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December 7, 2023

To:

Coos County Planning Department, % Jill Rolfe, jrolfe@co.coos.or.us

City of Coos Bay Planning Department, % Chelsea Schnable, cschnabel@coosbay.org

City of North Bend Planning Department, % Derek Payne, dpayne@northbendcity.org

Greetings,

Please accept these additional comments from Rogue Climate, which are primarily addressed to the new proposed amendments to section 2.3 of the CBEMP. Rogue Climate continues to request that you schedule proceedings to provide a full review of the amendment to all sections to inform the decision-makers and public about the effects of each of the proposed amendments. It has been clear for some time that the Amendment does not simply address scrivener's errors, digitize regulatory maps, and codify the cities' jurisdictional aspects and amendments to the plan, but this is how it has been explained. Rogue Climate urges that you not adopt the Amendment until that review is conducted.

More recently, after considerable effort due to the inaccessibility of the information, Rogue Climate has identified numerous major errors and concerns and has been working with other community members to propose a meaningful conversation, something different from the quasi-legislative workshops and hearings held to date. Some of the issues are:

- 1) the deletion of protection for aquatic resources by relegating any such resource maps to "background" maps and deleting the Special Considerations Map sections and Policy 3;
- 2) the deletion of the protection of some shoreline resources as Map 2 does not include all of the resources identified in current Map 15, and legal ambiguities jeopardizing the protection of historic and archeological resources;
- 3) the legal ambiguities jeopardizing the protection of wet meadow wetlands;
- 4) the authorization of new in-bay dredge disposal;
- 5) the authorization of development of beaches and dunes which was previously deemed unsuitable for development;
- 6) the authorization of all types of dredge material disposal in the Development management unit (as opposed to just "flow-lane disposal").

Rogue Climate asks that you appoint a subcommittee of planners and representatives of the jurisdictions to meet with community members at a meeting open to the public to discuss these issues before moving forward. More specific information will be provided.



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Given those points, Rogue Climate believes it is time to start discussing why a “phase 1” amendment is needed and time to start a discussion about how this is not a “phase 1” amendment but a substantial revision to the CBEMP. At best, the jurisdictions should only acknowledge the work and treat it as a starting point for the more compressive work to come. The next step in the meantime would be to convene a citizens' advisory committee to start a public discussion about the proposed changes in the Amendment currently before you to help inform the community and the coming work.

These comments focus on the new proposals stated in the staff report for the joint meeting on December 7, 2023. Several legal and policy concerns cause Rogue Climate to ask you to reject this proposal.

Section 2 and Section 2.4. The second sentence of section 2 is concerning as it suggests that a policy adopted as part of this plan amendment - which jurisdiction will host the committee makeup for instance - can be changed by some future agreement. In a similar fashion, the discussion around section 2.4 suggests that the jurisdictions can provide for citizen input by way of a resolution, which also could be changed without going through plan amendment procedures. This would not satisfy Goal 1 or Goal 2 requirements.

Current Section 2.3. The current provision should not be deleted without specifically determining that the CBEMP otherwise requires that this criteria (proposed for deletion) be satisfied:

A... new or changed uses and activities will only be allowed when they are consistent with the LCDG Goals and statutes, compatible with adjacent uses and activities set forth in this Plan, and when they are in keeping with the designation and management objectives of the management unit and otherwise coordinated with other policies and inventoried needs set forth within the Plan.

There is no reason to delete this language from the CBEMP. If the jurisdictions want to specify how amendments will be processed, which is what is proposed to replace 2.3 there is no reason such provisions could not simply be added as 2.3.1 and 2.3.2, etc.

Proposed new section 2.3. It is redundant to and potentially creates ambiguity regarding the directive of **current section 2.2**, which provides in part:



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"Coos County shall approve minor revisions/amendments to its Comprehensive Plan **when justified**. Minor revisions/amendments are smaller in scope than major revision/amendments, and generally include, but are not limited to changes in uses and activities allowed and changes in standards and conditions.

"II. The County shall undertake special studies and projects deemed beneficial and/or necessary to the community to keep current key inventories, which are the factual basis of this Plan.

"This policy shall be implemented through on-going Planning efforts to keep a statistical data base on Coos County's changing socio-economic characteristics (including, but not limited to, population and housing data, employment statistics, traffic counts, agricultural production, etc.). The County welcomes agency cooperation in providing relevant new data as it is published."

If there are concerns with section 2.2, it should be amended instead of creating a new section 2.3 which contains similar, but not all, language.

Proposed Section 2.3.1. Minor Amendments. It is unclear whether minor amendments would only include plan amendments affecting a single property, if that is the intent. The proposal states that "minor amendments" are applications for plan amendments involving "use or activity" affecting a "single property, or quasi-judicial land use applications related to private property use or activity." Does it include applications concerning a single property and all private applicant quasi-judicial land use applications for plan amendments to establish a use or activity?

While such applications are not, under the current CBEMP, referred to the CBEMP citizens advisory committee, Goals 1 and 2, policy 18 and intergovernmental agreements require or should provide notice to state agencies, special districts, the Tribes and the public. While the proposed figure for 2.3.1 suggests notice will be given 5 days before the PAPA is filed to some coordinating entities, the text does not track the processes stated in the figure and it does not go far enough. The text does not include that prior notice be given to the Tribes and the figure suggests that only "required parties" and the new committee members will be sent a hearing notice, saying nothing specific about public notice. The current section 2.2 specifically



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states: A Coos County citizens and affected governmental units shall have opportunities for review and comment during review and any subsequent major or minor revisions/amendments to this plan." This suggests an opportunity greater than just a few days notice prior to initiating a hearing process by filing the PAPA.

Instead, as a policy matter, the jurisdictions should provide at least 30-day notice to all - CBEMP jurisdictions, state agencies, CBEMP amendment committees, special districts, Tribal governments, "required parties" and the general public - before filing the PAPA is filed to allow some opportunity for the applicant to address community concerns before the hearings process is triggered. This is not prohibited by any strict timeline. The 150-day decision rule does not apply to plan amendments, even if they are consolidated with other applications. There is no reason the community should not have a meaningful opportunity - sufficient time - for review and comment for the preparation, review, and revision of all plan and implementation measures.

Finally, much of the proposed section 2.3.1 concerns the logistics of coordination between the jurisdictions and it is questionable if all of it needs to be in the Plan as opposed to implementing ordinances or an intergovernmental agreement.

There is also **one big concern** about that process, however. There seems to be no justification for requiring the County to adopt a proposed minor amendment initiated by one of the cities. The cities should maintain jurisdiction over their land use actions and decisions. The county should merely have coordination rights under Goal 2 and its opportunity for party status in proceedings to assert its interests or concerns. Once the amendment is final (after all appeals) the County need only codify the amendment. This is also the case regarding map amendments, etc. All that is needed is for the county to ministerially codify - digitize - the map amendment when final. As it is currently proposed this section should be rejected.

Proposed section 2.3.2 Major Amendments. This proposal sets forth numerous logistical steps and we think it is worth discussing whether all of it should be adopted in the plan or whether it should be implemented in the land use codes or by intergovernmental agreement. And, what is most important to the public interest and Goal 1 is what is set out in the ACommittee Roles and Responsibilities. Those considerations should be included in the plan. And this appears to be the proposed amendment for section 2.4.



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Proposed 2.4 or Proposed Resolution starting on page 9. Goal 1 requires that the plan provide for citizen involvement. A resolution will not work. We appreciate the work that has gone into setting expectations for the opportunities and logistics of including the community in the work of considering major plan amendments. One addition we would like to see regarding the process is a clear statement that the work of the committees and the committee meetings are subject to public meeting laws. We appreciate the concerns about the capacity of jurisdictions staff to host and facilitate such meetings but believe there should be ways to allow and encourage the committees to work somewhat independently. We encourage a conversation about what that could look like.

Finally, regarding the committees make up and roles, tribal involvement and consultation, and the commitment to moving forward with the comprehensive amendment, Rogue Climate joins the December 6, 2023 comments of the Oregon Shores Conservation Coalition.

Thank you for considering these points and your work toward a comprehensive amendment to the CBEMP.

Sincerely,
Ashley Audycki
South Coast Coordinator
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