



Baker County, Oregon

Natural Resources Plan



Adopted by the Baker County Board of Commissioners
July 20, 2016

Adopted by the Baker County Natural Resources Advisory Committee,
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Purpose & Need

It is the Purpose of the Baker County Natural Resources Plan to set forth the policies of Baker County in regards to the use, and access to, natural resources located on public land. It is a Baker County Board of Commissioners priority to engage in coordination with federal and state agencies to provide for the health, safety and welfare and economic benefits of its natural resources for its citizens. The Baker County Board of Commissioners will exercise its legal right to full participation in the planning processes utilized by state and federal agencies for developing and implementing land use plans and actions within the County. The Baker County Board of Commissioner's interests extend to land use plans or action formulation, development and implementation, including monitoring and evaluation. Baker County directs that all decisions be based on current, relevant, peer reviewed science and data, which take into account multiple land uses within all plans or actions.

The use of public land is critical to the health, safety and welfare and economic stability of Baker County citizens. The Baker County Board of Commissioners recognizes the inherent natural beauty and the quality of life afforded to the citizens and visitors to Baker County. The Board knows and values the importance of private property rights, water rights, open roads systems and RS 2477 right-of-ways, the multiple uses for all public lands within Baker County and the quality and quantity of the natural resources.

The Board of Commissioners accepts that it is its duty and obligation to enter into coordination for official resource planning activities and that federal and state agencies must fulfill their requirement to coordinate with the County's plan to seek to ensure consistency between plans as required by federal and state laws.

The Board commits to the following principles to guide decision making governing natural resources within the County:

1. Expansion, revitalization and continuation of multiple uses on all public lands in Baker County.
2. Multiple use shall be inclusive rather than exclusive, thereby avoiding pitting one use against the other.
3. All plans shall mitigate based on multiple use rather than by a resource by resource issue.
4. Maintain flexibility in all plans to allow for extraction of natural resources from public lands and to continue to use existing resources in accordance with all laws.
5. Protect and preserve the following rights of all County's citizens, including:
 - a. Private property interests, such as water and grazing rights and access to lands, which have ties to public lands,

- b. Traditional economic structures in the county that form the base for economic stability,
- c. Historic custom, culture and values of the local people, and
- d. Enjoyment of the natural resources of the County.

In accordance with federal and state laws regarding public land use planning and protection of private property interests, the Board of Commissioners seeks to expand, continue and to revitalize the various multiple uses of federally managed lands. To that end, the Board of Commissioners have adopted this plan, which includes policies regarding the various multiple uses on publicly managed lands in Baker County. This plan serves to assure the County's elected officials have meaningful public involvement in the development of land use programs, land use regulations, and land use decisions for public lands in recognition of the significant impact these actions can have on private lands and the health, safety and welfare and economic benefits of its citizens.

This plan has been prepared by the Baker County Natural Resources Advisory Committee with input from the citizens of Baker County and subsequently reviewed and adopted by the Baker County Board of Commissioners. It is intended to be a base line plan and designed to be supplemented and amended as better information becomes available, unforeseen problems arise or issues become apparent which need to be addressed.

Revision

As natural resource issues develop and change over time, it is to be expected that Baker County's policies will evolve to meet the needs of the community. It is, therefore, to be expected that the Baker County Natural Resources Plan will be amended from time to time, and further, will undergo routine and periodic review on a yearly basis or as needed or as directed by the Baker County Board of Commissioners.

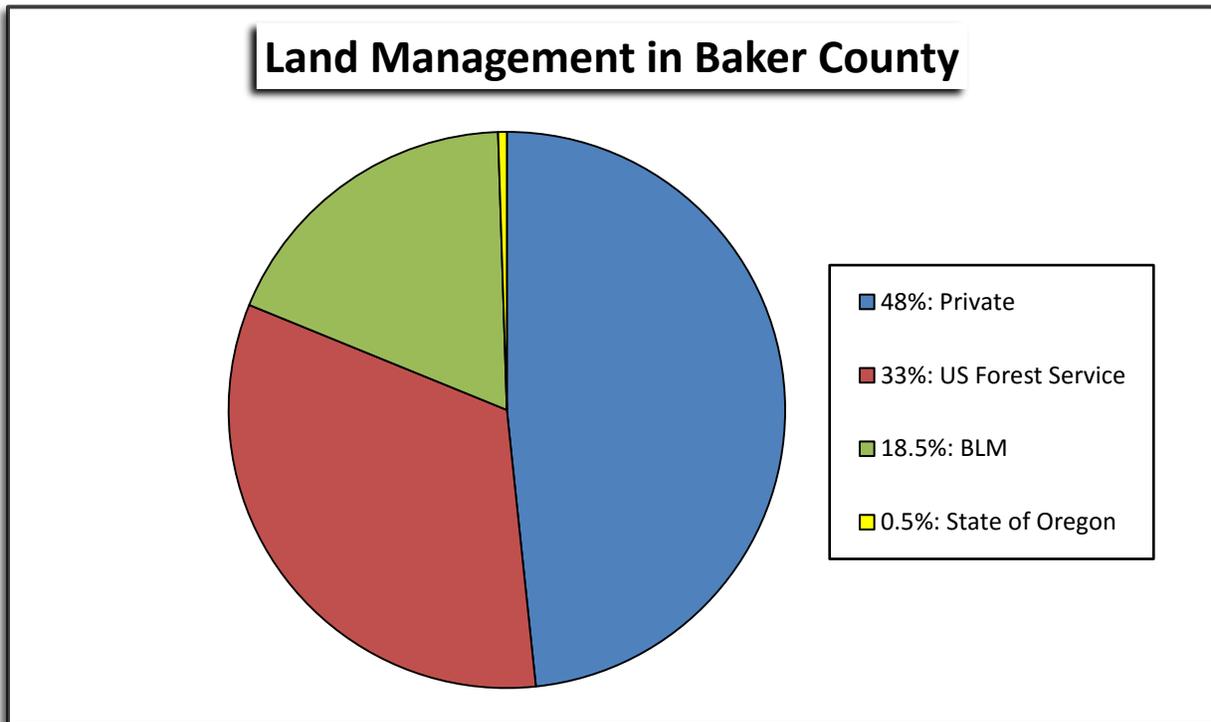
Severability

Should a court declare any part of these policies void, unenforceable, or invalid, the remaining provisions shall remain in full force and effect.

Land Use

Land Management

Baker County spans 3,089 square miles¹ (1,976,960 acres), making Baker County larger than Rhode Island or Delaware. Federal agencies manage approximately 51.5% of the land in Baker County, comprising a total of 1,016,511 acres. Approximately 33% of the County is managed by the US Forest Service² (USFS), 18.5% is managed by the Bureau of Land Management (BLM)³, and an additional 10,067 acres⁴, or 0.5% of Baker County, is managed by the State of Oregon. The remaining 48% of the land in the county, approximately 950,382 acres, is privately owned. The citizens of Baker County rely on *both* public and private land for natural resources, recreation, and the ability to continue our way of life—especially agriculture and livestock grazing, mining, and timber harvest (discussed in later sections); therefore, all decisions affecting public lands could potentially affect Baker County’s economy, customs, culture, and enjoyment of the land.



¹ Oregon Blue Book, Baker County

² 652,265 acres. USFS Northeast Oregon Land Zone Realty Specialist

³ 364,246 acres. BLM Vale District, Baker Resource Area

⁴ Baker County Assessors Office

Land Use

Agriculture and Timber

Agriculture and forest production are the predominant land uses in Baker County. According to Baker County Assessor's records, there are approximately 146,386 irrigated acres and 1,129,662 non-irrigated acres that are, or could be, used for agricultural production. Of those acres, 377 irrigated acres and 399,097 non-irrigated acres are publicly owned.⁵ There are an additional 673,681 acres of timber, 628,681 acres of which are publicly managed.

Mining

Mining is an important resource in Baker County. According to the Northwest Mining Association, the State of Oregon is home to over 300 medium to large-scale mining operations. Approximately 20 operations in Baker County are large enough that they are administered by the Oregon Department of Geology and Mineral Industries (DOGAMI). Currently, there are over 1,200 mining claims filed in Baker County on U.S. Forest Service (USFS) and Bureau of Land Management (BLM) managed lands, and these claims are owned by both local and out of area miners. In addition, there are many patented mining properties and other lands that are mineral in character where small-scale mining takes place.

Wilderness and Areas of Critical Environmental Concern

A total of 76,310 federally managed acres in the County are restricted under these special programs, totaling approximately 8% of the public land and approximately 3.8% of the total land in Baker County. Specifically, the U.S. Forest Service administers two Wilderness Areas totaling over 37,650 acres in Baker County. The Monument Rock Wilderness Area covers approximately 18,650 acres, while the Eagle Cap Wilderness Area covers approximately 19,000 acres.

The Bureau of Land Management does not currently manage any Wilderness Areas in Baker County, but does manage 14,846 acres designated as a Wilderness Study Area.⁶ The Federal Land Policy and Management and Act (FLPMA) requires the Department of the Interior to manage lands that are being studied for their suitability for wilderness in a manner that does not impair the suitability of the area for "preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on October 21, 1976." (FLPMA pg. 45)

The Bureau of Land Management is also responsible for managing 23,817 acres of Areas of Critical Environmental Concern (ACEC) in Baker County⁶. The ACEC program also came from the

⁵ The Baker County Assessor's Office used soil class, market class, and water factors to make these approximations.

⁶ BLM Vale District, Baker Resource Area

1976 Federal Lands Policy and Management Act (FLPMA). The FLPMA directs the BLM to protect important riparian corridors, threatened and endangered species habitats, cultural and archeological resources and unique scenic landscapes that the agency assesses as being in need of special management attention.

Custom & Culture

Baker County is steeped in the traditions of the Oregon Trail and the settlement of the western United States. By 1811, explorers, trappers and hardy mountain men explored the mountains, hills and valleys looking for furs, game and gold. The first wagon trains along the Oregon Trail started in 1843 and passed through the area that would become Baker County on their long trek to the Willamette Valley.

By the early 1860's, mining was a familiar activity in the Blue Mountains of Eastern Oregon. Gold discoveries in areas such as Griffin Gulch and Blue Canyon prompted an influx of eager miners and shop keepers to this area. As a result, settlements grew to provide necessary supplies and services for miners working the streams and hills of Baker County. The town of Auburn was the first established city in the Blue Mountains, touting a population of 5,000 people in 1862, which exceeded Portland, Oregon's population by nearly 2,000 people during the same time period. While gold was a lucrative commodity, many mines such as the Iron Dyke mine near Homestead and the Mother Lode mine near Keating, produced significant amounts of copper, gold and silver as well as lead and zinc as minor by-products of the industry. The extension of the railroad to Baker City in 1884, and the completion of the Sumpter Valley Railroad in 1896, accelerated the mining boom in Baker County. Mining in northeastern Oregon yielded nearly 3,500,000 ounces of gold and an equal amount of silver, comprising nearly 60 percent of all the gold and silver produced in the state of Oregon.

On October 24, 1866, the state legislature named Baker City the county seat, and by 1900, Baker City was a regional trade center. By the end of the 19th century cattle, sheep and farming operations dominated the area and local settlements grew. Logging and the lumber business soon followed and the Baker County area thrived due to the abundance of Natural Resources in the area.

After 1900, agriculture, mining and the lumber business were mainstays of the local economy. Water was a vital commodity and the early miners and settlers stored and moved water throughout the County.

Shortly after the onset of World War II, an order from the War Production Board declared men and materials could be better used elsewhere in the war effort. After the war, mining labor and material costs increased, few mines were reactivated and the price of gold remained fixed for more than 40 years. The result was a rapid decrease in the mining industry.

As the large mining operations began to close, logging and agriculture continued to thrive in the County. Baker Livestock Auction brought people from all over Eastern Oregon to market their livestock and the retail businesses were strong and vital.

Forest policy changed in the 1980's and 90's and the forest product industries began to disappear. The loss of the forest products industry and the jobs in the woods were devastating to the local economy. In addition, the livestock auction closed in 1985, which dealt another blow to the County.

Baker County citizens worked hard to weather this economic disaster. Though the natural resource industries had been dealt a tremendous blow, the County moved forward. Agriculture remained the mainstay of the economy, but a focus on tourism helped to stabilize the impact of the loss of mining and lumber.

The demographics of the County has changed dramatically. Young people have left the County due to the lack of jobs. The population has grown older. The citizens remain committed to our heritage, the natural beauty of our surroundings and an independent spirit which our ancestors possessed and passed down to us.

Baker County is rich in natural resources. Our forests are a great source of renewable products. Our water resources are excellent and the lifeblood of our agricultural industry. Minerals are still abundant throughout the County and can be a significant economic generator. The natural beauty of the landscape, the abundance of wildlife and the clear skies make Baker County a great place to live and visit.

Baker County citizens and businesses understand the importance of our natural resources and the concept of multiple uses of all resources. We have seen the rise and fall of the industries which our County was founded upon. We believe that economic opportunities and new industries will be achieved through sound stewardship of the county's natural resources and the use of common sense, coordination and innovative thinking.

Principles for Federal and State Land Management Within Baker County

Public lands dominate the landscape in Baker County, with approximately 52% of the land in the County managed by a public agency. Therefore, decisions made by the agencies managing our public lands and resources directly affect Baker County's residents, custom and culture, economy, and valued way of life. The following policies codify Baker County's requirements, needs, and expectations of federal and state agencies with land-use planning and decision-making powers within the boundaries of Baker County.

Recognition of County Status, Responsibilities, and Authority

Baker County represents a local government as defined by ORS 174.116 (1)(a).⁷ In order to discharge its statutory obligations and duties as a County within the State of Oregon,

“Baker County has the primary responsibility for securing and promoting the public peace, general welfare, health, and safety of the citizens of the County through preservation of their customs, culture, and economic stability, protection and use of their environment, and protection of their private property rights.”

Baker County Ordinance No. 2001-1

Furthermore, Oregon State law empowers Baker County to pass ordinances in the interest of fulfilling these responsibilities to its citizens, and to exercise its authority over such matters insofar as doing so does not conflict with State or Federal law:

“...[T]he governing body or the electors of a county may by ordinance exercise authority within the county over matters of county concern, to the fullest extent allowed by Constitutions and laws of the United States and of this state... The power granted by this section is in addition to other grants of power to counties, shall not be construed to limit or qualify any such grant and shall be liberally construed, to the end that counties have all powers over matters of county concern that it is possible for them to have under the Constitutions and laws of the United States and of this state.”

ORS 203.035

Baker County expects federal and state land management agencies to respect and understand the County's responsibilities to its citizens, and to work through coordination with the County in

⁷ “...as used in the statutes of this state “local government” means all cities, counties and local service districts located in this state, and all administrative subdivisions of those cities, counties and local service districts”. ORS 174.116 (1)(a)

order to ensure that these responsibilities are satisfied with regard to issues pertaining to public lands and natural resource management within the County’s boundaries.

Statutory and Regulatory Authority

Management of the Federal and State lands is dictated by a system of federal and state statutes, regulations, and policies. Baker County expects that all applicable statutes, regulations, and policies will be followed by federal and state land management agencies, and that federal and state agencies shall fulfill their affirmative responsibility to be apprised of all pertinent laws and policies.

County Involvement in Federal Land Management

Certain federal statutes, regulations, and policies discussed below offer special opportunities to state, tribal, and local government agencies to participate in federal agency planning and decision-making when such actions take place within the purview of the state, tribal, or local government’s responsibilities to the people it represents. Importantly, many such opportunities are **only** offered to government agencies; they are not available to private individuals, special interest groups, or NGOs.

As a local government within the State of Oregon, Baker County is therefore entitled to avail itself of these special opportunities for government involvement in federal decision-making. In accordance with federal statute and regulations, federal agencies shall recognize that certain opportunities, such as coordination as defined by FLPMA and NFMA is exclusive to government agencies, and therefore not fulfilled merely through soliciting “public input” or engaging in “stake holder consultation” or “collaboration”—opportunities that are available to the broader interested public.

Coordination

Coordination is a federally mandated process that requires all state and federal agencies including the BLM and Forest Service to work with local governments to seek consistency between state and federal land use planning and management and local land use plans and policies. Coordination, by its plain meaning, requires state and federal agencies do more than just *inform* local governments of their future management plans and decisions and it requires that they do more than merely *solicit comments* from local government entities. Coordination calls for something beyond that: a negotiation on a government-to-government basis that seeks to ensure officially approved local plans and policies are included in the public lands planning and management decisions of state and federal agencies.

Baker County expects the state and federal agencies to engage in coordination with the County, upon the County’s request, for land use planning efforts **and on an ongoing basis**—as mandated by applicable statute, regulations, policy, and case law. Coordination as envisaged by Congress involves use of a local government plan or policy to determine whether proposed

federal agency plans, policies and management decisions are consistent with the needs and requirements of the local community. **Baker County expects that all agency planning efforts and subsequent management actions shall be reviewed, in coordination with the County, with an aim of achieving maximum consistency with the Baker County Natural Resources Plan. Agency decisions and plans are expected to be consistent with this Plan wherever practicable and/or wherever mandated by applicable federal statute or regulations.**

Statutory Authority—Coordination with the BLM

“In the development and revision of land use plans, the Secretary shall [...] to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities [...] with the land use planning and management programs [...] of local governments... Land use plans of the Secretary under this section **shall be consistent with State and local plans** to the maximum extent he finds consistent with federal law and the purposes of this Act.”

43 U.S.C § 1712(c)(9), emphasis added (FLPMA)

“*Consistent* means that the Bureau of Land Management plans will adhere to the terms, conditions, and decisions of officially approved and adopted resource related plans, or in their absence, with policies and programs, subject to the qualifications in § [1615.2](#) of this title.”

43 CFR § 1601.0-5(c)

Statutory and Regulatory Authority—Coordination with the U.S. Forest Service

“[T]he Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, **coordinated with the land and resource management planning processes of State and local governments** and other Federal agencies.”

16 U.S.C. § 1604(a)

(b) Coordination with other public planning efforts.

(1) The responsible official shall coordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments.

(2) For plan development or revision, the responsible official shall review the planning and land use policies of federally recognized Indian Tribes (43 U.S.C. 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:

- (i) The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;
- (ii) The compatibility and interrelated impacts of these plans and policies;
- (iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and
- (iv) Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives...

36 CFR § 219.4

"The responsible official shall coordinate with appropriate Federal, State, county, and other local governmental entities and tribal governments when designating National Forest System roads, National Forest System trails, and areas on National Forest System Lands pursuant to this subpart."

36 CFR § 212.53

NEPA Consistency Review

NEPA requires that a federal agency prepare a consistency review for any federal agency action calling for an environmental impact statement (EIS). Specifically, CEQ regulations require that EISs "shall discuss any inconsistency of a proposed action with any approved state or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the [EIS] should describe the extent to which the agency would reconcile its proposed action with the plan or law." 40 CFR § 1506.2(d). Baker County fully expects that all EISs prepared by the BLM, Forest Service, or other federal agencies on lands within the County's boundaries—in whole or in part—feature such a consistency review with the Baker County Natural Resources Plan, and that **all practicable efforts are made to reconcile inconsistencies of proposed actions and/or alternatives with the Plan.** If consistency is not achieved, the federal agency shall justify its decision on the record. Further, in the event that consistency is not achieved, Baker County expects that the federal agency shall engage with the County in conflict resolution and work with the County to mitigate any residual impacts to the County and its citizens.

BLM Dispute Resolution

While it is inevitable that there will be occasional disagreements between the BLM and Baker County over natural resource issues, Baker County requires that such conflicts be resolved to the maximum extent possible. For this reason, Baker County expects that unresolved conflicts and inconsistencies between BLM plans and/or actions and the Baker County Natural Resources Plan, and conflicts between permittees, leasees, and other public land users and the BLM, be addressed through the Rule that provides if consistency cannot be resolved, there is an appeal to the National Director of BLM.

Further Opportunities for County Involvement with Federal Agency Decision-making

In addition to the coordination mandate in FLPMA and NFMA a number of other federal and state statutes and corresponding regulations require state and federal agencies to offer other opportunities for coordination with local governments in making land and resource management decisions. Relevant statutes featuring such opportunities include the Clean Water Act, the Clean Air Act, the Endangered Species Act, the Wild and Scenic Rivers Act, and the National Preservation Act. Many of these opportunities for additional County involvement will be covered in the resource-specific sections below.

It is the policy of Baker County to engage in all such opportunities, and to work through coordination with federal and state agencies on all projects and decisions that could affect County interests. Further, it is the express expectation of the County that federal and state agencies will give the County early notification of forthcoming decision-making and extend an early invitation to the County to participate in joint planning and consultation.

Private Property Rights and Property Interests

Many private individuals hold either private property rights or property interests on public lands within Baker County. These may include water rights, mining claims, rights of way, as well as preference to grazing permits. Such property rights and interests constitute valuable holdings, increase the County tax base, and are vital for the stability of small businesses essential to the economic make-up and culture of free enterprise of Baker County. Baker County is dedicated to preserving these rights and interests, and expects that federal agencies shall not attempt to terminate, or otherwise demand the transfer or relinquishment of, such holdings in whole or in part from private individuals.

Data Quality

Baker County requires that all data—environmental, economic, and social—used to develop

federal land and natural resource use decisions be impartial, collected and analyzed using tested and peer reviewed methods, and current. Environmental data used to justify changes in land or natural resource use must be firmly anchored in on-the-ground monitoring and trend data (as opposed to computer modeling and other remotely-collected data). Where remotely-collected data are used to supplement monitoring or other on-the-ground data, federal and state agencies shall clearly state the mapping error, or similar margin of error, of the methodology used and ensure that the methodology is applied at the appropriate scale.

Further, federal and state agencies shall routinely solicit input and data from authoritative regional sources including Baker County, the OSU Extension Service, and the OSU/USDA Eastern Oregon Agriculture Research Center (EOARC). All data used in land management decisions by federal agencies must meet the minimal requirements outlined in the Data Quality Act⁸ and guidelines pursuant to this Act: Data gathered and used by the BLM shall meet the standards established by the DOI Information Quality Guidelines and Policies and the BLM Information Quality Guidelines; information gathered and used by the Forest Service shall meet the General Requirements for Information Quality established by the USDA.

Coordinated Management and Conservation

Baker County believes that a coordinated, interdisciplinary approach to the management of public lands will best promote the conservation of our natural resources while developing sustainable methods for their use. Baker County also holds that locally-based, on-the-ground management, monitoring, and information gathering is preferable to out-sourcing data collection and/or analysis to remote providers. Therefore, Baker County expects that federal and state agencies will work with the County, the local Soil and Water Conservation Districts, Rural Fire Protection Agencies, Oregon State University Department of Range Science, Oregon State University Extension Service, USDA range scientists at the Eastern Oregon Agriculture Research Center, as well as permittees and leasees on public lands on an ongoing basis to monitor, manage, share information, problem solve, apply adaptive management strategies, and promote the health of public lands to ensure that natural resource use is both ongoing and sustainable.

⁸ “...for ensuring and maximizing the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by Federal agencies...”
Sec. 515 of Public L. No. 106-554.

Economy

The historic roots of Baker County—mining, ranching, farming, and timber harvest—are still the lifeblood of Baker County’s economy. The County’s customs and culture are based on a land stewardship ethic stemming from the people’s dependence on the land to provide a livelihood for those who directly work on the land, and those whose businesses serve the natural resource industries and people. It is Baker County’s intent to protect those values through coordination with those who implement policy on both private and public lands.

Economic Policies

Baker County supports efforts to maintain or improve the overall economic base of the county through the judicious use and enjoyment of federal and state lands in the county.

It is Baker County’s policy that economic diversity and long-term stability are beneficial to the welfare of county residents and the environment.

Baker County will not support federal and state agencies on land management decisions when the economic impact is not carefully considered in the decision. In such cases, Baker County may be forced to appeal or seek other relief.

Any proposed change in land use must evaluate, mitigate, and minimize impacts to the customs and culture and the economic stability of the county.

Baker County recommends federal and state agencies entertain and evaluate opportunities for free trade and enterprise based on their merits and impacts to federal and state lands. While economics should not always be the driving factor in decision making, it should be part of the balance of interests considered.

Federal and state land management agencies must work in coordination with Baker County to accurately provide socioeconomic impact analysis and provide socioeconomic impact mitigation recommendations to both the agencies overseeing the development as well as county government officials. Agencies overseeing the development should make every reasonable attempt to implement the socioeconomic impact mitigation recommendations while working with local government officials.

Baker County recommends that socio-economic monitoring and analysis be performed by experts familiar with the area’s unique history, culture, economy and resources. It is Baker County’s policy that such monitoring and analysis be paid for by the entity creating the impact, and that this requirement be understood by all involved, early in the process.

Federal land management agencies shall notify Baker County of any actions or regulations that affect the economic base of the county at the earliest opportunity; and Baker County will review and comment on proposed actions significant to the economic base of the county.

When a negative impact of a proposed action is unavoidable, provisions should be made for mitigation or compensation for those impacts.

It is Baker County's policy that analysis of proposed major federal actions must include consideration of the following socioeconomic factors:

- An evaluation of the social and economic conditions in the area of site influence. The social and economic conditions shall be inventoried and evaluated as they currently exist, projected as they would exist in the future without the proposed industrial facility and as they will exist with the facility.
- A study of the area economy including a description of methodology used. The study may include, but is not limited to, the following factors:
 - * Employment projections by major sector
 - * Economic bases and economic trends of the local economy
 - * Family and per capita income
 - * Purchasing power of earnings within the area of site influence
 - * Short and long term fluctuations in resource consumption and resource availability
 - * Employment dislocation and skill obsolescence
 - * Diversity of economy
 - * Estimates of basic versus non-basic employment
 - * Unemployment rates
 - * Population, optionally including demographics and projections
 - * Housing, including quantitative evaluations of the number of units in the area and discussion of vacancy rates, costs, and rental rates of the units
 - * Transportation
 - * Governmental facilities
 - * Sewer and water distribution and treatment facilities
 - * Solid waste collection and disposal services
 - * Health and medical care facilities and services
 - * Human service facilities
 - * Recreational facilities
 - * Schools
 - * Mental Health services
 - * Problems due to the transition from temporary, construction employees to operating

workforces

- * Fiscal analysis over the projection period for all local governments, including revenue structure, expenditure levels, mill levies, services provided through public financing, and the problems in providing public services
- * Estimate of sales and use taxes and ad valorem taxes generated by the proposed activity
- * Impact controls and mitigating measures proposed by the applicant to alleviate adverse social and economic impacts associated with construction and operation of the proposed industrial facility.

Access & Travel Management

Access to private and public lands in Baker County is an integral piece of the Baker County Natural Resources Plan. The intent of Baker County's travel management policies is to provide access for multiple land uses while respecting private property rights as well as utilizing the resources on public lands.

Historic access to what are now public lands is important for the sustainability of the citizens' customs and culture and promotes a positive outdoor experiences for visitors. Therefore, Revised Statute (RS) 2477 rights-of-way, will be enacted at appropriate areas. RS 2477 rights-of-way is a simple and straightforward law. This is the entire text of RS 2477 rights-of-way: "The rights-of-way for the construction of highways across public lands not reserved for public purposes is hereby granted." Congress granted rights-of-way, not a road. In fact, RS 2477 rights-of-way can host a number of things besides roads. The legal definition of "highway" in the law means not only the frequently-traveled, periodically-maintained roads commonly associated with it, but also other kinds of public ways, including carriage-ways, bridle-ways, footways, trails, bridges, and even railroads, canals, ferries and navigable rivers. The essential element in defining "highway" is that whatever the means of transport, the public has the right to come and go at will for the economic viability of the County.

The Baker County Natural Resources Plan is intended to sustain the management of road systems to deal with the changing uses of lands within Baker County. The use and enjoyment of the natural resources of Baker County dictate that we have a transportation system which is efficient, available and balances the various resource values. Access and travel issues are critical to all resource uses encompassed in the Baker County Natural Resources Plan.

Travel Management Policies

It is the policy of Baker County that roads providing access for the use and enjoyment of public lands shall remain open and be accessible as needed. Specifically, there will be no net loss to access. Proposed road closures affecting access to or on public lands in Baker County shall be discussed on a case-by-case basis, and shall be individually justified. Where there is no clear and overriding reason to close a particular road, it shall remain open. Further, proposed road closures require an appropriate County and public review process; noticing, appeal periods, and a genuine good faith effort to incorporate the suggestions and concerns put forth by the public. Proposed road closures shall also be discussed in coordination with the Baker County Board of Commissioners, and shall be consistent with the Baker County Natural Resources Plan to the maximum extent practicable and allowable by law.

Road inventories shall be carried out in coordination with Baker County and with the input of Baker County citizens. Unless prohibited by law, roads accessing grazing allotments, water developments, mining claims, foraging sites and other authorized land uses shall remain open.

Baker County supports the partnering of public and private entities for the ongoing access of roads on public lands.

Baker County supports the improvement of signage and maps for navigation on public lands to enhance the enjoyment and safety of visitors. Maps must reflect the valid federal land use plan.

It is the policy of Baker County that all RS 2477 rights-of-way roads historically and currently used for any natural resource to market must remain open for public access. These include, but are not limited to, forest-to-market, mine-to-market, livestock trailways, wagon and stage coach roads, access trails to reservoirs, streams, springs and rivers, historic sites of towns, post offices and schools, and other places of historic land uses.

All RS 2477 rights-of-ways and historical site roads will be open to the public at all times to support the recreation and tourism industries. Where appropriate, installation of informational signage shall be installed to explain the significance of the site.

It is Baker County's policy to continue the open road systems for off-road (cross country) access for firewood cutting and gathering, snowmobiling and other lawful uses.

Agriculture – Livestock and Crop Production

Production Agriculture

Production agriculture, which includes livestock and crop, is an important part of the Baker County economy. Many of the farms and ranches of the county are three or more generations of the same family operating and caring for the land. Agriculture is an integral part of the economy, custom and culture of Baker County, as well as a way of life to the farming and ranching families.

Baker County's Ordinance 2000-01, "Baker County Resource Use Protection Ordinance" is not only a right to farm ordinance, but also describes other protection for other natural resource uses in Baker County (See Appendix A). The State of Oregon also has a right to farm law which further describes actions and responses to farming and use of other natural resources (See Appendix B). These Right to Farm laws shall be taken into account and used with consistency during federal and state land use decisions.

Crop Production

The comparatively short growing season of the county dictates the rather narrow variety of cash crops that can be grown here. Examples of crops include, but are not limited to, small grains, hay, potatoes, mint and some grass seed. Crops are grown in the valleys where the soils are deep and rich and water is supplied through various irrigation methods. Generally, crop production occurs on private lands.

Crop Production Agriculture Policy

It is the policy of Baker County to support production agriculture and the conscientious use of natural resources necessary for sustaining agricultural enterprise.

Wildlife managers shall work with private property owners to keep private property damage to land and livestock to a minimum.

Livestock Production and Grazing

Livestock production has customarily been, and continues to be, a significant contributor to the economic stability of Baker County. With over \$40 million in annual sales, livestock production totals 63% of all agricultural sales in Baker County.

Livestock producers who graze on public land have been issued grazing permits by the federal land management agencies based on the ownership of base property to which a grazing permit is tied. Currently, the base property does not need to be adjacent to a livestock grazing allotment. For rangelands managed by the BLM, this right was defined in the Taylor Grazing Act of 1934 and the Federal Land Policy and Management Act of 1976. Grazing administration on the National Forest System lands are administered under the Granger-Thye Act of 1950, the Multiple-Use Sustained-Yield Act of 1960 and the Forest and Rangeland Renewable Resources Planning Act of 1974, among others.

In Baker County, many livestock producers rely on grazing permits administered by the BLM and the U.S. Forest Service. In 2009, the Whitman Ranger District of the Wallowa Whitman National Forest has 51 designated cattle allotments that total 749,946 acres. The carrying capacity of these allotments equals 31,810 Animal Unit Months (AUM). The seasons of use vary on these allotments, but most extend from June 1-September 30, although some begin as early as April 15 and some end as late as October 31.⁹ The Baker District of the BLM had 281 allotments that total 368,689 public acres, which are tied to 312,969 private acres. The carrying capacity of these allotments equals 44,402 AUMs. The seasons of use vary by permit, but some begin as early as April 1 and some end as late as December 1. An AUM is defined by the Society of Range Management as the amount of forage required by an animal unit (1,000-pound cow or the equivalent) for one month. The preservation of these permits and the continuation of historic stocking rates is a crucial factor in sustainable livestock production in Baker County.

Public Lands Livestock and Grazing Policy

The continued viability of livestock operations and the livestock industry shall be supported on federal and state lands within Baker County through 1) proactive and coordinated management of land and forage resources; 2) proper optimization of livestock AUMs; 3) the use of unbiased, current scientific methods and data; and 4) upholding the multiple use provisions of federal and state law.

Federal and state grazing allotments and leases shall be managed through working partnerships with permittees and leasees, which will include joint monitoring and data collection, joint problem-solving, developing adaptive management strategies, development of grazing plans and NEPA alternatives for permit renewal.

In general, grazing on federal and state allotments and leases shall continue at historical stocking rates. In the event that range health standards on a permit or lease are not being met, stocking rates will be reduced only in the event that; 1) failure to meet range health standards

⁹ Range Management Specialist, Whitman District, Wallowa Whitman National Forest 11/17/2009

is established on the basis of current, on-the-ground monitoring data; 2) failure to meet range health standards is shown to be caused by current, as opposed to historic, livestock management practices; and 3) all adaptive management approaches have been exhausted.

When range health returns to acceptable levels, suspended AUMs shall be returned to active use by the next grazing season.

In the event that grazing is temporarily suspended due to fire or drought, grazing shall recommence on the basis of case-by-case monitoring and site-specific rangeland health determinations, as opposed to fixed and/or predetermined timelines.

Where range health standards are being met, or if failure to meet rangeland health standards is not due to current livestock management, stocking rates shall not be diminished and season of use will not be curtailed.

Range health on allotments shall be managed on a case-by-case basis, based on current and ongoing data collection. Agencies shall take an interdisciplinary approach to range management, including soliciting input from Oregon State University Extension Service, the Eastern Oregon Agriculture Research Center, permittees and leasees and Baker County in determining best approaches to maintaining sustainable use of rangeland resources.

In light of amendments to NEPA included in the National Defense Authorization Act for FY 2015, §3023(3), Baker County expects that:

Categorical exclusions shall be used in the renewal of grazing permits where current management is continued and rangeland health standards are being met (or failure to meet rangeland health standards is not due to existing livestock grazing).

Livestock trailing and crossing on public lands shall be categorical excluded from environmental assessments and environmental impact statements under NEPA.¹⁰

Federal permit renewals (such as grazing permits) or authorization of federal permits for the development or improvement of water rights on federal land shall not be contingent upon the transfer of privately-held water rights, in whole or in part, to the US Government.

Federal agencies shall work with permittees and other land managers on riparian management,

¹⁰ See also: "Whenever any grazing district is established pursuant to this subchapter, the Secretary shall grant to owners of land adjacent to such district, upon application of any such owner, such rights-of-way over the lands included in such district for stock-driving purposes as may be necessary for the convenient access by any such owner to marketing facilities or to lands not within such district owned by such person or upon which such person has stock-grazing rights." 43 USC §315 (TGA)

to ensure that monitoring data are current, and potential issues regarding stream bank erosion, channel depth, etc. are addressed early through adaptive management approaches. Reduction or elimination of grazing on riparian areas shall occur only; 1) if current livestock grazing methods, as opposed to historic livestock grazing or wildlife, are demonstrably the cause of riparian degradation, and 2) if adaptive management approaches are exhausted.

Grazing on designated Wilderness areas shall be ongoing and unimpeded, in accordance with the Congressional Grazing Guidelines set forth in H.R. 101-405, Appendix A.

The Baker Grazing District, a sub-district of the Vale BLM District, comprise the majority of BLM-managed grazing land within the County. It is Baker County's policy that grazing districts within the County shall remain intact, as defined by their historic boundaries. In accordance with the Taylor Grazing Act, grazing shall continue to be a primary use on all lands specially designated for grazing (i.e. grazing district lands).

Federal and State agencies shall not encourage the relinquishment of, nor allow the retirement of, grazing permits on designated grazing lands (i.e. grazing districts) for uses that exclude substantive livestock grazing. Voluntarily relinquished permits shall be made available to other livestock operators to address the economic needs of Baker County citizens and to support the County's tax base.

The benefits of managed livestock grazing for fire control, weed control, and wildlife habitat enhancement shall be recognized and incorporated into planning and NEPA documents.

Energy

Energy Source Development

It is the intent of the Baker County Natural Resources Plan to direct the development of alternative energy sources. These policies are believed to be realistic and achievable in current circumstances but adaptable to meet changing circumstances and local public attitudes to environmental issues. The Baker County Natural Resources Plan will thus provide policies which are transparent to the community and federal land managers.

Energy Source Development Policies

It is the policy of Baker County that there will be no development of any energy sources that do not directly benefit residents of the County. Further, proposed energy developments require an appropriate County and public review process; noticing, appeal periods, and a good faith effort to incorporate the suggestions and concerns put forth by the public. Proposed energy developments shall also be discussed in coordination with Baker County, and shall be consistent with the Baker County Natural Resources Plan to the maximum extent practicable and allowable by law.

Except for geothermal development, there will be no development of any alternative energy sources on forestland. This is due to the site disturbance and road building for most types of energy projects.

Forest Resources

The beneficial use of forest natural resources has always been a large part of the County's economy, custom, and culture. The County's forest resources must be governed in the best interest of local citizens while promoting the health of the forests. Approximately two-thirds of the acres of forestland in Baker County are held in public trust under the authority of the US Forest Service, Bureau of Land Management and State of Oregon. Federal and State planning decisions have the potential to transfer a disproportionate amount of fiscal and social costs and responsibilities to the County. In order for the County to provide and maintain roads, schools and other services, the forest industry and the forest products commerce within the county must be encouraged and strengthened.

Forest Management Policies

Sound, peer reviewed science and common sense support the premise of active forest management on the public forested lands in Baker County. Forest management practices on public land within Baker County shall include a stable timber-harvesting program, which is essential to maintain healthy forest ecosystems and to provide employment and economic security to individuals and businesses in Baker County.

Forest management shall follow the mandates of the 1897 Organic Act and adhere to the Multiple-Use/Sustained Yield Act of 1960 as well as the later acts: National Forest Management Act; National Environmental Policy Act; and the Endangered Species Act. The Baker County portions of the National Forest and State Forest systems, as well as any forestland managed by the BLM within the County shall be managed and administered for outdoor recreation, livestock grazing, timber harvesting, watershed protection, public access and wildlife in the best interests of Baker County citizens and the American people generally. These resources shall be managed for sustained multiple use in perpetuity so that future generations will have the opportunity to benefit from, use and enjoy them.

Forest management on National Forest, BLM, and State lands within Baker County shall foster a permanent roads system and trails open to the public. It is Baker County's policy that roads on State and National Forests and on forests managed by the BLM shall remain open to provide for the economic benefit, enjoyment, and safety of the public. Where State and Federal agencies propose to close roads on forestlands, specific justification for the proposal shall be given on a case-by-case basis, and the proposal shall be discussed in coordination with the Baker County Board of Commissioners.

Baker County's road policy as it pertains to the Forest Service is consistent with the Multiple Use Sustained Yield Act, which states:

The Congress hereby finds and declares that the construction and maintenance of an adequate system of roads and trails within and near the national forests and other lands administered by the Forest Service is essential if increasing demands for timber, recreation, and other uses of such lands are to be met; that the existence of such a system would have the effect, among other things, of increasing the value of timber and other resources tributary to such roads; and that such a system is essential to enable the Secretary of Agriculture (hereinafter called the Secretary) to provide for intensive use, protection, development, and management of these lands under principles of multiple use and sustained yield of products and services.

16 USC §532

A forest management policy of no action or arms-length management is unacceptable, irresponsible, and potentially disastrous. Baker County policy supports a coordinated, hands-on, proactive approach to forest management that uses timber harvesting as a tool to accomplish overall forest health and to ensure a healthy and vibrant forest for current and future generations.

It is critical that an active management approach to forests within Baker County be applied immediately and continuously for the health, safety, and welfare of Baker County residents. Over-mature, overstocked and stagnant conifer forests cover much of the public land in the County. These stressed trees are subject to insects, disease and fire. Varying tree stands may have a different rotation age, stocking density, species diversity, access availability, or environmental and economic viability. However, all public lands provide products that may be suitable for harvest, and should therefore be considered for logging and thinning projects.

Timber harvesting shall be used to promote forest health, reduce disease and insect infestation, and prevent waste of forest products while supporting the economic stability of Baker County.

It is the policy of Baker County to seek to ensure early detection and management of forest fires, and to maximize fire control potential through full coordination and communication between state and federal agencies and local firefighting associations.

It is the policy of Baker County that during fire season, wildfires shall not be left unattended, that all wildfires be contained and attended until the threat of the fire is reasonably diminished and that a local, adequately trained, firefighting association member shall be present to represent the county's best interest.

It is a policy of Baker County to support the use of managed livestock grazing and prescribed burns as fire control tools.

On public lands, all tree mortality caused by forest fire and pests shall be harvested before additional loss of economic value occurs, in coordination with the Baker County Board of Commissioners.

It is the policy of Baker County to promote the prompt reseeding and rehabilitation of harvested areas and areas affected by wildfire.

It is the policy of Baker County that the customary permitted extraction of forest products by private citizens for fuel, building materials, and Christmas trees shall be ongoing. Access to these sites shall be through an open roads and cross county travel system.

Baker County supports the timber industry, and this industry's ability to provide economic support to the citizens of Baker County.

Baker County supports and encourages active and economic viable timber industries. Therefore, until the timber industries can supply the needed revenue to support Baker County services, the Baker County Commissioners support federal payments in lieu of taxes (PILT) to Baker County, comparable to property tax payments from private forest property owners in Baker County.

Invasive Species

Invasive Species include noxious weeds and other pests. Weeds and pests negatively affect existing plant and animal communities by competing for limited resources such as water, soil, space and nutrients. It is the policy of Baker County to try to limit the introduction of invasive species into the county that can adversely affect the area, both economically and environmentally. To that end, it is imperative that federal agencies coordinate invasive species control efforts directly with Baker County Weed Department.

Noxious Weeds Policies

Invasive noxious weeds species include terrestrial and aquatic weeds not native to this area. Often they are unintentionally introduced by vehicles, boats, people, animals and wildlife. Public land managers at the federal, state and county level shall work in close coordination with private land owners to ensure effective weed control in Baker County.

Noxious weed populations on public lands shall be promptly treated to prevent their spreading, in coordination with the Baker County Weed Department. There is a noxious weed list in Baker County, and designated by four sub-headings:

- “Watch List” – High Priority Noxious Weeds; very few known sites; controlled and monitored by the County Weed Supervisor
- “A” Designated Weeds – Mandatory Control County-wide
- “B” Designated Weeds – Widespread and/or of High Concern
- “C” Designated Weeds – Widespread and/or of Moderate Concern

It is the policy of Baker County to be active in education of the public on the proper use of various treatment methods invasive species.

Pests and Other Invasives Policies

Insect and other pest control on federal and state lands in Baker County shall be conducted in order to reduce the risk of transmission of diseases and pests. Examples include treatment for mosquitoes as a vector for the West Nile Virus, the treatment of grasshoppers responsible for the defoliation of forages and the utilization and/or reduction of mistletoe – infected timber stands to address extensive wildfire fuel loads.

Early detection, rapid response and follow-up monitoring of invasives have proven to be very effective to control noxious weeds, insects and pest infestations. It is essential to address these invaders to allow the public health, welfare and economy of the citizens of Baker County to

flourish. Discovery of noxious weed plants and/or insect infestations on public lands shall be reported to the Baker County Board of Commissioners to ensure coordinated control. Utilizing the knowledge and resources of the local Oregon State University Extension Service in coordination with Baker County will also help to limit the impact these threats represent to the health and welfare of people, livestock and wildlife in our area.

Oregon Department of Fish and Wildlife, in conjunction with the Oregon Marine Board, are responsible for control and eradication of invasive aquatic species. They maintain vessel inspections at ports of entry, and when needed, at inland rest stops. Baker County urges all boat owners to be vigilant about the possibility of transporting invasive aquatic species, in particular two species of mussels, when recreating out of state.

Mining

Baker County is one of the most mineralized counties in Oregon. Locatable mineral production has provided an important contribution to the economy of Baker County and the State of Oregon. The mining industry makes up an important part of the property tax base of Baker County and the payrolls and expenditures for equipment, materials and supplies are important to the economic stability of the county.

Mining is one of the historical uses of public land with Baker County and mining predates the establishment of the Forest Service and the Bureau of Land Management. Maintenance of such use is statutorily compatible with multiple use principles.

Federal management agencies shall comply with laws, beginning with the Congressional Act of July 26, 1866 and the General Mining Law of 1872, which granted all American Citizens the right to go into the public domain to prospect for, and develop, locatable minerals resources. Every mining law or act enacted since then has contained a “savings clause” that guarantees that the originally granted rights have never been rescinded.

Mining Policies

It is the policy of Baker County that all exploration, development and mining on lands in the county with locatable mineral potential, shall be governed by scrupulous adherence to all laws which pertain to mining and production by the state and federal agencies.

Federal management agencies shall facilitate the orderly exploration, development and production of minerals resources within all federal lands in Baker County open to these activities, consistent with valid existing rights and in accordance with the National Mineral Policy Act of 1970 and the Organic Act. Federal management must recognize the adverse economic effects to Baker County’s economy when federal agencies unnecessarily restrict or eliminate mining.

Federal lands historically open for mineral access in Baker County shall remain open and all proposed road closures shall be coordinated with Baker County.

The economic importance of exploration, development and production of locatable mineral resources shall be incorporated into all federal management agencies land and resource management plans.

It is the policy of Baker County that federal management agencies must address the need for maintaining mineral related access during the planning process for all activities in mineralized areas.

The analysis of Plans of Operation by federal management agencies for locatable minerals projects shall take precedence over, or take place simultaneously with, analysis of non-discretionary proposals.

The approval of locatable minerals Plans of Operation by federal land management agencies must occur within one year from the submittal of a complete Plan. Baker County and the mine operator shall be notified if this timeframe cannot be met, the reasons for the delay and what it will take to get the Plan finalized.

It is the policy of Baker County that mineral development and production are not subject to unreasonable stipulations, Best Management Practices, mitigation measures or reclamation bonds.

Federal land management agencies must not restrict or in any way interfere with legitimate water rights. All mining water use is subject to the statutes and administrative rules of the Oregon Water Resources Department and it is the duty of the Watermaster, not the federal agencies, to assure legal and appropriate use of the waters.

Recommendations by federal management agencies for withdrawals of federal land from mineral exploration and development shall only occur in coordination with Baker County.

Prior to initiating the administrative withdrawal of public lands from mineral entry, the agency shall carefully take into account and document for the record; 1) the impacts to rural communities affected by the withdrawal; 2) the economic value of the mineral resources foregone; 3) the economic value of the resources being protected, and; 4) an evaluation of the risk that the renewable resources within the minerals surface use regulations.

Recreation & Tourism

Baker County's landscape is a recreational haven for residents and visitors alike. Amenities such as a bounty of wildlife and breath-taking scenery, a pioneer history imbedded in the social backdrop of the county as deep as the ruts of the old Oregon Trail, and year-round outdoor recreational possibilities, makes recreation an essential part in the lives of the residents.

Recreation, both motorized and non-motorized, is a critical economic drawing point for Baker County. It attracts visitors who come to view wildlife, fish, hunt, ski, snowmobile, hike, camp and generally enjoy the opportunities that an open access motorized forest and range system provides.

Historically, recreation has been an essential part in the social framework of the County. Families who live in Baker County have the right to enjoy its resources that surround our home communities. One of the longest standing traditions for residents and visitors alike is having open motorized and non-motorized access to our recreational resources including open forests.

The management of federal lands for multiple use will positively impact recreational values, and the use of, and access to, public lands encourages economic development that sustains businesses and provides jobs.

Recreation and Tourism Policies

Baker County's policy supports a multiple use management approach on public lands as a means of continuing and enhancing recreation opportunities within the County.

Baker County shall not support unreasonable or unsupportive land use fees and/or fee increases, or the creation of new and/or unnecessary fees for the use of public lands within the County. Any entity considering fee increases with the potential to impact recreation in the County must coordinate with the Baker County Board of Commissioners on the decision.

It is the policy of Baker County that roads providing access for the use and enjoyment of public lands shall remain open and be maintained as needed. Proposed road closures affecting access on public lands in Baker County shall be discussed on a case-by-case basis, and shall be individually justified. Where there is no clear and overriding reason to close a particular road, it shall remain open. Further, proposed road closures require an appropriate County and public review process; noticing, appeal periods, and a genuine good faith effort to incorporate the suggestions and concerns put forth by the public. Proposed road closures shall also be discussed in coordination with the Baker County and shall be consistent with the Baker County Natural Resources Plan to the maximum extent practicable and allowable by law.

Baker County supports the accessibility, improvement, maintenance and development of motorized and non-motorized trails to facilitate recreation and access to natural resources for residents and visitors. This policy reflects the no net loss of our open roads system.

Baker County supports developing and maintaining adequate means of access to public lands for those with limited mobility and compliance with the American Disabilities Act.

Baker County supports the promotion of tourism through signage that explains historical significance of areas, sites and roads.

It is Baker County's policy to continue the open road systems for off-road (cross country) access for snowmobiling, game retrieval, visitations of cultural sites, other recreational or tourism interests and other lawful uses.

Because there is significant economic loss to communities and the county due to the extreme fluctuations of Brownlee Reservoir, Baker County encourages federal agencies and other stakeholders in the Brownlee Reservoir to value the healthy, warm water fishery by maintaining stable water levels to meet the needs of recreationists. This includes allowing accessibility to launch boats at a minimum elevation of 2044 feet.

Special Designations

Federal agencies, Congress, and the President of the United States are variously authorized to create special designations on the public lands that have the potential to restrict customary use, limit economic opportunity, and erode the multiple use character of lands within Baker County. Such designations include, but are not limited to: Areas of Critical Environmental Concern (ACECs), Wild and Scenic Rivers, National Monuments, Wilderness and Wilderness Study Areas (WSAs), and National Conservation Areas (NCAs).

Special Designations remove the ability of the County to tax natural resource based businesses thereby reducing the tax base for local government needs.

Special Designation Policies

Wilderness and Wilderness Study Areas

It is Baker County's Policy that no Special Designation be introduced in Baker County unless it is firmly endorsed by the local community, and the proposal has been fully coordinated with the Board to ensure maximal consistency with the Baker County Natural Resources Plan. Should such designations be created, their planning and management shall also be coordinated with Baker County to the maximum extent allowable by law.

Federal agencies responsible for making wilderness recommendations to Congress shall coordinate with Baker County in making wilderness determinations and developing wilderness inventories. It is Baker County's position that no additional lands are suitable for Wilderness designation within the County. Baker County therefore opposes any further Wilderness designations.

Grazing on designated Wilderness areas shall not be encumbered with unreasonable requirements, in accordance with the Congressional Grazing Guidelines (H.R. 101-405, Appendix A).

Land determined to have "wilderness characteristics" will not necessarily be managed to preserve wilderness characteristics, as other resources may prove more valuable. Management of lands with wilderness characteristics shall be coordinated with Baker County.

Baker County supports the expedient processing of Wilderness Study Areas by Congress to a decision within 2-years from when the designation is first proposed. Baker County supports a prompt return of Wilderness Study Areas not designated by Congress as wilderness into multiple-use status.

Wild and Scenic Rivers

Baker County opposes any further designations of Wild and Scenic Rivers within the County. Any proposed designation of a Wild and Scenic River within the geographic boundaries of Baker County shall be coordinated with Baker County.

Any existing or established Wild and Scenic River occurring within Baker County shall be managed by the designating federal agency in coordination with Baker County.

National Monuments

Baker County oppose the use of the Antiquities Act for designation of National Monuments.

Baker County opposes the designation of any National Monument within its borders unless the proposal is coordinated with the County and is strongly supported by the local community.

It is the policy of Baker County to support the multiple-use character of public lands for the economic welfare and enjoyment of Baker County citizens and visitors. Baker County therefore opposes the restriction or elimination of customary uses on proposed or existing national monuments.

Areas of Critical Environmental Concerns (ACEC)

The proposal of any ACEC on land managed by the BLM shall be fully coordinated with Baker County in accordance with FLPMA. Proposals for ACEC designations shall strictly adhere to the relevance and importance criteria, and the BLM must demonstrate the need for an ACEC designation to protect the area in question and prevent irreparable damage to resources or natural systems. A proposed ACEC designation must be consistent with the BCNRP, provided that such consistency is not in conflict with federal law. 43 U.S.C § 1712(c)(9). Further, it shall be recognized that ACECs are administrative designations, and as such, are only valid for the term of a resource planning document. An ACEC designation may be revisited through subsequent land use planning, revision, or amendment.

Other Areas of Concern

Baker County opposes any other Special Designations including those in the Congressional Designated National Landscape Conservation System as of September 2002. These include, but are not limited to, National Conservation Areas, National Research Areas, National Recreation Areas, Outstanding Forest Areas, Outstanding Natural Areas, Cooperative Management and Protection Areas, Headwaters Forest Reserves, National Historic Trails and National Scenic Trails.

Threatened & Endangered Species

The federal designation of a species as threatened or endangered can have a profound negative impact on the economy, safety, and welfare of Baker County residents. In view of this, Baker County will pay particular attention to any species designated in any category or classification for protection or consideration of protection under the Endangered Species Act and will act to require the agencies to comply with full procedural provisions of federal statutes.

Threatened and Endangered Species Policies

The listing of any species shall be based on current, quantifiable monitoring data and peer reviewed studies and determinations that meet the standards of the Data Quality Act.¹¹

Consideration of any species for federal listing shall take into careful account all state, regional, and local conservation efforts.

All recovery planning efforts for sensitive, threatened, or endangered species shall be made in coordination with Baker County, and shall take into account the custom and culture of Baker County while minimizing and mitigating any economic impacts to the County's economy. All recovery planning shall be consistent with the BCNRP wherever practicable.

In accordance with statute, federal agencies shall coordinate with Baker County in the use of water resources as they pertain to the conservation of endangered species:

It is further declared to be the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species.

16 USC 1531 (c)(2)

In the event that a species within Baker County is listed under the Endangered Species Act, Baker County requires the Recovery Plan to include:

- a. a site specific management plan for any proposed conservation plan of an ESA listed species;
- b. assurances that the listed species are native to Baker County;

¹¹ Sec. 515 of Public L. No. 106-554.

- c. efforts to make sure that critical habitat designation not be in substantial conflict with customary use of natural resources or negatively impact the economy;
- d. establishment of on-the-ground baseline data and population goals for the species;
- e. clear identification of target populations that will qualify the species for delisting, and prompt delisting when such targets are reached.

In the event that a listing under the ESA and/or critical habitat designation has an economic impact on Baker County, the County expects the U.S. Fish and Wildlife Service to coordinate with the County to develop viable mitigation measures. Further, Baker County endorses the establishment of a federal funded/managed compensation program for property owners who suffer losses as a result of an ESA listed species.

Water and Water Rights

Water Rights

Agricultural, mining, industrial and domestic water rights in Baker County date back to the early 1860's. The dates on priorities (filing dates) trace the history of mining and settlement of farms in Baker County.

All water in Oregon is publicly owned.

Oregon water code is based on two legal principles that include appurtenancy to the land, and first-in-time, first-in-right. (Prior appropriation doctrine)

1. Appurtenancy – the legal right to use the water affixed to the parcel of land upon which the water right was filed and is to be used. The right is a part of the land value. Its use may be transferred to another parcel, subject to some restrictions such as diversion points and non-injury to other users.
2. “First-in-time, first-in-right” – the legal, adjudication system of determining which right may use water when flow volumes are restricted. The oldest date (senior) has the highest priority. Newer, younger rights are considered junior and are subject to having their use restricted when flow volumes decrease to a level where all rights cannot be satisfied.

Water Quantity:

All water use is subject to the statutes and administrative rules of the Oregon Water Resources Department (OWRD) with few exceptions. A network of 21 watermasters are charged with assuring legal and appropriate use of the waters throughout the state. The original court decrees established quantity and use through claims of landowners and water users. Now, the OWRD determines water quantity on new water rights filings based on availability of water, injury analysis and existing law.

There are three primary sources of irrigation water in Baker County:

1. Surface water which is free running and un-impounded from rivers, creeks and springs flowing from the mountains;
2. Stored water which is impounded, or reservoirs, which collect water during a legally defined time, and later distributed to lands holding water rights or permits for the stored water.
3. Groundwater pumped from the underlying aquifer(s).

It is the policy of Baker County to encourage the development of both surface storage impoundments and groundwater storage and recharge projects.

Water quality:

Water quality for agriculture is primarily under the jurisdiction of the Oregon Department of Agriculture (ODA) through the Water Quality program in the Natural Resources Department. They are charged with Oregon's regulation and enforcement of the agricultural portion of the Federal Clean Water Act. (CWA). The Powder/Brownlee Agricultural Water Quality Plan and the Burnt River Agricultural Water Quality Plan address water pollution from agriculture in Baker County.

Other point source and non-source point pollution contributors are controlled by the Oregon Department of Environmental Quality (DEQ).

Wetlands

Wetlands are generally considered to be areas that are undrained or poorly drained, below field gradient (catch basin), bogs or trapped stream meanders. They are an important filtration element on the landscape as catch basins for sedimentation, as well as wildlife, songbird and waterfowl and other bird habitat and shelter.

Wetland jurisdiction is controlled by the USDA-Farm Service Agency (FSA) and the Natural Resource Conservation Service (NRCS) in land determinations for FSA, as well as the Division of State Lands, Army Corps of Engineers and the Clean Water Act. At the present time, wetlands are not considered to be navigable waters of the state, unless they drain into a stream or ditch. However, implementation of the new EPA Waters of the United States rule (WOTUS) may have a negative impact on these determinations.

Public pressure on water:

Competing interests including fish, hydroelectric production, instream water rights, threatened and endangered species (T&E) protection and housing development expansion into agricultural areas and increasing demands from cities for municipal uses are putting pressure on the available supply of water.

The focus on fish habitat is perhaps one of the biggest pressures on water quantity. This focus is restricting the placement and construction of new storage containments, and other innovative irrigation water developments.

It is Baker County policy that in streams where there is no documented T&E population, aggressive unreasonable protection measures for critical habitat by state and federal agencies will be discouraged. In-stream water rights designed to maintain water for fish, may at times restrict the availability of more junior rights to obtain irrigation water. Conservation Easements can affect not only land use, but also water use. Impacts of Conservation Easements to Baker County include water quantity for agricultural irrigation due to transferring of water rights to an in-stream status and use.

It is Baker County policy that in-stream transfers will be discouraged through conserved water transfers, instream leases and/or purchases if the upstream users are negatively impacted from the historic beneficial use.

Other state and federal water initiatives are either already implemented or are on the horizon. The county needs to be watchful of developments in these areas, and be prepared to make comments at the appropriate times:

1. Waters of the United States. (WOTUS) (EPA rule in conjunction with Army Corp of Engineers.) Although the future of the rule is uncertain due to numerous court challenges, if enacted, it may have negative impacts on future irrigation developments in Baker County because of the new interpretation of waters-of-the state.
2. Columbia River Treaty. The original treaty with Canada addressed two issues – flood control and hydro-power development. Now, a third focus of environmental concern to benefit fish, is adding a shared focus to the sustained flows measurement at The Dalles Dam. The dispute between the inequalities of water withdrawal for Washington vs. Oregon continues to be a strong discussion point. The Treaty has jurisdiction over all tributaries of the Columbia River. Treaty renewal discussion began in 2014, and will terminate in 2024.
3. Oregon Department of Agriculture Reservation of Water permits. These water rights for new water storages are in the process for a 20 year permit extension. There are potentially 6 storage sites identified in Baker County for these reservation permits. The Baker Soil and Water Conservation Districts will work cooperatively with ODA as the process moves through the system. If public funds are used for construction of a storage project from the Water Supply Development Program (SB 839), 25% of the new reserved water must go for in-stream flows for fish. Other funding sources may not require 25% of the stored water.
4. Oregon Integrated Water Resources Strategy (IWRS) is a state water policy that was adopted by the Water Resources Commission in 2012. The IWRS is a collaborative effort that encourages participation from all water users. The idea is to manage

supplies and increase utilization of existing supply. This includes development of storage or recharge projects for all uses including irrigation and habitat enhancement.

The Clean Water Act

The Clean Water Act (CWA) is the primary federal law in the United States governing water pollution. As with many other major U.S. federal environmental statutes, it is administered by the U.S. Environmental Protection Agency (EPA), in coordination with state governments. Its implementing regulations are codified at 40 C.F.R. Subchapters D, N and O (Parts 100-140, 401-471, and 501-503).

Water Resource Policies Pertaining to Federal Agencies

Many of Baker County's water resources originate, or are otherwise located on, federal lands. Baker County establishes the following policies:

Federal agencies shall acknowledge and respect that groundwater resources in Baker County are managed by the State of Oregon, which is responsible for managing groundwater quality and distribution within the County. Further, the State has exclusive jurisdiction over surface water distribution.

Authority of States over water

It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this chapter. It is the further policy of Congress that nothing in this chapter shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. **Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.**

33 U.S.C. 1251(g) (Clean Water Act)

Federal permit renewals (such as grazing permits) or authorization of federal permits for the development or improvement of water rights on federal land shall not be contingent upon the transfer of privately-held water rights, in whole or in part, to the US Government.

Federal agencies shall work in partnership with permittees and other land managers on riparian management to ensure that monitoring data are current, and potential issues regarding stream bank erosion, channel depth, etc. are addressed early through adaptive management approaches. Reduction or elimination of grazing on riparian areas shall occur only; 1) if current livestock grazing methods, as opposed to historic livestock grazing or wildlife, are demonstrably

the cause of riparian degradation, and; 2) if adaptive management approaches prove unsuccessful.

It is the policy of Baker County to support the improvement of delivery systems, including, but not limited to, livestock watering facilities, diversion structures and pipelines, which originate on and/or traverse federally managed land, including those waters originating in wilderness or other special use areas. Baker County will assert coordination on site specific projects that have been approved and that adhere to water and land use laws.

Baker County will support water users in protecting their water rights, if the water users are managing their rights according to state laws, including restrictions governing that use. This includes water rights to surface water that originates on federal land including wilderness and other special use areas, ground water including agricultural and domestic and industrial wells and other sources such as springs and seeps.

The water level and associated dynamics of the Brownlee Reservoir are an integral part of the economic success of Baker County. The water level can vary significantly based on several factors, including the amount of water coming in from upstream, water being used for power generation, summer drawdown for the fall Chinook flow program and most dramatically, spring drawdown for flood control. It is Baker County's policy to promote a more stable system that facilitates the need of spawning warm water fish through coordination with federal agencies responsible for the drawdown mandates.

Watersheds

A watershed is the area of land where all of the water that is under it or drains off of it goes into the same place. Watersheds come in all shapes and sizes. They cross county, state, and national boundaries.

Watersheds are the over-arching, all-encompassing lands to which all natural resources belong. Healthy watersheds contain forests that are in good health, have minimal weed infestations, functioning riparian areas, rangelands with a variety of vegetation and valleys that support farming and urban developments. These watersheds provide recreation opportunities for residents and visitors, serve cultural needs, and provide habitat for native plants, wildlife, and fisheries. The health of the County's watersheds directly affects the current and future availability and quality of the water resources and water-dependent natural resources in the County, and the ability of watersheds to adapt to climate variability (i.e., periods of drought, periods of high rainfall, rain-on-snow events).

The County's watersheds are diverse and dynamic. They consist of forestlands, shrublands and grasslands, mountains, canyons and valleys, uplands, floodplains, wetlands, channels, streams, springs, lakes, reservoirs, and groundwater. They continue to evolve under the influence of climate, plants, animals, geology, floods, landslides, faults, uplift, volcanoes, erosion and sedimentation, and human land use. A successful management strategy for the County's watersheds must consider how the various watershed components and uses interrelate and influence each other from ridgeline to stream and across adjacent watersheds.

Baker County lies primarily within the Snake River basin. The County is contained primarily within the Brownlee Reservoir, Burnt River, and Powder River HUC 4¹² watersheds with portions within the Imnaha River, Upper Grande Ronde River, Upper Malheur River, and Willow Creek HUC 4 watersheds.

Watershed Policies

It is the County's policy to encourage wise management and use of the County's surface and groundwater resources to sustain economic development and to maintain and improve stream, floodplain, wetland, and groundwater functions. Also to encourage, and allow, consumptive water right owners to improve water quality and water-use efficiency to provide additional water for economic development and, where possible, to enhance instream flow, during low water flow periods.

¹² USGS Hydrological Unit Code for watersheds.

It is Baker County's policy to encourage good management of watersheds, including stream channels, floodplains, wetlands and uplands to retain and slowly release water for desired plant, animal and human uses, and to reduce the risk of flash floods.

Baker County shall direct the US Forest Service, Bureau of Land Management, other relevant public agencies to manage the watershed, including the municipal watersheds, to meet the multiple needs of residents and promote healthy forests.

Construction and management of roads, bridges, culverts, cutslopes, fillslopes, and artificial surfaces to minimize water concentration, erosion, and delivery of water and sediment to streams is critical.

Land managers shall properly manage water under, around and above mapped landslides to prevent/minimize new movement, especially where landslides could disrupt public transportation or threaten public safety.

The County supports reclamation activities on mined-land that improve soil productivity and water quality and the function of streams channels, floodplains and wetlands.

Wildfire

Wildfires have the potential for catastrophic effects on Baker County. Historic wildfire events in Baker County have severely damaged the County's watersheds, timber, grazing lands, wildlife habitat, and recreation activities that rely on healthy growing forests and rangelands. In addition, the loss of the resource has directly affected the revenue stream and fiscal stability of the County's residents.

A wildfire is defined as an unplanned, unwanted wildland fire, which includes unauthorized human-caused fire, escaped wildland fires being used as a management tool, escaped prescribed fire projects, and naturally occurring fire not designated as a management tool. Proactive planning for and effective response to wildland fire events is critical to the protection of Baker County citizen's safety, private property, forest, and rangeland health.

Wildfire Policies

A high degree of coordination between federal, state, and local agencies is necessary for maximal prevention and suppression of wildfire. Federal agencies shall incorporate local fire association plans into their fire suppression and control plans. Federal agencies shall enter into coordination (as required by FLPMA and NFMA) with local fire agencies (such as RFPAs) at the local agencies' request.

It is the policy of Baker County that during the fire season, as established by the Oregon Department of Forestry, that wildfires will not be left unattended and that all wildfires be attended until a control line has been established around the fire, and any associated spot fires which can reasonably be expected to stop the fire's spread. While not always possible in the first operational period due to weather conditions and fire behavior, the expectation would be that all fires be further controlled by completing mop-up from the control line, inward, around the perimeter (e.g. 25' – 100' depending on fuel, loading, etc.) as soon as fire behavior allows.

The Forest Service shall adhere to all requirements set forth in the Cooperative Forestry Assistance Act, including:

- (4) the effective cooperative relationships between the Secretary (of Agriculture) and the States regarding fire prevention and control on rural lands and in rural communities should be retained and improved;
- (5) efforts in fire prevention and control in rural areas should be coordinated among Federal, State, and local agencies; and
- (6) in addition to providing assistance to State and local rural fire prevention and control programs, the Secretary should provide prompt and adequate assistance whenever a

rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capability of the affected State or rural area.

16 USC §2106(a) (parentheses added)

Baker County supports the Department of Interior's Secretarial Order 3336—*Rangeland Fire Prevention, Management, and Restoration*. Baker County expects the BLM to comply with SO 3336 and all subsequent reports and guidance.

Coordination between the BLM, Baker County, local fire associations, and local stakeholders shall be informed by the BLM policy document *Earning Bridges: Strategies for Effective Community Relations Before, During, and After the Fire*.

In the event that grazing on public lands is temporarily suspended due to fire, grazing shall recommence on the basis of case-by-case monitoring and site-specific rangeland health determinations, as opposed to fixed timelines.

Baker County policy supports the use of managed livestock grazing and prescribed burns as fire prevention tools.

Baker County supports and encourages temporary fire restrictions based on professional fire hazard designations to minimize the potential for human caused wildfires. Such restrictions shall be removed as soon as the fire potential allows for safe work and recreation on public lands.

Wildfire damage on range land shall be rehabilitated as soon as possible to facilitate habitat for wildlife, reduce the potential for erosion and the introduction of invasive weeds and grasses and to benefit other authorized uses.

Wildlife

Wildlife Policies

It is Baker County's policy to coordinate with the Oregon Department of Fish and Wildlife (ODFW) to utilize management plans for all managed wildlife, in cooperation with local stakeholders. Such management plans shall maintain adequate hunting and fishing opportunities and encourage the maintenance and improvement of wildlife habitat. Further, Baker County will seek to encourage the development of public/private partnerships to improve hunting, fishing, and viewing opportunities, and to encourage the development of peer-reviewed studies documenting the relationship between humans, predators, and other wildlife species.

It is Baker County's policy to ensure mitigation of damage caused by wildlife on private ground. To advance this policy, Baker County encourages the stewardship of habitat on public lands. Further, Baker County supports emergency hunts to control wildlife populations, and winter feeding programs as a means of mitigating damage to private property. Where private property is destroyed, damaged, or depleted as a result of wildlife impacts, Baker County policy supports just compensation to private property owners.

State (and where applicable, federal) agencies shall develop comprehensive management plans in coordination with Baker County for predatory species. Such plans shall include a determination of appropriate predator numbers in light of desired game populations.

Predator control is supported and encouraged by Baker County.

State (and where applicable, federal) agencies shall employ all currently recognized methods of predator control—including aerial gunning, traps, hounds, additional tags—as options for predator control on state and federal lands within the County.

State (and where applicable, federal) agencies shall rely on the USDA APHIS Wildlife Services to provide expertise and conduct predator control on public lands, determine livestock losses, and to determine methodology for animal damage management.

Federal and state agencies shall consider the impacts of wildlife to rangelands when making rangeland health assessments and when conducting monitoring on grazing allotments.

Baker County supports the coordinated management and conservation of game species in the County within a framework that protects property rights and the State's management authority over wildlife resources.

It is the policy of Baker County that land not be removed from existing authorized use for the purpose of establishing wildlife corridors.