

## Lemon Gulch Trail System Issue Paper

### Crook County Natural Resource Advisory Committee

Report to Crook County Court 9/14/2021

#### **Executive Summary**

At its meeting on September 8, 2021, the Crook County Natural Resource Advisory Committee (CCNRAC) listened to a report from its Lemon Gulch subcommittee along with comments and discussion from a group of 25 Crook County citizens who are among those most affected by this issue. Some are neighbors to the project area, others graze livestock under Forest Service permit within the area, and all are very concerned about impacts to their customs and culture from the proposed extensive trail system which is literally in their back yards. This was the fifth public meeting held by the CCNRAC to fully understand the issues and to provide Crook County citizens the opportunity to be fully heard. At the conclusion of this part of the meeting, Committee members were polled and voted unanimously to make the follow recommendation to the County Court.

“CCNRAC recommends the County Court rescind its letter of support for the Lemon Gulch Project and to request that the Forest Service start their process for site selection and justification over again, with County assistance to reach a broader group of County Citizens to weigh in on the opportunities to expand all non-motorized trail opportunities, including biking, hiking and equestrian within the Ochoco National Forest.”

The Forest Service has done extensive outreach with trail user groups and others. However, CCNRAC believes that the people most impacted by the proposal, those who live and work there, were unaware of the project until only recently. An extensive system of trails has already been flagged on the ground before any decisions have been made. Now at this stage of the planning process, they are allowed only to comment on site specific considerations within the already prescribed area. At the Sept. 8 meeting, they requested to fully participate in considering “what area” of the Ochoco NF should receive the focus of this work, not simply “what to do” in the preselected area. CCNRAC agrees, believing it is better to back up now and resolve the issue rather than face the potential of continuing conflict and ill-will that might result from continuing on the current course.

#### **Background**

At the direction of the Crook County Court, the Crook County Natural Resources Committee has met 5 times to address landowner and grazing permittee concerns associated with the Lemon Gulch Bike Trail project being proposed (under current NEPA review) by the Ochoco National Forest. Lemon Gulch is found within the Mill Creek Watershed, approximately 15 miles from Prineville. The area is served by Mill Creek Road, a County road. Popular features of the Mill Creek Area include Steins Pillar, Brennan Palisades, Wildcat Campground and the Mill Creek Wilderness.

The proposal as announced by the Ochoco National Forest involves approximately 52 miles of non-motorized trails with primary use by mountain bikes but also open to hiking. The proposed trail system will occupy 9 square miles of the Lemon Gulch drainage. An organization, now known as Ochoco Trail Group was convened 3 – 4 years ago, in part by the Prineville/Crook County Chamber of Commerce to

address non-motorized trail issues in the Ochoco National Forest (bike and horse trail use conflicts on Lookout Mtn.). Over time, this group reviewed other trail opportunities across the Forest and provided recommendations to the Forest for future trail development. This group made presentations of their early work and mission to the Crook County Court and the Crook County Natural Resources Advisory Committee in the winter and spring of 2019. In August of 2019, this group recommended several areas of the National Forest to Forest administration for future trail work. The Forest, working with individuals from this group, developed several proposals including the Lemon Gulch area into an actual project. Scoping for the Lemon Gulch Trail System project was released in March, 2021 for a 30 day comment period.

With the release of the scoping letter, for the first time landowners within the Mill Creek watershed and Forest Service grazing permittees in the Lemon Gulch area learned about this proposal; unaware of the 2 plus years of work on this project by both the Forest Service and the Ochoco Trail Group. On April 13, 2021 during the County's work session, the Court approved a letter in support of the Lemon Gulch Project. At the County Court meeting of July 7<sup>th</sup>, members of the community expressed opposition to the Lemon Gulch Trail system expressing concerns about impacts on livestock grazing, wildlife, increased traffic on Mill Creek Road, trespass, weeds and other issues. This group expressed concern about the lack of Forest Service communication with them (the most affected parties) about the project and its impacts, and asked the Court to rescind their letter of support to the project. The Court said it would speak to its Natural Resources Committee before any decisions were made.

#### **Findings:**

- \* Five (5) public meetings were held by Crook County's Natural Resources Advisory Committee to discuss the history, processes and potential impacts of the Lemon Gulch Trail System (July 14, August 10, August 11, September 7 and 8. Landowners, permittees, Forest Service and trail advocates attended all meetings. Meeting minutes of this Committee can be reviewed for a summary of that conversation.
- \* The Forest Service and Trail advocates did hold a public meeting, October 2019, to discuss trail options and prioritize areas for development (place where Lemon Gulch was discussed and selected). There was no special attempt to contact landowners or grazing permittees within the Mill Creek watershed to discuss project outline, seek input and increase their awareness of the potential project.
- \* Following release of the Forest Service scoping letter (NEPA), permittees and landowners did meet with Forest Service administration in various formats (individually, group, etc) to express concern about the project impacts, "why here and why now?" and to express their frustration that they had not been aware of this project and should have been.
- \* The Committee heard overwhelming concern at its meetings about the lack of communication between the Forest and the people who live in the Mill Creek Watershed. This group of people feel that the only reason their voice was heard was because of the County and its Natural Resources Advisory Committee.

Respectfully submitted on behalf of the Crook County Natural Resources Advisory Committee,

Tim Deboodt  
Coordinator, Crook County Natural Resources Policy

# Department of Land Conservation and Development



## Application for Technical Assistance Grants

### 2021-2023

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## TECHNICAL ASSISTANCE GRANTS

### PROGRAM DESCRIPTION

The Department of Land Conservation and Development (DLCD) provides resources to help Oregon communities prepare and update local land use plans and implementing ordinances to respond to growth management and resource protection issues and changes in state agency programs and requirements. Technical Assistance grants are typically used to complete needed planning requirements that are not on periodic review work programs, or to satisfy local planning needs.

DLCD's 2021-2023 budget has been approved by the Legislature, and the department invites Technical Assistance grant applications for the biennium. The department will target grants to fund projects that result in the highest priority outcomes, as explained in the "Eligible Projects and Evaluation Criteria" section of this application packet.

The general fund grant program this biennium will have only one round of applications. The deadline for all applications is **October 1, 2021**.

### WHO CAN APPLY

Technical Assistance grants will be accepted from the following:

- A city or county
- Cities and counties jointly with one jurisdiction as the contact
- Multiple cities and counties with one jurisdiction as the contact
- A council of governments on behalf of one or more local governments
- A recognized Tribal Government or group of tribal governments
- A regional planning agency
- A port district

### GRANT PROGRAM CONTACTS

DLCD staff are available to answer your questions regarding application requirements and status. **The first point of contact is the regional representative for your jurisdiction.** You can find the regional representative assigned to your jurisdiction or region at <https://www.oregon.gov/lcd/CPU/Pages/Regional-Representatives.aspx>.

Tribal governments are encouraged to contact Gordon Howard, Grant Program Manager, at 503-856-6935 or [gordon.howard@dlcd.oregon.gov](mailto:gordon.howard@dlcd.oregon.gov).

If you cannot contact your regional representative, please contact:

Gordon Howard, Grant Program Manager, at 503-856-6935 or [gordon.howard@dlcd.oregon.gov](mailto:gordon.howard@dlcd.oregon.gov).

## ELIGIBLE PROJECTS AND EVALUATION CRITERIA

Technical Assistance grants are used to help complete projects that update comprehensive plans and implementing regulations, plan for specific areas, or support inclusive planning activities. The *2021-2023 Grants Allocation Plan*, approved by the Land Conservation and Development Commission, lists the program priorities for use of Technical Assistance grant funds as follows (additional detail in “Program Priorities,” below):

1. Promote provision of affordable and workforce housing
2. Promote economic development
3. Plan for resilience to natural hazards and climate change
4. Provide infrastructure financing plans for urbanizing areas
5. Update comprehensive plans and implementing codes to respond to changes in state law or advance regulatory streamlining

These are listed in priority order. HOWEVER, that the department expects to fund all projects that promote provision of affordable and workforce housing with a separate housing grant fund appropriated by the 2021 Legislature. Those planning projects that do not match these priorities are eligible; grants for these projects will be awarded based on the merits of the application as funds allow.

The Technical Assistance grant evaluation review criteria, explained in sections 1 through 7 below, address program priorities, considerations to ensure appropriate use of funds, and other program objectives. Please address these, as applicable, in your application attachment.

Projects are not expected to satisfy the non-mandatory criteria, but those that rate well under one or more of them will have an improved likelihood of success.

### 1. Project Objectives

The *project objectives* are clearly stated; address the problem, need, opportunity, and issues; are defined in a manner consistent with the statewide planning goals; and directly relate to a clear statement of expected outcomes. The project objectives need to be reasonably achievable.

### 2. Program Priorities

The project addresses the program priorities as follows:

1. The project updates a plan or code to ***promote the provision of affordable and workforce housing***.

NOTE: For the 2021-2023 biennium the department has a separate grant fund for projects to promote housing supply, affordability, and equity in Oregon, appropriated by the 2021 Legislature. If your proposal qualifies for one of these sources of grant funding DLCD staff will contact you to provide information and discuss the matter.

2. The project ***promotes economic development***. This priority is for planning or implementation projects that establish or further a community's economic or community development objectives. This may include completing an economic opportunities analysis or a main street plan, establishing an urban renewal district, completing public facilities plans for employment lands, or a variety of other projects that directly increase economic development opportunities or benefit economic and community development efforts.

Examples from past grant cycles include

- a. updated economic opportunities analyses and an industrial area master plan;
- b. targeted industry analysis;
- c. transportation refinement plan or public facilities plan for job-producing land;
- d. wetland inventory and mitigation plan for an industrial site;
- e. redevelopment toolbox for a commercial strip;
- f. citywide public facilities element;
- g. intergovernmental agreement to carry out a public facilities plan;
- h. planning for workforce housing in an area with a deficit of opportunities.

3. The project results in a new or updated ***plan for addressing resilience to natural hazards and climate change***. This priority is for grants that provide assistance with: (a) creating local natural hazard mitigation plans; (b) other studies and activities supporting local resilience to natural hazards and climate adaptation; and (c) incorporating new hazards data, and the response to the data, into comprehensive plans and zoning regulations. This priority has been modified from previous grant allocation plans to include climate change as a specific topic for the grant application.

4. The project helps a local government ***complete an infrastructure financing plan*** to prepare for and fund local infrastructure to support growth and development.

5. The project ***updates a comprehensive plan or implementing code to respond to changes in state law or advance regulatory streamlining***. Many local codes haven't been updated in years, and this is an opportunity for assistance in modernizing local regulations, including procedures sections that could impose barriers to appropriate development.

3. Project Description The *approach, budget and products* are defined for every task and are reasonable considering the benefits of the project and the work proposed is reasonably likely to achieve the project objectives.
4. Grantee Capacity The application and past performance on grant-funded projects (where applicable) demonstrate that there is *adequate local capability* to successfully manage the project.
5. RST Priorities The project advances *Regional Solutions Team (RST) priorities*. Each regional advisory committee sets priorities for the region, and grant applications will be assessed to determine whether the project furthers one or more of these priorities. *This is not mandatory*. That is, projects that do not closely align with RST priorities are eligible for a grant award. However, those that clearly advance an RST priority will score better than those that do not.
6. Multiple Jurisdictions The project *benefits multiple jurisdictions* or entities. This can be accomplished through a joint application by more than one local government, tribe, or service district, with the grant products benefitting each. Or the products of the grant may include a guidebook, template, or toolbox that will benefit the public or local governments or regions that did not receive the grant. *This is not mandatory*. Grantees are encouraged to work regionally or to create products with broad application, while DLCD recognizes that the products of many projects will benefit only the grantee.
7. Equity & Inclusion The applicant demonstrates a commitment to inclusion of priority populations. All proposals are expected to include deliverables related to inclusive outreach and engagement strategies. However, those that aim to address local and regional inequities related to local or regional land use planning issues through inclusive planning processes will receive additional points.
8. Leverage A local cash or in-kind match is not required for individual grants. Typically for a local government to provide a cash match, the match must be budgeted ahead of time, which increases the lead time for project planning. Cash matches may also be particularly difficult for small jurisdictions. The required lead time and the uncertainty of grant awards present barriers to participation for some communities and may result in missed opportunities for the program. Regardless of any hard match requirement, however, a local government must provide in-kind resources for grant administration and must facilitate the local decision-making process.

## **REVIEW PROCESS**

Grant applications will be reviewed considering the program priorities in the Grants Allocation Plan and the evaluation criteria explained above. The department will award those grants that best satisfy these criteria.



The department will notify applicants of award decisions at the earliest time possible, usually within 60 days. Unsuccessful applications may be reconsidered if additional grant funds become available.

Once awards are determined, the DLCD grant manager will work closely with the grantee to complete the scope of work and execute a grant agreement. Again, this will be completed at the earliest time possible; it usually takes 60 to 90 days after the award, but can take longer depending on the complexity of the scope of work.

## ELIGIBLE COSTS

Grant funds may be expended only for direct project-related costs associated with the funded project. Eligible costs include salary of staff assigned to the project, consultant fees, postage, supplies, and printing. Equipment purchases and indirect costs, including general administrative overhead and software costs, are not eligible.

Costs incurred prior to signing a grant agreement are not eligible project costs. This includes costs of preparing the grant application and preparing a statement of work for the grant agreement.

Grant funds are provided on a reimbursement basis for products in accordance with the reimbursement schedule specified in the grant agreement.

## APPLICATION INSTRUCTIONS

**1. Complete the grant application.** Be specific and thorough in describing all proposed grant products as described in the application form. Submit application materials **by October 1, 2021** to:

By e-mail (preferred) to: [DLCD.GFGrant@dlcd.oregon.gov](mailto:DLCD.GFGrant@dlcd.oregon.gov)

By mail to: Grants Administrative Specialist  
Department of Land Conservation and Development  
635 Capitol Street NE, Suite 150  
Salem, Oregon 97301-2540

**2. Include a resolution or letter from the governing body of the city, county, district, or tribe demonstrating support for the project.** If the applicant is a council of governments on behalf of a city, a letter or resolution from the city council supporting the application must be included. The letter of support may be received by DLCD after the application submittal deadline, but it must be received before a grant is awarded.

**3.** DLCD will confirm receipt of applications by e-mail, review applications promptly, contact applicants if additional information is needed to complete review, and notify applicants of our decision.

# Crook County Counsel's Office

267 NE 2<sup>nd</sup> St., Ste 200 • Prineville, Oregon 97754 • (541) 416-3919 • FAX (541) 447-6705

## MEMO

**For Work Session  
September 21, 2021**

TO: Crook County Court

FROM: Crook County Legal Counsel's Office

DATE: September 16, 2021

RE: Cracking the Nut: Juniper Acres  
Our File No.: Com Dev 65

Addressing residential development in Juniper Acres has been an issue in Crook County for a long time. In 2003, the County Court enacted CCC 18.112.005, which reads:

*The purpose of this zoning district is to ameliorate the consequences of the establishment of the Juniper Acres Partitioning in 1962 by permitting a level of residential development that would not ordinarily be permitted in an exclusive farm use zone given the large number of private owners of numerous legally created parcels, and to modulate the timing of the residential development. In that regard, it is anticipated that the provisions of this district relating to annual limits on nonfarm dwellings shall be reviewed not later than January 30, 2003. The court recognizes that a soil survey of the EFU-JA zone is currently being conducted by the National Resources Conservation Service (NRCS). In the event that the soil survey shall show that the soil in the EFU-JA zone is predominantly Class VII and VIII, this chapter shall cease to be effective after June 30, 2002. In the event that the soil survey shall show that the soil in the EFU-JA zone is predominantly Class VI or better, this chapter shall continue in force until modified or repealed by the Crook County court. It is anticipated that in the event that the soils are Class VII or VIII that the zoning designation of this district may be changed to a residential or nonresource nature.*

In 2005 a task force was created to figure out how to bring roads and emergency services to the area so that development could proceed safely. Reviewing the file, the group was making progress until their counsel stopped participating and the movement fizzled out. I didn't see much progress made in the years since, and our code language remained unchanged until this July, when the County passed Ordinance 325, which amended CCC 18.112.005 as follows:

*The purpose of this zoning district is to ameliorate the consequences of the establishment of the Juniper Acres Partitioning in 1962 by*

*permitting a level of residential development that would not ordinarily be permitted in an exclusive farm use zone given the large number of private owners of numerous legally created parcels, and to modulate the timing of the residential development. The Crook County Court had established a task force to investigate solutions to fire suppression, road construction and maintenance issues in the subdivision. These issues of public health and safety have not been addressed and the Court's order stating that it is premature to issue additional building permits in the Juniper Acres subdivision remains in effect. (Order 2007-80). The remaining sections of 18.112 shall not apply until the Court determines that building permits can be issued.*

The status of development opportunities in Juniper Acres is a frequent question to Community Development. Eager for a potential long-term solution, myself, Will VanVactor, Brent Bybee, and Louis Seals recently took a trip to the area. According to Mr. Seals, many of the structures we saw are unpermitted, there were many properties overrun with trash and junked vehicles, and County roads were barricaded. Before and after the trip, we have been discussing potential paths to remedy the current situation.

It seems evident that any solution must come from the people of Juniper Acres themselves; a County derived and implemented plan would likely meet strong resistance. The purpose of this memo is to determine whether the County Court has a preferred course of action. Potential paths could include:

- Meeting with a known representative or representatives of Juniper Acres to discuss possible paths forward;
- Sending out a survey, similar to the one for Juniper Canyon access, perhaps by a third-party like COIC; or
- Hosting a town hall type event with the County and residents of Juniper Acres.

This is not an easy problem to solve. The options above represent just some options that have been discussed and are just the beginning of what will be a long process. Please let me know if you have any questions.

# Crook County Counsel's Office

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267 NE 2<sup>nd</sup> St., Ste 200 • Prineville, Oregon 97754 • (541) 416-3919 • FAX (541) 447-6705

## MEMO

TO: Crook County Court

FROM: Crook County Legal Counsel's Office

DATE: September 16, 2021

RE: Continuance Request for TSR North CUP  
Our File No.: Com Dev 63

*For Work Session  
September 21, 2021*

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The applicant, NewSun Energy, has requested a continuance for the TSR North appeal hearing No. 217-21-00321-PLNG, which was scheduled for October 6, 2021 (enclosed). The request asks for a date of December 15, 2021 or later. December 15, 2021 is a Wednesday and the same day as our regularly scheduled County Court meeting. The applicant also agrees to temporarily waive the 150-day clock.

Appellant, ODFW, informed me that it has no objection to the continuance request. Please let me know if you have any questions.



September 16, 2021

Merissa A. Moeller  
 760 SW Ninth Avenue, Suite 3000  
 Portland, OR 97205  
 D. 503.294.9455  
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**VIA EMAIL**

Crook County Court  
 203 NE Court Street  
 Prineville, OR 97754

**Re: Request for Continuance of Public Hearing for TSR North Solar Facility CUP  
 Modification, Appeal No. 217-21-000321-PLNG**

Dear Crook County Court:

Stoel Rives represents NewSun Energy and its agents Jacob Stephens and TSR North Solar Farm LLC ("Applicant"), in Crook County Application No. 217-20-000581-PLNG (the "Application"), Appeal Hearing No. 217-21-000321-PLNG (the "Appeal"). The Crook County Planning Commission approved the Application on April 2, 2021. The Oregon Department of Fish and Wildlife ("Appellant") appealed on April 26, 2021. The Crook County Court set June 22, 2021 as the hearing date for the Appeal. The Court subsequently continued the Appeal hearing date to August 4, 2021 and then October 6, 2021, with the consent of all parties, in light of ongoing litigation that raises related legal issues and is currently pending before the Oregon Court of Appeals. *See Oregon Dep't of Fish and Wildlife v. Crook County*, A176344 (Or. App. 2021).

The parties are still awaiting a decision from the Oregon Court of Appeals. Accordingly, pursuant to CCC 18.172.081(16), Applicant hereby requests a continuance of the Appeal hearing until at least December 15, 2021 at a date, time, and place convenient to the Court. Counsel for the Appellant has stated that the Appellant does not object to the request and is available on December 15, 2021. Applicant consents to temporarily suspend the 150-day clock in accordance with CCC 18.172.081(16)(c) and pursuant to ORS 215.417(6).

Thank you for your consideration.

Crook County Court  
September 16, 2021  
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Respectfully,



Merissa A. Moeller  
Timothy L. McMahan  
Max M. Yoklic

cc: Will VanVactor, will.vanvactor@co.crook.or.us  
John Eisler, john.eisler@co.crook.or.us  
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