

Jackson County Federal Coordination Policy Compact

By Order of the Jackson County Board
of Commissioners

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Draft

1 BACKGROUND

1.1 Legal Context

1.1.1 Federal Coordination Laws

Federal law requires several federal agencies to coordinate with affected local governments regarding their respective planning and permitting activities and other federal actions. Most coordination laws address land and resource management planning on federal lands.¹ Federal agencies are also required to seek comments from affected local governments regarding designating critical habitat for endangered species,² licensing energy projects,³ and evaluating the environmental impacts of major federal actions.⁴

Most federal coordination laws specify only that an agency must coordinate with local governments without providing further guidance. However, some of the federal land management statutes impose more detailed coordination requirements. For example, the Federal Land Policy Management Act (FLPMA) and the regulations promulgated thereunder describe federal coordination in more detail. The FLPMA and the regulations promulgated thereunder impose more detailed coordination requirements on the Bureau of Land Management (BLM), including:

- Keeping apprised of local land use plans;
- Considering local land use plans in developing federal land use plans;
- Resolving any inconsistencies between local and federal land use plans to the extent practical and;
- Providing for meaningful local government involvement in the development and revision of land use plans, land use regulations, and land use decisions regarding public lands.⁵

In addition to the FLPMA, the regulations promulgated under the National Forest Management Act (NFMA) require the Forest Service to “provide early and frequent opportunities for...local governments to participate in the planning process.”⁶

To commence federal coordination, a local government should advise the federal agencies that it is exercising its right to coordinate regarding federal actions affecting its jurisdiction and would like to be notified of such actions. Thereafter, when a federal agency contemplates an action affecting that jurisdiction, the agency must notify the local government of such action so that the local government can monitor, analyze and

¹ See, e.g., 33 U.S.C. 1712(c)(9) (Federal Land Policy Management Act); 16 U.S.C. 1604(a) (National Forest Management Act).

² 16 U.S.C. 1533(b)(5)(A)(ii).

³ 16 U.S.C. 797(f).

⁴ 42 U.S.C. 4331(a).

⁵ 42 U.S.C. 1712(c)(9); 43 CFR 1610.3-1.

⁶ 42 C.F.R. 219.14.

comment on the process and the local effects of the action. The federal agency should also seek consistency between the proposed action and the local laws and plans.

To achieve the maximum impact from federal coordination, the local government should provide to the federal agency its local land use management plan or similar document. The document should describe the local government's policies regarding the environment and natural resources in terms of the economic, social and political priorities of the community. Along with Jackson County's land use management plan, this document is intended to serve that purpose.⁷

1.1.2 Federal Coordination Cases

Courts recognize the obligation of federal agencies to coordinate with local governments where required by statute.⁸ Under most statutes, however, the courts have not imposed specific responsibilities on the agencies to meet the obligation to coordinate.⁹ In contrast, under the FLPMA, where the federal coordination requirements are more detailed, the courts require a higher standard of compliance. For example, a court found that BLM violated its federal coordination requirements where it failed to include an alternative, failed to provide all appendices for a full 90-day review period, and failed to respond to county's list of inconsistencies with the local plan as required under BLM regulations.¹⁰

1.1.3 Review of Other County Coordination Programs

Development of the Coordination Compact included research on similar policy documents and efforts of other counties in the west. Overall, most of the documents and policy positions tended to lack structure. Often it was not clear whether the policy was directed at a federal project, a specific local management policy issue or a broad management policy such as an entire forest plan. The Compact seeks to avoid this pitfall with additional organization and structural logic so that policies can be more forcefully applied to the proper Federal activity.

Nevertheless, there were research components that provided some general guidance in the development of the draft Compact. Where specific documents had interesting or well reasoned technical components these have been incorporated and are reflected in the Jackson County Federal Coordination Compact.

1.2 Coordination Policy Compact Development Process

1.2.1 Board Resolution

Jackson County Board of Commissioners declared its desire to coordinate with federal agencies by approving Board Order 186-10 on September 1, 2010. The coordination is

⁷ As discussed later in Section 1.3.1, the approval of this document does not constitute a "land use decision" as defined in by ORS 197.015(10) and is not subject to review as such.

⁸ See, e.g., *Am. Motorcyclist Ass'n v. Watt*, 534 F. Supp. 923 (C.D. Cal. 1981).

⁹ See *Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d 1392 (9th Cir. 1995); *Township of Clinton v. USPS*, 638 F. Supp. 763 (D. N.J. 1986).

¹⁰ *Am. Motorcyclist Ass'n v. Watt*, 534 F. Supp. 923 (C.D. Cal. 1981).

necessary in an economy that is dependent on responsible management of timber, recreation, minerals and other resources on federal lands. In the resolution, county commissioners ordered:

1. Jackson County will exercise its rights of coordination concerning the use of federal lands as provided by federal statutes to the full extent of the law.
2. The Jackson County Natural Resources Advisory Committee, in consultation with County Counsel and the Development Services Department, is instructed to prepare a coordination plan that will protect and enhance Jackson County's economy while promoting the responsible employment of resources on and in the federal lands.

1.2.2 Consultant Engagement and Work

On February 2, 2011, the Board of Commissioners signed Board Order Number 15-11, which authorized Jackson County Administrator to execute a contract with CSA Planning Ltd. to prepare a coordination plan. The consulting team was led by Jay Harland with CSA Planning Ltd., a land use expert based in Medford, Oregon, and Robin Seifried, an environmental law specialist with the law firm Cable Huston in Portland, Oregon.

The consulting team's role was to perform research on the coordination process, provide structure to the Coordination Compact and draft policy language that is both technically sound and reflects the policy position of the Jackson County Board of Commissioners.

1.3 Coordination Compact Purpose and Function

The purpose of the Coordination Compact is to provide a sound policy basis to negotiate formal coordination procedure agreements with individual Federal agencies and communicate the Board of Commissioners' policy positions on Federal policy and actions that affect Jackson County.

1.3.1 Relationship to Other County Documents and Policies

The Coordination Policy Compact is not a land use decision or comprehensive plan as these terms are defined in Oregon Revised Statutes (ORS) Chapter 197. The Compact is only applicable where Federal land ownership, Federal projects, and/or Federal permitting requirements assign land use decision-making to the Federal government. In this way, the Compact is a limited scope document that functions only to guide Federal policies and activities.

1.3.2 Coordination Policy Compact Organization

The Coordination Policy Compact is divided into three sections: overarching policies, Federal land management and Federal projects. The first section addresses Jackson County's general policies relating to the process for coordination between Jackson County and the Federal agencies and the development of and modifications to Federal policy. This section provides a set of overarching policies that are intended to apply to

all other policies and to which all other policies are subservient. The second section addresses Federal land management policies. This section provides policies relating to the executive administration of Federal land management laws, rules and policies. The third section addresses Federal projects. Projects are very different from policies, plans, laws, and rules, because they involve physical actions. This section provides policies relating to both the process for coordinating on projects generally and the methods for coordination actions on specific projects.

1.3.3 Coordination Policy Compact Implementation

The utility of the Coordination Policy Compact will vary directly with the level of implementation undertaken by Jackson County. Declaring Jackson County's intention to coordinate is the first major step. Ideally, this will proceed to formal coordination procedure agreements with identified Federal agencies. Then the level of participation and day-to-day implementation of the Compact will determine policy and project results. This participation will take the form of informal communications with Federal agencies as well as formally transmitted coordination comments on specific projects and policy proposals.

This participation and day-to-day implementation is expected to build more strategic and lasting relationships with agency personnel; these personal relationships can easily become as powerful as the official policies themselves.

1.3.4 Amendments and Updates to the Compact

The Compact contemplates that updates will be required from time to time to respond to changes in Federal laws, rules and coordination procedures and with Jackson County's economic, social and political priorities. Minor updates can be scheduled on an annual or bi-annual basis. The Compact contemplates that major policy reviews will occur every 5-7 years. The Compact contemplates that Jackson County Coordination comments on specific projects or management policy proposals will be ongoing and these constitute implementation of the Compact.

2 OVERARCHING POLICIES

The Policies and Implementation strategies described in this section constitute Jackson County's overarching coordination policies and strategies for Federal agencies whose actions affect Jackson County. All subsequent sections of the Jackson County Federal Coordination Policy Compact are subservient to the overarching policies and implementation strategies contained in this section. The policies in the subsequent sections should be interpreted consistent with this section.

2.1 Purpose of the Compact

Policy 2.1.1.1 Jackson County asserts its maximum rights to coordination, as provided by law, with all Federal agencies conducting activities in or affecting Jackson County.

Policy 2.1.1.2 The policies contained in the Compact, together with formal coordination agreements, are provided with the express intent of developing meaningful and productive relationships with the Federal agencies that coordinate with Jackson County.

2.2 Coordination Agreement

Policy 2.2.1.1 Jackson County will transmit a formal request to initiate immediate and ongoing coordination with Federal agencies that the Jackson County Board of Commissioners find conduct activities in or that may affect Jackson County. These agencies include, but are not limited to, the following:

- USDA Forest Service
- US Department of the Interior Bureaus:
 - Bureau of Land Management (BLM)
 - Bureau of Reclamation (Reclamation)
 - National Park Service
 - US Fish and Wildlife Service (FWS)
- NOAA's National Marine Fisheries Service (NOAA Fisheries)
- Army Corps of Engineers
- Federal Regulatory Energy Commission (FERC)
- Natural Resource Conservation Service

Policy 2.2.1.2 In its transmittal requesting coordination, Jackson County may consider making a request to a respective recipient agency to develop a formal coordination agreement with Jackson County. The agreement may include, but is not limited to, the following:

- Mechanisms for agreement amendments
- Policy development notification procedure
- Policy development review and comment
- Policy development conferences
- Project notification
- Project review and comment
- Project coordination conferences

2.3 Federal Policy Changes

Jackson County recognizes and respects that the Federal government has many policy priorities that change over time and that these changes affect Federal land management. Political, cultural, economic, environmental, and national security dynamics are in constant states of change and these changes sometimes translate into land management changes. This section describes Jackson County's general policies regarding changes to Federal land management.

- Policy 2.3.1.1 Jackson County supports changes to coordination laws, rules and administrative procedures that will strengthen requirements for coordination and consistency between Federal and local plans and policy.
- Policy 2.3.1.2 Jackson County opposes major land management policy actions enacted by the executive branch of the Federal government outside of the ordinary land management planning and policy development process and deem such actions to subvert the coordination requirements otherwise required.
- Policy 2.3.1.3 Coordinating Federal agencies are expected to notify Jackson County of any proposed changes to any administrative rule or guidance regarding coordination procedures within 42 days of project initiation and that provides for not less than 60 days for response and comment from Jackson County on the proposed changes. The agency and Jackson County may consider amending their coordination agreement, if such agreement exists, accordingly to reflect any resulting changes.
- Policy 2.3.1.4 Coordinating Federal agencies are expected to notify Jackson County of any land management policy changes contemplated by the agency at the earliest practicable point in the policy development process and not later than 60 days from project initiation, consistent with any coordination procedure agreement between Jackson County and the respective coordinating Federal agency. Jackson County will exercise its rights to coordinate and participate in policy development relating to any policy changes that are material to the interests of Jackson County.

2.4 Federal Land Ownership Changes¹¹

There are many Federal interests associated with Federal land holdings in Jackson County. Jackson County recognizes that changes to the Federal government's land holdings may occur from time to time. Jackson County, similarly, has a wide array of interests that are affected by changes in Federal land holdings in Jackson County. This section describes Jackson County's overarching policies regarding changes to the Federal government's land holdings in Jackson County.

- Policy 2.4.1.1 Jackson County finds that changes to Federal land holdings may function to support economic development opportunities in areas such as renewable energy production, transportation, and tourism. Jackson County supports Federal land holding changes to capitalize on economic development opportunities that are otherwise appropriate.

¹¹ This section relates exclusively to changes in Federal ownership interests and does not extend to leasehold interests, mining claims, and similar real estate rights.

- Policy 2.4.1.2 Jackson County finds that Federal land holding changes may function to preserve or enhance historic and cultural assets. Jackson County supports land holding changes that advance these interests and are otherwise appropriate.
- Policy 2.4.1.3 Jackson County finds that Federal land holding changes may function to improve the environment and make land management more effective. Jackson County supports land holding changes that make management more efficient and better balance environmental asset preservation with land use and utility and are otherwise appropriate. Land exchanges or donations should not result in a net loss of general fund revenue to Jackson County as a result of property taxes that would have otherwise accrued.
- Policy 2.4.1.4 Jackson County finds that Federal land holding changes may function to support developed recreation and Jackson County's tourist economy. Jackson County supports land holding changes that support developed recreation investments and are otherwise appropriate for the area.
- Policy 2.4.1.5 Jackson County finds that national security is the most important national interest. Jackson County supports changes in Federal land holdings that serve national security interests and are otherwise appropriate.

3 FEDERAL LAND MANAGEMENT POLICY

This section describes Jackson County's policies regarding the Federal government's management of lands it owns or controls. Subsequent sections address policies for Federal projects. Although the policies include references to target agencies as examples, the policies are not exclusive to those agencies and apply to any other agencies under similar circumstances.

Agencies that own Federal land, such as the USDA Forest Service and the Bureau of Land Management, prepare management plans for their respective land holdings. The land management plans set out broad land management policies for large areas or types of lands, while more narrowly defined plans implement those policies specific to smaller areas within the larger scope.

3.1 Forestland and Rangeland Management Policies

This section describes Jackson County's policies regarding Federal land management plans that affect forestland and rangeland in Jackson County.

- Policy 3.1.1.1 Jackson County supports forest planning that will result in sustainable timber yields from lands in Jackson County. Calculations of sustainable yields should be based upon the best science and forest

- management practices available and should adequately account for lands that have environmental restrictions or other similar constraints.
- Policy 3.1.1.2 Jackson County supports forest management plans that provide for effective and efficient timber harvests and achieve planned timber yields. Forest management plans should encourage timber harvest proposals that are likely to withstand legal challenges.
- Policy 3.1.1.3 Jackson County supports forest management plans that contain policies and implementation that will achieve timber sales and begin harvests within 12 months of wildfire events. This policy applies to any area where the forest management plan otherwise supports timber harvests as appropriate land utilization.
- Policy 3.1.1.4 Jackson County supports forest planning that will improve forest health and decrease the risk of wildfires, especially in the urban-wildland interface areas of Jackson County. Jackson County recognizes and supports forest plans that include components for stewardship, small diameter logging and similar active management practices as well as road access for firefighting.
- Policy 3.1.1.5 Jackson County supports continued maintenance and operation of most, if not all, of the existing Forest Service and BLM roads. Jackson County recognizes that some roads and roadway networks may become obsolete or cost prohibitive and that management must prioritize the needs of its system. To provide funds for continued operation and maintenance of existing roads, Jackson County encourages forest planning that can be expected to generate sufficient revenue to support the existing Forest Service and BLM road network in Jackson County.
- Policy 3.1.1.6 Jackson County supports rangeland management planning that does not decrease the level of Federal grazing allotments (and/or grazing leases) that existed on January 1, 2011 to local area ranchers. Jackson County supports the creation of offsetting allotments of comparable or superior quality to assure no net-loss of grazing allotments for any proposed management policy change that would reduce the total gross acreage of grazing allotments in Jackson County.
- Policy 3.1.1.7 Jackson County supports rangeland management planning that would return the level of Federal grazing allotments (and/or grazing leases) to those that existed on January 1, 2000 to local area ranchers; that date being prior to the creation of the Cascade-Siskiyou National Monument. Jackson County supports the creation of offsetting allotments of comparable or superior quality to assure no net-loss of grazing allotments for any proposed management policy change that

would reduce the total gross acreage of grazing allotments in Jackson County.

Policy 3.1.1.8 When an agency that is required to coordinate with Jackson County initiates any evaluation of a proposal for land preservation within Jackson County, Jackson County seeks the highest level of coordination practicable and requests all information generated by or provided to the agency on the proposal be provided as early as practicable¹². Preservation actions include, but are not necessarily limited to the following:

- Study areas to be forwarded to Congress for consideration as Wilderness
- Areas being considered for National Park designation
- Areas being considered for executive land management and policy actions outside the ordinary land management planning and policy development process such as monument designation or secretarial wildlands designations.

3.2 O&C Land Act Specific Policies

In addition to the general policies regarding all federal land management policy choices, Jackson County has specific interest in regard to the “O&C lands”. The issues surrounding these lands span over 100 years. Considerable background information is available on the history of these lands, but that is not the purpose of this document. The basic issue is that these lands were identified as an asset used to incent construction of a railroad that would result in economic development. The implementation of this incentive program was fraught with corruption and the land was revested to the Federal Government. As part of the political agreement to revest the land, the thirteen affected western Oregon counties were assured that the economic development benefits of the program would still be achieved by sale of timber from the lands providing general fund operating revenues to the counties. Under the O&C Lands Act of 1937, these lands were to be managed for timber production and fifty percent of the gross timber receipts go to the respective counties’ general fund.

Thus, implementation of the O&C Lands Act has significant implications for the general fund and Jackson County’s financial health. For this reason, Jackson County adopts the following policies specific to the management of O&C Lands.

Policy 3.2.1.1 Jackson County recognizes that federal agencies manage O&C Lands subject to the Federal Land Management Policy Act (FLMPA) for lands managed by BLM and the National Forest Management Act (NFMA) for lands managed by the Forest Service. Jackson County

¹² Practicable as it is used here generally refers to when any reports or evaluations of the proposal are prepared in a manner suitable for review by an agency’s area manager or any higher level official.

also recognizes that FLMPA and NFMA require federal agencies to coordinate with local governments affected by amendments to federal land management plans. Accordingly, Jackson County asserts its right to coordinate with federal agencies regarding any change in management policies relating to O&C Lands, including but not exclusive of any change in the annual sustained timber yield capacity for O&C Lands.

Policy 3.2.1.2 Jackson County recognizes that the primary purpose of the O&C Lands under the O&C Lands Act is timber production. Jackson County supports the minimization of projects for purposes other than the management of a sustained yield of timber on O&C Lands. When considering a use for O&C Lands other than timber production, federal agencies should evaluate non-O&C Lands as alternatives and utilize non-O&C Lands whenever the management objective can otherwise be advanced without the utilization of O&C lands. Because the O&C Lands Act includes lands managed by multiple agencies, this alternatives analysis should include inter-agency coordination and alternative sites for land managed by any agency that manages land under the O&C Lands Act.

Policy 3.2.1.3 Jackson County recognizes that the federal agencies establish an annual sustained yield capacity for O&C Lands under the O&C Lands Act. Jackson County also recognizes that actual timber sales may be significantly reduced from the sustained yield adopted in the management plan as a result of the individual environmental review processes necessary for each harvest project. Jackson County supports the maximization of timber sales within the annual sustained yield capacity. To account for the reduction from planning to actual timber harvest, Jackson County supports harvest planning and environmental review processes that will be sufficient to meet the annual sustained yield capacity; the planning and environmental review process may need to include significantly greater acreages with more aggregate timber production potential than the planned sustained yield in any given year to assure that actual timber harvests in any given year can properly account for delay or reduction which often occurs during the environmental review process.

3.3 Energy Policies

Existing and potential sources of energy are affected by Federal policies. The Forest Service, Bureau of Land Management, Bureau of Reclamation, the Federal Energy Regulatory Commission (FERC), and other agencies have resources and policy jurisdictions that affect energy production and transmission in Jackson County. Energy cost advantages are one of the most powerful economic development tools available to a local community. However, energy production and transmission can have significant externalities such as pollution, aesthetic impacts, and environmental changes. This

section describes Jackson County's policies for energy production and transmission on Federal lands.

- Policy 3.3.1.1 Jackson County supports the expansion of energy production and transmission in a manner that results in minimal negative externalities. For example, Jackson County supports small hydroelectric projects that tap into the existing grid and have no significant impact on the environment.
- Policy 3.3.1.2 Jackson County supports the minimization of negative externalities of energy production and transmission. To offset negative externalities, Jackson County encourages benefits such as long-term energy price reductions specific to industries in Jackson County and investments in environmental stewardship.

3.4 Mining Policies

Existing and potential sources of minerals and aggregates are affected by Federal policies. Mining can provide significant economic development and employment opportunities. The Forest Service, BLM, and other agencies have resources and policy jurisdictions related to mining activities. However, like energy production and transmission, mining activities can have significant negative externalities such as pollution, aesthetic impacts, and environmental changes. This section describes Jackson County's policies regarding mining on Federal land.

- Policy 3.4.1.1 Jackson County supports the rights of existing mining claims and the acquisition of new rights to newly discovered resources or where technologically advances provide increased access to existing resources.
- Policy 3.4.1.2 Jackson County supports the minimization of negative externalities to a practical extent. Jackson County supports requirements for appropriate reclamation of any mining site at the conclusion of mining activity.
- Policy 3.4.1.3 Jackson County supports the reclamation of abandoned mines and the prioritization for reclamation of abandoned mines that pose a significant health or environmental hazard.

3.5 Recreation Policies

Recreation on Federal lands is important to Jackson County. The National Park Service, the Forest Service, BLM, BOR, the Army Corps of Engineers, and other agencies have resources and policy jurisdictions that affect recreation in Jackson County. Recreation on Federal land in Jackson County provides economic development through tourism. Recreation on Federal land also serves long-term economic development in Jackson County because recreation opportunities support migration and associated investment

decisions.¹³ Recreation opportunities on Federal land range from low impact, low intensities and nominal investments, to high impacts, intensive, and high levels of investment. This section describes Jackson Counties' policies regarding recreation opportunities and associated land uses on Federal lands.

3.5.1 Developed Recreation/Enrichment

Developed recreation includes uses where significant physical improvements and investments are made on Federal land to support the recreation uses. Developed recreation opportunities on Federal land may include, but are not necessarily limited to, the following:

- Nordic and/or alpine ski areas
- Trails
- Privately held long-term leased and short-term leased forest cabins
- Reservoirs
- Campgrounds and picnic areas
- Marinas
- Educational facilities and research stations (e.g., telescopic observatories and interpretive centers)
- National park lodges and similar park investments

Policy 3.5.1.1 Jackson County recognizes that some areas are appropriate for developed recreation and that other areas are not. Jackson County supports Federal land planning for developed recreation in appropriate locations. To evaluate suitable locations for developed recreation, Federal agencies should review Jackson County's Destination Resort Map and align Federal plans with local land use plans that support large-scale developed recreation investments.

Policy 3.5.1.2 Jackson County generally supports planning and designation for developed recreation in locations where developed recreation improvements already exist. Jackson County prioritizes these areas for reinvestment and expansion to meet existing and future needs.

Policy 3.5.1.3 Jackson County supports opportunities for additional developed recreation in Jackson County. Jackson County-wide level of developed recreation should not be decreased. Any decreases in the level of a major developed recreation amenity in Jackson County should be offset by a corresponding replacement or increase of a similar type of developed recreation opportunity elsewhere in Jackson County.

¹³ Von Reichert, *Multinomial logistic models explaining income changes of migrants to high-amenity counties*. Review of Regional Studies Summer 1992; 22(1) pp. 25-42

3.5.2 Low-Impact Recreation Uses

Low-impact recreation uses generally involve relatively small scale physical improvements and low-levels of investments on Federal land to support the recreation uses. Low-impact recreation opportunities on Federal land may include, but are not necessarily limited to, the following:

- Horseback riding
- Hiking
- Hunting
- Fishing
- Unregistered boating (boats not requiring registration under Oregon law)
- Bird-watching

Policy 3.5.2.1 Jackson County supports most all low-impact recreation uses. Jackson County recognizes that some low impact uses are not consistent with National Park management plans but supports plans that allow for as many low-impact recreation uses as may be appropriate for a National Park.

Policy 3.5.2.2 Jackson County supports the preservation and maintenance of existing physical improvements that support low impact recreation uses, such roads to trailheads, boat ramps and similar infrastructure.

3.5.3 High-Impact Recreation Uses

High-impact recreation uses may or may not require significant physical improvements and investments on Federal land to support the recreation uses and may affect the natural environment to varying degrees. Impacts on the natural environment may include erosion, noise, permissible levels of pollution discharge, and similar impacts. Intensive recreation opportunities on Federal land may include, but are not necessarily limited to, the following:

- Registered boating (boats requiring registration under Oregon law)
- Off-highway vehicles
- Snow-machines
- Motorized commercial recreation, such as snow-cat tours, snow-cat skiing, and jet-boat tours

Policy 3.5.3.1 Jackson County recognizes that some areas are appropriate for high-impact recreation activities while other areas are not. Jackson County supports Federal land planning for high-impact recreation in appropriate locations.

Policy 3.5.3.2 Jackson County prioritizes locations with existing intensive recreation uses for reinvestment and expansion to meet existing and future needs.

3.6 National Security

Agencies such as the Department of Defense and the Department of Homeland Security use lands to meet the security needs of the United States of America. Local concerns or issues are usually secondary to investment and strategic decisions about Federal lands for national security.

- Policy 3.6.1.1 Jackson County recognizes that priorities and investments in our national defense will change over time and that national security investment and strategic decisions must take precedent over local concerns or issues. Where local issues and concerns can reasonably be addressed without compromise to national security interests, then Jackson County supports the minimization of local conflicts and potential adverse impacts.

4 AIR AND WATER RESOURCES

Federal agency policies and programs have significant implications for air quality, water quality, water use and availability, flood control and risk management, and changes to wetlands and similar features. Air and water resources are impacted by several agencies and affected by a wide range of regulations, program requirements and interactions with local governments in an array of permit and policy arenas. The most prominent Federal agencies are the Environmental Protection Agency (EPA), which sets national requirements for air and water quality and the Army Corp of Engineers, which regulates removal and fill of jurisdictional waters. The nationwide requirements are often implemented through state agency programs reviewed and approved by the relevant Federal agency.

The interactions between county government and the regulatory agencies regarding air and water resource regulation and permit actions are complex and go beyond *coordination* as that term is applied elsewhere in the Jackson County Coordination Policy Compact where *coordination* relates to direct Federal projects or management actions to which the agency is required to *coordinate*. For this reason, it is beyond the scope of the Coordination Policy Compact to develop detailed policies to guide Jackson County's interactions with relevant agencies regarding of air and water resource issues.¹⁴

Despite the complexity of air and water quality resource issues, some general policies are appropriate. This section describes Jackson County's policies regarding land use management planning and Federal projects affecting air and water resource issues.

- Policy 4.1.1.1 When Jackson County coordinates on projects that implicate air and water resources, Jackson County will rely on approved implementation plans, permit requirements, and adopted processes to determine

¹⁴ An evaluation of the potential benefits for Jackson County to have a compendium document that includes detailed policies on regulation development, program implementation, and permit review for air and water resource issues may be appropriate if Jackson County has expanded interest in these areas.

whether water and air resource issues are adequately addressed by the project.

5 ENDANGERED SPECIES

The purpose of the Endangered Species Act (ESA) is to conserve threatened and endangered species and the ecosystems upon which they depend. ESA is administered by the U.S. Fish and Wildlife Service (FWS) and NOAA Fisheries. FWS has primary responsibility for terrestrial and freshwater species, while NOAA Fisheries is responsible for marine and anadromous fish species, such as certain salmon.

Under the ESA, species may be listed as either endangered or threatened. An endangered species is in danger of extinction throughout all or a significant portion of its range. A threatened species is likely to become endangered within the foreseeable future. All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened. For the purposes of the ESA, Congress defined species to include subspecies, varieties, and, for vertebrates, distinct population segments.

When a species is listed as threatened or endangered, Federal agencies must assess the impact of Federal action on the species. Listing may trigger amendments to land management plans to address habitat needs for the newly listed species.

5.1 Species Listing

Species listing can occur either by agency initiated action or by private petition. The applicable agency (FWS or NOAA Fisheries) reviews the data to make one of three determinations for the species: not warranted, warranted but precluded, and warranted. This section describes Jackson County's policies regarding the listing of species occurring in Jackson County.

- Policy 5.1.1.1 The agency will notify the County of any petitions submitted for species and the lists of candidate species occurring in Jackson County. If Jackson County determines a petition for listing or candidate species is vital to Jackson County's interests, then Jackson County may, if feasible, collaborate with others and/or take a leadership role in the listing evaluation process. Leadership activities may include but are not limited to the following:
- a) Review of scientific data and development of data supplements if determined appropriate.
 - b) Determine if it is appropriate for Jackson County to be the permit holder for a Programmatic Candidate Conservation Agreement with Assurances (PCCAA) as a pre-emptive measure to accomplish ESA objectives through habitat preservation and other negotiated species support actions.

5.2 Critical Habitat Designation

Critical habitats are areas designated by the applicable agency (FWS or NOAA Fisheries) as necessary for preservation or recovery of a listed species. The law provides that critical habitat be designated when a species is listed, but in practice critical habitat designation often occurs several years later. The Endangered Species Act defines critical habitat as an area occupied by a species listed as threatened or endangered within which are found physical or geographical features essential to the conservation of the species, or an area not currently occupied by the species which is itself essential to the conservation of the species.

Critical Habitat has been an extensively litigated component of the Endangered Species Act with litigants on both sides demanding changes to designations and attempting to compel the relevant agency to designate the habitat. Designation of critical habitat is the only aspect of the ESA that is required to consider economic impacts. Critical habitat designations are based upon scientific and economic technical analysis that can be subject to legal scrutiny during the designation process.

Policy 5.2.1.1 When commenting on proposed critical habitat designations, Jackson County may take into account potential benefits by considering qualified scientific professionals, economists and/or environmental law experts in the development of Jackson County's comments on the proposed designation.

5.3 Habitat Conservation Plans

Habitat Conservation Plans (HCPs) are planning documents required as part of an application for an incidental take permit. They describe the anticipated effects of the proposed taking; how those impacts will be minimized, or mitigated; and how the HCP is to be funded. HCPs can apply to both listed and non-listed species, including those that are candidates or have been proposed for listing. Thus, HCPs can be projects unto themselves, but are most often a necessary part of a larger project.

An HCP can also be undertaken to facilitate a larger project. These projects can be private or public level of government. Generally, these HCPs are directed at the specific impacts from a specific project action. Often these projects are already subject to NEPA review, but the need for an HCP adds a second dimension to the NEPA review.

Policy 5.3.1.1 Broad HCPs that are projects unto themselves may be beneficial depending on the species and the types of actions and specific locations affected by the specific species listing. Jackson County may consider proposals to collaborate on and/or be the lead agency for the development of a HCP for listed species known to exist or with habitat in Jackson County. At a minimum, any such proposal brought to Jackson County by a third party must include the following:

- a) Timeline to complete the HCP
- b) Contact information and any preliminary communications with the applicable FWS or NMFS Field or Regional office agent who is expected to be assigned staff support for the project.
- c) Estimated Costs to file the HCP and the proposed responsible party(s) for the project costs. Costs should be itemized according to major categories like – GIS Habitat Mapping, Field Data Collection, Plan Preparation, Other Agency Permits, Draft NEPA documentation, etc.

Policy 5.3.1.2 For an HCP related to a specific project, Jackson County will apply its policies in Section 6 of this document that are relevant to the specific project, but may provide additional comment through the NEPA review that relate specifically to the HCP aspect of the project.

5.4 Safe Harbor Agreements

Another tool that is available once a species is listed is a *Safe Harbor Agreement (SHA)*. An SHA is an agreement between the agency and a private landowner, providing that where a baseline habitat condition is established, actions that may enhance the habitat conditions and increase species prevalence on the property will not result in additional use restrictions beyond those that would have been applicable under the baseline condition. Individual agreements can be adopted directly between a property owner and the U.S. Fish and Wildlife Service or a “Programmatic SHA” can be developed. A Programmatic SHA provides a process to establish a baseline and details a list of actions that could be taken to support the species and then prescribes the “programmatic” or “blanket safe harbors” that will apply for any property owner who elects to participate.

Policy 5.4.1.1 Jackson County’s policy is that Programmatic SHAs may be beneficial depending on the species and the types of actions and specific locations affected by the specific species listing. Jackson County may consider proposals to collaborate on and/or be the lead agency for the development of a Programmatic SHA for listed species known to exist or with habitat in Jackson County. At a minimum, any such proposal brought to Jackson County by a third party must include the following:

- a) Timeline to complete the Programmatic SHA
- b) Contact information and any preliminary communications with the applicable FWS or NMFS Field or Regional office agent who is expected to be assigned staff support for the project.
- c) Estimated Costs to develop the Programmatic SHA and the proposed responsible party(s) for the project costs. Costs should be itemized according to major categories like – GIS Habitat Mapping, Field Data Collection, Agreement Preparation, etc.

6 FEDERAL PROJECT REVIEW

Certain projects that are Federally funded, located on Federal land, or require Federal permitting are considered “major federal actions” and require the agency to perform an environmental review under the National Environmental Policy Act (NEPA). Projects subject to this section include both Federal, state or local government project and private projects subject to Federal requirements. Before proceeding with a major federal action, the agency must evaluate under NEPA whether the project will significantly affect the environment and consider appropriate mitigation. NEPA requires the agency to evaluate other alternatives to the project, examine the cumulative impact of the project, and provide opportunities for public participation in the NEPA process.

The first step in the NEPA process is determining whether the project will significantly impact the environment. The agency may develop an environmental assessment (EA) to make this determination or may assume that the project will significantly impact the environment and proceed directly to the next step. If the agency concludes in the EA that the project will not significantly impact the environment or that any potentially significant impacts will be adequately mitigated, the agency issues a finding of no significant impact and proceeds with the project. If the agency concludes that the project will significantly impact the environment, the agency prepares an environmental impact statement (EIS). The EIS discusses the purpose and need for the project and evaluates the environmental consequences of the proposed project and any alternatives.

NEPA also requires Federal agencies to coordinate the environmental review process with affected local governments. The NEPA document must evaluate compliance with any applicable local laws and consistency with local laws and any approved local plans. If there is an inconsistency with local laws or plans, the agency must explain the extent to which it will reconcile the proposed action with the local law or plan.

6.1 Federal Projects

This section describes Jackson County’s general policies regarding Federal actions subject to environmental review under NEPA.

Policy 6.1.1.1 If the project is of material interest to Jackson County (as determined by Jackson County leadership), then Jackson County may request a role in the NEPA project scoping that may include, but not necessarily be limited to the following:

- Jackson County and the relevant agency(s) will follow any procedures contained in a mutually adopted coordination agreement.
- Jackson County will make reasonable efforts to provide constructive input to the agency(s) on the project purpose and need.

- Jackson County will make reasonable efforts to provide constructive input to the agency(s) on the initial alternatives to be analyzed.
- Jackson County will make reasonable efforts to identify data needs and technical analysis the County believes are essential to the NEPA process during the scoping and project development stage. Examples of data needs and technical analysis that is of interest to Jackson County may include, but is not limited to, issues such as:
 - Proliferation of invasive species
 - Impacts to water quality or quantity
 - Risk of wildfire
 - Impacts to air quality
 - Habitat mapping
 - Carbon Emissions

Policy 6.1.1.2 Jackson County supports maximizing net benefits to Jackson County and minimizing adverse environmental impacts of the project.

Policy 6.1.1.3 Jackson County supports project alternatives that demonstrate the optimum economically achievable balance between national benefits, local benefits, and minimized adverse environmental impacts.

6.2 Selected Project Types

The policies in this section are directed at typical or common project types often located on Federal land. These project types should not be construed to represent the universe of potential project types or impair or limit the need for specific positions on the types of projects addressed in this section.

6.2.1 Energy Generation and Transmission Facilities

Policy 6.2.1.1 Jackson County supports energy generation and transmission facilities that expand access to low-cost power for consumers and businesses in Jackson County, create new tax revenue sources, provide employment, encourage technological development, improve public safety, and provide franchise rights and transmission corridor lease payments.

6.2.2 Waterworks

Policy 6.2.2.1 Jackson County supports waterworks facilities that expand access to low-cost domestic and/or agricultural water, create new tax revenue sources, provide employment, encourage technological development, improved public safety, provide aqueduct lease payments, and increase flood control.

6.2.3 Recreation Development

- Policy 6.2.3.1 Jackson County supports recreation facilities that expand recreation opportunities for local residents, create economic development opportunities, and enhance alternative recreation uses that currently exist or which would be suitable for the area.

6.2.4 Transportation

- Policy 6.2.4.1 For transportation projects subject to transportation system planning under Oregon's land use laws, Jackson County support will limit comments to the evaluation of NEPA alternatives for the planned projects.
- Policy 6.2.4.2 For projects that are not subject to transportation system planning under Oregon's land use laws, Jackson County will evaluate projects based on the benefit to Jackson County. These benefits may include expanded access to Federal lands, reduced travel times, and improved integration with the existing transportation system. For proposed closures or relocations, Jackson County will consider how access will be retained, why the action is necessary to implement the management plan for the area, and what changes may occur on the existing transportation system in the affected area.

6.2.5 Historic and/or Cultural Preservation

- Policy 6.2.5.1 Jackson County supports cultural and historic preservation projects that do not prevent implementation of other types of needed projects in the area. Where cultural and historic preservation prevents the implementation of other projects, Jackson County will carefully consider the competing interests and related benefits to Jackson County.

6.2.6 Public Safety, Security and/or Property Protection

- Policy 6.2.6.1 Jackson County recognizes that public safety is of paramount importance and supports projects that protect life and property. Jackson County supports all public safety, security and property protection projects that do not negate opportunities for other very high priority project.

6.2.7 Timber Harvests

- Policy 6.2.7.1 Jackson County supports timber harvests that expand access to low-cost lumber for consumers and businesses, create new tax revenue sources, provide employment, improve public safety, and improve forest health.

6.3 APPLICATION OF THE COMPACT TO OTHER PROJECTS

The Coordination Policy Compact is not intended to restrict Jackson County's participation in and comment on federal actions not specifically described in the preceding sections. The policies in the Coordination Policy Compact may function as a guide in such instances, but shall not be considered determinative. Moreover, many of such projects also require review by Jackson County under Oregon's land use system. The Coordination Policy Compact shall be of no pre-eminence over any other type of information that may be submitted to the record during the course of a land use review by Jackson County. Such land use decision making must be based on the requirements of Jackson County's Comprehensive Plan and Land Use Regulations.

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