

Hannah Elliott



From: Robin Hayakawa <robin@colw.org>
Sent: Wednesday, November 19, 2025 1:09 PM
To: Katie McDonald
Cc: Plan
Subject: COLW Open Record Comments - 217-25-000233-PLNG-01
Attachments: 11.19.25_COLW Settle NFD Comments.pdf

Crook County,

On behalf of Central Oregon LandWatch, please enter the attached comments into the record for the above-referenced land use appeal.

Our address is 2843 NW Lolo Dr. Ste 200, Bend, OR 97703. Thank you.

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Robin Hayakawa
Associate Staff Attorney
[Central Oregon LandWatch](#)
2843 NW Lolo Dr. Ste. 200, Bend, OR 97703
541-647-2930 x807 | robin@colw.org

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November 19, 2025

Filed by email: Katie.McDonald@crookcountyor.gov

Crook County Planning Commission
% Katie McDonald, Assistant Planner
320 NE Court Street
Prineville, OR 97754

Re: Application File No. 217-25-000233-PLNG-01; Settle NFD

Dear Crook County Planning Commission:

Thank you for hearing oral testimony during the November 12, 2025 Planning Commission hearing on the above-referenced appeal. As ever, Central Oregon LandWatch (“LandWatch”) appreciates the opportunity to present evidence to the Planning Commissioners about important land use issues, including the protection of wildlife habitat in Crook County. To that end, LandWatch submits these additional written comments during the open record period following the Planning Commission Hearing.

On November 12, the Applicant submitted an **Amended and Restated Burden of Proof & Area Study**, which “replace[d] the prior version in the application and provide[d] updated analysis.” The Applicant’s November 12 submission also included two additional, alternative PDDE Studies (**Exhibit F1 & Exhibit F2**) in a renewed and original attempt to satisfy the density limitations imposed upon new residential development in General Deer Winter Range by Wildlife Policy 2.

By providing updated alternate PDDEs, the Applicant appears to be taking our concerns about the methodology of their original PDDE (**Exhibit F**), and its impermissible exclusion of Juniper Acres, seriously. For the reasons below, however, Applicant’s alternative study areas also rely on size and methodology that is inconsistent with the purpose of Crook County Comprehensive Plan Wildlife Policy 2 and therefore cannot be used to satisfy CCC 18.16.040(7). As a result, LandWatch continues to oppose approval of the proposed NFD in General Deer Winter Range.

I. Exhibit F Impermissibly Excludes 2,973 acres of EFU-JA Land



On November 11, Central Oregon LandWatch provided written comments disputing the Applicant's use of a PDDE (**Exhibit F**) that excludes 2,973 "non-resource acres" located in the EFU-JA zone and the associated residential development therein. We rely on those comments and respectfully request that Planning Commissioners review our November 11 submittal. LandWatch strongly opposes any approval that relies on **Exhibit F** to demonstrate compliance with CCC 18.16.040(7) and the density limitations imposed by Wildlife Policy 2.

II. Exhibit F1 – PDDE Study (3-Mile Study Area) substantially distorts dwelling density by including approximately 21,447 acres and analyzing "effected taxlots"

CCC 18.16.040(7) provides:

(7) All new nonfarm dwellings on existing parcels within the deer and elk winter ranges must meet the residential density limitations found in Wildlife Policy 2 of the Crook County comprehensive plan. Compliance with the residential density limitations may be demonstrated by calculating a one-mile radius (or 2,000-acre) study area. An applicant may use a different study area size or shape to demonstrate compliance with Wildlife Policy 2, provided the methodology and size of the study area are explained and are found to be consistent with the purpose of Crook County comprehensive plan Wildlife Policy 2.

As a threshold matter, CCC 18.16.040(7) provides that new nonfarm dwellings in deer and elk winter ranges *must* meet the residential density limitations (1 dwelling per 80 acres) found in Wildlife Policy 2. Compliance with the density limitations can be demonstrated by calculating a "one-mile radius (or 2,000 acre) study area." Different study area sizes or shapes *may* be used to demonstrate compliance with Wildlife Policy 2, so long as "the methodology and size of the study area... are found to be consistent with the purpose of Crook County comprehensive plan Wildlife Policy 2."

As noted in our previous submittals, the Purpose of Wildlife Policy 2 is to limit the negative economic, social, environmental, and energy consequences of allowing conflicting uses in big game range. According to the Crook County Comprehensive Plan, "[t]he most significant conflicting use to big game habitat in Crook County is an increase in density of residential dwellings in the habitat area." CCCP at PDF p. 154. Therefore,





the purpose of Wildlife Policy 2 is to protect big game habitat by limiting the density of residential dwellings in the habitat area. In this case, neither the size, nor the methodology of the study area provided in **Exhibit F1** is consistent with the purpose of Wildlife Policy 2.

In terms of size, **Exhibit F1 – PDDE Study (3-Mile Study Area)** is described as a “3-Mile Study Area” and contains approximately 21,446.45 acres. This study area is more than ten times larger than the 2,000-acre or one-mile radius study area that CCC 18.16.040(7) calls for. The Applicant does not explain why such an expansive study area is consistent with the purpose of Wildlife Policy 2.

In terms of methodology, **Exhibit F1 – PDDE Study (3-Mile Study Area)** contains “effected taxlots,” meaning that the shape of the study area is angular, jagged, and many thousands of acres larger than what is actually contained in a circle with a three-mile radius.



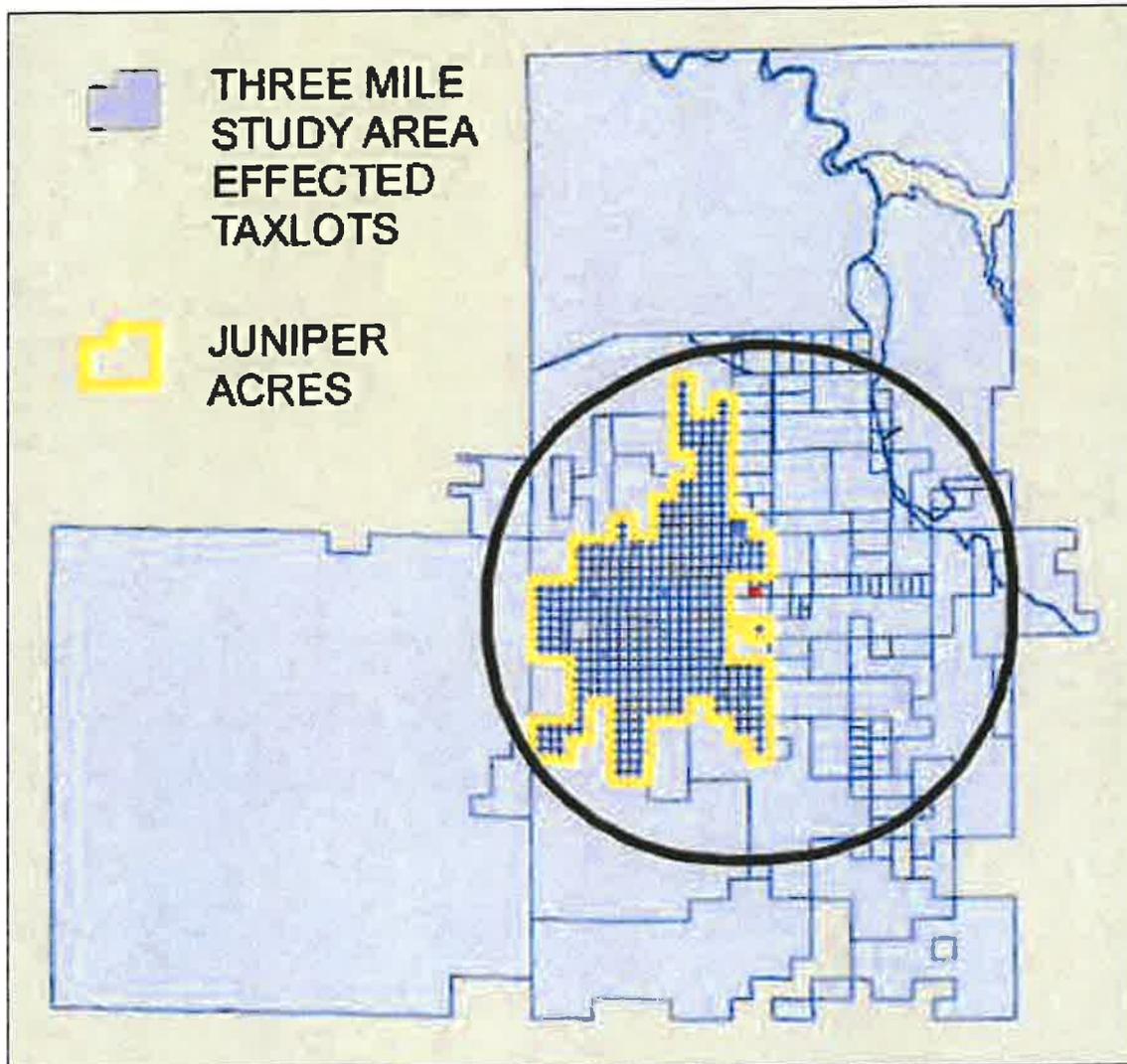


Figure 1. Inset of Exhibit F1 showing the shape of the study area analyzed. Amended Burden of Proof at p. 27.

Using a methodology that analyzes “effected taxlots” rather than the simple area within a three-mile radius circle of the subject property defies common sense. Moreover, it conflicts with the purpose of Wildlife Policy 2, which seeks to limit new residential dwelling in proximity to deer habitat. In any case, again, the Applicant fails to explain how such methodology is consistent with the purpose of Wildlife Policy 2.





III. Exhibit F2 – PDDE Study (1-Mile Study Area) substantially distorts dwelling density by including approximately 4,533 acres and analyzing “effected taxlots”

Exhibit F2 – PDDE Study (1-Mile Study Area) is described as a “1-Mile Study Area” and contains approximately 4,533 acres. **Exhibit F2** does include EFU-JA zoned acreage within its dwelling density calculation. Inclusion of Juniper Acres is mandatory under CCC 18.112.051, which makes Wildlife Policy 2 applicable to EFU-JA.

Nevertheless, **Exhibit F2** suffers from the same defects as **Exhibit F1**. Namely, a study area that includes an additional 2,533 acres beyond what CCC 18.16.040(7) recommends, and an analysis of “effected taxlots” rather than simply measuring the dwelling density within a one-mile radius of the subject property. The result is a PDDE that is more than twice the size of a typical one-mile radius (or 2,000 acre) study area, and again, a shape that is characterized by jagged, squared-off edges.



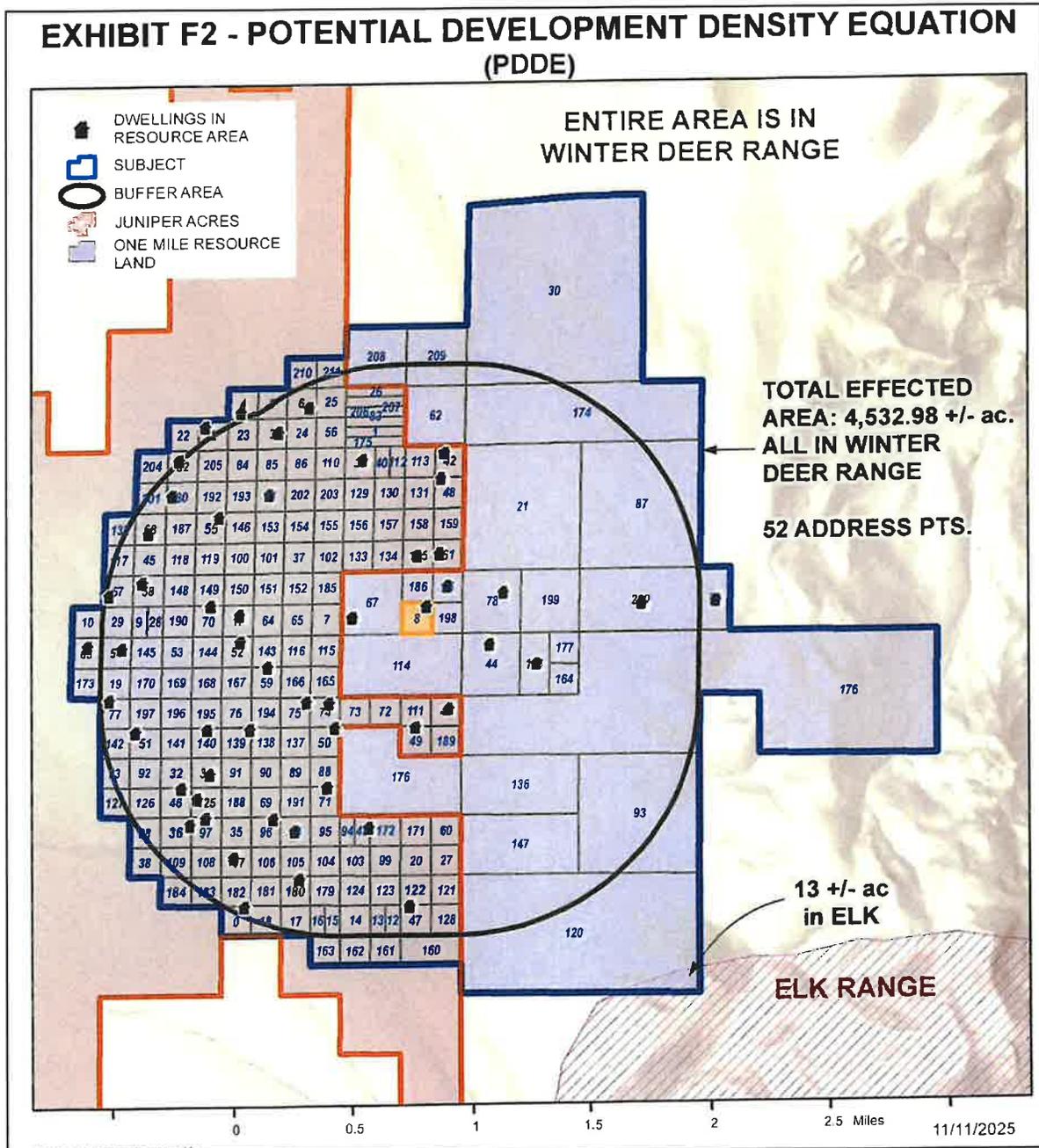


Figure 2. Exhibit F2 PDDE study area. Amended Burden of Proof at p. 30.

Although it is required by CCC 18.16.040(7), the Applicant does not explain why the oversized and overinclusive study area analyzed in Exhibit F2 is consistent with the purpose of Wildlife Policy 2.





IV. Conclusion & Relief Requested

The Crook County Comprehensive Plan, Crook County Code, and common sense dictate that the dwelling density limitations of Wildlife Policy 2 apply to all resource zones, including EFU-JA. Because **Exhibit F** is undersized and relies on methodology excluding resource land, it is not consistent with the purpose of Wildlife Policy 2, and cannot show compliance with CCC 18.16.040(7). Although **Exhibit F1** and **Exhibit F2** include EFU-JA, they suffer from other methodological issues. **Exhibit F1** analyzes over 21,000 acres and relies on a study area ten times the size of what is provided for in Crook County Code. **Exhibit F2** claims to be a “One Mile Study Area,” but actually analyzes an area of 4,533 acres, not 2,000 acres. In addition, both **Exhibit F1** and **Exhibit F2** include acreage in “effected taxlots” which stretch far beyond a one-mile radius of the subject property. For the above reasons, the various PDDEs provided by the Applicant are inconsistent with the purpose of Wildlife Policy 2.

We respectfully urge the Planning Commission to enforce the mandatory code provisions that protect big game habitat and reverse the staff decision.

Thank you for your consideration and service to Crook County.

Sincerely,

/s/ Robin Hayakawa

Associate Staff Attorney

Central Oregon LandWatch

2843 NW Lolo Drive Ste 200

Bend, OR 97703

robin@colw.org

