



# Jackson County Oregon

Development Services  
10 South Oakdale Avenue, Room 100, Medford, OR 97501-2902

## NOTICE OF TENTATIVE STAFF DECISION ON APPLICATION FOR A LAND USE PERMIT (FILE NO. ZON2010-00339)

Dear Jackson County Property Owner:

On June 11, 2010, Jackson County Development Services approved with conditions an application for a land use permit on the following described properties: Township 36 South, Range 2 West, Section 17, Tax Lots 104 & 105, Township 36 South, Range 2 West, Section 18, Tax Lots 102 & 300, and Township 36 South, Range 2 West, Section 20, Tax Lots 200 & 205, located at and upstream of Gold Ray Dam. The Department's decision (File No. ZON2010-00339) tentatively approves the following use on the above-described property:

*A fish enhancement project for the removal of Gold Ray Dam and structures associated with the dam (power canal, concrete fish ladder, and powerhouse), and stabilization of the river banks at Lower Kelly Slough, Tolo Slough and the confluence of Bear Creek. There may be changes to the base flood elevations due to the removal of the dam.*

The following approval criteria were applied in rendering this decision: Sections 7.1.1(B), 7.1.2(A)(3); 7.1.2(B)(1); 7.1.2(C); 7.1.2(D)(1 and 2); 7.1.2(E); 7.1.2(F)(11); 8.6.4 of the Jackson County Land Development Ordinance. Staff has also determined that Code of Federal Regulations (CFR), Title 44, Chapter I, Subchapter B, Part 65, Subsection 65.3, is also criteria applicable to this application. You have the right to appeal this tentative Departmental decision. If appealed, the County's final decision will be made by the hearings body following a public hearing on the matter.

If you wish to appeal this decision, your written request, ***in conformance with and pursuant to Land Development Ordinance Section 2.7.5(D)(2)(c)***, must be received by the Department at the address listed below no later than June 23, 2010 @ 4pm, and you must pay an appeal fee of \$250.00. If you prevail at the appeal hearing or upon a subsequent appeal, the initial hearing fee will be refunded to you.

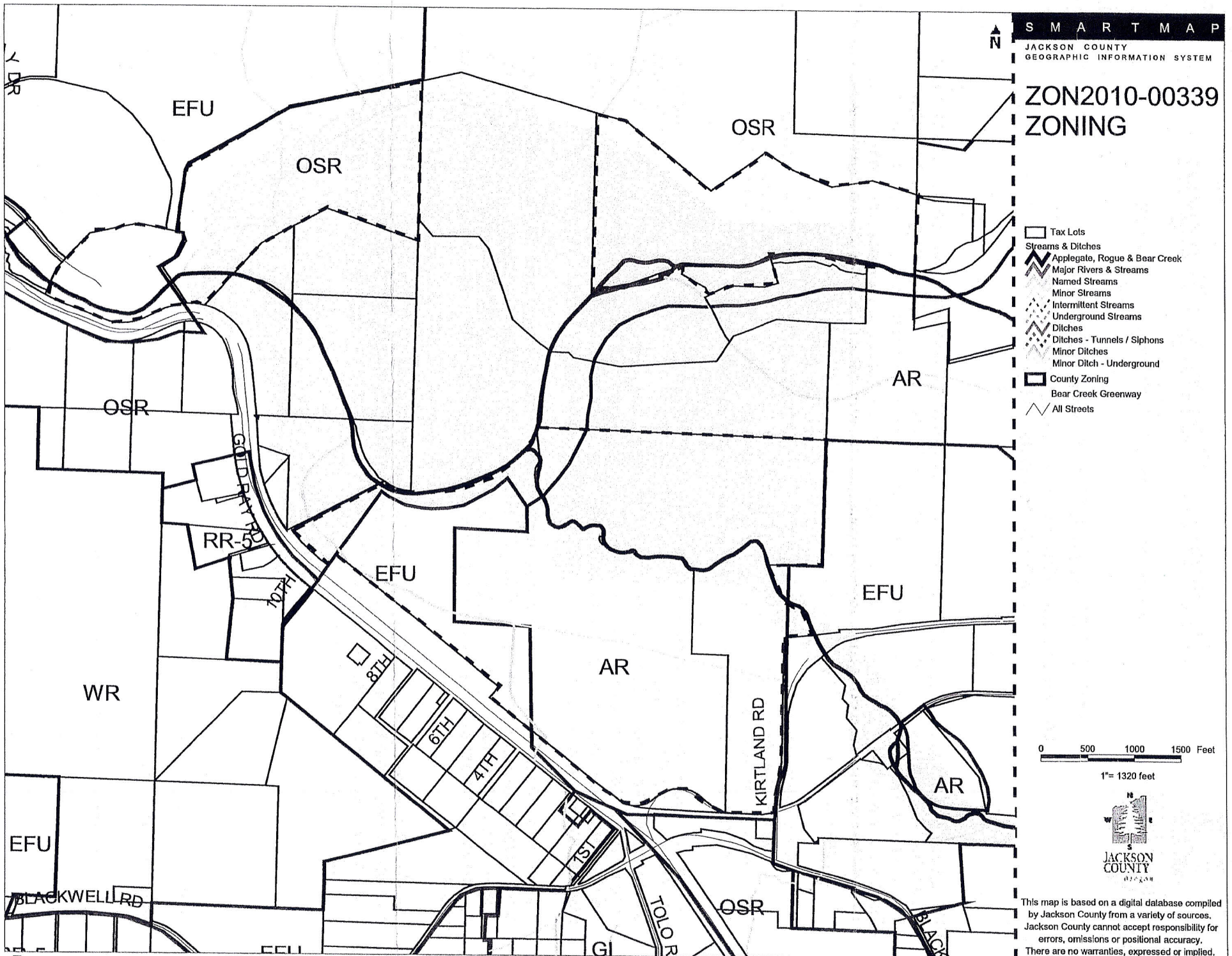
This notice is dated June 11, 2010. The application, staff report, applicable criteria for decision and associated materials are available for inspection at the Department. Copies can be obtained at reasonable cost if requested. Additional information is available by contacting **Mike Mattson** (Phone: 774-6937) at the Department, or at this address:

**Development Services  
Jackson County Courthouse  
10 South Oakdale Avenue, Rm 100  
Medford Oregon 97501-2902**

Jackson County residents outside the Medford toll free area can call 1-800-452-5021 and enter the following 4-digit extension: 6937.

Attachments: Zoning Map

cc: Owners/Applicant/Agent (w/ complete staff report)





The applicant has suggested that Part 65 does not apply based upon conversations with FEMA Region X and other contacts with officials from other Regions. In a letter dated May 5, 2010, James Gregory from HDR states "*HDR has been working with other FEMA regions on similar projects, and discussion with officials from FEMA Region IX's indicate that natural processes brought upon by restoration projects like the Gold Ray Dam project (where there is no encroachment on the floodplain or floodway – and removal of structures) are not subject to 44 CFR Parts 60 (Criteria for Land Management and Use) and 65 (Identification and mapping of Special Hazard Areas). Informal discussion with Mark Riebau, Chief of FEMA Region X's Floodplain Management and Insurance Branch, indicated that Region X's policy is consistent with that of Region IX. The design-build team has requested confirmation of this interpretation from Mr. Riebau. Assuming that Region X's interpretation views sediment transport as a natural process, consistent with other regions, FEMA may not require that a no-rise certification be provided.*" As staff has indicated, a no-rise certification is not required for this project because there is no encroachment within the floodway. However, Jackson County has not received an interpretation from FEMA Region X regarding the inapplicability of Part 65. In fact, phone conversations with Jamie Huff, Floodplain Management Specialist, Region X, have indicated that Region X believes that Subsection 65.3 does apply to the project and that a Letter of Map Revision (LOMR) is necessary. Based upon the recommendation from FEMA and the language of Subsection 65.3, the applicant, Jackson County, will be required to submit a LOMR to FEMA within 6 months of the completion of the project.

## V. CONCLUSION

The proposal has been found to be consistent with the Jackson County Land Development Ordinance Sections 7.1.1(B); 7.1.2(A)(3); 7.1.2(B)(1); 7.1.2(C); 7.1.2(D)(1 and 2); 7.1.2(E); 7.1.2(F)(11); 8.6.4 of the Jackson County Land Development Ordinance, and the Code of Federal Regulations (CFR), Title 44, Chapter I, Subchapter B, Part 65, Subsection 65.3, are met or can feasibly be met through compliance with the standards listed in Section VI. Notice of Tentative Approval is being sent to surrounding property owners as required under the Type 2 procedures to provide the petitioner notice and opportunity for hearing required under the LDO.

## VI. DECISION

File ZON2010-00339, a floodplain development permit to remove Gold Ray Dam and structures associated with the dam (power canal, concrete fish ladder, and powerhouse), and stabilization of the river banks at Lower Kelly Slough, Tolo Slough and the confluence of Bear Creek is approved subject to the standards listed below.

- 1) **Prior to issuance of permits:** Copies of any federal, state, or local governmental permits from which approval is necessary must be submitted to the County prior to initiation of the proposed development.
  - a) A permit from the Department of State Lands and/or the U.S. Army Corps of Engineers will be submitted to Development Services prior to initiating development on this project.

- 2) The applicant will be required to submit a Letter of Map Revision (LOMR) to FEMA within 6 months of the completion of the proposed project.
- 3) Pursuant to LDO Section 4.1.3 this approval is valid for two (2) years from the date of the final decision and will expire unless development has been initiated, as defined in LDO Section 13.3. This approval may be extended for an additional period not to exceed one (1) year on request.

This decision is limited to the County's review of applicable zoning rules and land use law, as outlined in the Jackson County Land Development Ordinance, and the Oregon Administrative Rules and Oregon Revised Statutes relating to land use. Other County, State and Federal agencies may have regulatory review authority for development projects. The decision rendered herein neither implies nor guarantees compliance with the requirements of any other regulatory agency. It is the property owner's responsibility to ensure that the development complies with the requirements of any other regulatory agency or provisions of law prior to initiating development.

Notice of this decision is being sent to property owners in the vicinity of these properties and within the 100-year floodplain for the project boundary. They or the property owner have the right to appeal the decision within 12 days of the date this decision is mailed. This decision will be final on the 13th day, provided an appeal hearing has not been requested.

**JACKSON COUNTY PLANNING DIVISION**



By: Michael W. Mattson, CFM  
Planner II

Date: 6-11-10

cc: owner/ agent