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OKANOGAN COUNTY  
PLANNING & DEVELOPMENT

June 13, 2014

Mr. Perry Huston, Director of Planning  
Okanogan County Office of Planning and Development  
123 Fifth Avenue North, Suite 130  
Okanogan, Washington 98840

Dear Director Huston:

**Subject: Comments on the Okanogan County Comprehensive Plan – May 9, 2014 Review Edition, Okanogan County Land Use Designation Map, Interim Zoning, and the SEPA Checklist and Determination of Nonsignificance for these actions**

Sent via email to: [phuston@co.okanogan.wa.us](mailto:phuston@co.okanogan.wa.us); [planning@co.okanogan.wa.us](mailto:planning@co.okanogan.wa.us) and via U.S. Mail

Thank you for the opportunity to comment on the update of the Okanogan County Comprehensive Plan, the interim zoning regulations, and the SEPA Checklist and Determination of Nonsignificance for these actions. While we appreciate and support that Okanogan County is updating its comprehensive plan, we are very concerned that the county is failing to properly designate agricultural, forest, and mineral resource lands of long-term commercial significance as required by RCW 36.70A.170(1). The comprehensive plan does not meet the minimum requirements of the County Planning Enabling Act, chapter 36.70 RCW. We urge the county to meet these minimum standards and to go beyond them to meet the expectations of county residents. We also recommend that the Determination of Nonsignificance be withdrawn and a Final Environmental Impact Statement be prepared for the comprehensive plan update.

Futurewise is working throughout Washington State to create livable communities, protect our working farmlands, forests, and waterways, and ensure a better quality of life for present and future generations. We work with communities to implement effective land use planning and policies that prevent waste and stop sprawl, provide efficient transportation choices, create affordable housing and strong local businesses, and ensure healthy natural systems. We are creating a better quality of life in Washington State together. We have members across Washington State including Okanogan County.

### **Comments on the SEPA Checklist and Determination of Nonsignificance**

Futurewise believes the responsible official was correct to issue the determination of significance (DS) for the revisions to the comprehensive plan, shoreline master program, critical areas ordinance, zoning code, and subdivision regulations on January 14, 2009. We recommend that the Determination of Nonsignificance for the comprehensive plan and

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interim zoning be withdrawn, the DS be reinstated, and a Washington State Environmental Policy Act (SEPA) Final Environmental Impact Statement (FEIS) be prepared and issued.

Futurewise believes this is the correct approach because the proposed comprehensive plan and interim zoning will significantly affect the quality of the Okanogan County environment. "Under SEPA, a county must include an environmental impact statement with any proposal the lead agency's responsible official decides would 'significantly affect[ ] the quality of the environment.' RCW 43.21C.030(2)(c); WAC 197-11-330(1)."<sup>1</sup> These significant impacts include impacts to agricultural land, impacts to water resources, impacts on development from natural hazards, and land use impacts.

The impacts to the agricultural land, the county's largest employer, are quite significant. The proposed Okanogan County Comprehensive Plan map designates the orchards west and northeast of Brewster and the farmland in the Okanogan River Valley "Rural."<sup>2</sup> The proposed Okanogan County Interim-Zone Map zones these areas Rural 1, which allows as permitted uses single-family homes, multi-family apartment buildings, compost manufacturers, air cargo terminals, aircraft hangars, aircraft sales, repair, and service, aircraft salvage, airstrips, commercial, auto parking lots or garages, auto rental services, auto sales, banks, exercise clubs, indoor swimming pools, food stores, maintenance shops, warehouses, gravel pits less than three acres in size, halls, stadiums, auditoriums, hospitals, laundromats, manufactured home sales facilities, light manufacturing, marinas, meat packing plants, medical and dental clinics, mini-storage warehouses, petroleum service stations, professional office buildings, quarries and borrow pits less than three acres in size, restaurants, cafes, and "etc.," retail stores or gift shops, portable commercial sawmills, and wholesale establishments.<sup>3</sup> And this is a partial list.<sup>4</sup> All of these uses are allowed on one-acre lots.<sup>5</sup> The density for permitted multi-family apartments is one dwelling unit for 9,600 square feet.<sup>6</sup> This will allow a four-unit apartment building on a one-acre lot, or a 22-unit apartment building on five acres, assuming the health department requirements for onsite

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<sup>1</sup> *Spokane County v. Eastern Washington Growth Management Hearings Bd.*, 176 Wn. App. 555, 578, 309 P.3d 673, 684 (2013) review denied *Spokane County v. Eastern Washington Growth Management Hearings Bd.*, 179 Wn.2d 1015, 318 P.3d 279 (2014).

<sup>2</sup> Okanogan County Comprehensive Plan map (3/5/2014) accessed on May 21, 2014 at: <http://okanogancounty.org/planning/>; USDA Agricultural Land Use 2013 Crop Distribution pp. 2 - 3, p. 6, p. 9, pp. 13 - 16 accessed on May 22, 2014 at: <https://fortress.wa.gov/agr/gis/nras/nrascrops/> and enclosed with the Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit D.

<sup>3</sup> Okanogan County Interim-Zone Map Map 4 Draft accessed on May 21, 2014 at: <http://okanogancounty.org/planning/>; Draft OCC 17.21.010 District use chart pp. 2 - 7 accessed on May 21, 2014 at: <http://okanogancounty.org/planning/>.

<sup>4</sup> *Id.*

<sup>5</sup> Draft OCC 17.06A.060 accessed on May 21, 2014 at: <http://okanogancounty.org/planning/>.

<sup>6</sup> Draft OCC 17.06A.070B, Draft OCC 17.06A.060A accessed on May 21, 2014 at: <http://okanogancounty.org/planning/>.

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waste disposal systems can be met.<sup>7</sup> There are also many conditional uses allowed in the Rural 1 zone.<sup>8</sup> None of the adverse impacts of paving over the orchards and farmland for all of these uses are analyzed or disclosed.<sup>9</sup> This is particularly significant given that Okanogan County ranks third in the nation for the market value of apples sold by county orchardists.<sup>10</sup>

Other areas of farm and ranch land are also designated as Rural in the proposed comprehensive plan.<sup>11</sup> Over the last ten years, Okanogan County lost 36,031 acres of land in farms, the eleventh highest loss in Washington State.<sup>12</sup> Okanogan County did experience a small increase in land in farms in the last five years, but the increase was much smaller than the increase in the market value of agricultural products sold which increased from \$209 million in 2007 to \$287 million in 2012.<sup>13</sup> The failure to designate and conserve the farm and ranch land in the comprehensive plan and the interim zoning is a significant adverse effect on the environment. It is also a significance adverse economic effect since agriculture is Okanogan County's largest employer.<sup>14</sup>

The comprehensive plan's impacts extend to natural resources. Within the Methow Watershed, Water Resource Inventory Area (WRIA) 48, and the Okanogan Watershed, WRIA 49, "most if not all of the available water has already been allocated."<sup>15</sup> Parts of these basins

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<sup>7</sup> Draft OCC 17.06A.070B.

<sup>8</sup> Draft OCC 17.21.010 District use chart pp. 2 – 7 accessed on May 21, 2014 at:

<http://okanogancounty.org/planning/>.

<sup>9</sup> SEPA Environmental Checklist Okanogan County Comprehensive Plan Update p. 3 – 14, (May 9, 2014), Environmental Checklist Attachment 1 pp. 7 – 9 (May 9, 2014).

<sup>10</sup> US Department of Agriculture National Agricultural Statistics Service, 2012 Census of Agriculture County Profile Okanogan County, Washington p. \*2. Accessed on June 13, 2014 at:

[http://www.agcensus.usda.gov/Publications/2012/Online\\_Resources/County\\_Profiles/Washington/index.asp](http://www.agcensus.usda.gov/Publications/2012/Online_Resources/County_Profiles/Washington/index.asp)

and enclosed with the paper original of this letter.

<sup>11</sup> Okanogan County Comprehensive Plan map (3/5/2014) accessed on May 21, 2014 at:

<http://okanogancounty.org/planning/>; USDA Agricultural Land Use 2013 Crop Distribution pp. 1 – 17.

<sup>12</sup> *Washington State Counties Ranked by Decline in Land in Farms 2002 to 2012* enclosed with this letter.

<sup>13</sup> United States Department of Agriculture, National Agricultural Statistics Service, 2012 *Census of Agriculture Washington State and County Data Volume 1 • Geographic Area Series • Part 47 AC-12-A-47* Chapter 2: County Level Data, Table 2. Market Value of Agricultural Products Sold Including Direct Sales: 2012 and 2007 p. 244 (May 2014) accessed on June 12, 2014 at:

[http://www.agcensus.usda.gov/Publications/2012/Full\\_Report/Volume\\_1\\_Chapter\\_2\\_County\\_Level/Washington/st53\\_2\\_002\\_002.pdf](http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_002_002.pdf) and included in the full state report enclosed with the paper original of this letter.

<sup>14</sup> Marcy Stamper, *County to use public land base to satisfy state call for agriculture, resource lands* *Methow Valley News Online* (09-28-2010 | Volume: 108 | Issue: 19) enclosed with Futurewise's June 12, 2014 letter to the Planning Director.

<sup>15</sup> State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability for the Methow Watershed, WRIA 48* p. 2 (Publication Number: 11-11-052, Revised August 2012) accessed on May 21, 2014 at: <https://fortress.wa.gov/ecy/publications/summarypages/1111052.html> and enclosed with the Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit B; State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability for the Okanogan Watershed, WRIA 49* p. 2 (Publication Number: 11-11-053, Revised August 2012) accessed on May 21, 2014 at: <https://fortress.wa.gov/ecy/publications/summarypages/1111053.html> and

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are also closed to new water appropriations.<sup>16</sup> However, the comprehensive plan does not address these problems with water availability and the SEPA Checklist checklist does not disclose them.

Water availability modeling for the Columbia basin shows significant water shortages projected for the county. For the Methow basin “[i]n 2030, at the watershed scale, combined municipal and surface water irrigation demands and adopted instream flows are projected to outstrip unregulated tributary supply generated within the Washington portion of the watershed during many years from July through November, and in some years from December through February.”<sup>17</sup> For the Okanogan basin, “[i]n 2030, at the watershed scale, combined municipal and surface water irrigation demands and adopted instream flows are projected to outstrip unregulated tributary supply generated within the Washington portion of the watershed during most years for May through February.”<sup>18</sup> Global warming, by shifting when water is available, will also contribute to water shortages when water is most in demand.<sup>19</sup> The checklist does not disclose these impacts and the water demands of the many apartments allowed by the interim zoning throughout unincorporated Okanogan County.

The SEPA Checklist claims that because of a series of Washington State Supreme Court cases that “[n]ew development under the revised Comprehensive Plan will be more restrictive than historically as a result of the legal precedents set by those cases.”<sup>20</sup> However, the comprehensive plan does not contain any requirements implementing the supreme court decisions despite the fact that RCW 36.70.330(1) requires that the comprehensive plan “land use element shall also provide for protection of the quality and quantity of groundwater used for public water supplies ....”<sup>21</sup> The comprehensive plan claims that official controls implementing the comprehensive plan “identify requirements to assure that proposed new

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enclosed with the Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit B.

<sup>16</sup> *Id.*

<sup>17</sup> Washington State University, *Columbia River Basin Long-Term Water Supply and Demand Forecast 2011 Legislative Report* p. 124 (Ecology Publication No. 11-12-011: Jan. 2012). Accessed on June 12, 2014 at: <http://www.ecy.wa.gov/programs/wr/cwp/forecast/wria48.html> and enclosed with the paper original of this letter.

<sup>18</sup> Washington State University, *Columbia River Basin Long-Term Water Supply and Demand Forecast 2011 Legislative Report* p. 128 (Ecology Publication No. 11-12-011: Jan. 2012). Accessed on June 12, 2014 at: <http://www.ecy.wa.gov/programs/wr/cwp/forecast/wria49.html> and enclosed with the paper original of this letter.

<sup>19</sup> Climate Impacts Group University of Washington, *State of Knowledge Report Climate Change Impacts and Adaptation in Washington State: Technical Summaries for Decision Makers* pp. 6-1 – 6-7 (December 2013) accessed on June 12, 2014 at: <http://cses.washington.edu/db/pdf/snoveretalsok816.pdf> and enclosed with Futurewise's June 12, 2014 letter the Planning Director.

<sup>20</sup> SEPA Environmental Checklist Okanogan County Comprehensive Plan Update p. 5 (May 9, 2014).

<sup>21</sup> Comprehensive Plan 4/28/14 Review Edition pp. 1 – 36. Accessed on May 21, 2014 at: <http://codepublishing.com/wa/okanogancounty/>.

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development will meet state and local requirements for available water supplies ..."<sup>22</sup> However, a review of the Okanogan County Code did not disclose any regulations that implement the water availability requirements of any of the Supreme Court decisions listed on page 5 of the SEPA Checklist.

All of the many permitted and conditional uses in the Minimum Requirement District and the proposed Rural 1, Rural 5, and Rural 20 zones are allowed to use onsite waste disposal systems over aquifers and even over wellhead protection zones.<sup>23</sup> This includes such highly polluting uses as multi-family apartments, restaurants, acid manufacturing plants, asphalt batch plants, explosive manufacturing and storage facilities, heavy manufacturing plants including the manufacture of glue, metal plating, and rendering, petroleum bulk plants, junk yards, and waste disposal landfills all of which are permitted or conditional uses in the Minimum Requirement District and the proposed Rural 1, Rural 5, and Rural 20 zones.<sup>24</sup> All of these zones allow multi-family dwellings as permitted uses at a density of one dwelling unit per 9,600 square feet, which allows 4.5 apartments per acre.<sup>25</sup> Marylynn Yates, in a peer reviewed scientific journal, analyzed data and cases of ground water pollution from septic tanks. She concluded that septic tanks are major contributors of wastewater, septic tanks are the most frequently reported cause of ground water contamination, and the most important factor influencing ground water contamination from septic tanks is the density of the systems.<sup>26</sup> Lot sizes associated with ground water contamination cases ranged from less than a quarter acre to three acres.<sup>27</sup> The proposed Rural 1 zone one acre minimum lot size and the Minimum Requirement District and the proposed Rural 1, Rural 5, and Rural 20 zones multi-family dwellings at a permitted density of one dwelling unit per 9,600 square feet, which allows 4.5 apartments per acre, are lot sizes and densities this study shows are likely to fail.<sup>28</sup> The impacts of these high intensity and polluting uses using onsite waste disposal systems was not analyzed or disclosed in the SEPA Checklist.

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<sup>22</sup> Comprehensive Plan 4/28/14 Review Edition pp. 8 - 9.

<sup>23</sup> Draft OCC 17.06A.060A; Draft OCC 17.06B.060B; Draft OCC 17.06C.060A, and Okanogan County Transportation and Essential Public Facilities Map - 3 Draft all accessed on May 22, 2014 at: <http://okanogancounty.org/planning/>.

<sup>24</sup> Draft OCC 17.21.010 District use chart pp. 2 - 6.

<sup>25</sup> Draft OCC 17.21.010 District use chart p. 3; Draft OCC 17.06A.070B; Draft OCC 17.06B.070B; and Draft OCC 17.06C.070B.

<sup>26</sup> Marylynn V. Yates, *Septic Tank Density and Ground-Water Contamination* 23 GROUND WATER 586, p. 590 (1985). Accessed most recently on June 12, 2014 at: <http://info.ngwa.org/gwol/pdf/852537546.PDF> and enclosed with the Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit C. Ground Water is a peer reviewed scientific journal. See the Ground Water Peer Review enclosed with the Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit C.

<sup>27</sup> Marylynn V. Yates, *Septic Tank Density and Ground-Water Contamination* 23 GROUND WATER 586, p. 590 (1985).

<sup>28</sup> Draft OCC 17.06A.060A; Draft OCC 17.21.010 District use chart p. 3; Draft OCC 17.06A.070B; Draft OCC 17.06B.070B; and Draft OCC 17.06C.070B.

The recent Oso tragedy has drawn attention to the risk to lives and property of natural hazards.<sup>29</sup> Areas within Okanogan County are at significant risk for damage from natural hazards including landslides.<sup>30</sup> The *Okanogan County, Washington All Hazards Mitigation Plan* recommends that:

Land-use planning is one of the most effective and economical ways to reduce landslide losses by avoiding the hazard and minimizing the risk. This is accomplished by removing or converting existing development or discouraging or regulating new development in unstable areas. Buildings should be located away from known landslides, debris flows, steep slopes, streams and rivers, intermittent-stream channels, and the mouths of mountain channels. In the State of Washington, restrictions on land use generally are imposed and enforced by local governments by land-use zoning districts and regulations.<sup>31</sup>

However, the comprehensive plan and interim zoning fails to require or encourage development to avoid landslide hazards, allowing apartment buildings with densities of 4.5 apartments per acre throughout much of unincorporated Okanogan County.<sup>32</sup> The SEPA Checklist does not disclose these hazards and the failure of the comprehensive plan and interim zoning to implement the measures recommended by the *Okanogan County, Washington All Hazards Mitigation Plan*. The comprehensive plan and SEPA Checklist do not address the other natural hazards identified by the plan. These are significant and life threatening environmental impacts.

The SEPA Checklist also did not analyze the land use impacts of the long lists of permitted and conditional uses allowed by the Minimum Requirement District and the proposed Rural 1, Rural 5, and Rural 20 zones.<sup>33</sup> None of the adverse impacts of these uses are analyzed or disclosed in the SEPA Checklist.<sup>34</sup> For the permitted uses, only a building permit will be needed and many of these uses are exempt from future SEPA review. For example, throughout Okanogan County a 25 unit apartment building is categorically exempt from SEPA.<sup>35</sup>

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<sup>29</sup> Washington State Department of Natural Resources, Significant Deep-Seated Landslides in Washington State p. \*1 (5/7/2014) accessed on June 13, 2014 at: [http://www.dnr.wa.gov/Publications/ger\\_list\\_large\\_landslides.pdf](http://www.dnr.wa.gov/Publications/ger_list_large_landslides.pdf) and enclosed with the paper original of this letter.

<sup>30</sup> Okanogan County All Hazards Mitigation Plan Committee, *Okanogan County, Washington All Hazards Mitigation Plan* Volume I pp. 145 – 158 (Jan. 30, 2009). Accessed on June 12, 2014 at: <http://okanogandem.org/documents/AHMP/Okanogan%20County%20AHMP.pdf> and enclosed with Futurewise's June 12, 2014 letter to the Planning Director.

<sup>31</sup> *Id.* at p. 160.

<sup>32</sup> Okanogan County Interim-Zone Map Map 4 Draft; Draft OCC 17.06A.060A; Draft OCC 17.21.010 District use chart p. 3; Draft OCC 17.06A.070B; Draft OCC 17.06B.070B; and Draft OCC 17.06C.070B.

<sup>33</sup> Draft OCC 17.21.010 District use chart pp. 2 – 7.

<sup>34</sup> SEPA Environmental Checklist Okanogan County Comprehensive Plan Update pp. 1 – 14 (May 9, 2014).

<sup>35</sup> OCC 14.04.100 as amended.

In summary, we recommend that the DNS be withdrawal, the DS be reinstated, and a SEPA compliant Final EIS be prepared. This is necessary to comply with SEPA.

## **Comments on Chapter 1: The Okanogan County Comprehensive Plan**

***The Vision Statement should recognize the important role of agriculture in the county economy. Please see page 5 of the 4/28/14 Review Edition***

The Washington State Employment Security Department has documented that the “[a]griculture is a very important sector for Okanogan County, which mainly consists of various tree fruits and wheat.”<sup>36</sup> Agriculture is Okanogan County’s largest employer, providing jobs to 16 percent of county residents.<sup>37</sup> “In 2007, agriculture, forestry, fishing and hunting paid an annual average of \$35,305 ...”<sup>38</sup> This was a higher annual wage than those in the construction industry, although not as high as manufacturing workers who earned an average of \$37,302.<sup>39</sup> Many of these manufacturing workers process agricultural and forest products.

Given the central role of agriculture in the county economy and the need to protect these jobs, the Vision should include protecting the agricultural industry and its land base and the jobs and incomes those lands generate.

***Please clarify the “Rural Resource/Low Density Lands” and the “Rural/High Density Lands.” Please see page 7 of the 4/28/14 Review Edition***

The “Rural Resource/Low Density Lands” and the “Rural/High Density Lands” are not shown on the Okanogan County Comprehensive Plan map. They also reference a “Map 2,” which is unclear. They also do not include criteria for these comprehensive plan designations nor do they include densities as the Planning Enabling Act requires. We recommend that these designations have designation criteria in the comprehensive plan, be mapped on the comprehensive plan map, and include the required densities.

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<sup>36</sup> Mark A. Berreth, *Okanogan County Profile* p. 1 of 5 (Washington State Employment Security Department: Updated May 2012) accessed on June 20, 2013 at: <https://fortress.wa.gov/esd/employmentdata/reports-publications/regional-reports/county-profiles/okanogan-county-profile#overview> and enclosed with Futurewise’s June 21, 2013 letter to the Okanogan County Planning Commission.

<sup>37</sup> Marcy Stamper, *County to use public land base to satisfy state call for agriculture, resource lands* Methow Valley News Online (09-28-2010 | Volume: 108 | Issue: 19).

<sup>38</sup> T. Baba Moussa, *Okanogan County Profile* p. 5 of 6 (Washington State Employment Security Department: January 2009) enclosed with Futurewise’s April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>39</sup> *Id.*

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***Please clarify the text of the comprehensive plan designations and the comprehensive plan map. Also include comprehensive plan designations for the natural resource lands. Please see page 8 of the 4/28/14 Review Edition***

The text of the comprehensive plan includes a "Tribal Lands" designation, but the comprehensive plan map includes a mapped "Reservation" designation. It would be clearer to include the same land use designations in the text of the comprehensive plan and the comprehensive plan map.

Page 8 of the comprehensive plan text provides that there are four categories that "constitute the entirety of the lands within Okanogan County and provide the framework for implementing the goals and policies of this Plan."<sup>40</sup> But the comprehensive plan map includes two other designations: "Resource" and "Mineral Resource." Since the county is required to designate agricultural, forest, and mineral resource lands of long-term commercial significance, comprehensive plan designations should be provided for all three categories with the same name in both the text of the comprehensive plan and the comprehensive plan map.<sup>41</sup> We discuss the designation of these areas later in this letter. Policies and measures to protect these natural resource should be included in the comprehensive plan and development regulations.

We appreciate that the table of land use designations on page 8 is now based on the current comprehensive plan, although the designations should be the same in the text of the comprehensive plan and comprehensive plan map. The table is helpful.

***Please clarify the comprehensive plan designation of "unincorporated towns." Please see page 9 of the 4/28/14 Review Edition***

Page 9 refers to unincorporated towns and the zoning includes zones for these areas, but there are not comprehensive plan designation for them, unless they are in the cities designation. The designation of these areas should be clarified. If there is not a comprehensive plan designation for the unincorporated towns, one should be added to the comprehensive plan and comprehensive plan map. This would also be more consistent with Chapter 5, Unincorporated Towns and Neighborhood Commercial Centers Land Use.

***Water Rights. Please see page s 11 and 12 of the 4/28/14 Review Edition***

We are concerned that the "water rights" section does not recognize that within the Methow Watershed, Water Resource Inventory Area (WRIA) 48, and Okanogan Watershed, WRIA 49, "most if not all of the available water has already been allocated."<sup>42</sup> Given this lack of

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<sup>40</sup> The Okanogan County Comprehensive Plan 4/28/14 Review Edition p. 8.

<sup>41</sup> RCW 36.70A.170.

<sup>42</sup> State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability for the Methow Watershed, WRIA 48* p. 2 (Publication Number: 11-11-052, Revised August 2012); State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability for the Okanogan Watershed, WRIA 49* p. 2 (Publication Number: 11-11-053, Revised August 2012).

available water and the projected water shortages discussed in our comments on the SEPA Checklist, the water necessary to serve the large expanses of rural residential land the comprehensive plan provides for will come at the expense of existing water right holders. This is inconsistent with the comprehensive plan's stated objective of protecting first in time, first in right water rights. The comprehensive plan should be made internally consistent by sizing rural development to match the available water resources. This is required by RCW 36.70.330(1) which provides in relevant part that "[t]he land use element shall also provide for protection of the quality and quantity of groundwater used for public water supplies ...."

## **Chapter 2: Existing Conditions**

*Consider adding a table of existing land uses. See page 13 of the 4/28/14 Review Edition*

In addition to the table of land use designations, it would also be helpful to include information actual land use in Okanogan County. The Forest Service has prepared estimates of land use on nonfederal land in Okanogan County for 1976, 1994, and 2006 based on the digital interpretation of aerial photographs. That data is enclosed in Appendix A of this letter and a copy of the report from which Appendix A was extracted was enclosed with the paper original of Futurewise's June 21, 2013 letter to the Okanogan County Planning Commission. As you can see in the table, between 1976 and 2006, there have been small, but significant decreases in area of wildland forest and wildland range land outside of federal lands. There was a small increase in intensive agricultural between 1976 and 1994 and that category has been stable since. There were major increases in low density residential development between 1976 and 2006. There was a significant increase in urban development between 1976 and 1994 with urban growth stable since then.

## **Chapter 3: Land Use - Resource Lands**

Okanogan County, along with all counties and cities in Washington State, was required to designate agricultural lands of long-term commercial significance by September 1, 1991.<sup>43</sup> We urge the county to fulfill these duties now, before the 23<sup>rd</sup> anniversary of this deadline arrives.

We are concerned that this chapter is inconsistent the requirements for designating natural resource lands. Those concerns and a GMA compliant method of designating natural resource lands are spelled out in the following sections.

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<sup>43</sup> RCW 36.70A.170.

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***The 2012 Census of Agriculture is available and the numbers on page 15 should be updated and publicly owned land cannot replace private farms and ranches. Please see page 15***

Okanogan County has 129,232 acres in cropland and 78,819 acres in harvested crop land.<sup>44</sup> The county has 1,205,285 acres of land in farms.<sup>45</sup> In 2012, the county had 35,471 head of cattle and calves.<sup>46</sup> The county also had 1,527 head of sheep and lambs,<sup>47</sup> and 3,929 laying hens.<sup>48</sup>

The comprehensive plan on page 15 argues that the county has 1.2 million acres of rural and rural resource lands and this is six times the amount necessary to support the rural and resource industry. But the county currently has 1,205,285 acres of land in farms.<sup>49</sup> In addition, according to page 6 of the comprehensive plan, the rural resource lands are publically owned. Is it the policy of the comprehensive plan to force farmers and ranchers off their land and on to publically owned land? Apparently so since most of the orchards and best farmland in the Okanogan River Valley are designated for development for one acre lots and apartments at densities of 4.5 housing units per acre. Instead of this misguided

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<sup>44</sup> United States Department of Agriculture, National Agricultural Statistics Service, 2012 *Census of Agriculture Washington State and County Data Volume 1 • Geographic Area Series • Part 47 AC-12-A-47* Chapter 2: County Level Data, Table 8. Farms, Land in Farms, Value of Land and Buildings, and Land Use: 2012 and 2007 p. 274 (May 2014).

<sup>45</sup> *Id.*

<sup>46</sup> United States Department of Agriculture, National Agricultural Statistics Service, 2012 *Census of Agriculture Washington State and County Data Volume 1 • Geographic Area Series • Part 47 AC-12-A-47* Chapter 2: County Level Data, Table 11. Cattle and Calves – Inventory and Sales: 2012 and 2007 p. 294 (May 2014) accessed on June 12, 2014 at:

[http://www.agcensus.usda.gov/Publications/2012/Full\\_Report/Volume\\_1\\_Chapter\\_2\\_County\\_Level/Washington/st53\\_2\\_011\\_011.pdf](http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_011_011.pdf) and enclosed in the 2012 *Census of Agriculture Washington State and County Data Volume 1* included with the paper original of this letter.

<sup>47</sup> United States Department of Agriculture, National Agricultural Statistics Service, 2012 *Census of Agriculture Washington State and County Data Volume 1 • Geographic Area Series • Part 47 AC-12-A-47* Chapter 2: County Level Data, Table 13. Sheep and Lambs – Inventory, Wool Production, and Sales: 2012 and 2007 p. 309 (May 2014) accessed on June 12, 2014 at:

[http://www.agcensus.usda.gov/Publications/2012/Full\\_Report/Volume\\_1\\_Chapter\\_2\\_County\\_Level/Washington/st53\\_2\\_013\\_013.pdf](http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_013_013.pdf) and enclosed in the 2012 *Census of Agriculture Washington State and County Data Volume 1* included with the paper original of this letter.

<sup>48</sup> United States Department of Agriculture, National Agricultural Statistics Service, 2012 *Census of Agriculture Washington State and County Data Volume 1 • Geographic Area Series • Part 47 AC-12-A-47* Chapter 2: County Level Data, Table 19. Poultry – Inventory and Sales: 2012 and 2007 p. 319 (May 2014) accessed on June 12, 2014 at:

[http://www.agcensus.usda.gov/Publications/2012/Full\\_Report/Volume\\_1\\_Chapter\\_2\\_County\\_Level/Washington/st53\\_2\\_019\\_019.pdf](http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_019_019.pdf) and enclosed in the 2012 *Census of Agriculture Washington State and County Data Volume 1* included with the paper original of this letter.

<sup>49</sup> United States Department of Agriculture, National Agricultural Statistics Service, 2012 *Census of Agriculture Washington State and County Data Volume 1 • Geographic Area Series • Part 47 AC-12-A-47* Chapter 2: County Level Data, Table 8. Farms, Land in Farms, Value of Land and Buildings, and Land Use: 2012 and 2007 p. 274 (May 2014).

policy, the county should designate agricultural lands of long-term commercial significance as described in the following section.

***Growth Management Act Requirements for Designating Agricultural Resource Lands of Long-Term Commercial Significance are not incorporated into the comprehensive plan on pages 15 and 16***

The Washington State Supreme Court has held that there is a three part definition of agricultural lands of long-term commercial significance. As the Supreme Court has held:

¶ 17 In sum, based on the plain language of the GMA and its interpretation in *Benaroya I*, we hold that agricultural land is land: (a) not already characterized by urban growth (b) that is primarily devoted to the commercial production of agricultural products enumerated in RCW 36.70A.030(2), including land in areas used or capable of being used for production based on land characteristics, *and* (c) that has long-term commercial significance for agricultural production, as indicated by soil, growing capacity, productivity, and whether it is near population areas or vulnerable to more intense uses.<sup>50</sup>

The county no longer has any criteria for the designation of agricultural lands of long-term commercial significance on pages 15 and 16 of the proposed comprehensive plan. There are also no criteria in the county's existing or proposed development regulations. We recommend that criteria be included in the comprehensive plan consistent with the supreme court's holding.

RCW 36.70A.050 directed the agency that is now the State of Washington Department of Commerce to adopt minimum guidelines for the classification and designation of agriculture, forest, and mineral lands. "The GMA provides that these '*minimum* guidelines' apply to all jurisdictions, but also 'shall allow for regional differences that exist in Washington state. The intent of these guidelines is to assist counties and cities in designating the classification of '...' agriculture, forest, and mineral lands of long-term commercial significance.<sup>51</sup> We recommend that Okanogan County follow the approach in the minimum guidelines for designating agricultural lands of long-term commercial significance. This approach has the advantage of complying with state law, including the *Lewis County* decision.

***The Approach Recommended in the Minimum Guidelines***

The Washington State Department of Commerce's minimum guidelines for agricultural lands recommend the following process for designating agricultural lands.

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<sup>50</sup> *Lewis County v. Western Washington Growth Management Hearings Bd.*, 157 Wn.2d 488, 502, 139 P.3d 1096, 1103 (2006).

<sup>51</sup> *Manke Lumber Co., Inc. v. Diehl*, 91 Wn. App. 793, 805, 959 P.2d 1173, 1180 (1998).

Mr. Perry Huston, Director of Planning

June 13, 2014

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1. Identify lands currently used or capable of being used for agricultural production. See WAC 365-190-050(3)(b).

One source of the land areas used for the production of agricultural products is much of Okanogan County outside the Colville Indian Reservation is *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* “Map 2: Private Parcels by Taxable Land Use Code (Agricultural and Other), Study Area” on page 19 of the report.<sup>52</sup>

The Washington State Department of Natural Resources maintains a collection of aerial photographs that can be provided either in hard copies or as digital data. You can find out more at DNR’s Photo and Map Services website:

[http://www.dnr.wa.gov/BusinessPermits/Topics/Maps/Pages/photo\\_and\\_map\\_products\\_and\\_services.aspx](http://www.dnr.wa.gov/BusinessPermits/Topics/Maps/Pages/photo_and_map_products_and_services.aspx) The county can also use web based applications to identify agricultural land in current use such as Google Earth at: <http://www.google.com/earth/index.html>

For identifying the location of cropland, the Washington State Department of Agriculture has a 2013 Crop Distribution Geodatabase that identifies those sections, generally 640 acre squares, of land that have crops growing in 2013 and characteristics of those crops. The 2013 Crop Distribution Geodatabase can be downloaded at:

<http://agr.wa.gov/PestFert/NatResources/AgLandUse.aspx> and printouts of the web based version of the 2013 Crop Distribution Geodatabase is enclosed the Methow Valley Citizens’ Council and Futurewise’s Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit D. For more information please contact: Perry Beale, Senior Crop Mapping Specialist Washington State Department of Agriculture, telephone (360) 902-2065 or e-mail: [pbeale@agr.wa.gov](mailto:pbeale@agr.wa.gov)

In considering the crop distribution data, it is important to note that the in 2012, cropland made up just 11 percent of the land in Okanogan County farms and ranches.<sup>53</sup> So cropland data cannot be exclusively used to identify the land currently in agriculture.

Additional sources of data on the location of land areas used for the production of agricultural products are the Okanogan County Watershed Plans. The *Level 1 Watershed*

<sup>52</sup> Julia Haggerty and Patty Gude, *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County, Washington* p. 19 (Headwaters Economics, Bozeman, Montana: Nov. 12, 2008). Accessed most recently on June 21, 2013 at: [http://headwaterseconomics.org/wphw/wp-content/uploads/HeadwatersEconomics\\_OkanoganLandStudy.pdf](http://headwaterseconomics.org/wphw/wp-content/uploads/HeadwatersEconomics_OkanoganLandStudy.pdf) and enclosed with the paper original of Futurewise’s April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>53</sup> United States Department of Agriculture, National Agricultural Statistics Service, *2012 Census of Agriculture Washington State and County Data Volume 1 • Geographic Area Series • Part 47 AC-12-A-47 Chapter 2: County Level Data, Table 8. Farms, Land in Farms, Value of Land and Buildings, and Land Use: 2012 and 2007* p. 274 (May 2014) accessed on June 12, 2014 at: [http://www.agcensus.usda.gov/Publications/2012/Full\\_Report/Volume\\_1\\_Chapter\\_2\\_County\\_Level/Washington/st53\\_2\\_008\\_008.pdf](http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1_Chapter_2_County_Level/Washington/st53_2_008_008.pdf). This table is included in the 2012 Census of Agriculture enclosed with the paper original of this letter.

*Technical Assessment Final Report: Okanogan River Watershed Resource Inventory Area 49* found that:

There are about 80,668 acres of land water-righted for irrigation in WRIA 49, according to the Ecology WRATS/GWIS database. As discussed previously, it is undocumented –and unlikely – that all water rights are fully employed. The County Assessor's parcel database designates a total of 55,321 acres for an agricultural use of some sort. The 1999 Okanogan LFA identified a total of 101,930 acres of crop land in the Okanogan Basin, of which 50 percent (about 51,000 acres) was estimated to be irrigated. This value would agree reasonably well with the County Assessor's data.<sup>54</sup>

WAC 365-190-050(3)(b)(ii) recommends that the United States Department of Agriculture's land capability classification system be used to determine whether land is used or capable of being used for agricultural production. This system is summarized in United States Department of Agriculture's Field Office Technical Guide on page 7 of 9 of Section 2 – Natural Resources Information "1. Soils" enclosed with Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County. The current version United States Department of Agriculture's Field Office Technical Guide and any supplemental material for Okanogan County can accessed at: <http://efotg.sc.egov.usda.gov/treemenuFS.aspx> (accessed most recently on June 12, 2014). We recommend using land capability classes 1 through 7 in identifying land capable of being used for agricultural production.

Geographical information system data layers and soils data, including the land capability classes, can be downloaded for free from United States Department of Agriculture Natural Resource Conservation Service Web Soil Survey webpage at:  
<http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm>

**2. Deduct lands already characterized by urban growth. See WAC 365-190-050(3)(a).**  
*Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* "Figure 7: Structure Development Series, Study Area" identifies long-term development trends through 2008 for Okanogan County.<sup>55</sup> These areas can also be identified using the aerial photographs discussed above and the county's records for vested

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<sup>54</sup> ENTRIX, Inc., *Level 1 Watershed Technical Assessment Final Report: Okanogan River Watershed Resource Inventory Area 49* p. 3-19 (Okanogan Watershed Planning Unit: Sept. 2006). Accessed most recently on June 21, 2013 at: [http://www.okanogancd.org/sites/default/files/programs/owp/24\\_Technical%20Assessment.pdf](http://www.okanogancd.org/sites/default/files/programs/owp/24_Technical%20Assessment.pdf) and enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County. According to the Okanogan Conservation District's Okanogan Watershed Plan webpage the "Okanogan County Commissioners approved the plan as presented in April 2010." A copy of this webpage was enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>55</sup> Julia Haggerty and Patty Gude, *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County, Washington* p. 21 (Headwaters Economics, Bozeman, Montana: Nov. 12, 2008).

development. Consistent with the Washington Supreme Court's *Quadrant Corp.* decision,<sup>56</sup> we recommend that existing and vested development with a density of one dwelling unit per acre or greater and the land immediately adjacent to these areas and suitable for urban development be deducted.

**3. Determine which of the remaining lands have long term commercial significance. See WAC 365-190-050(3)(c).**

After identifying the lands that are being used and are capable of being used for agricultural production and after deducted those lands that are already characterized by urban growth, the county should determine which of the remaining lands have long-term commercial significance. The Growth Management Act, in RCW 36.70A.030(10), defines "long-term commercial significance" to include "the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land." So the county is required to consider these factors. WAC 365-190-050(3)(c) includes eleven factors that relate to the statutory factors and other considerations. Each of those factors is identified below. We recommend that these factors be considered together as a whole.

"(i) The classification of prime and unique farmland soils as mapped by the Natural Resources Conservation Service[.]" WAC 365-190-050(3)(c)(i).

Enclosed with Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County are lists of the prime and unique farmlands soils in Okanogan County. The soil survey divides the county in four areas, so we provided the lists for all four areas. To help the county evaluate the significance of those soils, we are also enclosed with the April 27, 2011 letter lists of the acreage in each of the soils in the county. All of these lists were downloaded from the United States Department of Agriculture Natural Resource Conservation Service. These lists can be used with the soil GIS data layers that can be downloaded at the Web Soil Survey webpage.

"(ii) The availability of public facilities, including roads used in transporting agricultural products[.]" WAC 365-190-050(3)(c)(ii).

State Route (SR) 97, which runs through Okanogan County from the Canadian border to Chelan County and beyond is one of the major livestock transport routes in the state.<sup>57</sup> Hay

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<sup>56</sup> *Quadrant Corp. v. State Growth Management Hearings Bd.*, 154 Wn.2d 224, 233 – 41, 110 P.3d 1132, 1137 – 41 (2005).

<sup>57</sup> Stephanie Meenach, Eric L. Jessup, & Kenneth L. Casavant, *Transportation and Marketing Needs for the Washington State Livestock Industry* p. 12 (Washington State University, School of Economic Sciences, Strategic Freight Transportation Analysis (SFTA) Research Report #12: November 2004). Accessed most recently on June 21, 2013 at: [http://www.sfta.wsu.edu/research/reports/research\\_paper.htm](http://www.sfta.wsu.edu/research/reports/research_paper.htm) and enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County.

is shipped throughout Washington State, and Okanogan County hay is shipped to Washington State destinations.<sup>58</sup>

The county could also use data from the cities and its own records to identify public facilities, such as sewer lines, that would indicate that an area would likely convert to other more intense uses.

- “(iii) Tax status, including whether lands are enrolled under the current use tax assessment under chapter 84.34 RCW and whether the optional public benefit rating system is used locally, and whether there is the ability to purchase or transfer land development rights[.]” WAC 365-190-050(3)(c)(iii).

*Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* “Map 2: Private Parcels by Taxable Land Use Code (Agricultural and Other), Study Area” on page 19 of the report identifies the land classified by Okanogan County Assessor in the “Agriculture” land use tax code.<sup>59</sup> The county could use data from the County Assessor Office to identify those properties in a current use taxation program. Okanogan County had 541,794 acres in the Farm and Agriculture Current Use Taxation Program in the 2010 tax year.<sup>60</sup>

- “(iv) The availability of public services[.]” WAC 365-190-050(3)(c)(iv).

The county could also use data from the cities and its own records to identify public services that would indicate that an area would likely convert to other more intense uses. This criterion needs to distinguish between those public services that agricultural areas need, such as fire districts, sheriff services and emergency medical services, and those services that support more intense uses such as urban governmental services like sewer extensions and water systems designed to serve intense uses.<sup>61</sup>

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<sup>58</sup> Stephanie Meenach, Eric L. Jessup, & Kenneth L. Casavant, *Transportation Characteristics and Needs of the Washington Hay Industry: Producers and Processors* p. 10 (Washington State University, School of Economic Sciences, SFTA Research Report #11: November 2004). Accessed most recently on June 21, 2013: [http://www.sfta.wsu.edu/research/reports/research\\_paper.htm](http://www.sfta.wsu.edu/research/reports/research_paper.htm) and enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>59</sup> Julia Haggerty and Patty Gude, *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County, Washington* p. 19 (Headwaters Economics, Bozeman, Montana: Nov. 12, 2008).

<sup>60</sup> Washington State Department of Revenue, *Current Use Assessments: True and Fair Value Assessments in 2009 due in 2010: Current Use Detail*. Enclosed with the enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>61</sup> RCW 36.70A.030(18) defines “[u]rban governmental services’ or ‘urban services’ [to] include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.”

“(v) Relationship or proximity to urban growth areas[.]” WAC 365-190-050(3)(c)(v).

The county could use its data on the location of city expansion areas to identify them. They are shown on the draft “Land Use Designation” Map.

“(vi) Predominant parcel size[.]” WAC 365-190-050(3)(c)(vi).

This criterion seeks to identify whether an area has predominate parcel sizes that can be efficiently used for agriculture over the long-term. *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* “Map 4: Agricultural Holdings by Size Category, Study Area” identifies the agricultural land in Okanogan County in very large ownerships, holdings 160 acres and larger.<sup>62</sup> This shows extensive areas of large land holdings. The county could also use data from the County Assessor Office to identify the predominate parcel sizes in those lands that may qualify as agricultural lands of long-term commercial significance, such as lots larger than 20 acres, which was formerly the proposed agricultural minimum lot size. It is important to recognize, as *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* does that farms and ranches are made up of multiple parcels and that small parcels may be included in agricultural areas because it is not unusual to create a small lot for a house for one of the family members that own or work on a farm or ranch. It is also important to recognize that some forms of agriculture, such as intensively farmed organic farms, often use small parcels. So we recommend using a predominate parcel size of ten and twenty acres and not excluding smaller parcels when mixed in with predominately larger parcels.

“(vii) Land use settlement patterns and their compatibility with agricultural practices[.]” WAC 365-190-050(3)(c)(vii).

This criterion seeks to identify patterns of urban and rural development that may interfere with agricultural activities long term. *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* “Figure 7: Structure Development Series, Study Area” identifies settlement patterns, although some of the buildings show would be farm and ranch homes.<sup>63</sup> Aerial photographs can also be used to identify settlements.

“(viii) Intensity of nearby land uses[.]” WAC 365-190-050(3)(c)(viii).

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<sup>62</sup> Julia Haggerty and Patty Gude, *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County*, Washington p. 23 (Headwaters Economics, Bozeman, Montana: Nov. 12, 2008).

<sup>63</sup> *Id.* at p. 21.

This criterion seeks to identify areas of intense uses that may interfere with agricultural activities long term. *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* “Figure 7: Structure Development Series, Study Area” shows the intensity of development over time.<sup>64</sup> Aerial photographs can also be used to identify these areas.

“(ix) History of land development permits issued nearby[.]” WAC 365-190-050(3)(c)(ix).

*Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* “Figure 7: Structure Development Series, Study Area” shows residential and commercial building permits over time, although some are for farm and ranch dwellings.<sup>65</sup> County building permit records can also be consulted. This criterion seeks to identify areas where permits have been issued for types and levels of development that are inconsistent with long-term agricultural uses.

“(x) Land values under alternative uses[.]” WAC 365-190-050(3)(c)(x).

*Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County* includes information on prices for ranch land the ranch land buyers.<sup>66</sup> In 1993 through 2008, “Traditional Ranchers” were the largest purchaser of ranchland.<sup>67</sup> County real estate data can be used to determine land values under alternatives uses. However, caution must be used in applying this criterion. The Washington State Supreme Court has noted that uses other than agriculture will always be more profitable so that this type of criterion cannot be controlling in determining whether or not land has long-term commercial significance.<sup>68</sup>

“(xi) Proximity to markets[.]” WAC 365-190-050(3)(c)(xi).

Okanogan County has good access to livestock and hay markets. “Livestock are shipped to three main locations in Washington once leaving producer operations; feed lots, other farms, and slaughter facilities.”<sup>69</sup> Livestock arrive at feedlot and producer operations from all over Washington State.<sup>70</sup> Producers received 39.05 percent of their livestock from within 50

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<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* pp. 25 – 30.

<sup>67</sup> *Id.* at p. 28.

<sup>68</sup> *City of Redmond v. Central Puget Sound Growth Management Hearings Bd.*, 136 Wn.2d 38, 52 – 53, 959 P.2d 1091, 1097 (1998).

<sup>69</sup> Stephanie Meenach, Eric L. Jessup, & Kenneth L. Casavant, *Transportation and Marketing Needs for the Washington State Livestock Industry* p. 6 (Washington State University, School of Economic Sciences, Strategic Freight Transportation Analysis (SFTA) Research Report #12: November 2004).

<sup>70</sup> *Id.*

miles.<sup>71</sup> The balance, over 60 percent, arrives from 50 miles to greater than 100 miles.<sup>72</sup> State Route (SR) 97, which runs through Okanogan County is one of the major livestock transport routes in the state.<sup>73</sup> Hay is shipped throughout Washington State, and Okanogan County hay is shipped to Washington State destinations.<sup>74</sup> Stockyards are located in Toppenish and Davenport.<sup>75</sup>

**4. Designing agricultural land sufficient to maintain and enhance the agricultural industry. See WAC 365-190-050(5).**

The Growth Management Act establishes as a goal, in RCW 36.70A.020(8), to “[m]aintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries.” To help implement this goal, WAC 365-190-050(5) provides that “[w]hen applying the criteria in subsection (3)(c) of this section [the long-term significance criteria discussed above], the process should result in designating an amount of agricultural resource lands sufficient to maintain and enhance the economic viability of the agricultural industry in the county over the long term; and to retain supporting agricultural businesses, such as processors, farm suppliers, and equipment maintenance and repair facilities.” The *Washington Agriculture Strategic Plan 2020 and Beyond* makes the case that if we are going to maintain our agricultural industry in Washington State we need to maintain our existing land base.<sup>76</sup> So in designating its agricultural lands of long-term commercial significance, Okanogan County should also seek to maintain its farming and ranching land base to maintain and enhance the agricultural industry.

***Failing to adequately designate agricultural lands of long-term commercial significance will harm the Okanogan County economy and budget***

As we have documented, “[a]griculture is a very important sector for Okanogan County, which mainly consists of various tree fruits and wheat.”<sup>77</sup> Agriculture is Okanogan County’s largest employer, providing jobs to 16 percent of county residents.<sup>78</sup> “In 2007, agriculture,

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<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at p. 12.

<sup>74</sup> Stephanie Meenach, Eric L. Jessup, & Kenneth L. Casavant, *Transportation Characteristics and Needs of the Washington Hay Industry: Producers and Processors* p. 10 (Washington State University, School of Economic Sciences, SFTA Research Report #11: November 2004).

<sup>75</sup> Julia Haggerty and Patty Gude, *Land Ownership Change and the Ranching Economy in the Okanogan Valley and Eastern Okanogan County, Washington* p. 15 (Headwaters Economics, Bozeman, Montana: Nov. 12, 2008).

<sup>76</sup> Washington State Department of Agriculture, *Washington Agriculture Strategic Plan 2020 and Beyond* pp. 50 – 55 (2009). Last accessed on June 21, 2013 at: <http://agr.wa.gov/FoF/> and the cited pages enclosed with the paper original of Futurewise’s April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>77</sup> Mark A. Berreth, *Okanogan County Profile* p. 1 of 5 (Washington State Employment Security Department: Updated May 2012).

<sup>78</sup> Marcy Stamper, *County to use public land base to satisfy state call for agriculture, resource lands* *Methow Valley News Online* (09-28-2010 | Volume: 108 | Issue: 19).

forestry, fishing and hunting paid an annual average of \$35,305 ...<sup>79</sup> This economic data shows that agriculture in Okanogan County has long-term commercial significance.

The Washington State Department of Agriculture's recently completed *Washington Agriculture Strategic Plan 2020 and Beyond* documents to need to conserve agricultural lands to maintain the agricultural industry and the jobs and incomes the industry provides.<sup>80</sup> Given our current economic problems, not protecting such an important part of the state and Okanogan County economies is a bad idea.

Allowing the conversion of Okanogan County's farm and ranch land is also a bad idea for the Okanogan County budget. As the *Washington Agriculture Strategic Plan 2020 and Beyond* documents,

For each \$1 paid in taxes by farm and forest lands in that [Skagit] county, those lands received back about 51 cents in services, contributing a 49 cent subsidy for the rest of the taxpayers in the county. For every \$1 paid in taxes by residential properties, those properties received \$1.25 in public services.<sup>81</sup>

Converting farmland and forest land to residential development, assuming there are buyers for such land, will blow hole in the Okanogan County general fund budget. It will also harm the county's largest industry and the county residents the industry and related businesses employ.

Comparing the Okanogan County Land Use map with the Washington State Department of Agriculture's 2013 Crop Distribution map<sup>82</sup> shows that most of the crop land and orchards in the Okanogan Valley, the side valleys, along Columbia River, and in the Methow Valley are not designated as agricultural lands of long-term commercial significance. This shows that the county's criteria and their application are flawed. We recommend using the approach from the minimum guidelines summarized above.

***Failing to include standards of population density and building intensity violates RCW 36.70.330(1) for the Agriculture, Forest, and Mineral Resource Lands designations***

RCW 36.70.330(1) requires that the county's land use element must include "a statement of the standards of population density and building intensity recommended for the various areas in the jurisdiction and estimates of future population growth in the area covered by the comprehensive plan ...." There are no density standards for the "Agriculture" provisions

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<sup>79</sup> T. Baba Moussa, *Okanogan County Profile* p. 5 of 6 (Washington State Employment Security Department: January 2009).

<sup>80</sup> Washington State Department of Agriculture, *Washington Agriculture Strategic Plan 2020 and Beyond* pp. 50 - 52 (2009).

<sup>81</sup> *Id.* at p. 53.

<sup>82</sup> Enclosed with the Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit D.

on pages 15 and 16. We recommend that the comprehensive plan include a 40 acre minimum lot size to protect the agricultural land.

It is the same for the Forestry designation on pages 16 and 17. Parcels smaller than 40 acres have much lower timber harvest rates and are more likely to be converted to residential land uses.<sup>83</sup> Parcels smaller than 50 acres have higher than average costs for preparing timber sales, harvesting trees, and reforesting the site.<sup>84</sup> So we recommend that the maximum density for forest land be one dwelling unit per 50 acres.

The Mineral Lands provisions on page 17 and 18 have the same defect. To protect these important resource lands we recommend a 20 acre minimum lot size.

***Growth Management Act Requirements for Designating Forest Lands of Long-Term Commercial Significance***

There are three required criteria for designating forest land of long-term commercial significance:

1. The land is “not already characterized by urban growth ....”<sup>85</sup>
2. “The land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140 ....”<sup>86</sup>
3. “[A]nd that has long-term commercial significance.”<sup>87</sup>

Like Agriculture, the Forestry provisions, on pages 16 and 17, do not have designation criteria that comply with these requirements. The land use map also fails to designate

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<sup>83</sup> Eric J. Gustafson & Craig Loehle, *Effects of Parcelization and Land Divestiture on Forest Sustainability in Simulated Forest Landscapes*, 236 FOREST ECOLOGY and MANAGEMENT 305, 313 (2006). Accessed most recently on June 21, 2013 at: [http://nrs.fs.fed.us/pubs/jrnl/2006/nrs\\_2006\\_gustafson\\_001.pdf](http://nrs.fs.fed.us/pubs/jrnl/2006/nrs_2006_gustafson_001.pdf) and enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County. Forest Ecology and Management is a refereed scientific journal, see the Forest Ecology and Management webpage enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County and available at: <http://www.elsevier.com/journals/forest-ecology-and-management/0378-1127/guide-for-authors>

<sup>84</sup> R. Neil Sampson, *Implication for Forest Production in Responses to "America's Family Forest Owners"* 102 JOURNAL OF FORESTRY 4, 12 (October/November 2004). Enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County. The Journal of Forestry is a peer reviewed scientific journal. See the Journal of Forestry Guide for Authors webpage available at: <http://www.safnet.org/publications/jof/guideforauthors.cfm> and enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>85</sup> RCW 36.70A.170(1)(b).

<sup>86</sup> RCW 36.70A.030(8); *Manke Lumber Co., Inc. v. Diehl*, 91 Wn. App. 793, 805, 959 P.2d 1173, 1179 – 80 (1998).

<sup>87</sup> *Id.*

important forest lands.<sup>88</sup> Enclosed with this letter is the paper *The Nineteenth Annual Two-Day Conference on Washington's Growth Management Act: Goals 8 & 9: Natural Resource Lands and Recreation and Open Space: How We Are Doing, State of the Law, and Helpful Improvements*. This paper provides more detail on designating forest land of long-term commercial significance.

A recent report by the College of Forest Resources of the University of Washington documents the need to protect "anchor forests" and the private forest land near them to maintain the state's forest products industry, including the high paying jobs the industry supports.<sup>89</sup> The University of Washington study identifies many parcels in Okanogan County as at risk of conversion.<sup>90</sup> This puts forest products jobs at significant risk.<sup>91</sup> Properly designating and protecting these lands will protect the land base and the jobs.

#### Chapter 4: Land Use - Rural Lands

RCW 36.70.330(1) requires that "[t]he land use element shall also provide for protection of the quality and quantity of groundwater used for public water supplies ...." But there are no policies or other provisions to protect groundwater.<sup>92</sup>

In addition, policies in the rural element will pollute groundwater. The only density is for the Rural Resource/Low Density which claims a "base density of one unit per five acres."<sup>93</sup> And but most of the rural zones allow multi-family housing at densities of 4.5 dwelling units per acre outside of the Methow Valley.<sup>94</sup> Marylynn Yates, in a peer reviewed scientific journal, analyzed data and cases of ground water pollution from septic tanks. She concluded that septic tanks are major contributors of waste water, septic tanks are the most frequently reported cause of ground water contamination, and the most important factor influencing

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<sup>88</sup> *Detail Maps of High Conversion Risk, High Value Private Forestland Near Anchor Forests in Washington - North Central and Northeast*. These maps were accessed most recently on June 21, 2013 at:

<http://www.ruraltech.org/projects/wrl/sfr/maps/index.asp> and enclosed with Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County attached to the *Retention of High - Valued Forest Lands at Risk of Conversion to Non - Forest Uses in Washington State* Final Report.

<sup>89</sup> College of Forest Resources, University of Washington, *Retention of High - Valued Forest Lands at Risk of Conversion to Non - Forest Uses in Washington State* Final Report pp. 14 - 15 (Prepared for the Washington State Legislature and Washington Department of Natural Resources: March 25, 2009). Accessed most recently on June 21, 2013 at: <http://www.ruraltech.org/projects/wrl/sfr/pdf/RetentionReport.pdf> and enclosed with the paper original of Futurewise's April 27, 2011 letter to the Board of Commissioners for Okanogan County.

<sup>90</sup> *Id.* at pp. 8 - 14 & *Detail Maps of High Conversion Risk, High Value Private Forestland Near Anchor Forests in Washington - North Central and Northeast*.

<sup>91</sup> *Id.* at pp. 18 - 19.

<sup>92</sup> Comprehensive Plan 4/28/14 Review Edition p. 1 - 36.

<sup>93</sup> *Id.* at p. 21.

<sup>94</sup> Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit E pp. 1 - 2.

ground water contamination from septic tanks is the density of the systems.<sup>95</sup> Lot sizes associated with ground water contamination cases ranged from less than a quarter acre to three acres.<sup>96</sup> More recent studies support these conclusions. For example, an “observational study identified septic system density as a risk factor for sporadic cases of viral and bacterial diarrhea in central Wisconsin children.”<sup>97</sup> The greater the density of septic tanks the greater the likelihood of diarrheal disease.<sup>98</sup> And the highest septic tank densities were one septic tank per 11 acres.<sup>99</sup> A study of the potential for nitrate pollution of ground water in Cedar Valley, Iron County, Utah lead to a recommendation that the minimum lot size for septic systems should be five areas in one part of the valley and 15 acres in three other parts.<sup>100</sup> So lots allowed by the Rural Chapter will likely pollute the groundwater drinking water sources.

Adverse impacts will also occur because the proposed densities are not matched to the available ground water resources. This is particularly important because a significant number of Okanogan County’s subbasins and streams are already overappropriated.<sup>101</sup> The Washington State Department of Ecology has also concluded that “most if not all of the available water has already been allocated” in Water Resource Inventory Areas (WRIAs) 48 and 49, the Methow and Okanogan River Watersheds.<sup>102</sup>

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<sup>95</sup> Marylynn V. Yates, *Septic Tank Density and Ground-Water Contamination* 23 GROUND WATER 586, p. 590 (1985). Accessed most recently on June 12, 2014 at: <http://info.ngwa.org/gwol/pdf/852537546.PDF> and enclosed in the Methow Valley Citizens’ Council and Futurewise’s Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit C. Ground Water is a peer reviewed scientific journal. See the Ground Water Peer Review enclosed in the Methow Valley Citizens’ Council and Futurewise’s Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit C.

<sup>96</sup> Marylynn V. Yates, *Septic Tank Density and Ground-Water Contamination* 23 GROUND WATER 586, p. 590 (1985).

<sup>97</sup> Mark A. Borchardt, Po-Huang Chyou, Edna O. DeVries, and Edward A. Belongia, *Septic System Density and Infectious Diarrhea in a Defined Population of Children* 111 ENVIRONMENTAL HEALTH PERSPECTIVES 742, p. 745 (2003). Accessed most recently on June 12, 2014 at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1241485/pdf/ehp0111-000742.pdf> and enclosed with Futurewise’s June 21, 2013 letter to the Okanogan County Planning Commission. Environmental Health Perspectives is a peer reviewed scientific journal. See the Environmental Health Perspectives Journal Information accessed on March 31, 2011 at: <http://ehp.niehs.nih.gov/journal-information/> and enclosed with Futurewise’s June 21, 2013 letter to the Okanogan County Planning Commission.

<sup>98</sup> Mark A. Borchardt, Po-Huang Chyou, Edna O. DeVries, and Edward A. Belongia, *Septic System Density and Infectious Diarrhea in a Defined Population of Children* 111 ENVIRONMENTAL HEALTH PERSPECTIVES 742, pp. 745 – 47 (2003).

<sup>99</sup> *Id.* at 747.

<sup>100</sup> Mike Lowe, Janae Wallace, and Walid Sabbah, and Jason L. Kneedy, *Science-Based Land-Use Planning Tools to Help Protect Ground-Water Quality, Cedar Valley, Iron County, Utah Special Study* 134 pp. 27 – 28 (Utah Geological Survey, a Division of Utah Department of Natural Resources: 2010). Most recently accessed on June 21, 2013 at: <http://geology.utah.gov/online/ss/ss-134/ss-134text.pdf> and enclosed with the paper original of this letter.

<sup>101</sup> ENTRIX, Inc., *Level 1 Watershed Technical Assessment Final Report: Okanogan River Watershed Resource Inventory Area 49* p. ES-3 (Okanogan Watershed Planning Unit: Sept. 2006).

<sup>102</sup> State of Washington Department of Ecology Water Resources Program, *Focus on Water Availability for the Methow Watershed, WRIA 48* p. 2 (Publication Number: 11-11-052, Revised August 2012); State of

The proposed comprehensive plan's decision not to designate and protect private agricultural lands could increase demand for water as the agricultural lands are converted to residential use.<sup>103</sup> This would make these water shortages even worse. The land use element, including Chapter 4, must be revised to protect the quality and quantity of groundwater as RCW 36.70.330(1) requires.

RCW 36.70.330(1) requires that the county's land use element must include "a statement of the standards of population density and building intensity recommended for the various areas in the jurisdiction and estimates of future population growth in the area covered by the comprehensive plan ...." The Rural Chapter does not include any population densities and building intensities except for the Rural Resource/Low Density designation which omitted the apartment density. Again, this violates state law.

### **Chapter 8: Circulation Element. Please see pages 29 – 31 of the 4/28/14 Review Edition**

The circulation element is a required comprehensive plan element and important to maintain the county's economy.<sup>104</sup> We appreciate that the Okanogan County has prepared a transportation element, however it fails to meet the requirements for a circulation element because it does not include the general location, alignment and extent of major terminal facilities as RCW 36.70.330(2) requires. The circulation element does not seem to be "correlated with the land use element of the comprehensive plan" and the over 10 million apartments it allows.<sup>105</sup> We recommend that an element complying with RCW 36.70.330(2) be included with the comprehensive plan.

### **Chapter 9: Essential Public Facilities. Please see page 32 of the 4/28/14 Review Edition**

RCW 36.70.547 provides in relevant part that "[e]very county, city, and town in which there is located a general aviation airport that is operated for the benefit of the general public, whether publicly owned or privately owned public use, shall, through its comprehensive plan and development regulations, discourage the siting of incompatible uses adjacent to such general aviation airport." Chapter 9 on page 32 states that "[t]he Comprehensive Plan creates policy designed to guide zoning and other development regulation to protect airports from incompatible land uses both on-site and on adjacent lands as encouraged by the Revised Code of Washington and required federal regulation." However, the comprehensive

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Washington Department of Ecology Water Resources Program, *Focus on Water Availability for the Okanogan Watershed*, WRIA 49 p. 2 (Publication Number: 11-11-053, Revised August 2012)

<sup>103</sup> ENTRIX, Inc., *Level 1 Watershed Technical Assessment Final Report: Okanogan River Watershed Resource Inventory Area 49* p. ES-3 (Okanogan Watershed Planning Unit: Sept. 2006).

<sup>104</sup> RCW 36.70.330(2).

<sup>105</sup> Methow Valley Citizens' Council and Futurewise's Notice of Appeal Under OCC 14.040220A.1 and Argument in Exhibit E p. 1.

Mr. Perry Huston, Director of Planning  
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plan, other than on pages 10 and 32, contains no mention of airports. Pages 10 and 32 do not discourage the siting of incompatible use as RCW 36.70.547 requires.

Further, the Okanogan County Comprehensive Plan map designates the Winthrop / Methow Valley State Airport and Anderson Field as rural and which allows residential uses.<sup>106</sup> Residential uses are not compatible with certain areas near airports.<sup>107</sup> We recommend the county consult *Airports and Compatible Land Use: Volume One An Introduction and Overview for Decision-Makers* and include policies and comprehensive plan designations for the airports in Okanogan County that are consistent with those recommendations.

Thank you for considering our comments. If you require additional information please contact me at telephone 206-343-0681 and email [tim@futurewise.org](mailto:tim@futurewise.org)

Sincerely,

A handwritten signature in blue ink, consisting of two stylized, overlapping loops that resemble the letters 'S' and 'T'.

Tim Trohimovich, AICP  
Director of Planning & Law

Enclosures

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<sup>106</sup> Washington State Department of Transportation Aviation Division, *Washington State Airport Reference Guide* p. 14 & p. 134 (Sept. 2007) accessed on June 20, 2013 at:

<http://www.wsdot.wa.gov/NR/rdonlyres/8AC7D85B-F2EE-4751-9621-5979708F553B/0/AirportReferenceGuide.pdf> The Washington State Airport Reference Guide pages for each airport in Okanogan County are enclosed with Futurewise's June 21, 2013 letter to the Okanogan County Planning Commission.

<sup>107</sup> Washington State Department of Transportation Aviation Division, *Airports and Compatible Land Use: Volume One An Introduction and Overview for Decision-Makers* pp. 40 - 41 (Revised February 1999) accessed on June 20, 2013 at: <http://www.wsdot.wa.gov/NR/rdonlyres/5983B7EF-5061-48FF-8829-1359F783CD10/0/AirportsLandUse.pdf> and enclosed with Futurewise's June 21, 2013 letter to the Okanogan County Planning Commission.

**Appendix A**

**Area of Nonfederal Land In Okanogan County by Use in 1976, 1993, and 2006**

Use Category	1976		1994		2006		Change 76-94		Change 94-2006	
	Thousand Acres	Percent								
Wildland forest	943	50.1%	930	49.4%	926	49.3%	-13	-1.4%	-4	-0.4%
Wildland range	654	34.8%	639	34.0%	632	33.6%	-15	-2.3%	-7	-1.1%
Mixed range/agriculture	49	2.6%	50	2.7%	50	2.7%	1	2.0%	0	0.0%
Intensive agriculture	206	11.0%	209	11.1%	209	11.1%	3	1.5%	0	0.0%
Low-density residential	21	1.1%	45	2.4%	55	2.9%	24	114.3%	10	22.2%
Urban	5	0.3%	6	0.3%	6	0.3%	1	20.0%	0	0.0%
Other	1	0.1%	1	0.1%	1	0.1%	0	0.0%	0	0.0%
Total	1,880	100.0%	1,880	100.0%	1,880	100.0%	0	0.0%	0	0.0%

Source: Andrew N. Gray, David L. Azuma, Gary J. Lettman, Joel L. Thompson, Neil McKay, *Changes in Land Use and Housing*

on *Resource Lands In Washington State, 1976-2006* p. 12 (Gen. Tech. Rep. PNW-GTR-881, U.S. Department of Agriculture,

Forest Service, Pacific Northwest Research Station, Portland, OR: 2013). Accessed on June 12, 2014 at:

<http://tresearch.fs.fed.us/pubs/42975>. A copy of this report was enclosed with Futurewise's June 21, 2013 letter to the

Okanogan County Planning Commission.