington web site.

D. Compatible Land Use Planning Research Papers

Compatible land use planning research papers would be encouraged by the public, stakeholders, and cooperating agencies, including BLM professionals and work groups. These papers could cover the range of pros and cons of the land use compatibility issue. The papers might be published as determined appropriate by the public, stakeholders, and cooperating agencies, including BLM, on their web sites.

V. SIGNIFICANT BENEFITS OF COMPATIBLE LAND USE PLANNING

The objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible with management of BLM RIA/Resource Lands (e.g., residential, schools, churches, etc.) to locate away from BLM RIA/Resource Lands and to encourage land uses that are more compatible (e.g., industrial, commercial, commercial forest, woodlot resource, agricultural, farm, etc.) to locate adjacent to or nearby BLM RIA/Resource Lands, or, conversely, for BLM to consider trading the existing BLM RIA/Resource Lands out and concentrate on higher elevation lands away from the normal conflicts with private residential property owners, and/or sell these lands outright.

A public BLM education and outreach compatible land use planning program for BLM RIA/Resource Lands have a significant potential to provide benefits to BLM, local neighbors, and local governments. In a nut-shell there are opportunities for BLM to cooperate and collaborate (Appendix D) with local governments, and especially private landowners adjacent to or nearby BLM RIA/Resource Lands located below approximately 2,000', that can be realized

through the State of Oregon's land use planning system, especially the application of Oregon Statewide Goal 4 - Forest Land (Appendix E).

A. Compatible Land Use Planning Between Local Governments And BLM

A significant opportunity for BLM to meaningfully cooperate and collaborate with local governments and neighbors is the development of a compatible land use planning program. This could be one foundation element of any future collaborative planning effort toward the goal of developing consensus around BLM management alternatives which will bring together the support of the majority of the public, stakeholders, and cooperating agencies (Appendix D).

A major benefit could be compatible land use planning between local governments and BLM. The BLM could share with local government decision-makers its vision concerning the allocation and management of BLM RIA/Resource Lands as there appears to be a disconnect between local governments' normal support for BLM project-level actions, and their normal support for an expanded private residential RIA land allocation adjacent to or nearby BLM RIA/Resource Lands. For example, local government's normal support of an expanded non-compatible private residential allocation is in conflict with their normal support of project-level BLM actions.

Local government's could share with BLM their desire to expand residential allocations adjacent to or nearby BLM RIA/Resource Lands, and the need for BLM to consider the goal of trading out or selling these low elevation BLM RIA/Resource Lands. BLM could eventually trade these lands out and concentrate on higher elevation lands away from the normal conflicts with private residential living activities, or just sell them outright reducing the forest land base.

Regardless of whether BLM stays or leaves, the objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible to locate away from BLM-administered lands and to encourage land uses that are more compatible to locate around BLM-administered lands. The objectives of compatible land use planning is not to encourage or have allocated incompatible land uses to be located adjacent to or nearby BLM RIA/Resource Lands.

B. BLM Expert Testimony Provides Foundation For Neighborhood Support Base

The BLM has opportunities to cooperate and collaborate (Appendix D) with local governments, and especially private landowners located adjacent to or nearby BLM RIA/Resource Lands located below approximately 2,000' that can be realized through the State of Oregon's land use planning system, especially through Oregon Statewide Goal 4 - Forest Land (Appendix E).

Benefits to BLM could be the development of a neighborhood base that supports the management allocation for BLM RIA/Resource Lands in their communities' backyards (i.e., strive for a common vision on the allocation prescription of BLM RIA/Resource Lands).

Benefits to local neighbors could be the BLM as an expert witness testifying to the value of private forest lands adjacent to or nearby BLM RIA/Resource Lands remaining compatible forest lands: private resource lands and private RIA resource lands.

C. Promotes Employment And Economic Development Through Stable And Efficiently Managed BLM RIA/Resource Lands

In the long-term a stable land use pattern of BLM RIA/Resource Lands, that is effectively and efficiently managed, promotes local employment and economic development opportunities. The O & C lands in Westside Oregon have an obligation to generate revenue. BLM owes the counties some stability in whatever that is, so that they have something to plan against. The issue of jobs, the issue of timber sale receipts as the law is currently structured, is critically important to them, and it's critically important to BLM.

When land allocations involve forest land, Oregon families depend on stewardship of BLM RIA/Resource Lands to promote the social welfare of the citizens of the area by working to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. Forest land includes lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices, and other forested lands that maintain soil, air, water and fish and wildlife resources.

If potentially harvestable timber lands are identified as one of the uses of the land under BLM's allocations to General Forest Management Areas (GFMA), Adaptive Management Areas (AMA), and Connectivity/Diversity Blocks, they should be effectively and efficiently managed toward the goal of the allocations in order to contribute to the economic stability of local communities, and providing recreational opportunities.

Compatible land use planning between local governments and BLM for BLM RIA/Resource Lands promotes a long-term stable land use pattern of BLM RIA/Resource Lands that can be effectively and efficiently managed. This efficiency promotes local employment and economic development opportunities by lower operating costs and increasing economic sustainability.

VI. SUMMARY

The purpose of this "Cooperate and Collaborate" paper is an initial land use report of a proposal without any commitment to action; it is brainstorming. It is potentially a step in enhancing the land use compatibility between adjacent or nearby private lands and BLM rural interface area (RIA)/resource lands in Westside Oregon. This paper is open ended. It is an initial consultation document proposing a BLM Westside Oregon management strategy to be considered during BLM's 2011 evaluation of its 1995 RMPs.

Historically the RIA issue was the consistent and persistent concerns of the general public and the residential public living on lands adjacent to or nearby BLM managed resource lands. It had become difficult for BLM to accomplish its resource management job with the numerous public complaints and lawsuits, and it decided to address the public concern issue directly. Therefore, in the early 1990s the BLM in Westside Oregon, including the BLM MDO, decided they needed their own management tools to try to effectively manage public RIAs administered adjacent to or nearby local government's private RIAs. The need was because the BLM and the local government's attempts to solve the conflicts had not been effective. History after 1995

demonstrates that the BLM MDO was no more successful than Josephine County in effectively mitigating the conflicts between resource use practices on BLM-administered lands adjacent to rural residential living activities.

The issue is alive today when adjacent or nearby private lands are reallocated to residential under a local government's PAPA proposal because their benefit as an impact buffer to public RIAs become lost. For example, in Josephine County the reallocation of adjacent or nearby private RIAs from Woodlot Resource to Residential will be a loss of the impact buffer benefit to BLM as it interfere with accepted forest operations by significantly impeding or significantly increasing the cost of the practices or operations on the public RIA. The private reallocation of a PAPA impact is not an isolated impact to individual tracks of public RIAs, but part of a cumulative impact over the long-term significantly increasing the cost of the forest management practices or operations to potentially 292,096 acres of public RIA lands in the Rouge Valley.

If compatible land use planning occurs, it is assumed that it will occur on the existing checkerboard of BLM-administered forests Westside Oregon where under current laws the land is mostly meant for timber production -- after laws like the Endangered Species Act are accommodated. Once the needs for those laws are satisfied, then BLM looks at what's left of its land base, and then it applies different management prescriptions to determine the allowable cut.

The objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible (e.g., residential, schools, churches, etc.) with management of BLM RIAs to locate away from BLM RIAs and to encourage land uses that are more compatible (e.g., industrial, commercial, commercial forest, woodlot resource, agricultural, farm, etc.) to locate adjacent to or nearby BLM RIAs. From a basic zoning 101 scheme you place industrial uses next to industrial uses, you do not locate residential activities next to industrial activities.

A BLM education and outreach compatible land use planning program for public RIAs has a significant potential to provide benefits to BLM, local neighbors, and local governments. In a nut-shell there are opportunities for BLM to cooperate and collaborate with local governments, and especially private landowners adjacent to or nearby public RIAs located below approximately 2,000', that can be realized through the State of Oregon's land use planning system, especially the application of Oregon Statewide Goal 4 - Forest Land.

A major benefit could be compatible land use planning between local governments and BLM. The BLM could share with local government decision-makers its vision concerning the allocation of resource lands. Local government's could share with BLM their desire to expand residential allocations adjacent to or nearby BLM RIA/Resource Lands, and the need for BLM to consider the goal of trading out or selling these low elevation BLM RIA/resource lands. BLM could eventually trade these lands out and concentrate on higher elevation lands away from the normal conflicts with private residential living activities, or just sell them outright. Regardless of whether BLM stays or leaves, the objectives of compatible land use planning are to encourage land uses that are generally considered to be incompatible to locate away from BLM-administered lands and to encourage land uses that are more compatible to locate around BLM-administered lands.

In the long-term a stable land use pattern of public RIA/resource lands, that is effectively and efficiently managed, promotes local employment and economic development opportunities. The O & C lands in Westside Oregon have an obligation to generate revenue. BLM owes the counties some stability n whatever that is, so that they have something to plan against. The issue of jobs, the issue of timber sale receipts as the law is currently structured, is critically important to them, and it's critically important to BLM.

When land allocations involve public forest land, Oregon families depend on stewardship of public RIAs to promote the social welfare of the citizens of the area by working to preserve, protect, and enhance the livability and economic viability of its farms, forests, and rural neighbors. Forest land includes private and public lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices, and other forested lands that maintain soil, air, water and fish and wildlife resources.

Compatible land use planning between local governments and BLM promotes a long-term stable land use pattern of public RIAs that can be effectively and efficiently managed. This efficiency promotes local employment and economic development opportunities by lower operating costs and increasing economic sustainability.

Appendix A. BLM Westside Oregon Evaluations of Coos Bay District, Eugene District, Medford District, Roseburg District, Salem District, and the Klamath Falls Resource Area of the Lakeview District 1995 Resource Management Plans (RMPs)

The BLM Westside Districts and the Klamath Falls Resource Area of the Lakeview District are in the process to complete plan evaluations of their 1995 RMPs. The evaluations will evaluate the implementation of the RMPs through FY 2010. The evaluations will begin in January 2011 and will be completed by July 30, 2011. The Oregon State Office (OSO) will provide overall coordination for the evaluations and will complete the plan evaluation findings report with the assistance of the districts (December 21, 2010 *Instruction Memorandum No. OR-2011-015*. From: BLM State Director, Oregon/Washington To: DMs, DSDs, Staff, and Branch Chiefs. Subject: Western Oregon Resource Management Plan Evaluations).

The background to the BLM evaluations is that the BLM 1601 – Land Use Planning Manual and the BLM Land Use Planning Handbook (H-1601-1) state that RMPs “should be periodically evaluated (at a minimum of every 5 years).” The purpose of evaluations is to determine whether the land use plan decisions and National Environmental Policy Act (NEPA) analyses are still valid and whether the plans are being implemented. The RMPs for the 6 west-side districts were last evaluated in 2004. An RMP revision effort for western Oregon districts was completed in December 2008. The new Record of Decision (RODs)/RMPs were withdrawn by the Department of the Interior in June, 2009 (i.e., the WOPR - Western Oregon Plan Revision). Due to the withdrawal of the 2008 RODs/RMPs, the districts have continued implementation of the 1995 RMPs. The 5-year evaluation cycle means that evaluations are now past due.

A new BLM Westside Oregon RMPs revision process, like the past WOPR, is likely in the near future. The 2011 plan evaluation of Westside Oregon RMPs is required prior to plan revisions or major plan amendments to understand why certain RMP objectives have not been met and what issues should be brought forward into the planning process. The plan evaluation serves as the starting point for the preparation plan. The preparation plan serves as the foundation of the entire planning process. A new plan revision or major amendment will take years to complete, the plan evaluation will identify needs for interim plan amendments or maintenance.

Appendix B. Authors Of “Cooperate and Collaborate Paper: Land Use Compatibility & BLM RIA/Resource Lands Allocation In Westside Oregon”

This Cooperate and Collaborate Paper is an initial land use report of a proposal without any commitment to action; it is potentially the first step in enhancing the land use compatibility of lands adjacent to or nearby BLM RIA/Resource Lands in Westside Oregon. This draft brainstorming paper is open ended. It can also be known as an initial consultation document merely proposing a BLM Westside Oregon management strategy to be considered. It is anticipated that it will be updated as it is refined through the involvement and networking of other co-sponsors.

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Appendix C. BLM Adaptive Management Areas & Rural Interface Areas: A Case Study For Josephine County

Adaptive Management Areas (AMA) are one BLM allocation prescription in Westside Oregon that can be managed as commercial forest land. Most timber harvest volume comes from matrix lands, which includes General Forest Management Areas, AMAs, and Connectivity/Diversity Blocks. This paper is, in part, a case study of AMAs, Rural Interface Areas (RIA), and private lands in Josephine County which are suitable for commercial forest uses including adjacent or nearby lands to BLM RIA/Resource Lands which are necessary to permit forest operations or practices on BLM RIA/Resource Lands. It applies to all of Westside Oregon.

Adaptive Management Areas The BLM MDO's policy, for land it administers in Josephine County, Oregon, is that commercial forest land is all forest land that is capable of yielding at least 20 cubic feet of wood per acre per year of commercial tree species (Reference 1, Reference 2, & Reference 3). It does not matter that Josephine County's internal rate of return (IRR) standard for private lands is 85 cubic feet of wood per acre per year of commercial tree species. What matters is that the private lands are adjacent or nearby resource zoned lands (BLM RIA/Resource Lands) managed by BLM using the 20 cubic feet of wood per acre per year standard.

- Reference 1 USDI, BLM, Medford District Office. August 1992. *Draft Medford District Resource Management Plan and Environmental Impact Statement*. Volume II, Appendix 3-T-1: Timber Production Capability Classification. provides, in relevant part, page Appendix 3-46.
- Reference 2 USDI, BLM, Medford District Office. October 1994. Final - *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I. provides, in relevant part, pages Chapter 2-20 - Chapter 2-22.
- Reference 3 USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 36 - 39, 103, & 108.

A the largest forest manager in Jackson and Josephine counties, the BLM, has large amounts of land in the Applegate area it administers as AMA. Land allocated by BLM to AMA inventories as commercial forest land, and except for a small amount of land withdrawn for riparian protection, it can be managed as commercial forest land under the AMA land use allocation.

The BLM MDO RMP records that lands allocated to AMAs available for timber harvest and management for future harvest (USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 36 - 38). The allocation objectives for AMAs follow.

- Objective. "Develop and test new management approaches to integrate and achieve ecological and economic health and other social objectives." (RMP, page 36)
- Objective. "Contribute substantially to achievement of SEIS ROD objectives including provision of well-distributed late- successional habitat outside reserves, retention of key structural elements of late-successional forests on lands subjected to regeneration harvest, restoration and protection of riparian zones, **and provision of a stable timber supply.**" (RMP, page 36) (emphasis added)

Objective. “Specific emphasis for the Applegate AMA includes “development and testing of **forest management practices including partial cutting, prescribed burning, and low impact approaches to forest harvest** (e.g., aerial systems) that provide a broad range of forest values, including late-successional forest and high quality riparian habitat.” (RMP, page 36) (emphasis added)

The BLM MDO’s stated objectives for the Applegate AMA from its 2009 Program Summary And Monitoring Report follows: [BLM Medford District Office: Medford District Annual Program Summary And Monitoring Report For Fiscal Year 2009, http://www.blm.gov/or/districts/medford/plans/files/MDO_FY09_APS_web.pdf]

“The Medford District’s Applegate Adaptive Management Area is managed to restore and maintain late-successional forest habitat while developing and testing management approaches to achieve the desired economic and other social objectives.” [page 77]

“Most timber harvest volume comes from matrix lands, which includes General Forest Management Areas (GFMA), Adaptive Management Areas (AMA), and Connectivity/Diversity Blocks.” [page 8]

The land is “not vacant” in terms of its natural resources, its ecological functions, and the jobs resulting from BLM management. AMAs are managed with ecological, economic and social objectives, including management for wildlife habitat and timber production.

Rural Interface Areas The 1995 ROD/RMP [BLM Medford District Office Record of Decision/Resource Management Plan] objective for the rural interface areas (RIAs) is to consider the interests of adjacent and nearby rural residential land owners during analysis, planning, and monitoring activities occurring within managed public RIAs. These interests include personal health and safety, improvements to property, and quality of life [BLM Medford District Office: *Medford District Annual Program Summary And Monitoring Report For Fiscal Year 2009*, page 29]

Fire management, including hazard fuels reduction, is part of the safety and property protection issue. This is certainly a hot topic for the citizens located in the interior Rogue Valley. Hazard fuel reduction projects reduce the unnatural build-up of fuel in the forest. Fuels can be natural fuels, forest vegetation or debris, activity fuels, debris left over from woodcutters or forest thinning projects or ladder fuels, small trees or brush that carry a ground fire up into the canopy.

The following information about RIAs in southwestern Oregon, including Josephine County, is from a BLM planning document: USDI, BLM, Medford District Office (MDO). October 1994. *Final - Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I [Final BLM MDO EIS]

Rural Interface Areas - Areas where BLM-administered lands are adjacent to or intermingled with privately owned lands zoned for 1 to 20-acre lots or that already have residential development [page - Glossary - 13, Final BLM MDO EIS].

Rural Interface Areas - BLM Issue and Concern. Which BLM-administered lands should be allocated to receive special management practices due to concerns of residents who live in close proximity? Rural interface areas (RIAs) are areas where BLM-administered lands are adjacent to or mingled with the privately owned lands where county zoning has created or allows for creation of lots as small as 1 - 20 acres. **In most RIAs, concerns of the residents are related to forest and range management practices, visual quality, and potential effects on domestic water sources and water supplies** [page 1-8, Final BLM MDO EIS]. (emphasis added)

The areas where rural residential and/or farm/forest zoning occur near BLM-administered land have been labeled RIAs. Private RIAs are defined as private land zoned for rural-residential or farm/forest ½ mile from adjoining BLM-administered land. Public RIAs are defined as BLM-administered land ½ mile from the land zoned for rural, rural-residential, or farm/forest [page 3-116 Final BLM MDO EIS].

More than 500,000 acres in the planning area [BLM Medford District] have been inventoried as RIA lands, 220,084 acres are private RIA lands (43 percent) and 292,096 are public RIA lands (57 percent) [page 3-116 Final BLM MDO EIS].

There are 151,298 acres of private land zoned for lots as small as 6 to 20 acres within one-half mile of BLM-administered land [in the BLM Medford District]. This represents a potential maximum of 7,500 residences adjacent to BLM-administered land [page 3-116 Final BLM MDO EIS].

The total land open for potential residences in the private RIA is 220,084 acres (approximately 35,000 residences) [page 3-116 Final BLM MDO EIS].

Rural interface areas (RIAs) were a new innovative idea for the BLM's 1990s planning cycle for Westside Oregon. They were the result of the consistent and persistent concerns of the general public and the residential public living on lands adjacent or nearby BLM managed resource lands. It had become difficult for BLM to accomplish its resource management job with the numerous public complaints and lawsuits, and BLM decided to address the public concern issue directly. [December 27, 2010 Interview of Mike Walker by Leta Neiderheiser and Evelyn Heinrichs: Mike Walker was the 1986 - 1994 BLM Rural Interface Area/Outdoor Recreation Planner Interdisciplinary Team Member for the *Medford District Proposed Resource Management Plan and Environmental Impact Statement*; Walker wrote the rural interface chapter of the BLM MDO Final EIS (USDI, BLM, Medford District Office. October 1994. Final - *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I. Chapter 5 Consultation and Coordination, pages 5-16 through 5-20, List of Preparers].

Addressing the public controversy of the management of BLM resource lands adjacent to rural residential living activities became necessary for BLM. It resulted in the RIA concept becoming a standard element for BLM's 1990s planning cycle Westside Oregon, including the BLM Medford District Office, because, in part, local governments mitigating measure/conditions of approval (e.g, Josephine County Rural Land Development Code (RLDC) 46.050.C.5. & 6. etc.)

provided by the local government's planning systems were not effective in mitigating the conflicts between the management activities on BLM-administered resource lands and the home living activities on adjacent or nearby residential lands. (December 27, 2010 Walker Interview)

The BLM in Westside Oregon, including the BLM MDO, needed its own management tools to try to effectively manage its public RIA resources lands adjacent to the county's private RIAs as local government's attempts to solve the conflicts between the activities on resource lands and adjacent residential lands were not effective. This included Josephine County's planning efforts associated with ineffective conditions of approval and conflict preference covenants (RLDC 46.050.C.5. & 6.).

RLDC 46.050.C.5. *A lot or parcel shall not be considered necessary to permit farm practices or forest operations on adjacent or nearby lands if the necessary benefit can be preserved through the imposition of special restrictions or conditions on the use of the subject property which reasonably assure continuation of the benefit.* (emphasis added)

RLDC 46.050.C.6. As a condition upon the approval of all plan and map changes from resource to non-resource designations, the property owner shall be required to execute and record in the county deed records a **Conflict Preference Covenant**, which recognizes the rights of adjacent and nearby resource land owners to conduct normal farm practices and forest operations. The covenant shall provide that all land use conflicts between non-resource uses on the subject property and adjacent or nearby resource operations will be resolved in favor of accepted farm and forest practices and operations. (emphasis added)

History has since shown that BLM was no more successful than Josephine County in effectively mitigating the conflicts between resource use practices on BLM-administered lands adjacent to rural residential living activities (December 27, 2010 Walker Interview).

If adjacent or nearby private RIA lands becomes Residential under a PAPA, their benefit as an impact buffer (RLDC 46.050.C.1.) to the nearby BLM Resource Lands, or adjacent BLM/RIA Resource Lands, will become lost and a portion of the nearby BLM Resource Lands will become a public RIA. The reallocation of adjacent or nearby private RIA lands from Woodlot Resource to Rural Residential 5 will be a loss of the impact buffer benefit to BLM and will interfere with accepted forest operations on BLM lands by significantly impeding or significantly increasing the cost of the practices or operations on the public RIA (RLDC 46.050.C.2). As an example, this impact is not an isolated impact to 40 acres of public RIA, but part of a cumulative impact significantly increasing the cost of the forest management practices or operations to potentially 292,096 acres of public RIA lands, especially those surrounding the subject property and the surrounding forest operations (RLDC 46.050.C.3.).

It is a fact that BLM spent hundreds of thousands of dollars recognizing the RIA issue, identifying the BLM private and public RIA lands with the highest potential to become conflict RIA lands, and developing RIA prescriptions to attempt to address adjacent residential landowners' concerns. All BLM Westside Oregon districts have this RIA management issue and RIA prescriptions in their existing resource management plans because local mitigating measures/conditions of approval were not effective (RLDC 46.050.C.5. & 6.).

Appendix D. Interagency Cooperation and Collaboration: *Western Oregon Task Force, Final Report to the Secretary of Interior* (Page 21 of 63, July 22, 2010)

Interagency Vision: The NWFP was an unprecedented effort by the Federal Government to develop a common vision for forest management of public lands in the Pacific Northwest. It was an attempt, by the highest levels of Government, to resolve natural resource conflict by addressing species conservation and habitat needs, while ensuring a sustainable flow of goods and services from Federal forests to help secure rural communities that depend upon those Federal lands for their livelihoods. Essential to successful implementation of the NWFP was a system of interagency governance composed of policy and implementation oversight teams ranging from the agency executives to staff. (Page 21 of 63, *Western Oregon Task Force*)

A common vision can provide the integration between the agencies' missions. For example, species conservation is a dominant feature under the ESA and is used as a measure in evaluating jeopardy. Land management agencies operating under FLPMA or NFMA have a conservation mandate. It is generally accepted that the O&C Act is subject to the ESA and hence has a conservation mandate as well. Illuminating the conservation component of these statutes is a way of harmonizing the agency missions to create a common vision. (Page 21 of 63, *Western Oregon Task Force*)

The WOPR planning effort, and reaction to the ROD, calls attention to the perception that the Federal agencies and the public do not share a common vision on the management of the O&C lands and the lands encompassed by the NWFP. This lack of common vision creates tension and conflict in the development of project-level actions designed to meet the goals and expectations of the overlying plan. Tension and conflict, both with the WOPR and the NWFP, have been expressed through the time it takes to get projects through the ESA Section 7 consultation process, the lack of up-front collaboration in designing projects, and frequent litigation on project actions. Lack of commonly agreed upon standards and commitment to adhere to those standards for project design criteria stalls project consultations. (emphasis added) (Page 21 of 63, *Western Oregon Task Force*)

There is a wide range of viewpoints on how well agencies cooperated and collaborated on WOPR. The Federal family consists of the management agencies, the BLM and FS, and the regulatory agencies, FWS, NMFS, and the EPA. In addition, numerous Oregon State agencies and many counties were involved in the development of WOPR and many had formal cooperating agency status. The Coquille Tribe had a seat on the steering committee. Many of these groups felt the Purpose and Need statement for the WOPR was narrow and overly constraining and developed without adequate collaborative involvement. Additionally, the deadline set by the settlement agreement for completion of the planning revision, December 31, 2008, prevented them from engaging in a more collaborative manner. For example, several State agencies stated that they were unable to adequately resolve issues, resulting in the letter of concern sent by Governor Ted Kulongoski (Appendix 7). The WOPR was viewed by many as disassociated from the NWFP, which reduced agency and public support of the effort. Although extensive outreach and interagency coordination opportunities were offered, some cooperating agencies felt the outcome was predetermined and did not fully engage. (Page 21 of 63, *Western Oregon Task Force*)

Several cooperating agencies stated that, due to constraints of the Purpose and Need, they felt this would not be a truly collaborative effort. Consequently, this affected their commitment to the effort. Some expressed strong differences of opinion on the science and the assumptions used in modeling. The regulatory agencies stated consultation was difficult at the landscape level because plans do not provide the detail necessary to evaluate the effect of an action on a species. The question of whether consultation was required led to considerable debate among the Federal agencies. These events led to frustration, a feeling of not being heard, and again, that the decision was preordained. (Pages 21 - 22 of 63, *Western Oregon Task Force*)

Several Federal agencies expressed concern over their inability to thoroughly examine models, assumptions, and outcomes during the planning process. The schedule appeared to drive very tight timeframes that inhibited opportunity for full interagency discourse on those efforts, which lead to the disagreement and distrust. On the other hand, the WOPR steering committee clearly established a science team that was to provide advice, direction, and oversight on the underlying science and analysis; however, the science team did not include scientists from cooperating agencies. Because the science team did not have all requisite backgrounds necessary for the full range of analysis undertaken, team members contracted with outside scientists on certain modeling efforts. It appears that most modeling and analysis efforts either directly involved expert scientists, or relied upon their research. (Page 22 of 63, *Western Oregon Task Force*)

While the lack of up-front agreement and understanding of the underlying science and models used in the plan-level analysis created concerns with the regulatory agencies, this was of much greater concern for NMFS. This resulted in a basic distrust of the science and has translated into distrust at the project level when projects are proposed using this science. Largely due to the underlying statutes governing each agency's role in the consultation process, adoption of a "precautionary principle" has driven changes to project design. The precautionary principle is one in which, in light of inadequate information (or disagreement on the science), the most conservative approach is taken in developing final action design. The consultation process, unlike the NEPA process, does not employ an interdisciplinary team and projects can be modified by the action and consulting agency biologists to a point that raises issues about the scope of the existing NEPA analysis. (Page 22 of 63, *Western Oregon Task Force*)

Some people raised a concern that proposed critical habitat for the northern spotted owl did not align with the late successional reserve allocations in the NWFP. This comment was also made regarding the involvement of the BLM with the FWS in identifying critical habitat, and whether there was undue influence in this process. These people believed the regulatory agencies must operate independent of the land management agencies in developing critical habitat. A similar concern was raised that key watersheds did not align with the high intrinsic potential habitat for fish. (Page 22 of 63, *Western Oregon Task Force*)

Public Outreach and Involvement: The BLM had a massive and broad ranging public outreach effort during the development of WOPR. In addition to the involvement of cooperating agencies, the BLM maintained a mailing list of 1,600 individuals and organizations, held a total of 75 scoping meetings, and numerous key contact meetings during the 45-day formal scoping period. During the 5-month public comment period for the draft EIS (a minimum of 90 days is required), BLM held over 150 formal public meetings, open houses at District Offices, and meetings on

request from organizations. The BLM used an innovative online web comment forum to both inform the public about the plan and to gather comments. The BLM received 3,000 comments during public scoping and 29,500 comments on the draft EIS. The agency also issued eight newsletters during the 29-month period from plan initiation until the draft EIS, detailing each step in the planning process. (Page 25 of 63, *Western Oregon Task Force*)

Even with this level of outreach, many people believe the public involvement was not effective or **collaborative**. Concerns were expressed that only those people with a keen interest in the outcome participated and the general public did not participate. Some people and organizations only participated to the extent required to maintain standing for future Court actions. People also indicated there was distrust in the planning process. They felt the plan was an attempt to increase harvest levels, decrease protection for species and water quality, and the decision was made at the start. The settlement agreement was often cited as a reason for this distrust. (emphasis added) (Page 25 of 63, *Western Oregon Task Force*)

In general, representatives of the wood products industry were complimentary of BLM's efforts to solicit public comments and the state-of-the-art online interactive public comment forum. Several noted that BLM went "above and beyond" the minimum requirements to solicit public input. In contrast, representatives from environmental organizations deemed the WOPR to be "dead on arrival" due to the settlement agreement which they felt dictated a plan revision with narrowly defined parameters. Although there were abundant opportunities for the public to participate, the environmental representatives stated these were not meaningful. Some stated the online interactive comment forum was established late in the process (i.e., when the draft plan was released); and, as a result, they felt it was an **ineffective collaborative tool**. (emphasis added) (Page 25 of 63, *Western Oregon Task Force*)

Members of Federal agencies, cooperators, and the public expressed a desire to have a **meaningful collaborative process**. Many think that any future effort must be **collaborative** in order to develop consensus around alternatives which will bring together the support of the majority of the public, stakeholders, and cooperating agencies. Many cited the efforts at the local level demonstrating **collaborative**, early engagement of the public as seen in the Siuslaw National Forest, the Oregon Watershed Enhancement Board watershed councils, and non-Governmental organization work in numerous areas of Oregon. The Roseburg BLM Office was cited for beginning a **local collaborative process** to develop forestry projects. Some suggested designing an outreach process that would "go to the stakeholder" first, rather than holding large public meetings to inform the public of a proposed project. (emphasis added) (Pages 25 - 26 of 63, *Western Oregon Task Force*)

Appendix E. Oregon Statewide Goal 4: Forest Lands - OAR 660-015-0000(4) & Case Study for Josephine County (Goal 4 - <http://www.lcd.state.or.us/LCD/docs/goals/goal4.pdf>)

Oregon Statewide Goal 4 defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

"Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources."

A determination whether land falls within the Goal 4 definition of "forest lands" thus requires analysis of:

- (1) whether the land is suitable for commercial forest uses;
- (2) whether the land is necessary to permit forest operations or practices on adjacent or nearby forest lands; and
- (3) whether the forested land is necessary to maintain soil, air, water and fish and wildlife resources.

An affirmative answer to any one of these three inquires means the land is "forest land" protected by Goal 4. *DLCD v. Curry County*, 33 Or LUBA 728 (1997).

Approval of local government's post-acknowledgement plan amendments (PAPAs) requires findings of compliance with Oregon Statewide Goal 4 - Forest Land, including for Josephine County, the Josephine County Comprehensive Plan (JCCP) Goal 11 Policy 3.B.[3], JCCP Goal 11 Policy 3.C., Josephine County Rural Land Development Code (RLDC) 46.050.B.3. and RLDC 46.050.C.

Goal 4 defines forest land to include "adjacent or nearby lands which are necessary to permit forest operations or practices." JCCP Goal 11 Policy 3.B[3] implements this element of Goal 4 and requires findings that the subject property is not "necessary lands." JCCP Goal 11 Policy 3.C., RLDC 46.050.B.3. and RLDC 46.050.C explain what facts and factors are to be considered and how the analysis is to be conducted.

Appendix F. Local Government's Interpretation: ORS 197.829(1)(d)

ODFW v. Josephine County, LUBA 2008-022, 6/18/2009

<http://www.oregon.gov/LUBA/docs/Opinions/2009/06-09/08222.pdf>

Where a local code provision mirrors a state statute, the local officials' interpretation of the local code provision is not entitled to the usual deference for interpretation of local code provisions. Rather, LUBA's standard of review, under ORS 197.829(1)(d), is whether the interpretation is contrary to the state law that the local law implements. That review requires interpretation of state law according to the usual LUBA rules of statutory construction.

Research Question: Do Josephine County PAPAs involving JCCP GOAL 11: Policy 3.C. and RLDC 46.050.B.C.) satisfy the *ODFW v. Josephine County* standard for a local code provision mirroring a state statute? If this connection is made *ODFW v. Josephine County* applies, and LUBA's standard for review would be Oregon Statewide Goal 4: Forest Lands (Appendix D) - OAR 660-015-0000(4) and its applicable OARs rather than the county's interpretation.

Josephine County Comprehensive Plan (JCCP) GOAL 11: Policy 3.C.
(<http://www.co.josephine.or.us/files/gp2005.pdf>)

“C. Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur. . . .” (emphasis added)

Josephine County Rural Development Code (RLDC) 46.050.B.C.
(http://www.co.josephine.or.us/Files/complete_code_2005.pdf)

“C. Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur. . . .” (emphasis added)

GOAL 4: Forest Lands, OAR 660-015-0000(4) (Appendix D)
(<http://www.lcd.state.or.us/LCD/docs/goals/goal4.pdf>)

“Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including **adjacent or nearby lands which are necessary to permit forest operations or practices** and other forested lands that maintain soil, air, water and fish and wildlife resources.” (emphasis added)