

INDEXED

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

90-523

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED
YAMHILL COUNTY, OREGON
1990 JUL 31 PM 2:30
CHARLES STERN
COUNTY CLERK
DEPUTY

In the Matter of the Adoption)
of a Goal 5 Program for Walker)
Flat, Including the Adoption)
of Overlay Maps to the Offi-)
cial County Zoning Map, the)
Adoption of Amendments to the)
Revised Goals and Policies)
of the Yamhill County Compre-)
hensive Land Use Plan, Ordi-)
nance No. 206, and the Yamhill)
County Zoning Ordinance, No.)
310, 1982, as amended, and)
Declaring an Emergency)

ORDINANCE NO. 511

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board), sat for the transaction of county business in special session on July 25, 1990, Commissioners David E. Bishop, Dennis L. Goecks, and Ted Lopuszynski being present.

WHEREAS, ORS 197.640 through 197.650 require local periodic review of comprehensive plans and land use regulations to ensure they are in compliance with the statewide land use planning goals and are coordinated with plans and programs of state agencies; and

WHEREAS, following submittal of an amended final local periodic review order in April of 1987, the Land Conservation and Development Commission issued order 87-RA-306 (12/24/87) and order 89-RA-556 (7/21/89) requiring the county to complete the Goal 5 process for an area known as "Walker Flat" or "Walker Creek"; and

WHEREAS, in part with a grant from the Department of Land Conservation and Development (DLCD), the county held hearings on this matter on 4/5/90, 4/19/90, 5/17/90, 6/7/90, 6/13/90, and 7/25/90 to gather new information and, through its consultant, conducted extensive research on existing data regarding the resource; and

WHEREAS, this ordinance conforms to the recommendations of the Planning Commission regarding Walker Flat; and

WHEREAS, the Board has determined that adoption of the ordinance provisions in the attached exhibits "A" and "B" and overlay maps attached as Exhibits "D" and "E" would be in the best interest of the citizens of Yamhill County, will fully satisfy the

ORDINANCE NO. 511

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requirements of the LCDC compliance orders referenced above relating to Walker Flat, and are supported by the findings and analysis in the attached Exhibit "C"; NOW THEREFORE,

IT IS HEREBY ORDAINED BY THE YAMHILL COUNTY BOARD OF COMMISSIONERS as follows:

Section 1. The Revised Goals and Policies of the Yamhill County Comprehensive Land Use Plan, Ordinance 206, is amended as specified in the attached Exhibit "A", which is by reference made a part of this ordinance. Materials and language contained in brackets are hereby deleted from Ordinance 206, and materials underlined are added to that ordinance. Those portions of Ordinance 206 not specifically amended herein shall remain in full force and effect.

Section 2. Yamhill County Zoning Ordinance No. 310, 1982, as amended, is further amended as specified in the attached Exhibit "B", which is by reference made a part of this ordinance.

Section 3. The findings and analysis in the attached Exhibit "C" are hereby adopted in support of the county's Goal 5 - Walker Flat program established by this ordinance. Exhibit "C" is by this reference made a part of the county's comprehensive land use plan.

Section 4. The map attached as Exhibit "D" and labeled "McMinnville Watershed Overlay", is made part of this ordinance by reference and is adopted as an overlay map to the Official Zoning Map of Yamhill County. Land use actions occurring within the designated watershed area shall be subject to the provisions of Section 905 of the Yamhill County Zoning Ordinance, No. 310, 1982, as amended, in addition to any other applicable provisions.

Section 5. The map attached as Exhibit "E" and labeled "State Scenic Waterways" is made part of this ordinance by reference and is adopted as an overlay map to the Official Zoning Map of Yamhill County. Land use actions occurring within the designated scenic waterway area shall be subject to the provisions of Section 906 of the Yamhill County Zoning Ordinance, No. 310, 1981, as amended, in addition to any other applicable provisions. If there is any discrepancy between the attached scenic waterway overlay map and any scenic waterway map developed for the same area by the State Department of Parks and Recreation, the State map shall be controlling, and the Planning Director is authorized to conform the overlay map to the State-provided map.

Section 6. If any section or subsection contained in the attached Exhibits "A" and "B" of this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the remainder of this ordinance shall continue in full force and

effect, unless those parts, standing alone, are incapable of being executed in accordance with legislative intent.

Section 7. This ordinance being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall become effective on passage.

DONE at McMinnville, Oregon this 25th day of July, 1990.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

Charles Stern
County Clerk

(not available for signature)

Chairman DAVID E. BISHOP

By Elaine Pearce
Deputy CLARINE PEARCE

Commissioner DENNIS L. GOECKS

FORM APPROVED BY

TIMOTHY S. SADLO
Assistant County Counsel

Commissioner TED LOPUSZYNSKI

EXHIBIT "A"

The Yamhill County Comprehensive Plan Revised Goals and Policies, Ordinance No. 206, is amended as follows. New language is underlined and deleted language is bracketed.

SECTION II

THE LAND AND WATER

C. WATER RESOURCES

SUMMARY

Efficient use of county water resources is a benefit to all citizens, as water is an essential part of the liveability of an area.

GOAL STATEMENT

1. To conserve and to manage efficiently our water resources in order to sustain and enhance the quantity and quality of flows for all consumptive and non-consumptive uses, and to abate flood, erosion, and sedimentation problems.

POLICIES

a. Yamhill County will cooperate with federal and state agencies, the cities of the county, and the local soil and water conservation district to identify, conserve and develop water resources on a long-range, multiple-use basis in response to need, with full consideration given to the benefits, costs, potential uses and carrying capacity of the resource.

b. Yamhill County will continue participation in the FEMA National Flood Insurance Program to prevent flood-caused losses of life and property, by identifying and mapping the floodplains and floodways of the county, restricting land use within the floodplains to those which are open and undeveloped, including forestry, agriculture, wildlife habitat, and recreational areas and encouraging improved watershed management practices and the construction of watershed storage projects for flood control.

c. Yamhill County will support the establishment of minimum stream flows to ensure the continuance of beneficial in-stream uses.

d. Yamhill County will support Soil and Water Conservation District efforts to aid in erosion, sediment and run-off control. (amend. by Ord. 471, 12/28/88).

e. Yamhill County will coordinate with and support city, regional, state and federal water-quality plans and programs so that high water quality will be achieved in the cities of the county, that sound watershed management practices will take place, and that improved treatment of point and nonpoint sources of water pollution will be achieved. (amend. by Ord. 233, 4/9/80).

f. Yamhill County will continue to support the water well monitoring programs of the U.S. Geological Survey and State Department of Water Resources in order to better manage the county's groundwater resources.

g. Yamhill County will encourage a study by the U.S. Geological Survey of major groundwater recharge areas in the county.

h. Yamhill County will encourage the prudent use of county resources and support the development of water conservation techniques and practices.

i. Where conflicting uses are identified or intended, in specific proposals or programs, the economic, social, environmental and energy consequences of the conflicting uses shall be determined and used as a basis for decision-making.

j. It is the policy of Yamhill County to protect riparian vegetation from damage that may result from land use applications for development that is otherwise permitted outright or conditionally under county zoning regulations. To achieve this goal, Yamhill County will review land use applications for development in riparian areas in an effort to mitigate or prevent damage to riparian vegetation that might result from the development. For purposes of this policy, "riparian areas" refers to areas within 100 feet measured horizontally from the ordinary high water line of streams identified as "Fish Habitat" in the comprehensive plan inventory (Natural Resource Conservation Plan, Yamhill County, Oregon, May 1979 - U.S.D.A. - Soil Conservation Service), that are not regulated under the Forest Practices Act. (amend. by Ord. 471, 12/28/88).

k. It is county policy that land use management practices and nonstructural solutions to problems of erosion and flooding are preferred to structural solutions. Water erosion control structures, including riprap and fill, should be reviewed by the appropriate state permitting authority to insure that they are necessary, are designed to incorporate

vegetation where possible, and designed to minimize adverse impacts on water currents, erosion and accretion patterns. (amend. by Ord. 471, 12/28/88).

l. Yamhill County will rely upon the Forest Practices Act and regulations adopted under that Act to ensure protection of surface water on non-federal forest lands from forest activities that negatively impact surface waters. (amend. by Ord. 471, 12/28/88).

m. Yamhill County will coordinate with the cities in the county to identify municipal watershed areas as an overlay to the Official Zoning Map. Within the designated Watershed Overlay, the county will provide notice of proposed land use actions to the affected city. The affected city shall have an opportunity to forward a recommendation on the proposed land use action prior to a final county decision, and may propose specific conditions to protect water quality.

[m. Yamhill County will complete the Goal 5 process for Walker Creek no later than July of 1989.]

n. Yamhill County will complete the Goal 5 process for wetlands in the county, other than Walker Creek, no later than the next required periodic review of the county's land use plan and regulations. (amend. by Ord. 471, 12/28/88).

G. ECOLOGICALLY AND SCIENTIFICALLY SIGNIFICANT NATURAL AREAS

SUMMARY

An inventory of ecologically and scientifically significant natural areas in Yamhill County was completed by the Nature Conservancy in 1977. In 1988, the Oregon Natural Heritage Data Base of the Nature Conservancy completed an update of Yamhill County natural areas that included a review of the significance of those sites listed in the 1977 inventory and investigation of additional sites.

GOAL STATEMENT

To protect land and water areas that have substantially retained their natural character, and land and water areas that, although altered in character, are important as habitat for plant, animal or marine life, for the study of natural historical, scientific, or paleontological features or for the appreciation of their natural features.

POLICIES

a. Yamhill County's Goal 5 analysis of information on Yamhill County natural areas, provided by the Oregon Natural Heritage Data Base, is included in an attachment to the county's Revised Local Periodic Review Order of 1988-89 and is a data base supplement adopted as background information to the Comprehensive Plan, by reference.

b. An area designated as "Walker Flat" has been identified by the Nature Conservancy as a significant natural area. For reasons set forth in the Walker Flat Goal 5 analysis developed by the county in 1990, Walker Flat is not included on the Plan inventory as an ecologically or scientifically significant natural area. [above-noted attachment to Yamhill County's Revised Periodic Review Order, the county shall complete the Goal 5 process regarding Walker Flat no later than July of 1989.] (amend. by Ord. 471, 12/28/88).

J. POTENTIAL AND APPROVED FEDERAL
WILD AND SCENIC WATERWAYS AND
STATE SCENIC WATERWAYS

SUMMARY

The Statewide Comprehensive Outdoor Recreation Plan (SCORP) (1983) developed by the State Parks and Recreation Division of the Oregon Department of Transportation, lists certain Yamhill County River segments as possessing "sufficient resource values to include them in an inventory of potential study for future designation into either the State Scenic Waterways System or the National Wild and Scenic Rivers System." (P.47). Other rivers and streams may be designated for protection by the state or federal government in the future.

GOAL STATEMENT

1. To protect approved federal wild and scenic waterways and state scenic waterways, and to coordinate with state and federal agencies studying potential federal wild and scenic waterways and state scenic waterways.

POLICIES

a. The following river segments are identified as potential scenic waterways:

1. Willamette River (federal status) from southern county border downstream approximately 26 miles from Salem.

2. Nestucca River [state and] (federal status) from the lower end of Old Meadow Lake to county border.
3. Nestucca (Little) River (federal status) entire length within Yamhill County.

Zoning along the above-listed segment of the Willamette is entirely EF-40 and AF-20, both resource zone designations. The segment of the Nestucca in Yamhill County is located entirely within the F-40 district or in the Suislaw National Forest. Yamhill County recognizes and designates the above-listed river segments as significant Goal 5 resources.

b. Yamhill County shall coordinate with state and federal agencies in applying the Statewide Planning Goal 5 rule process in the event a study is made for designation of any of the above-listed river segments as a federal, wild and scenic river and/or State Scenic Waterway.

c. The Nestucca River (from immediately below the McGuire Dam downstream to its confluence with East Creek) and Walker Creek (from its source to the confluence with the Nestucca River) is designated a State Scenic Waterway. So long as it retains its state designation, the county recognizes Walker Creek, and that portion of the Nestucca River within Yamhill County, as a significant Goal 5 resource. It is the county's intent to remove the designation of Walker Creek as a significant Goal 5 resource if the state scenic waterway designation is removed in the future. The county recognizes that the State Parks and Recreation Department has the lead role in the development of management plans and review of land use activities adjacent to designated state scenic waterways. The county will coordinate and cooperate with the State Parks and Recreation Department and property owners within the scenic waterway boundary to ensure compatibility and consistency of regulatory controls. [Yamhill County shall comply fully with all applicable regulations of the State Scenic Waterway Program of the Oregon State Parks and Recreation Division found in OAR chapter 736, Division 40.]

EXHIBIT "B"

Yamhill County Zoning Ordinance No. 310, 1982, as amended, is further amended as follows. All language contained in this exhibit is new.

SECTION 905WATERSHED OVERLAY DISTRICT

905.01 Purpose. The purpose of the Watershed Overlay District is to identify municipal watershed areas as an overlay to the Official County Zoning Map. Within the designated Watershed Overlay, Yamhill County will provide the respective city an opportunity to participate in land use actions to be taken by the county.

905.02 Area of Application. The boundaries of the Watershed Overlay District shall be defined in coordination with individual cities and potentially affected property owners. Yamhill County will not apply the Watershed Overlay District unless specifically requested by a city. The boundaries of the Watershed Overlay District will be defined to follow established topographic and drainage patterns.

905.03 Allowed Uses. Uses within a designated Watershed Overlay District shall be allowed as provided in the underlying zone, subject to the notification and review procedure applicable to the proposed use. Uses and activities governed by the provisions of the Forest Practices Act are exempt from the Watershed Overlay District.

905.04 Review Procedure. Prior to final action, land use actions within a designated Watershed Overlay District shall be forwarded to the respective city for review and recommendation. Land use actions shall include, but not be limited to, the following:

- A. Plan Map Amendments
- B. Zone Changes
- C. Conditional Use Permits
- D. Subdivisions and Partitions
- E. Public Improvement Projects

905.05 Review Criteria. In addition to the review criteria established in the underlying zone and other sections of the zoning ordinance, Yamhill County shall consider the potential effect of land use actions on water quality values within designated watershed areas. Conditions may be imposed on development permits

to protect water quality.

SECTION 906

SCENIC WATERWAY OVERLAY DISTRICT

906.1 **Purpose.** The purpose of the Scenic Waterway Overlay District is to reflect the designation of Oregon Scenic Waterways on the Official County Zoning Map. Additionally, the Overlay describes the review process administered by the State Parks and Recreation Department under the Scenic Waterways Act (ORS 390.805-390.925).

906.2 **Area of Application.** The Scenic Waterway Overlay District applies only to river segments included within the Oregon Scenic Waterways system. Under the provisions of Oregon Revised Statutes, a scenic waterway includes the river and its shoreline and all land and tributaries within one-quarter mile of its banks. The boundaries of the Scenic River Overlay to the Yamhill County Zoning Map are defined to correlate with the boundaries established by the State Parks and Recreation Department.

906.3 **Prohibited Uses.** To protect the free-flowing character of designated rivers for fish, wildlife and recreation, the Scenic Waterways Act specifically prohibits placer mining and construction of dams, reservoirs, or impoundments within scenic waterways. This statutory prohibition takes precedence over the permitted and conditional uses listed in the underlying zone.

906.4 **Allowed Uses.** Uses that are not specifically prohibited under the Scenic Waterways Act are allowed as provided in the underlying zone, subject to a notification and review procedure administered by the State Parks and Recreation Department.

906.5 **Review Procedure.**

A. Property owners wishing to build roads or houses, develop mines, cut timber or make other proposed changes within one-quarter mile of each side of a designated scenic waterway must notify the State Parks and Recreation Department in advance. Within one year of notification, State Parks and Recreation must decide if a proposed change will affect the scenic beauty of the river. The Scenic Waterways Act allows the Parks and Recreation Commission to purchase land if impairment of a river's scenic qualities cannot be prevented by any other means.

B. Yamhill County will not accept a land use application for a use within the Scenic Waterway Overlay District until the State Parks Department notification and review process is completed.

EXHIBIT "C"
WALKER FLAT GOAL 5 REPORT
FINDINGS AND CONCLUSIONS

FILM 50 PAGE 1785

I. INTRODUCTION

This exhibit sets forth the findings and conclusions of the Yamhill County Board of Commissioners relative to the Goal 5 analysis of Walker Flat.

In the June 30, 1989 DLCD Director's Report on Yamhill County's Periodic Review, DLCD staff indicated that Yamhill County had satisfied most of the requirements of periodic review. However, LCDC did not accept the County's request to defer the Goal 5 process on the Walker Flat site. Given the existing base of information on resources at the site, and given objections to delay raised by 1000 Friends of Oregon, Oregon Natural Resources Council, Friends of Walker Creek, etc., LCDC required that Yamhill County complete the Goal 5 process for Walker Flat and submit a final periodic review order by June 1, 1990 (LCDC Order 89-RA-556). Yamhill County subsequently received an extension until July 31, 1990 for submittal of the final periodic review order for Walker Flat.

Yamhill County received a grant from DLCD to assist with the Goal 5 work. The County published a Request for Proposals and contracted with Dorman, White & Company in February, 1990 to provide staff support for the Goal 5 analysis. The consultant's contract did not provide for new on-site technical studies or inventories. An extensive amount of information is available on the Walker Flat and was assembled to provide the basis for the Goal 5 analysis. *Appendix A* provides a listing of reports, studies and letters which were entered into the record of proceedings for the Goal 5 analysis and form the technical base for the findings and conclusions of the Board.

II. PROCESS

In order to complete the Goal 5 analysis, a joint hearing schedule was established for coordinated Planning Commission/Board of Commissioners review. Notice of each public hearing was provided to all participants in the process at least ten (10) days prior to each public hearing.

- o The first hearing held *April 5, 1990* provided an opportunity for all parties to introduce evidence and testimony on the location, quantity and quality (significance) of Goal 5 resources at the Walker Flat site.

- o The record for submittal of additional written evidence on the issue of Goal 5 resource significance was closed at 5:00 p.m. on *April 13, 1990*.
- o Based on the evidence submitted by the closing date of April 13, 1990, a second public hearing was held on *April 19, 1990* to provide an opportunity for rebuttal testimony on the issue of resource significance. At the close of the second public hearing, the Board of Commissioners concluded that the evidence and testimony presented supported designation of the Walker Flat site as a "significant" Goal 5 resource under the following categories: (1) municipal watershed; and (2) designated state scenic waterway.
- o A third public hearing was held on *May 17, 1990* to provide an opportunity for parties to submit evidence and testimony on potential conflicting uses of the Walker Flat site and discuss the long-term environmental, social, economic and energy (ESEE) consequences of protecting the resource site (watershed and scenic waterway) or allowing the conflicting use(s).
- o The fourth public hearing held on *June 7, 1990* provided an opportunity for rebuttal testimony on the issue of conflicting uses and long-term consequences. A staff recommendation relative to a "program to achieve Goal 5" was also presented at this hearing before the Planning Commission.
- o The Board of Commissioners conducted a fifth hearing on *June 13, 1990* to review the plan policies and ordinance provisions recommended by the Planning Commission to complete the Goal 5 program for Walker Flat.

In accordance with the administrative rule on periodic review (Chapter 660, Division 19), the Board of Commissioners conducted a final public hearing on *July 25, 1990* to adopt a Goal 5 Program for Walker Flat, including the adoption of amendments to the policies of the Yamhill County Comprehensive Plan (Exhibit "A"), the adoption of amendments to the Yamhill County Zoning Ordinance (Exhibit "B"), adoption of findings and conclusions (Exhibit "C") and adoption of Overlay Maps to the Official County Zoning Map (Exhibits "D" and "E"). Copies of proposed amendments, exhibits and findings were provided to all participants in the process 20 days in advance of the final hearing.

A list of all parties who received individual notice of each of the public hearings and the packet of Exhibits A, B, C, D & E to Ordinance 511 follows:

1. Judith Armstrong
Friends of Walker Creek

2. Wanda McAlister
3. George Williams
4. Walter Yungen
5. Native Plant Society of Oregon
6. The Wetlands Conservancy
7. Salem Audubon Society
8. Audubon Society of Portland
9. 1000 Friends of Oregon
10. Ruth Yungen
11. Jack Corbett
12. David Van Bergen
13. McMinnville Water & Light Department
14. Willamette Industries
15. Bureau of Land Management, Willamette District Office
16. Wirth Farms
17. Ken Bierly, Division of State Lands
18. Doug Taylor, Oregon Dept. of Fish & Wildlife
19. Doug Christy, Oregon Natural Heritage Data Base
20. Rosemary Mannix, Oregon Dept. of Forestry
21. John Lilly, Oregon State Parks and Recreation Department
22. Bob Rindy, Dept. of Land Conservation & Development

Yamhill County clearly went beyond the requirements of notification typically required for a legislative hearing process. Individual notice was provided in advance of each public hearing and the notice specifically described the focus of the hearing and whether or not new evidence would be received.

III. STATEWIDE GOAL 5 AND GOAL 5 ADMINISTRATIVE RULE

Statewide Goal 5 and its associated administrative rule (OAR 660-16-000) provide the framework for Yamhill County's evaluation of Walker Flat. Goal 5 addresses open spaces, scenic and historic areas, and natural resources as follows:

GOAL: To conserve open space and protect natural and scenic resources.

Programs shall be provided that will (1) insure open space, (2) protect scenic and historic areas and natural resources for future generations, and (3) promote healthy and

visually attractive environments in harmony with the natural landscape character. The location, quality and quantity of the following resources shall be inventoried:

- a. Land needed or desirable for open space;
- b. Mineral and aggregate resources;
- c. Energy sources;
- d. Fish and wildlife areas and habitats;
- e. Ecologically and scientifically significant natural areas, including desert areas;
- f. Outstanding scenic views and sites;
- g. Water areas, wetlands, watersheds and groundwater resources;
- h. Wilderness areas;
- i. Historic areas, sites, structures and objects;
- j. Cultural areas;
- k. Potential and approved Oregon recreational trails;
- l. Potential and approved federal wild and scenic waterways and state scenic waterways.

Where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. Where conflicting uses have been identified the economic, social, environmental and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.

The Goal 5 administrative rule outlines a series of planning steps to:

- o inventory listed Goal 5 resources by location, quantity and quality
- o evaluate the significance of each inventoried resource site
- o if the resource is significant, identify potential conflicting uses of the resource site
- o evaluate the long-term consequences of protecting the resource site, allowing the conflicting use, or a combination of the two.

After long-term consequences are identified and evaluated, a decision is made by the local jurisdiction as to what level of resource protection would be in the public interest for each Goal 5 resource and site identified. Plan policies and/or land use controls are then developed to implement the decision.

Although Goal 5 provides a process to conserve open space and protect natural and scenic resources, the process is essentially a subjective "balancing" and not purely scientific or objective. No specific standards are provided in the Goal or administrative rule to describe what constitutes a "significant" Goal 5 resource. However, the administrative rule states that the determination of *quality* requires some consideration of the resource site's relative value, as compared to other examples of the same resource in at least the jurisdiction itself.

The Goal 5 administrative rule also provides an opportunity for local jurisdictions to delay the Goal 5 process when some information is available indicating the possible existence of a resource site, but that information is not adequate to identify with particularity the location, quality and quantity of the resource site. With the exception of the Walker Flat site, LCDC has allowed Yamhill County to delay the Goal 5 process with respect to wetlands until the next periodic review. Therefore, the issue of significance of the Walker Flat wetland cannot be assessed in the context of a county-wide inventory and evaluation of wetland resources.

IV. CONTEXT FOR GOAL 5 REVIEW

For the past decade, the Walker Flat site has been studied intensively as a potential municipal water reservoir for the City of McMinnville. Two existing City of McMinnville reservoirs (Haskins and McGuire) are located in proximity to the proposed Walker Flat reservoir.

The City of McMinnville Water & Light Department owns the land area which is the subject of this Goal 5 review (including portions of Sections 16, 21 & 22 of Township 3 South, Range 6 West). Adjacent lands are under the ownership of Willamette Industries and the Bureau of Land Management (BLM).

A. Relationship of Goal 5 to the Forest Practices Act

The Walker Flat site and adjacent lands are designated for Commercial Forestry use on the Yamhill County Comprehensive Plan Map and the private lands are zoned F-40 (Forestry District, 40 acre minimum). Yamhill County does not apply zoning to BLM lands.

The Oregon Legislature revised the Forest Practices Act in 1987, giving the Board and Department of Forestry new responsibilities and clarifying state and county roles relative to regulation of commercial forest lands. The adoption of House Bill 3396 voided all local land use authority over forest practices. Additionally, the passage of House Bill 3396 prohibits county regulation of forest operations to protect Goal 5 values.

As outlined in ORS 527.710 "...the Board of Forestry shall collect and analyze the best available information and establish inventories of the following site specific resources:

- o threatened or endangered fish and wildlife species;
- o sensitive bird nesting, roosting, and watering sites;
- o biological sites that are ecologically and scientifically significant; and
- o significant wetlands."

After the collection and analysis of the available information, the Board of Forestry is to establish official "inventories" of those resource sites which need protection.

In summary, the amendments to the Forest Practices Act and charge to the Board of Forestry to inventory and protect four specific categories of resources is essentially a transfer of responsibilities from the counties to the Department of Forestry. However, staff at DLCD have required that Yamhill County proceed through the Goal 5 process at the Walker Flat site because there are other Goal 5 resources which will not be included in the Board of Forestry inventories and categories of uses other than forest practices which are allowed in the F-40 District.

B. Relationship of Goal 5 to Management Plans for Federal Land

The portion of the Walker Flat site which is under private ownership (McMinnville Water & Light) is the focus of this Goal 5 review. BLM activities on federal land adjacent to Walker Flat are governed primarily by the National Environmental Policy Act (NEPA).

Construction of a municipal reservoir at the Walker Flat site requires a right-of-way permit from BLM to inundate federal land adjacent to the McMinnville Water & Light Department ownership. Therefore, BLM has been the lead federal agency responsible

for consolidating and coordinating the environmental review of the project to date. An Environmental Assessment was distributed in September, 1983 (Exhibit 35). In July, 1984, Part I of a mitigation plan agreement for wetlands, wildlife, and potential cultural resource impacts was signed by the Bureau of Land Management, U.S. Fish & Wildlife Service, Oregon Dept. of Fish & Wildlife and McMinnville Water & Light Department (Exhibit 13). Part 2 of the final mitigation plan for fisheries impacts was delayed until in-stream flow studies were completed.

The discovery of the presence of Sidalcea nelsoniana at the site in 1984 resulted in a deferral of a BLM decision on the right-of-way permit pending five years of monitoring and studies of the plant. Additionally, BLM determined that an Environmental Impact Statement would be required before proceeding with the project.

Public meetings have been conducted to establish the scope of a full Environmental Impact Statement (EIS) for the project (Exhibits 34, 65 & 66). McMinnville Water & Light Department and the BLM have not proceeded with the preparation of an EIS. The majority of the documents in the record pertain to the BLM environmental review process for the proposed reservoir. *See Appendix.*

V. ASSESSMENT OF WALKER FLAT GOAL 5 SIGNIFICANCE

The following findings and conclusions reflect the Board of Commissioners assessment of the Walker Flat site relative to the location, quantity and quality of Goal 5 resources, based on the existing evidence in the record. Where possible, the assessment of quality or "significance" of a particular Goal 5 resource is placed in the context of other resource sites in Yamhill County.

a. Land needed or desirable for open space

Findings: Yamhill County has not completed a site-specific inventory of land needed or desirable for open space. Additionally, no new evidence has been submitted to support designation of Walker Flat as an open space resource on the County Plan. Therefore, the Board concludes that the Walker Flat site is not significant as an open space resource.

b. Mineral and aggregate resources

Findings: A county-wide inventory of mineral aggregate resource sites was completed in the early 1980's. The Walker Flat site is not identified as a significant mineral aggregate resource in the existing inventory. Aggregate mining associated with road construction for timber activities in the F-40 District is governed by the Forest Practices Act (FPA) and is exempt from county land use regulation. Therefore, the Board concludes that the Walker Flat site is not a significant mineral/aggregate resource.

c. Energy sources

Findings: Yamhill County has not completed a site-specific inventory of energy sources. Original plans for the proposed Walker Creek dam included provisions for hydroelectric generation (Exhibit 14). Following additional studies, the hydro features were subsequently removed from the project.

The Northwest Power Planning Council is considering a petition by the Oregon Dept. of Fish & Wildlife to classify Walker Creek as a "protected" reach. If approved, the designation would not preclude the municipal water supply project, but would be a barrier to installing a hydro component (Exhibit 108). Based on the existing information in the record, the Board concludes that Walker Flat site is not a "significant" energy source.

d. Fish and wildlife areas and habitat

Findings: Habitat values of the Walker Flat site are associated with the upland Douglas-fir forest and diverse wetlands traversed by Walker Creek and associated drainageways. Walker Flat is included within the Sensitive Winter Range for big game designated on the Yamhill County Plan Map. Approximately 147,500 acres of Yamhill County are included within the Sensitive Winter Range boundary (Exhibit 42, p. 20). The Sensitive Winter Range boundary essentially follows the commercial forestry areas of the Coast Range and provides for restriction of development densities to protect commercial forestry resources and associated big game habitat values.

As noted in Exhibit 8, the basic habitat requirements of big game include food, water, cover and freedom from harassment. These habitat requirements are common

throughout Yamhill County and the Coast Range where logging practices or fires have resulted in mixed stands of mature forest, brushlands, and clear cuttings. The most important of these habitat areas are those located below 2,000 elevation. Deer, elk and other animals concentrate in these lower elevation areas for feeding during the critical winter months.

In addition to the upland forest in the Walker Creek basin, the vegetation associated with the Walker Creek drainage forms distinct wetland vegetation communities. Exhibit 35 groups wetland vegetation types in Walker Flat into three categories: grass-sedge meadow, willow-spirea shrub thicket, and red alder riparian forest. Regional trend estimates prepared by BLM in 1981 suggest that second growth conifer habitat types are increasing in northwestern Oregon, riparian areas are stable, and nonforested wetlands are declining (Exhibit 35, p. 3-20). More recent trend information has not been provided in the record.

The BLM Environmental Assessment also identified the abundance of snags throughout the wetland areas and the adjacent upland forest as another significant aspect of wildlife habitat values in the Walker Flat area (Exhibit 35, p. 3-20).

Walker Creek is the uppermost tributary to the Nestucca River. According to the Heintz Report (Exhibit 8), large runs of summer steelhead trout enter the Nestucca River, but only a few adults migrate into Yamhill County to spawn below McGuire Reservoir. Walker Creek is not recognized in existing studies as a significant fisheries resource. The use of Walker Creek by coho salmon and steelhead trout has been limited by barriers along the Nestucca River. In particular, a .4 mile long, 8-10% gradient bedrock chute below the old Meadow Lake damsite severely limits coho and steelhead access to Walker Creek (Exhibit 35, p. 3-12; Exhibit 16, p. 13).

The contribution of Walker Flat wetlands to the maintenance of water quality in the Nestucca River is recognized as a habitat value for fisheries. Letters in the record from the Northwest Steelheaders (Exhibits 44 & 45) emphasize the importance of retaining and protecting headwaters areas for downstream anadromous habitat.

In summary, LCDC has acknowledged that the Yamhill County "sensitive winter range" designation and associated policies and standards provide adequate Goal 5 protection of wildlife habitat values. Additional plan policies and ordinances (Floodplain District)

and provisions of the Forest Practices Act restrict the removal of riparian vegetation along streams to protect fish and wildlife habitat values.

Much of the evidence in the record is focused on habitat values associated with the diverse wetland at Walker Flat. Given the context of the significant acreage of Yamhill County included within the Sensitive Winter Range, and the extensive number of streams draining forested uplands, the evidence does not lead to a conclusion that Walker Flat habitat values are distinct from other forested Coast Range areas. The Board therefore concludes that Walker Flat does not warrant a separate Goal 5 designation as a "significant" fish and wildlife area and habitat.

e. Ecologically and scientifically significant natural areas, including desert areas

Findings: Testimony presented during these proceedings confirms the presence of *Sidalcea nelsoniana* at Walker Flat, and certain commentators urge that the site be designated a significant natural area because of the presence of the species. (Exhibits 43, 51, 52, 57, 60, 63-64, 69-71, 78, 79 and 81.) *Sidalcea* is listed as a threatened plant species by the Oregon Department of Agriculture as part of the State Endangered Plant Species Program, and the plant is under consideration for listing under the Federal Endangered Species Act. To date, the U.S. Fish & Wildlife Service has not made a status determination. In addition, the Bureau of Land Management has nominated approximately 30-40 acres of BLM land adjacent to Walker Flat for a federal Area of Critical Environmental Concern designation, although no final decision regarding such status will be made by the agency until their Resource Management Plan is prepared in 1990-91. Such federal lands are not within the County's jurisdiction for purposes of Goal 5 compliance. (Exhibits 18, 23, 27-29, 39, 61, 71, 110 and 129.)

Based upon the evidence presented, Walker Flat contains an estimated 5,449 *Sidalcea nelsoniana* in 1989, with fewer than one-third of these plants distributed on federally managed land and, therefore, protected. This population constitutes less than 10% of all known naturally-occurring plants. An additional 5,379 plants are located at six other sites in the Coast Range in habitats similar to that found at Walker Creek. Of the total estimated naturally-occurring population of 19,522 plants, almost 50% occur in the Willamette Valley and approximately 28% occur at Walker Flat. The six largest populations are Tillamook Burn 1 (4,460), Finley National Wildlife Refuge (2,341), OSU

Turkey Farm (1,586), McTimmonds Valley (1,184) and Salem Airport (1,055) (Exhibit 133). (Exhibits 110 and 129.)

According to expert testimony received by the County, the distribution of *Sidalcea nelsoniana* is not limited to wetlands. The species occurs infrequently on the edges of riparian woods and conifer forests. It has never been found in areas that are permanently wet. Available evidence indicates that most of the populations found in the Willamette Valley and the Coast Range appear to be healthy, and there is no credible evidence to indicate that the population present at Walker Flat is more susceptible to survivability or propagation than other populations present at 11 Coast Range sites and 30 Willamette Valley sites. (Exhibit 129, Testimony of Judith Glad.)

Since the initial observation of *Sidalcea nelsoniana* at Walker Flat in 1984, McMinnville Water & Light Department has undertaken substantial studies of the Walker Flat population, and the Department has undertaken the transplanting of seedlings and rhizomes at six sites in the Coast Range since 1986. (Exhibits 27-29.) As of the summer of 1989, approximately 1,273 transplants, or 78% of the seedlings and 88% of the rhizomes, were surviving with growth and flower rates similar to natural *Sidalcea* populations. Based upon this evidence and testimony presented below, the Board concludes that the *Sidalcea* population enjoys a relatively high rate of survivability through the transplanting process. (Exhibit 110 and 129.) Further, such evidence presented by qualified experts noted above serves to outweigh conflicting testimony presented during the hearings process. (Exhibit No. 131.)

In addition to *Sidalcea nelsoniana*, testimony has been received regarding the occurrence of *Iris tenax* var. *gormanii* at Walker Flat. (Exhibits 43 and 81.) However, the County notes that any such occurrence is unverified and that credible expert testimony has been offered by CH₂M Hill indicating that this particular species is not an independent biological entity. (Exhibit 129.) Consequently, the County concludes that this particular resource, even if present at Walker Flat, does not constitute a significant natural area for supporting habitat. In a similar manner, the County finds no credible evidence to support the claim that another listed species -- *Poa laxiflora* occurs at Walker Flat. According to testimony presented by a qualified plant ecologist and associated experts, intensive field work at the site has yielded no specimens of this particular plant.

Finally, the following testimony was received from the Oregon Natural Heritage Database regarding the value of the site as a natural area in general terms:

"This is a very significant natural area, clearly the most important in the County. It has very high quality in native wetlands, dominated by sedges and bulrush, high quality grasslands dominated by red fescue, and an important and natural stream system. In addition, it has the largest population in the world of *Sidalcea nelsoniana*, which is considered to be threatened throughout its range." (Exhibit 18).

The County finds such testimony to be extremely general with regard to ecological values and, in fact, the values relied upon by the commentor are found throughout the Coast Range portion of the County. Consequently, the County does not believe that this information and testimony, even if accurate, justifies a finding that this particular site qualifies as a unique ecologically and scientifically significant natural area as defined under Goal 5. Further, for the reasons discussed below regarding wetland values, the County understands that a finding of significance requires a demonstration of the *relative value* of a particular resource as compared to comparable resources within the County, and the commentor offers no such information or analysis to support such an assessment and ultimate conclusion of significance.

In summary, the County has received testimony indicating that three rare plants -- *Sidalcea nelsoniana*, *Iris tenax* var. *gormanii* and *Poa laxiflora* -- should serve as the basis for a decision to identify Walker Flat as a significant natural area. Based upon the reasoning and evidence noted above, the County finds that the *Iris* and *Poa* do not warrant designation as significant natural area resources because the former is not an independent biological entity and because the latter plant is not known to occur at Walker Flat. With regard to *Sidalcea nelsoniana*, the County finds that, potential protection on state and federal lands, the presence of healthy populations of the plant at 11 Coast Range sites and 30 additional sites in the Willamette Valley and documented evidence of transplant success and a high rate of survivability support the conclusion that Walker Flat, as the site of this particular population, does not constitute a significant natural area.

f. Outstanding scenic views and sites

Findings: Yamhill County has not completed an inventory of outstanding views and sites. LCDC has not required that the county proceed with a detailed inventory and analysis of outstanding scenic views and sites as a component of periodic review. In the absence of a county-wide inventory or evidence in the record, the Board concludes that Walker Flat does not warrant designation as an outstanding scenic site.

Designation of Walker Creek as a statewide scenic waterway provides an opportunity for State Parks Department review of land use and management activities within 1/4 mile of Walker Creek for compatibility with scenic waterway qualities.

g. Water areas, wetlands, watersheds and groundwater resources

Findings: Walker Flat encompasses water areas (Walker Creek and tributaries), jurisdictional wetlands (Exhibit 33), and the watershed for the City of McMinnville. Walker Flat is not identified on existing inventories in the Yamhill County Plan as a significant groundwater resource area. The multiple and conflicting resource values of Walker Flat are focused most specifically on this element of Goal 5.

(1) Municipal Water Supply

Findings: Planning Guidelines to Goal 5 state: "Reservoir sites should be identified and protected against irreversible loss." McMinnville Water & Light has identified Walker Creek as a future municipal water reservoir site and has committed years of effort and financial resources to the regulatory process required to construct the project. To date, McMinnville Water & Light has not secured the federal permits needed to construct the dam and the project has been blocked with the inclusion of Walker Creek on the State Scenic Waterways system. Additionally, McMinnville Water & Light has not proceeded with Yamhill County land use permits. In the absence of the scenic river prohibition on construction of new dams, a Conditional Use Permit would be required to construct a municipal water impoundment in the F-40 District.

McMinnville Water & Light completed several studies in the late 50's and early 60's to identify and evaluate potential municipal water sources. Alternatives that were considered included groundwater, the Willamette River, and reservoirs in the North and South Yamhill River basins. State officials with the Water Resources Department suggested that McMinnville Water & Light examine the diversion and storage of winter runoff from the Nestucca River. In 1962, McMinnville Water & Light Department was granted state permits for two impoundments, one on the upper reaches of the Nestucca River and one on Walker Creek. (Exhibits 6, 36 & 37.)

The Yamhill County Comprehensive Plan states: "As more people become increasingly dependent on surface water for farming and municipal and industrial uses, the County could become a water-deficit area during the dry season (p. 30). The Plan also indicates that several opportunities to construct major watershed storage projects in both the foothills and the bottomlands of the County offer potential to capitalize on a range of water-resource benefits from flood and erosion control to irrigation, municipal and industrial water supply, and recreation (p. 31).

A draft of the City of McMinnville's periodic review order documents that the City Plan recognizes the Walker Creek reservoir as a potential future water supply project (Exhibit 12). Water System Studies prepared by McMinnville Water & Light in 1974 (Exhibit 37) and 1987 (Exhibit 36) also document that Walker Flat is significant as a future reservoir site. Based on the studies and evidence in the record, and based on testimony provided by representatives of McMinnville Water & Light Department regarding their intent to exercise the water right on Walker Creek, the Board concludes that Walker Flat warrants designation as a "significant" watershed and potential municipal reservoir site.

(2) Wetlands

Findings: Based upon available evidence, the Walker Flat area contains approximately 30 acres of jurisdictional wetland under private ownership. This portion of the area is comprised of a complex of wetland and upland areas, surrounded by intermingled conifer forests and riparian mixed woodlands. Wetland elements scattered through grass meadows and along Walker Creek include marsh and emergent wetland, scrub/shrub wetland and wet meadows. The wetland area is

surrounded by conifer forests which is managed for timber production. A complete description of wetland values at this site are set forth in Exhibits 35, 39, 110 at 13 and 124.

The County has received testimony from various individuals and organizations regarding the significance of these wetland values at Walker Flat. (Exhibits 35, 44, 45, 47-49, 53, 62, 68, 72-76, 93, 110, 124, 125, 129-131.) Of these comments, only Mr. John Christy of Oregon National Heritage Database (Exhibit 25), Mr. Kenneth F. Bierly of the Oregon Division of State Lands (Exhibit 124), and representatives of CH2M Hill (Exhibits 110 and 129) offer qualifications as expert in wetland assessment by virtue of their education and/or experience. Of these individual comments, it appears to the County that CH2M Hill representatives have conducted the most extensive review of Walker Flat wetland values, owing, in part, to their completion of numerous on-site studies of *Sidalcea nelsoniana* since 1986. The firm's most recent analysis of available wetland data for the site was prepared for McMinnville Water and Light Department and submitted during these proceedings. The accuracy of this information, which includes data and analysis regarding the relative significance of Walker Flat wetland values among Coast Range wetlands, was not refuted during these proceedings.

For purposes of Goal 5 compliance there are two key components to the analysis to be undertaken by the County. First, a valid inventory of significant wetland resources must include a determination of the location, quantity and quality of a given resource site. Second, the assessment of the quality of each site must be based upon the site's relative value, as compared to other examples of the same resource in at least the jurisdiction itself. See OAR 660-16-000(1)(3). In a similar manner, a determination of the quantity of a cumulative resource requires consideration of the relative abundance of that resource. Based upon information presented during these proceedings, it is understood that the Oregon Court of Appeals has ruled that Goal 5 and the corresponding administrative rule adopted by LCDC precludes a determination that a particular resource is significant for inventory purposes absent documentation of the relative value of comparable resources within at least the given jurisdiction. McCoy v. Linn County, 90 Or App 271, ___ P 2d ___ (1988).

Given the above understanding, the County notes that the bulk of the testimony in evidence with regard to wetland values presented during these proceedings addresses

Walker Flat without regard to its relative resource values or abundance. (Exhibits 35, 45, 47-49, 50, 62, 68, 72-76, 93, 125, 130, 131.) For example, testimony offered by the Oregon Natural Heritage Data Base suggests only that:

"Walker Creek is also a significant wetland in the northern Coast Range province of Oregon. Wetlands in the Coast Range are small and widely scattered, and most have been altered by road building, grazing and logging, or have been impounded for log ponds and reservoirs. In contrast, Walker Creek has largely escaped such alterations, and this is why it ranks so highly." (Exhibit 125)

Although Mr. Christy offers a general reference to "wetlands in the Coast Range", there is virtually no evidence or testimony presented as to the location, size, quantity or quality of any of these other resources, let alone those particular sites which would provide the basis for the required relative value assessment. As with these comments, the additional testimony noted above regarding wetland significance provides no comparative information on a geographic or other basis and, in most cases, provides no other definition or stated rationale for the commenters' conclusion of relative or individual significance. Consequently, the County finds that such information and testimony, standing alone, is neither credible nor of substantial value in determining the significance of the particular wetland resource found at Walker Flat.

In a similar manner, testimony offered by Mr. Ken Bierly of the Oregon Division of State Lands addresses the quality and significance of the Walker Flat wetland in isolation from other wetland sites within or outside the County. (Exhibit 124.) Although Mr. Bierly notes the historic loss of wetlands generally and offers a range of potential indicators of "significance" for the County's consideration, there is no analysis or information regarding the abundance of comparable wetlands or the value in relation to this particular resource.

On behalf of McMinnville Water and Light Department, CH2M Hill has prepared and presented a report addressing the distribution of Coast Range wetlands within the County. (Exhibit 110.) This report, which is based upon existing data available

in the public record, defines Coast Range wetlands such as Walker Creek to include those riparian and non-riparian wetlands above 600 feet in elevation. For purposes of area, riparian wetlands were considered to extend 25 feet on either side of a stream course, while non-riparian wetlands within this category are identified from the U.S. Fish and Wildlife Service National Wetlands Inventory, U.S. Soil Conservation Service soils maps, U.S. Geological Service maps and field notes and maps compiled during inventory projects conducted by the commentor throughout the Coast Range. (Exhibit 110 at 7.)

The report, which was prepared by Mr. Richard Mishaga, Ecologist, Ms. Judith Glad, Plant Botanist, and Ms. Michelle Gertz, Wetland Ecologist, identifies 809 acres of non-riparian wetlands and 1,194 acres of riparian wetlands within the study area. For purposes of classification, inventoried wetlands are distributed among four categories based upon size. In addition to providing this assessment of location and quantity of comparable Coast Range wetlands, the report provides a general assessment of the relative quality of these individual sites as defined by plant associations. (Exhibit 110 at 13-14.)

The evidence presented in this report and the accompanying testimony by CH2M Hill representatives, which the County finds to be credible and based upon substantial expertise in wetland assessment, represents the sole evidence available to the County with regard to the relative significance of the Walker Flat wetland. This evidence and testimony, which reflects an assessment of the location, quantity and quality of comparable resources in the County, indicates that Walker Flat is one of 19 sites within the study area having a non-riparian wetland acreage larger than 10 acres, and one of 13 sites having riparian acreage of between 10 and 50 acres. Taken together, this information indicates that the Walker Flat resource, with a total of 30 acres of jurisdictional riparian and non-riparian wetlands, represents approximately 1.5 percent of the total Coast Range wetlands currently identified within the study area. In addition, the study identifies two comparable wetlands within the County - Neverstill and Meadow Lake - and two such resources in adjoining counties - Blue Lake and Warnicke Creek - which are larger in area. Based upon this analysis and the author's expertise, the report concludes that the Walker Flats wetland is not unique with respect to (1) vegetation quality, composition and diversity, (2) wetland elevation, size and abundance, and (3) presence of *Sidalcea*.

In summary, the County finds the above-referenced testimony presented by CH2M Hill to be based upon substantial expertise, to be highly credible and to be unrefuted by credible testimony during these proceedings. Further, this evidence constitutes the only substantive information made available to the County regarding the value of the subject wetland relative to comparable wetlands within the County. Given the weight of this evidence, the County finds Walker Flats to constitute a wetland resource which is relatively abundant throughout the Coast Range at wetland sites of similar quality and, therefore, is not deemed sufficiently significant to be inventoried as a Goal 5 wetland resource.

h. Wilderness areas

Findings: There are no designated wilderness areas in the vicinity of Walker Flat or within Yamhill County and the Board has concluded that this category of Goal 5 does not apply to the Walker Flat analysis.

i. Historic areas, sites, structures and objects

Findings: Yamhill County has completed an inventory of historic and cultural sites and structures. There are no structures at Walker Flat and the site is not listed on the existing inventory. The Board therefore concludes that this category of Goal 5 does not apply to the Walker Flat analysis..

j. Cultural areas

Findings: Yamhill County's historical resources inventory includes historic and cultural sites, structures and objects. The Walker Flat site is not listed on the existing inventory. Additionally, a literature search, consultation with the State Historic Preservation Office and field reconnaissance were completed as a component of the 1983 Environmental Assessment of the Walker Creek project. No cultural resources meeting the minimum criteria for National Register of Historic Places eligibility were identified at Walker Flat (Exhibit 35, p. 3-32). The Board therefore concludes that the Walker Flat site is not a significant cultural area.

k. Potential and approved Oregon recreational trails

Findings: No approved or potential Oregon recreational trails are designated in the Yamhill County Comprehensive Plan and the Board has concluded that this category of Goal 5 is not applicable to the Walker Flat analysis.

l. Potential and approved federal wild and scenic waterways and state scenic waterways

Findings: With the passage of Ballot Measure 7 in 1988, 11 segments of Oregon rivers were added to the Oregon Scenic Waterways System, including the Nestucca River and Walker Creek. The Nestucca River is designated as a state scenic waterway from McGuire Dam to the north boundary of Section 30, T3S, R8W (approximately 23 miles - Yamhill and Tillamook Counties); and Walker Creek is designated as a state scenic waterway from its source to the confluence with the Nestucca River (approximately 3 miles - Yamhill County). See Exhibits 11, 17 and 19.

As noted in Exhibit 67, the Oregon Parks Department has lead management responsibility for administering the state scenic waterways program. In addition, the Water Resources Department, Division of State Lands, and State Marine Board have special responsibilities under the Act.

One of the key elements of the program is the notification review process required when landowners undertake logging, mining, building construction, and other improvements within 1/4 mile of the banks of any scenic waterway. A management plan will ultimately be adopted for each river in the system, with specific rules tailored to each river's unique conditions. Staff with State Parks anticipate that an assessment of the resource values associated with the Walker Creek/Nestucca River system will be initiated during the summer of 1990. Following public review of the resource values, it is anticipated that a management plan will be adopted in 1991.

The designation of Walker Creek as a scenic waterway prohibits the construction of a dam and reservoir at Walker Flat. ORS 390.835(1) provides as follows:

390.385(1) It is declared that the highest and best uses of the waters within scenic waterways are recreation, fish and wildlife uses. The free-flowing character of these waters shall be maintained in quantities necessary for recreation, fish and wildlife uses. No dam, or reservoir, or other water impoundment facility shall be constructed or placer mining permitted on waters within scenic waterways. No water diversion facility shall be constructed or used except by right previously established or as permitted by the Water Resources Commission, upon a finding that such diversion is necessary to uses designated in ORS 536.310 (12), and in a manner consistent with the policies set forth under ORS 390.805 to 390.925. The Water Resources Commission shall administer and enforce the provisions of this subdivision.

Given that Walker Creek and the Nestucca River have been included on the State Scenic Waterways system through the initiative process, the Board recognizes that the Yamhill County Plan must inventory Walker Creek and the portion of the Nestucca River within Yamhill County as designated state scenic waterways and a significant Goal 5 resource.

VI. ADMINISTRATIVE RULE FRAMEWORK FOR CONFLICTING USE ANALYSIS

Following the Board determination that the Walker Flat site was "significant" as a municipal watershed and designated state scenic waterway at the April 19, 1990 public hearing, subsequent public hearings focused on an analysis of potential conflicting uses.

OAR 66-16-005 states: "It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences."

The Walker Flat site is designated for Commercial Forestry use on the Yamhill County Comprehensive Plan and is zoned F-40. The stated purpose of the F-40 District is:

"...to identify and protect land designated as Forestry on the Comprehensive Plan that is suitable and desirable primarily for commercial forestry activities and for uses such as recreation, watersheds, reservoirs, grazing, etc., that are compatible with commercial forestry activities..." (Section 401, Yamhill County Zoning Ordinance)

A. F-40 District

A summary of permitted uses and conditional uses in F-40 District follows. This list provides the basis for the conflicting use analysis required by the Goal 5 administrative rule.

Permitted Uses

1. Forestry uses.
2. Extraction, processing, and stockpiling of construction aggregate for use in conjunction with forestry.
3. Temporary or seasonal dwelling for caretaker, watchman, or forest management and protection personnel only, occupied for no more than six months per year.
4. Accessory uses such as recreation activities, fish and wildlife habitat, watershed management, grazing, and similar uses that do not include structures.
5. Temporary structures necessary during construction of an authorized permanent structure.
6. Operations conducted for the exploration of oil, natural gas or geothermal resources, aggregate, and other mineral or subsurface resources.
7. Signs.
8. Public utility facilities necessary for public service, except municipal water supply, treatment and storage facilities, commercial facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height.

Conditional Uses

1. Principal dwelling in conjunction with forest uses.
2. Dwelling not in conjunction with forest use.
3. Park, playground, campground, or community center owned and operated by a governmental agency or a nonprofit community organization.
4. Hunting or fishing preserve, private park, playground or campground.
5. Operations conducted for the mining and processing of geothermal resources, aggregate and other mineral or subsurface resources.
6. Municipal water supply, treatment or storage facility.
7. Commercial utility facilities for the purpose of generating power for public use by sale, and transmission towers over 200 feet in height.
8. Accessory uses that include structural development related to recreation activities, fish and wildlife habitat, grazing, and similar uses compatible with commercial forestry activities.
9. Solid waste disposal site under state permit granted by the Oregon Department of Environmental Quality.

B. Uses Regulated by the Forest Practices Act

The Oregon Legislature amended the Forest Practices Act (FPA) in 1987 to shift all responsibilities for regulation of timber harvest activities from counties to the Department of Forestry. The passage of House Bill 3396 precludes county regulation of forest operations to protect Goal 5 values. Therefore, even though forestry activities are the primary land use contemplated in the F-40 District, the Forest Practices Act preempts consideration of forestry activities as a "conflicting use" under the provisions of Goal 5.

Although Yamhill County does not have jurisdiction to regulate forestry activities at Walker Flat, the designation of Walker Creek as a state scenic waterway provides the Oregon Parks Department with the authority to review timber harvest and other land use and management activities within 1/4 mile of the banks of the waterway for compatibility with the Scenic Waterways Act. Following adoption of a management plan for Walker Creek/Nestucca River, all land use and management activities within 1/4 mile of the banks of the waterways will be reviewed by the Parks Department for compatibility with specific criteria and standards of the management plan.

Additionally, the Department of Forestry has adopted administrative rule provisions to regulate timber harvest activities in proximity to Class I streams and municipal water supply sources. Walker Creek is designated a Class I stream and timber harvest activities in the McGuire and Walker Creek basins are conducted in accordance with water quality protection objectives of the Forest Practices Act.

C. Walker Creek Scenic Waterway - Conflicting Use Analysis

Given that Walker Creek has been included in the State Scenic Waterways system through the initiative process, the Yamhill County Board of Commissioners has recognized that the Comprehensive Plan must inventory Walker Creek as a designated scenic waterway and significant Goal 5 resource. However, individual members of the Board of Commissioners have emphasized that the county decision only reflects the state designation and does not indicate a Yamhill County determination that Walker Creek is a scenic waterway.

The "conflicting use analysis" process of the Goal 5 Administrative Rule can be abbreviated for the inventoried scenic waterway. As referenced on page 20 of this exhibit, ORS 390.835(1) specifically prohibits construction of a dam or reservoir or other water impoundment facility within a designated scenic waterway.

Therefore, even though the Yamhill County Zoning Ordinance lists municipal water supply, treatment or storage facility as a conditional use in the F-40 District, the designation of Walker Creek as a state scenic waterway supersedes the county zoning ordinance provisions and the development of a dam or reservoir at Walker Flat is specifically prohibited by state statute. The dam or reservoir cannot be considered a "potential conflicting use" to the state scenic waterway and the Board has concluded there is no need for Yamhill County to proceed through an evaluation of the economic, social, environmental and energy (ESEE) consequences of balancing the scenic waterway values and the potential reservoir values.

Other than the uses specifically prohibited by statute (dams, reservoirs, placer mining within the waterways), all other land use and management activities which are listed as a permitted or conditional use in the F-40 District and which occur within 1/4 mile of the banks of Walker Creek are subject to a notification and review process by the Oregon Parks Department.

The Oregon Parks Department has begun work on a Scenic Waterway Management Plan for the Nestucca/Walker Creek which will identify values that are "special attributes" of the scenic waterway. The Scenic Waterway Act requires that the Department administer each scenic waterway to protect the values that caused it to be included in the system. Primary emphasis is given to protecting aesthetic, scenic, fish and wildlife, scientific and recreation features, based on the special attributes of each scenic waterway (ORS 390.845).

With the exception of forest practices, Yamhill County has the authority under Goal 5 to limit uses in the F-40 District which may conflict with the designated scenic waterway (such as forest dwellings, mining operations, signs, utility facilities etc.) However, the county can also defer to the State Parks Department notification and review process as an existing state program designed to achieve the purposes of Goal 5. The Board did not receive any testimony or evidence which argued for Yamhill County regulation beyond the State Parks Department program of potential uses which may conflict with the designated scenic waterway.

D. Walker Creek Watershed - Conflicting Use Analysis

The Board of Commissioners has concluded that the Walker Flat site is a significant watershed and potential municipal reservoir site. Watersheds are specifically identified as a Goal 5 resource to be inventoried by counties, and planning guidelines to Goal 5 state: "Reservoir sites should be identified and protected against irreversible loss."

McMinnville Water & Light Department has water right permits dating from 1958 to divert and impound water from Walker Creek for municipal use. Construction of the dam and reservoir has been blocked with the inclusion of Walker Creek in the State Scenic Waterways system. However, McMinnville Water & Light Department owns the watershed surrounding Haskins Reservoir, McGuire Reservoir and the proposed Walker Creek Reservoir and will ensure that the watershed and water quality values are protected for municipal use.

Timber harvest activities in this watershed are regulated by the Department of Forestry and the Forest Practices Act rather than Yamhill County. Specific rules

have been adopted by the Department of Forestry to address protection of water quality values adjacent to Class I streams and municipal water supply sources.

Outside of timber harvest activities, Yamhill County has the authority under Goal 5 to limit uses in the F-40 District which may conflict with protection of the municipal watershed (such as mining activities, solid waste landfill, campgrounds, utility facilities, etc.) However, McMinnville Water & Light Department owns and manages the immediate watershed area and it is doubtful that the owner would propose to establish any use which would conflict with protection of water quality in the watershed.

In June of 1981, the McMinnville City Council and the Yamhill County Board of Commissioners jointly signed an urban area management agreement (Ordinance #270). This intergovernmental agreement includes policies and an exhibit identifying a "watershed area of influence" for the City of McMinnville. The exhibit includes Haskins Reservoir, McGuire Reservoir, Walker Flat and associated drainage basins.

Language in the agreement states that Yamhill County will provide notice of proposed land use actions within the "watershed area of influence" that may affect water quality. The City of McMinnville shall have an opportunity to forward a recommendation on the proposed land use actions prior to a final county decision. The agreement does not specifically define uses "that may affect water quality." However, the provisions of the agreement establish the location of the municipal watershed and bind the county to coordinate with the city on land use actions to ensure protection of water quality.

No evidence or testimony was provided to the Board regarding potential uses in the underlying F-40 District which would conflict with watershed resource values.

VII. PROGRAM TO ACHIEVE GOAL 5

OAR 660-16-010 states: "Based on the determination of the economic, social, environmental and energy consequences, a jurisdiction must *develop a program to achieve the Goal*. Assuming there is adequate information on the location, quality, and quantity of the resource site as well as on the nature of the conflicting use and

ESEE consequences, a jurisdiction is expected to *resolve* conflicts with specific sites in any of the following three ways listed below.

- (1) Protect the Resource Site
- (2) Allow Conflicting Uses Fully
- (3) Limit Conflicting Uses

A. Walker Creek Scenic Waterway Program

The State Parks Department has the lead management responsibility for administering the state scenic waterways program. The program is detailed in adopted statutes (ORS 390.805 - 390.925) and Oregon Administrative Rules adopted for Oregon Scenic Waterways.

The Scenic Waterways Act constitutes a *program to protect the resource site*. ORS 390.835(1) The statute specifically provides as follows:

390.835(1) It is declared that the highest and best uses of the waters within scenic waterways are recreation, fish and wildlife uses. The free-flowing character of these waters shall be maintained in quantities necessary for recreation, fish and wildlife uses. No dam, or reservoir, or other water impoundment facility shall be constructed or placer mining permitted on waters within scenic waterways. No water diversion facility shall be constructed or used except by right previously established or as permitted by the Water Resources Commission, upon a finding that such diversion is necessary to uses designated in ORS 536.310(12), and in a manner consistent with the policies set forth under ORS 390.805 to 390.925. The Water Resources Commission shall administer and enforce the provisions of this subdivision.

The State Parks Department has begun work on a Scenic Waterway Management Plan for the Nestucca River and Walker Creek. As part of the management planning process, the Parks Department will specifically identify the jurisdictional boundaries of the scenic river designation and identify values that are "special attributes" of the scenic waterway.

Other than the uses specifically prohibited by statute, all other land use and management activities which are listed as a permitted or conditional use in the F-40 District and which occur within 1/4 mile of the banks of Walker Creek or the Nestucca River are subject to a State Parks Department notification and review process.

Given the existence of a state program designed to protect the values of designated state scenic waterways, the Board has concluded that it is not necessary for Yamhill County to develop a separate Goal 5 program. However, the Board does propose to adopt a new plan policy in the Comprehensive Plan to specifically address scenic waterways. Additionally, a new Scenic Waterway Overlay section is proposed to be included in the Yamhill County Zoning Ordinance and applied as an Overlay to the Official County Zoning Map to reference county coordination with the state program. The text of the policy language is provided in Exhibit "A" and the text of the zoning ordinance language is provided in Exhibit "B." The proposed overlay map which identifies the designated state scenic waterways is provided in Exhibit "E."

The Board concludes that the implementing policies and ordinance provisions set forth in the enclosed Exhibits "A", "B", "D" and "E" support the State Parks Department program to protect the designated state scenic waterways.

B. Walker Creek Watershed Program

The Board of Commissioners has concluded that the Walker Flat site is a significant watershed resource and potential municipal reservoir site. Specific policies in the Yamhill County Comprehensive Plan and an adopted intergovernmental agreement between Yamhill County and the City of McMinnville address protection of the municipal watershed areas surrounding Haskins Reservoir, McGuire Reservoir, and Walker Flat.

McMinnville Water & Light Department owns and manages the bulk of the identified watershed areas (approximately 6,000 acres) and will ensure that the watershed areas are protected for municipal use.

Forest management activities are the primary use contemplated in the underlying F-40 District. Timber harvest activities in the Walker Flat watershed are regulated by

the Department of Forestry and the Forest Practices Act rather than Yamhill County. Specific provisions of the FPA address protection of water quality values adjacent to Class I streams and municipal water supply sources.

No evidence was presented at the May 17th public hearing to support a program to prohibit conflicting uses to protect the Walker Flat watershed. The Board has concluded that existing plan policy language needs to be amended and a watershed overlay adopted to implement a *Goal 5 program to balance the watershed resource with potential conflicting uses*. Other cities in Yamhill County may want to request application of the watershed overlay to their respective municipal watersheds.

Proposed Comprehensive Plan policy language is provided in Exhibit "A" and the text of the Watershed Overlay District is provided in Exhibit "B". A map which identifies the watershed boundary for Haskins, McGuire and Walker Creek Watershed Areas is enclosed as Exhibit "D."

DOCKET #G-7-89
 WALKER FLAT GOAL 5 ANALYSIS
 EXHIBIT LIST

- Exhibit 1 An Engineering Report On The Municipal Water System Of The City of McMinnville, Oregon. Corvallis, Oregon: CH2M Hill, 1964.
- Exhibit 2 Conservation Concerns and Endorsements 1985/1986. Oregon Audubon Council.
- Exhibit 3 Department of Land Conservation and Development Director's Periodic Review Report. Yamhill County: July 21, 1989.
- Exhibit 4 Distribution and Condition of Sidalcea Nelsoniana Piper: A Report To The Fish and Wildlife Service for Status Determination. Washington D.C.: Bureau of Land Management, 1985.
- Exhibit 5 Division 77 - Administrative Rules Chapter 635. State of Oregon Water Resources Department. Salem, Oregon: State Printing Office, 1990.
- Exhibit 6 Executive Summary - Water System and Source Alternative Study. Corvallis, Oregon: CH2M Hill, 1987.
- Exhibit 7 Final Periodic Review Order. Board of Commissioners of Yamhill County. Yamhill County, Oregon: April 1987.
- Exhibit 8 Fish and Wildlife Habitat Protection Plan For Yamhill County. Oregon Department of Fish and Wildlife; Heintz, James, John C. Haxton, and Neil R. Ten Eyck, 1976.
- Exhibit 9 Freshwater Resources of the Oregon Coastal Zone. State Water Resources Board, 1975.

- Exhibit 10 Invitation To Participate In The Assessment of Impacts Associated With a Proposed Right-Of-Way To McMinnville Water and Light Department For The Walker Creek Dam and Reservoir. United States Department of the Interior Leaflet No. 2870 (082.6) OR 35903. Salem, Oregon: Bureau of Land Management, 1983.
- Exhibit 11 Locations of the Proposed State Scenic Waterways System Additions. Oregon Rivers Initiative, 1988.
- Exhibit 12 McMinnville Periodic Review Order Regarding Population Growth and Future Water Supply. City of McMinnville: February 28, 1990.
- Exhibit 13 Mitigation Plan For Walker Creek Supply Project Part I. McMinnville, Oregon: McMinnville Water and Light Department, 1984.
- Exhibit 14 Municipal Water and Hydroelectric Development by McMinnville Water and Light Department. McMinnville, Oregon: Water and Light Commission, 1981.
- Exhibit 15 Natural Resource Conservation Plan 1980-1985. Matz, Stephan and William Floyd. Yamhill Soil and Water Conservation District. McMinnville, Oregon, 1979.
- Exhibit 16 Nestucca River Basin Anadromous Salmonid Habitat Overview. Cal Baker. United States Department of Agriculture, 1986.
- Exhibit 17 Oregon Administrative Rules, Chapter 736, Division 40. State Parks and Recreation Division. Salem, Oregon: State Printing Office, 1986.
- Exhibit 18 Oregon Natural Areas - Ecological Needs, Candidate Areas, Protection Programs, Yamhill County Data Summary. Oregon Natural Heritage Program. Portland, Oregon, 1977.
- Exhibit 19 Oregon Revised Statutes 390.826 Scenic Waterways. Oregon.
- Exhibit 20 Oregon Wetlands Priority Plan. Oregon Division of State Lands and Oregon State Parks and Recreation Division. State Printing

Office, July 1989.

- Exhibit 21 Recommendations of National Conservation Organizations for FY88.
The Land and Water Conservation Fund.
- Exhibit 22 Report on Subsurface Exploration and Preliminary Analysis For The
Construction of Walker Creek Dam - Site 4B. Cornell, Howland,
Hayes and Merryfield. Corvallis, Oregon, 1961.
- Exhibit 23 State List of Endangered and Threatened Plant Species Compiled By
The Oregon Department of Agriculture. Oregon Department of
Agriculture. Salem, Oregon: State Printing Office, 1990.
- Exhibit 24 State List of Endangered and Threatened Plant Species Compiled By
The Oregon Department of Agriculture. Subject No: OAR 603-
73-070. Salem, Oregon: State of Oregon Printing Office, 1989.
- Exhibit 25 Statement of Wendell Wood On The Proposed Walker Creek Dam.
Eugene, Oregon: Oregon Natural Resources Council, 1986.
- Exhibit 26 Status of National Wetlands Inventory Region 1. U.S. Department of
the Interior. Washington D.C.: Government Printing Office,
1979.
- Exhibit 27 Studies of Sidalcea nelsoniana 1989. City of McMinnville; Department
of Water and Light. Corvallis, Oregon, CH2M Hill, 1989
- Exhibit 28 Studies of Sidalcea nelsoniana 1987. City of McMinnville; Department
of Water and Light. Corvallis, Oregon, CH2M Hill, 1987.
- Exhibit 29 Studies of Sidalcea nelsoniana 1986. City of McMinnville; Department
of Water and Light. Corvallis, Oregon, CH2M Hill, 1986.
- Exhibit 30 The Conservation Alternative For Fiscal Year - 1991. The Land and
Water Conservation Fund.
- Exhibit 31 The Oregon Coast - An Informational Report On The Water And
Related Land Resources. Oregon State Study Team - Pacific
Northwest River Basins Commission, 1978.

- Exhibit 32 The Oregon Scenic Waterways Program. Oregon State Parks and Recreation Division.
- Exhibit 33 Walker Creek - Fill/Dam. Department of the Army Portland District. Corps of Engineers. Subject No: 071-OYA-2-006479. Portland, Oregon: Department of Defense, 1986.
- Exhibit 34 Walker Creek Water Supply Environmental Impact Statement. Results of Scoping: Scoping Meetings and Correspondence.
- Exhibit 35 Walker Creek Water Supply Project - Environmental Assessment. United States Department of the Interior: Bureau of Land Management. Salem, Oregon: U.S. Printing Office, 1983.
- Exhibit 36 Water System And Source Alternative Study, McMinnville Water and Light Department. Corvallis, Oregon: CH2M Hill, 1987.
- Exhibit 37 Water System Study. Water and Light Department, McMinnville, Oregon. Corvallis, Oregon: CH2M Hill, November 1974.
- Exhibit 38 Wetlands of the United States: Current Status and Recent Trends. Ralph W. Tiner, Jr. U.S. Fish and Wildlife Service. Washington D.C.: Government Printing Office, 1984.
- Exhibit 39 Yamhill County Goal 5 Report. Oregon Natural Heritage Data Base. The Nature Conservancy, 1987.
- Exhibit 40 United States District Court for the District of Oregon. "Governments Closing Argument Civil No. 88-779-MA." Friends of Walker Creek Wetlands, Inc., Oregon Natural Resources Council, Inc. Salem Audubon Society v. Bureau of Land Management, November 3, 1988.

- Exhibit 41 United States District Court for the District of Oregon. "Order-Civil No. 88-779-MA." Friends of Walker Creek Wetlands, Inc., Oregon Natural Resources Council, Inc., Salem Audubon Society vs. Bureau of Land Management, Salem District. Hampton Tree Farms, Inc., December 9, 1988.
- Exhibit 42 Board of Commissioners of the State of Oregon for the County of Yamhill. Board Order 88-807. Matter of Revisions to Yamhill County's Local Periodic Review Order (Board Order 87-203). For the Purpose of Complying with LCDC Order 87-RA-306, December 28, 1988.
- Exhibit 43 Bornholdt, Mariana. Letters to Frances Philipek, ACEC Coordinator. August 31, 1986.
- Exhibit 44 Bowden, Roy. Executive Director, Association of Northwest Steelheaders. Letter to Van Manning, Salem District Manager. Bureau of Land Management. April 28, 1988.
- Exhibit 45 Bowden, Roy. President - Association of Northwest Steelheaders. Letter to John R. Donaldson, Director, Oregon Department of Fish and Wildlife. March 26, 1986.
- Exhibit 46 Brandt, Mike. Planning Division Chief for Yamhill County, Department of Planning and Development. Letter to Craig Ely, Department of Fish and Wildlife. June 28, 1989.
- Exhibit 47 Broome, John W. President, The Wetlands Conservancy. Letter to Richard Campbell, Yamhill County Planning Department. March 8, 1990.
- Exhibit 48 Broome, John W. President, The Wetlands Conservancy. Letter to Norma Paulus, Northwest Power Planning Council. July 11, 1988.
- Exhibit 49 Broome, John W. The Wetlands Conservancy. Letter to Van Manning, Salem District Manager, Bureau of Land Management, June 7, 1988.

- Exhibit 50 Burd, Robert S. Director, Water Division, U.S. Environmental Protection Agency. Letter to Robert D. Saunders, Planning and Environmental Coordinator. May 20, 1986.
- Exhibit 51 Chambers, Kenton L. Letter to Robert Parenti, U.S. Fish and Wildlife Service. May 7, 1986.
- Exhibit 52 Cook, Alan. Oregon Intergovernmental Project Review. Program Review. File # OR 871109-008-4. December 4, 1987.
- Exhibit 53 Corbett, Jack. Board Member, Salem Audubon Society. Letter to Richard Campbell, Yamhill County Planning Department. March 7, 1990.
- Exhibit 54 Craiger, Richard S. Chairman. The Natural Heritage Advisory Council, State of Oregon. Letter to City of McMinnville. March 26, 1985.
- Exhibit 55 Ely, Craig. Land Use Planning Coordinator. Department of Fish and Wildlife, State of Oregon. Letter to Mike Brandt, Planning Division Chief, Yamhill County Courthouse. June 30, 1989.
- Exhibit 56 Fredd, Louis. Water Resources Coordinator. Letter to Roy Bowden, President Association of Northwest Steelheaders. June 25, 1986.
- Exhibit 57 Frenkel, Robert E. Associate Professor, Oregon State University. Letter to Joseph Dose, District Manager BLM. September 22, 1984.
- Exhibit 58 Harshmann, John L. General Manager, McMinnville Water and Light. Letter to Lynn Steiger, Planning Director, Yamhill County. July 17, 1989.
- Exhibit 59 Harshmann, John L. General Manager, McMinnville Water and Light. Letter to Bill Campbell, Yamhill County Department of Planning and Development. February 28, 1990.
- Exhibit 60 Hayden, Rose Owens. President, Willamette Valley Chapter, Native Plant Society of Oregon. Letter to Richard Campbell, Yamhill County Department of Planning. March 8, 1990.

- Exhibit 61 Kagan, Jimmy. Data Base Coordinator, Oregon Natural Heritage Data Base. Letter to Dick Prather, Yamhill Area Manager, Bureau of Land Management. January 22, 1988.
- Exhibit 62 Kagan, Neil S. Staff Attorney for 1000 Friends of Oregon. Letter to Mr. James F. Ross, Director of Land Conservation and Development.
- Exhibit 63 Kierstead, Julie. State Conservation Chair, Native Plant Society of Oregon. Letter to Robert Parenti, U.S. Fish and Wildlife Service. February 3, 1986.
- Exhibit 64 Kuckeberg, Arthur. President of Botany, University of Washington. Letter to Van Manning, Salem District Manager, Bureau of Land Management. April 20, 1988.
- Exhibit 65 Lewis, Edward. Acting Salem District Manager, Bureau of Land Management. Letter Regarding Walker Creek Water Supply Project/Public Meeting. April 16, 1986.
- Exhibit 66 Lewis, Edward. Acting Salem District Manager, Bureau of Land Management. Public Meeting Notes. April 29, 1986.
- Exhibit 67 Lilly, John E. Assistant Administrator, Department of Transportation, State of Oregon. Letter to Lynn Steiger, Planning Director, Yamhill County. November 14, 1988.
- Exhibit 68 Liverman, Marc. Audubon Society of Portland. Letter to Richard Campbell, Yamhill County Planning Department. March 9, 1990.
- Exhibit 69 Love, Rhoda M. President - Native Plant Society of Oregon. Letter to Mel Chase, Acting District Manager, Salem District BLM. November 14, 1986.
- Exhibit 70 Love, Rhoda M. Letter to Robert Parenti, U.S. Fish and Wildlife Service. January 25, 1986.

- Exhibit 71 Manning, Van. District Manager, Bureau of Land Management. Letter to Judith Armstrong, President, Friends of Walker Creek Wetlands. February 19, 1988.
- Exhibit 72 Monteith, James. Executive Director for Oregon Natural Resources Council. Letter to Jim Ross, Department of Land Conservation and Development. June 16, 1987.
- Exhibit 73 Monteith, James. Executive Director for Oregon Natural Resources Council. Letter to Yamhill County Commissioners. November 4, 1986.
- Exhibit 74 Monteith, James. Executive Director for Oregon Natural Resources Council. Letter to Mel Chase, Acting District Manager, Salem District Bureau of Land Management. November 3, 1986.
- Exhibit 75 Monteith, James. Executive Director for Oregon Natural Resources Council. Letter to Yamhill County Commissioners. September 22, 1986.
- Exhibit 76 Monteith, James. Executive Director for Oregon Natural Resources Council. Letter to Mel Chase, Acting District Manager, Salem District Bureau of Land Management. September 18, 1986.
- Exhibit 77 Nicholls, Jack. McMinnville Water and Light. Memorandum to Bill Campbell, Yamhill County Planning Department. February 28, 1990.
- Exhibit 78 Peterson, Russel. Field Supervisor, Fish and Wildlife Service. Letter of Memorandum to Yamhill Area Manager, Bureau of Land Management. February 4, 1987.
- Exhibit 79 Peterson, Russel. Field Supervisor, Fish and Wildlife Service. Letter to Edward S. Lewis, Acting Salem District Manager. May 22, 1986.
- Exhibit 80 Pfeiffer, Steven. Stoel, Rives, Boley, Jones and Grey, Attorneys at Law. Letter to Mr. John Harshmann, General Manager McMinnville Water and Light Commission. August 5, 1988.

- Exhibit 81 Philipek, Frances. District ACEC Coordinator. Letter to District Manager, Salem. April 29, 1987.
- Exhibit 82 Prather, Richard C. Yamhill Area Manager, United States Department of the Interior. Letter to Dave Bishop, Chairperson for Yamhill County Commissioners. January 20, 1989.
- Exhibit 83 Ross, James F. Director for Department of Land Conservation and Development, State of Oregon. Letter to Jacque Greenleaf, Joint Legislative Committee on Land Use. July 27, 1988.
- Exhibit 84 Sadlo, Todd. Assistant County Counsel for Yamhill County. Letter to George Williams. January 24, 1990.
- Exhibit 85 Squier, Anne W. Assistant Attorney General. State of Oregon. Letter to Bill Young, Director. Water Resources Department. July 26, 1988.
- Exhibit 86 Steiger, Lynn. Planning Director for Yamhill County. Letter to Ken Bierly, Division of State Lands. October 6, 1989.
- Exhibit 87 Steiger, Lynn. Planning Director for Yamhill County. Letter to Ken Bierly, Division of State Lands. October 2, 1989.
- Exhibit 88 Swisher, Otis D. NHAC Chairman. Letter to Van Manning, Salem District Manager. April 29, 1988.
- Exhibit 89 Swisher, Otis D. NHAC Chairman Division of State Lands. Letter to Van Manning, Salem District Manager, Bureau of Land Management. December 8, 1987.
- Exhibit 90 Vander Schaaf, Dick. Public Lands Coordinator, The Nature Conservancy. Letter to Van Manning, District Manager, Bureau of Land Management. September 29, 1987.
- Exhibit 91 Williams, George W. Letter to Yamhill County Board of Commissioners. April 30, 1989.

- Exhibit 92 Wright, Robert. R.A. Wright Engineering, Inc. Letter to Judy Armstrong. Friends of Walker Creek Wetlands. September 22, 1987.
- Exhibit 93 Yungen, Ruth. Secretary/Friends of Walker Creek Wetlands. Letter to William Campbell, Development Division Chief, Yamhill County. March 8, 1990.
- Exhibit 94 Young, William H. Director, Water Resources Department, State of Oregon. Letter to City of McMinnville. July 21, 1989.
- Exhibit 95 Armstrong, Judy. "Saving Wetlands: Reservoir Opponents See Environmental Mandate In Battle Over Walker Creek." McMinnville (Oregon) News Register, 19 June 1987.
- Exhibit 96 Bladine, Jeb. "Rain, Resignation Relate to Reservoir." McMinnville (Oregon) News Register, 4 December 1987.
- Exhibit 97 "Guard U.S. Wetlands." The Oregonian, 9 December 1985, p. B6.
- Exhibit 98 Hayes, John. "U.S. Agencies Line Up on Flower's Side vs. Dam." The Oregonian, 10 February 1987.
- Exhibit 99 Kilpatrick, James J. "Decision on Wetlands Rates Surprise Cheer." Universal Press Syndicate 1985.
- Exhibit 100 Taylor, Barbara J. "Protecting The Riparian Area A: Handbook For Planners." Dissertation. University of Oregon, 1984.
- Exhibit 101 Walker Flat Goal 5 Analysis: Staff Memorandum to Yamhill County Planning Commission. Mary Dorman, Dorman White & Co., March 28, 1990
- Exhibit 102 Appendix A, Docket G-7-89, Walker Creek Goal 5 Analysis Exhibit List.

- Exhibit 103 Taylor, Doug - Department of Fish and Wildlife, Columbia Region, Tillamook Office. Letter to Yamhill County Planning Department. April 3, 1990.
- Exhibit 104 Atchterman, Gail L. - Assistant to the Governor for Natural Resources. Memorandum to Members of the House of Representatives. June 18, 1990.
- Exhibit 105 "Oregon Forest Practice Act" from the Forest Log of January - August, 1986
- Exhibit 106 Forest Practice Rules - Northwest Oregon Region. Effective August 1, 1988.
- Exhibit 107 Draft Report of the Wetlands Technical Group Background Information Only. Department of Forestry. February, 1990
- Exhibit 108 Mahar, Dulcy - Director of Public Involvement, Northwest Power Planning Council. Letter to Interested Parties. March 20, 1990.
- Exhibit 109 Nichols, Jack - McMinnville Water and Light. Letter to ?
- Exhibit 110 Mishaga, Richard, Ph.D. CH2M Hill. Letter to John Harshman, McMinnville Water and Light Department and Report of Coastal Mountain wetlands in Western Yamhill County, Compilation of Existing Data. April 5, 1990.
- Exhibit 111 Kagan, Neil. 1000 Friends of Oregon. Letter to James F. Ross, Department of Land Conservation and Development Re: Yamhill County Final Local Review Order. MAY 15, 1987.
- Exhibit 112 Philipek, Frances - U.S. Department of the Interior, BLM. Memorandum to District Manager, Salem, Letter begins "On November 24, 1987...."
- Exhibit 113 Fredd Louts - Water Resources Coordinator, Oregon Department of Fish and Wildlife. Letter to attention of John Radosta. December 6, 1983.

- Exhibit 114 JMG. Memorandum to Periodic Review File Re: Telephone Conversation with Bob Rindy, June 14, 1989. June 16, 1989.
- Exhibit 115 Parkinson, Mary. "Rare Plant May Checkmate Dam," Statesman--Journal. February 11, 1987.
- Exhibit 116 Application for a Permit to Construct a Reservoir and to Store for Beneficial Use the Unappropriated Waters of the State of Oregon. October 20, 1961.
- Exhibit 117 Matlick, Don - District Forester, Forestry Department, Forest Grove District, State of Oregon. Letter to Maggie Collins, Yamhill County Planning Department. December 12, 1983
- Exhibit 118 Williams, George. Additional Testimony following the evidentiary hearing on the significance of Walker Creek Wetlands, April 5, 1990. Attachment of Senate Bill 747.
- Exhibit 119 Williams, George. Letter to Bill Campbell, Yamhill County Department of Planning and Development. February 14, 1990.
- Exhibit 120 McMinnville Water and Light Department. Geologic Exploration for Walker Creek Dam and Reservoir. November. 1980.
- Exhibit 121 Williams, George. Letter to Bill Campbell, Yamhill County Department of Planning and Development. April 7, 1990.
- Exhibit 122 Goecks, Dennis - Commissioner, Yamhill County, Memo and News Article, "Walker Creek plans outlined." News Register, January 6, 1989. Memo dated April 10, 1990.
- Exhibit 123 Williams, George. Letter to Bill Campbell. April 11, 1990.
- Exhibit 124 Bierly, Kenneth - Wetlands Program Manager, Division of State Lands, State of Oregon. Letter to Bill Campbell, Yamhill County. April 12, 1990.

- Exhibit 125 Christy, John - Wetlands Ecologist, Oregon Natural Heritage Data Base. Letter to William Campbell, Yamhill County. April 13, 1990.
- Exhibit 126 Davis, John W. - General Manager, Western Timber and Logging Operations, Willamette Industries. Letter TO Lynn Steiger, Yamhill County Department of Planning and Development. April 13, 1990.
- Exhibit 127 Thomas, Sepha. Letter to Yamhill County Planning Commission. April 12, 1990.
- Exhibit 128 Merral, Edward J. Memorandum to Yamhill County Planning Commission. April 13, 1990.
- Exhibit 129 Mishaga, Richard, et al. CH2M Hill. Letter to Mr. William Campbell, Yamhill County Planning Commission. April 13, 1990. Also included are: Report titled Iris tenax var. gormanii; Report titled 1613 - Areas of Critical Environmental Concern; Memo from Frances Philipek, BLM to District Manager, Salem with introductory sentence of "On November 24, 1987....."; Letter from Manning, Van W. to Judy Armstrong; Letter from Manning, Van W. to Wendell Wood, Oregon NATural Resources Council; Report from Vrilakas, Sue to Jack Nicholls, dated April 6, 1990.
- Exhibit 130 Kerr, Andy - Director of Conservation, Oregon Natural Resources Council. Letter to Yamhill County Commission. April 11, 1990.
- Exhibit 131 Testimony by Judy Armstrong, April 5, 1990.
- Exhibit 132 Bellin, Barbara. Letter to Richard Campbell, Yamhill County. MArch 9, 1990.
- Exhibit 133 Dorman, Mary. Staff Memo to Yamhill County Planning Commission Re: Walker Flat Goal Analysis (Docket G-7-89).

[appendix]

- Exhibit 134 Cook, Alan. Assistant Director of the Oregon Parks and Recreation Department. Letter to David E. Bishop, Chairman of Yamhill County Board of Commissioners. July 24, 1990.
- Exhibit 135 Bierly, Kenneth. Wetlands Program Manager with the Division of State Lands. Letter to Yamhill County Board of Commissioners. July 25, 1990.
- Exhibit 136 Ketcham, Paul. Senior Planner with 1000 Friends of Oregon. Letter to Yamhill County Board of Commissioners. July 25, 1990.

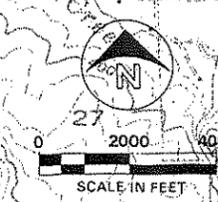
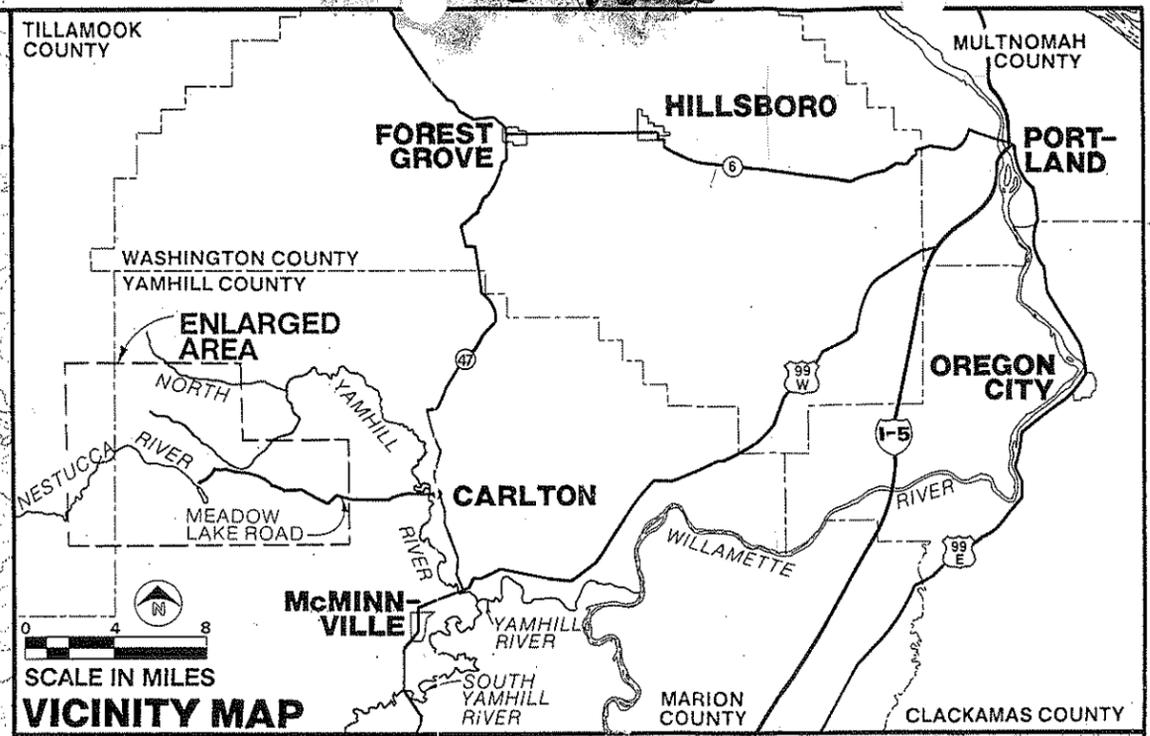
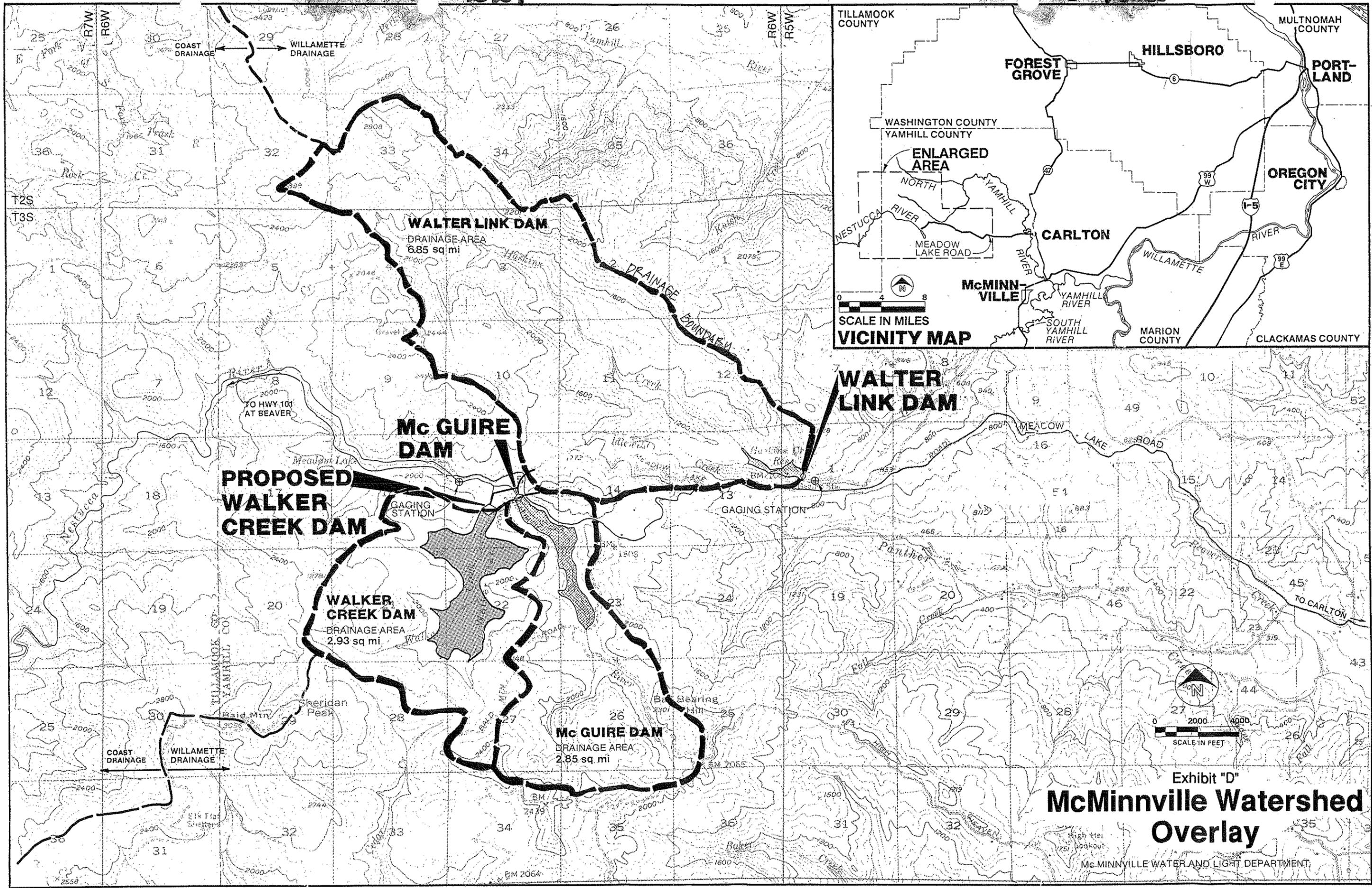


Exhibit "D"
McMinnville Watershed Overlay
 McMINNVILLE WATER AND LIGHT DEPARTMENT

