



Oregon

Tina Kotek, Governor

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July 8, 2024

Coos County Planning Division
225 N. Adams St.
Coquille, OR 97423

RE: Coos County HBCU-24-001

Dear Coos County Planning Commission,

The Oregon Department of Fish and Wildlife (department) appreciates the opportunity to submit comment on the Hearing Body Condition Use application 24-001, for a proposed golf course on 342 acres. The department's interest is with Oregon's wildlife, which is the property of the state,¹ and the state's Wildlife Policy that wildlife shall be managed to prevent serious depletion of any indigenous species and to provide the optimum recreational and aesthetic benefits for present and future generations of the citizens of Oregon.²

The department submitted comments on a similar application submitted by Bandon Biota, LLC in 2022 on this same property (HBCU-22-001). Conditions applied to the Planning Commission decision on that application, prior to the applicant's withdrawal of said application in January 2023, included Condition 6, "Applicant shall comply with conditions set out in Exhibit 6 (Oregon Department of Fish and Wildlife)." This references the previously submitted department comment letter in entirety. Since the last application was withdrawn, the department has received no consultation requests from the applicant in relation to previously submitted comments. The department has included those previously submitted comments and expanded on some based on new application information and updates that have occurred in Oregon rules since the previous application.

In accordance with the department's mission and Fish and Wildlife Habitat Mitigation Policy (OAR 635-415), staff submit the following preliminary comments and recommendations in relation to this proposal. Please include these comments for the record.

- It is unclear if surveys have been conducted to assess what wildlife species may be present on the property. Given the type of habitat, location, and scale of the project, the department recommends wildlife surveys be conducted to identify more specific recommendations for avoidance, minimization, and mitigation measures. It is recommended the applicant hire a biologist to conduct surveys. The department would be willing to provide technical guidance on methods and timing.
- The siting location immediately abuts, and shares similar habitat characteristics with, designated critical habitat for the federally listed coastal distinct population segment of pacific marten (*Martes caurina*, federal status: Threatened). Selection criteria³ used by the United States Fish and Wildlife Service (USFWS) to determine critical habitat suggest that there is a high likelihood

¹ ORS 498.002.

² ORS 496.012.

³ <https://www.federalregister.gov/documents/2021/10/25/2021-22994/endangered-and-threatened-wildlife-and-plants-designation-of-critical-habitat-for-the-coastal>

of use by this species in the Bandon Dunes Natural Area. There are also known use areas immediately adjacent to the project area for other listed species. As such, the department suggests the county and/or applicant reach out to USFWS for guidance on minimizing impacts and to inquire on the potential need for an Incidental Take permit.

- Twomile creek is listed by the Oregon Department of State Lands (DSL) as Essential Salmon Habitat for Fall chinook, winter steelhead, and coho. If there are any new stream crossings (e.g. bridges, culvert installations, etc) associated with this project compliance with Oregon's fish passage laws (ORS 509.585 – ORS 509.910) is required.
 - All new and replaced stream crossings need to meet or exceed state of Oregon Fish Passage guidelines as defined under OAR 635-412. OAR 635-412-0035 (3) specifies that: "Requirements for fish passage at road-stream crossing structures such as bridges and culverts are:
 - (a) Stream Simulation Option (preferred design alternative) where:
 - (A) Open-bottomed and closed-bottom road-stream crossing structures shall have beds under or within the structure that:
 - (i) Are equal to or greater than the active channel width multiplied by 1.2 plus 2 feet, as measured at sufficient locations outside the influence of any artificial or unique channel constrictions or tributaries both upstream and downstream of the site.
 - If there is any planned in-stream work (such as culvert replacement or bridge installation) associated with this project, it is advised that the applicant adheres to the Oregon Guidelines for Timing of In-Water Work for the associated stream. The instream work period for Twomile Creek is July 15th-September 30th. Exemptions to this time must be approved by ODFW.
- Per the County Comprehensive Plan, a 50 foot or greater riparian buffer is the recommended standard to protect stream habitats. Given the significant low stream flows and increased water temperatures that many watersheds in southwest Oregon have been experiencing, it is of great importance to Oregon's fish populations that protection of riparian buffers are maintained and supported. The department would be interested in reviewing any plans for work within a riparian area and can provide guidance on habitat improvements and minimization of detrimental impacts within riparian buffers.
 - The department is retaining this comment from the original 2022 comments for posterity. The department recognizes that the applicant addresses on pages 25-26 (10 a-i) ordinances pertaining to riparian vegetation and the minimum riparian vegetation setback. The applicant states that "All riparian vegetation shall be protected in conjunction with the development of the golf course.", "Any development proposed near a wetland or other waterway will maintain a minimum 50-foot setback.", and the other provisions do not apply to construction plans or will comply with local, state, and federal regulations. If this application is approved, and construction plans change in the future so as there may be riparian impacts due to structural development, the department would recommend mitigation actions in alignment with the department's Mitigation Policy.
- The department recommends additional details on management plans for water use and methods to reduce impacts to water quality. The new application does not add any new clarification to water use needs, only that they would be applying to utilize groundwater and wells. The section on drainage seems to rely primarily on existing wetlands to support water quality protection. There is no detail supporting the capacity of existing wetlands to handle the change in management activities that may alter the amount of run-off contaminants and nutrient influx from

fertilizers, chemicals, increased vehicle use on non-porous surfaces that currently do not exist on the site. The department recommends planting of additional vegetation surrounding the wetland habitats to create a better filtration buffer and a substantive stormwater management plant to prevent contamination of nearby waterways and wetlands.

- There is conflicting information in the application narrative to the maps. In the narrative the applicant states that no part of the course will be going through wetlands (page 1), however the maps of the course design seem to indicate that the course does potentially go through the wetlands associated with holes 2, 3, and 12.
- On page 30 of the application, the applicant addresses Section 4.1.131 of the Coos County comprehensive plan (Significant Wildlife Habitat) by stating “no portion of the course is within an identified Significant Wildlife Area”. This section of the chapter specifically addresses: “Sensitive Big-game Range”, Salmonid Spawning and Rearing Areas, and Bird Habitat Sites.
 - The property is within Year-round Peripheral Big Game Habitat. Per the mitigation policy, this habitat is Category 3: essential and not limited habitat or important and limited habitat. The Mitigation Policy goal for mitigation is “no net loss of habitat quantity or quality” with a strategy of “in-kind, in-proximity mitigation”. The county comprehensive plan addresses impacts to big game habitat in relation to dwelling density and there are no dwellings proposed in this application. However, the department highlights the concerns with wildlife conflict below which could be reduced by maintaining and supporting quality habitat on adjacent/in-proximity lands and planning ahead by integrating management practices and designs to reduce the potential for wildlife conflict before they occur. The department offers the applicant the technical advice expertise of our local staff.
 - There is a plan identified raptor site less than 2 miles of the property and likely others that we do not know about. In order to ensure protection of any nest sites, and in line with the Forest Practices Act (629-665-0020); When a landowner, timber owner or operator proposes an operation near a resource site that requires special protection, the State Forester shall inspect the resource site with the landowner or landowner’s representative, the operator and when available, the appropriate representative of the Department of Fish and Wildlife.” This notification should apply to any nesting sites within one-half mile of the property. At that time a site inspection will be completed by our agency to determine to risk associated with construction activities.

The US Fish and Wildlife Service oversees the protection of eagles and migratory birds outside of forestry actions, through the Migratory Bird and Habitat Program. Both eagles and their nests are protected. They provide guidance on when a take permit may be needed: <https://www.fws.gov/story/do-i-need-eagle-take-permit>.
 - As previously mentioned, Two-mile creek is designated by DSL as Essential Salmon Habitat.
- There are additional indirect effects associated with the placement of a golf course at this location, including:
 - The proposed area is adjacent to productive western snowy plover (*Charadrius nivosus nivosus*, state and federal status: Threatened) habitat and a habitat restoration area for the species. Increased public traffic during the sensitive nesting season may potentially decrease nesting success. Relatedly, garbage generated in areas of human activity has been shown to contribute to increased attraction of natural predators of plovers such as crows, ravens, and other natural prey species for the non-native red fox. Red fox will also

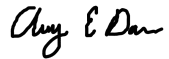
be attracted to the area with the creation of a series of open meadow environments interspersed with taller grass cover (like a Scottish Links course).

- There is typically little tolerance for waterfowl and big game on golf courses, and actions to exclude or haze these species can cause detrimental impacts to these species and surrounding properties. Migrating birds are expending large amounts of biological resources on their journey and may be attracted to ideal conditions artificially created by the golf course and adjacent cranberry bogs. Additionally, the management practices of the greens typically create attractive, nutrient rich forage that attracts big game species. The soil disturbance on the green can cause significant damage depending on the big game species. Surrounding agriculture properties may experience additional wildlife conflict, as these practices can also create attractive conditions.
- Additionally, the increased human presence in combination with highly desirable forage often leads to habituation of game species, which ultimately can create unsafe conditions for both humans and the habituated animal.
- While some songbirds and raptors may still be able to utilize the heavily fragmented open space through the course, other wildlife species like some small mammals, waterfowl, and big game may be excluded (via active hazing, other human use exclusion, or lethal removal) due to the aforementioned conflicting uses. The department acknowledges that the habitat will be improved by the removal of the non-native vegetation and enhancement of native vegetation, but that value is tempered if wildlife are unwelcome to utilize it either spatially or temporally. Impacts from this loss for some species could be improved through mitigation in alignment with the mitigation policy for the respective habitat types on the property and their condition. The department recommends the applicant engage in discussions with the department on a course of action for appropriate mitigation.
- Based on the department's cursory review of the application, it appears that a water right will be required. However, the applicant should be aware that the department will be required, as part of the Oregon Water Resources Department (OWRD) process, to review new proposed uses of water (including groundwater which has a potential substantial interference with surface water) that may result in detrimental impacts to sensitive, threatened, or endangered fish. If the department's assessment reveals flow within the impacted reach are or are assumed to be entirely or partially below those essential to support the biological needs of fish, wildlife, or habitats and/or the proposed use will otherwise impact habitat recommendations to OWRD may reflect that assessment indicating that the proposed use may diminish physical habitat and alter the flow regime to which fish and wildlife are naturally adapted. These changes would be considered to negatively affect fish/wildlife distribution, productivity, and abundance. In these instances, where further reduction in flow or alteration of habitat from a proposed water use would impair or be detrimental to fish, wildlife, and/or their habitat mitigation may be required. The department recommends that the applicant contacts OWRD for more information on the water right permitting process.
 - The department has reviewed an OWRD application for a water right and diversion transfer request for properties owned by the applicant near this property and made recommendations in alignment with the form, but no new water right applications.

The department encourages pre-planning coordination for projects that may affect fish, wildlife and their habitats. The department recommends additional collaboration with the applicant to discuss and address the concerns and recommendations raised in this letter.

If there are any questions related to the department's comments, or the County and/or applicant would like to coordinate further with the department regarding the proposal, please contact me at 541-464-2399 or amy.e.darr@odfw.oregon.gov. Thank you for your consideration of the department's comments regarding Oregon's fish, wildlife, and habitats.

Sincerely,



Amy E. Darr
Regional Habitat Biologist
Oregon Department of Fish and Wildlife

