Exhibit A

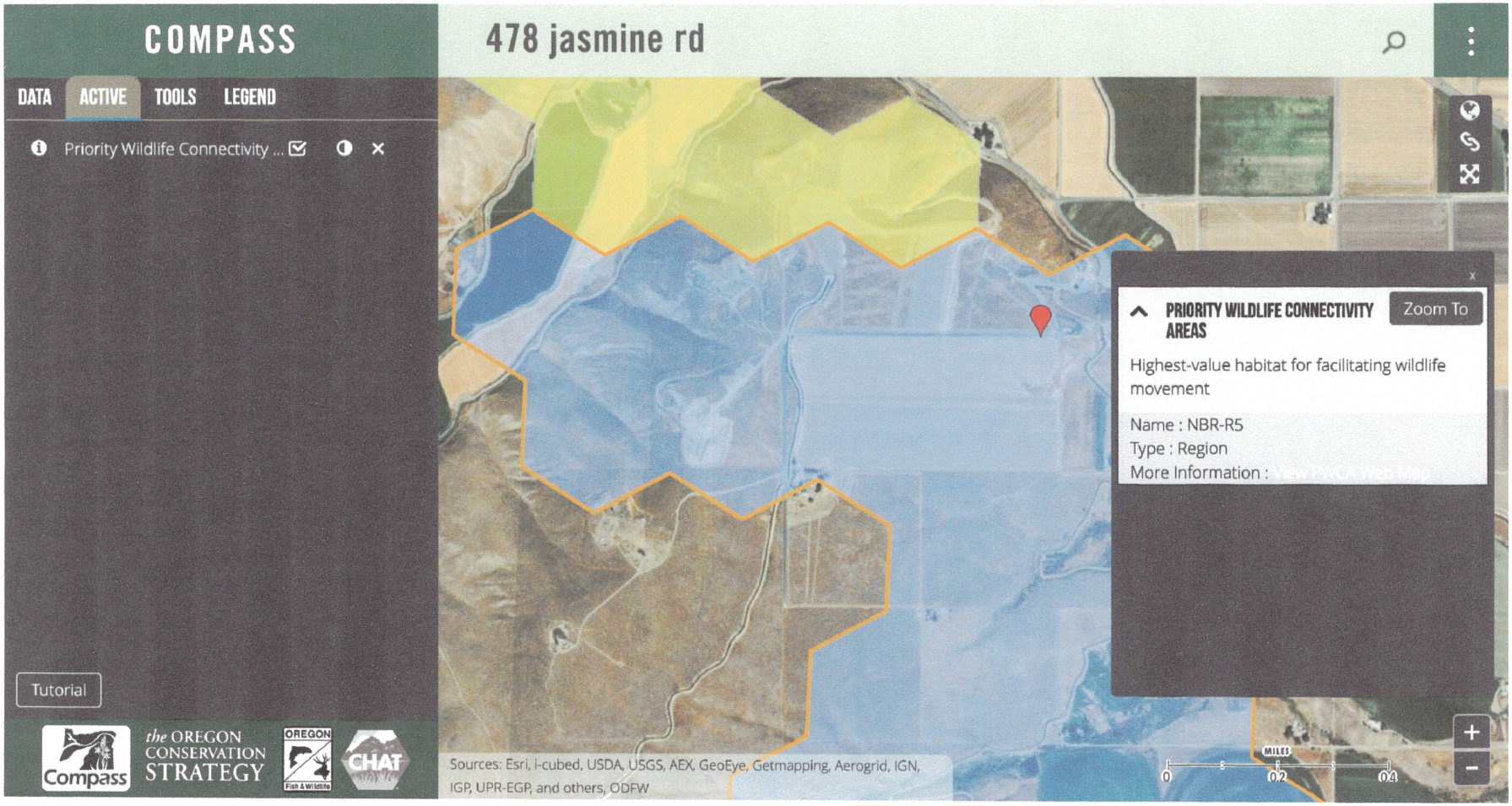
COMPASS
478 jasmine rd
DATA
ACTIVE
TOOLS
LEGEND
Priority Wildlife Connectivity ...
PRIORITY WILDLIFE CONNECTIVITY AREAS
Zoom To
Highest-value habitat for facilitating wildlife movement
Name : NBR-R5
Type : Region
More Information :
Tutorial
Compass
the OREGON CONSERVATION STRATEGY
OREGON
Fish & Wildlife
CHAT
Sources: Esri, i-cubed, USDA, USGS, AEX, GeoEye, Getmapping, Aerogrid, IGN, IGP, UPR-EGP, and others, ODFW
MILES
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Exhibit B

archery hunting in 1979. The first use of a limited permit entry system occurred in 1979 for the Steens Mountain and Trout Creek Mountains 4-point buck areas.

The first mule deer population and post hunting season buck ratio (bucks:100 does) management objectives (MOs) were established by the Commission in 1981. Population MOs were set for each WMU with buck ratios set primarily by WMU or sub-unit areas in some cases. The eastern Oregon total population MO was 318,750 deer, 12,715 animals higher than the estimated population of 306,000 mule deer. Post-season buck ratio objectives were set at either 12, 15, or 25 bucks per 100 does. During the 1980s, antler restrictions were dropped due to their ineffectiveness at increasing or maintaining desired buck ratios.

Severe winter losses in the mid-1980s led to increased hunting restrictions and six WMUs in northeast Oregon were closed to deer hunting in 1984 and 1985. The use of limited entry buck hunting began to expand considerably during this period to maintain buck ratios. In 1986 the Landowner Preference Program (LOP) was created by the Oregon Legislature which guaranteed that landowners could get deer and elk tags in recognition of their contribution to wildlife and wildlife management. Tags were allocated to landowners based on the acreages owned and were valid only on their property. LOP tags were in addition to those allocated by the Commission.

In 1990 the first Mule Deer Management Plan was adopted by the Commission (ODFW 1990) due to concerns over declining mule deer populations and increasing hunting pressure. The extensive public process identified habitat loss and degradation as the number one issue affecting mule deer in Oregon. The most significant result of this plan was implementation of limited entry hunting for all rifle buck hunts for mule deer. During the planning process MOs were also reviewed resulting in only minor adjustments to reflect existing population sizes for a total population MO of 317,400 (Table 1), and the addition of desired benchmarks for fawn ratios (fawns:100 does) indicative of levels for population maintenance. The plan also called for imposition of a statutory limitation on number of non-resident hunters receiving controlled hunt tags which was implemented in ORS 497.112 (9). In 1997, the Oregon Legislature created the Guide and Outfitter tag program. This program allows registered guides and outfitters in Oregon to separately apply for and draw non-resident tags in January that can subsequently be marketed to clients. These non-resident tags effect the number of non-resident tags available during the regular June controlled hunt drawing.

Exhibit C

mine and any crushing or grinding activities from November 1st through March 31st and that operations occur outside of crepuscular hours (e.g., dawn and dusk when wildlife are most sensitive to disturbance).

Recommendation #4: ODFW has identified habitat in this location as mule deer winter range, which is essential and limited Habitat Category 2 per ODFW's Fish and Wildlife Habitat Mitigation Policy. The mitigation goal for Habitat Category 2 is no net loss of habitat quality or quantity and to provide a net benefit of habitat quantity or quality through in-kind and in-proximity mitigation. ODFW recommends mitigation actions identified in a mitigation plan demonstrating no net loss and a net benefit through in-kind, in-proximity mitigation to mule deer winter range prior to or concurrent with the development action.

Thank you for the opportunity to provide recommendations to address concerns related to wildlife habitat. ODFW is committed to providing technical assistance to the County and applicant to avoid, minimize and mitigate impacts to wildlife habitat. Please contact me with any questions (541-889-6975 ext. 222 or tucker.e.freeman@odfw.oregon.gov).

Sincerely,

Tucker Freeman
District Wildlife Biologist
Oregon Department of Fish and Wildlife
3814 Clark Blvd
Ontario, OR 97914

Exhibit D

Malheur County Planning Department
Addendum: Malheur County Land Use Application 2023-12-010
February 14, 2024

1. **Oregon Department of Fish & Wildlife (ODFW) mitigation concerns.**

On January 25, 2024 ODFW provided comments to the Planning Commission that identified portions of the Head property as limited Habitat Category 2 for Mule Deer winter range. (Exhibit 19). Addendum Exhibit 1 details ODFW's Big Game Habitat criteria and mitigation measures. Habitat Criteria 2 identifies habitat that has been reduced based on conflicts with primary land uses. Based on the mitigation measures identified in ODFW's comment, Mr. Lee proposes the following mitigation measures to achieve a no-net loss/habitat quality improvement plan.

Category #2 Goal requirement is no net loss of habitat **and to provide a net benefit to habitate.**

a. Current property conditions:

   i. The current property conditions are of limited pasture/dryland farming over a majority of the area subject to the application. Multiple gravel extraction operations have operated in the immediate vicinity to the north and west of the property. Properties to the south and east are engaged in sparsely populated residential areas with agricultural practices in the vicinity.

b. Identified Impacts:

   i. Scraping and excavating and overburden reducing vegetative coverage and forage;

   ii. Noise and disturbance of mule deer during winter time periods including excavating activities, hauling, and crushing operations;

   iii. Invasive weed growth (cheet grass/medusahead);

   iv. Vehicle by-product environmental impacts.

c. Mitigation Measures:

   i. Minimize open gravel extraction to two or less acres at a time;

   ii. Topsoil removed will be stockpiled for reapplication to the surface of the reclaimed ground and reseeded with native forbs and grasses.

Exhibit E-1

As per ODFW letter: reclaimation is NOT considered adequate mitigation

Habitat Category	Definition	Example	Goal for Mitigation	Mitigation Strategy
Category 1	Essential, limited, and irreplaceable habitat	Bogs and fens, certain springs, seeps, and heron rookeries	No loss of habitat quantity or quality	Avoidance
Category 2	Essential and limited habitat	Salt marshes, cottonwood galleries, big game winter range, subtidal habitat.	No net loss of habitat quantity or quality and to provide a net benefit of habitat quantity or quality	In-kind, in-proximity mitigation
Category 3	Essential habitat, or important and limited habitat	Big game summer range, some wetlands	No net loss of habitat quantity or quality	In-kind, in-proximity mitigation
Category 4	Important habitat	Isolated or degraded wetlands	No net loss of habitat quantity or quality	In-kind or out-of-kind, in-proximity or off-proximity mitigation
Category 5	Habitat having high potential to become either essential or important habitat	Restorable rye grass fields or diked or drained coastal marshes	Net benefit in habitat quantity or quality	Actions that improve habitat conditions
Category 6	Habitat that has low potential to become essential or important habitat	Urban areas and other areas with little or no restoration potential	Minimize impacts	Minimize direct habitat loss and avoid off-site impacts

Exhibit E-2

HABITAT DIVISION
Regulating harvest, health, and enhancement of wildlife populations

What is the Fish and Wildlife Habitat Mitigation Policy?

The Fish and Wildlife Habitat Mitigation Policy (Policy) provides guidance to ODFW in evaluating the potential impact of land and water development actions on fish and wildlife habitat. Depending on the life history needs for a particular species and the habitat condition or set of conditions that support those needs, a proposed development action may have an adverse effect on fish and wildlife habitat. The Policy sets guidelines to avoid, minimize or mitigate the impact from a development action on fish and wildlife habitat.

Fish and Wildlife Habitat Mitigation - Key Definitions

The following specific terms are used in the policy to define the value of the habitat to a particular species.

Essential habitat	Any habitat condition or set of habitat conditions which, if diminished in quality or quantity, would result in depletion of a fish or wildlife species.
Limited habitat	An amount insufficient or barely sufficient to sustain fish and wildlife populations over time.
Important habitat	Any habitat recognized as a contributor to sustaining fish and wildlife populations over time.
Irreplaceable habitat	Successful in-kind habitat mitigation to replace lost habitat quantity and/or quality is not feasible within an acceptable period of time or location, or involves an unacceptable level of risk or uncertainty.

Habitat Categories and Mitigation Strategies

The Policy classifies habitat into one of six categories depending upon the functions and values of the habitat to a specific species, population or a unique assemblage of fish or wildlife species, and establishes mitigation goals for each category of habitat. Depending on the functions and values the habitat provides to fish and wildlife species, the policy identifies preferred strategies to avoid or mitigate the impact of proposed actions on fish and wildlife habitat. The Policy sets sideboards within which ODFW considers recommended options and alternatives for mitigation. The less valuable the habitat is to support fish and wildlife, the more options that may be considered for mitigation. The Mitigation Category Flow Chart is a helpful guide for determining habitat categories.

The table below provides some examples of the various habitat categories. ODFW evaluates the habitat categories based on the best available data and on the functions and values of the habitat. For some habitats, such as big game winter range, ODFW has developed additional guidance documents that provide the rationale for designating a habitat category. Based on the functions and values the habitat provides to fish and wildlife, ODFW biologists may recommend avoiding all impact to the habitat or may recommend a variety of approaches or actions to offset or mitigate *habitat impacted by a proposed development action.*

Habitat Category	Definition	Example	Goal for Mitigation	Mitigation Strategy
Category 1	Essential, limited, and irreplaceable habitat	Bogs and fens, certain springs, seeps, and heron rookeries	No loss of habitat quantity or quality	Avoidance
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Category 4	Important habitat	Isolated or degraded wetlands	No net loss of habitat quantity or quality	In-kind or out-of-kind, in-proximity or off-proximity mitigation
Category 5	Habitat having high potential to become either essential or important habitat	Restorable rye grass fields or diked or drained coastal marshes	Net benefit in habitat quantity or quality	Actions that improve habitat conditions
Category 6	Habitat that has low potential to become essential or important habitat	Urban areas and other areas with little or no restoration potential	Minimize impacts	Minimize direct habitat loss and avoid off-site impacts

Working with ODFW

The project proponent is responsible for the expenses of developing, evaluating, and implementing the mitigation plan and monitoring the mitigation site. However, ODFW provides technical assistance to the permitting entity and applicants when reviewing proposed development actions. ODFW biologists may, to the extent that available resources allow, assist in identifying fish and wildlife species and habitats, determine the Habitat Categories, identify the nature, extent, and duration of potential impacts, and identify mitigation measures to achieve the goals and standards of the Policy. As part of the permitting process, ODFW provides recommendations to avoid, minimize or mitigate impacts to fish, wildlife, and their habitats to the permitting entity. The permitting entity may choose to include the ODFW recommendations for mitigation as a requirement of the final permit.

survival and may vary seasonally depending on a specific species' reliance on migratory or non-migratory behavior to fulfill life history requirements. Winter range habitat is one of the most crucial factors influencing the overall population of ungulates. Not only does it provide the critical nutritional benefits needed during winter months when energetic needs are at a premium, but it also provides good escapement opportunities from predators. In addition, with adequate amounts of winter range, ungulates can spread out amongst the landscape, reducing the risk of disease transmission which can be detrimental to a population.

In addition to being identified as biological winter range, ODFW also considers this area significant under the Oregon Conservation Strategy (OCS). The goals of the Oregon Conservation Strategy are to maintain healthy fish and wildlife populations by maintaining and restoring functioning habitats, preventing declines of at-risk species, and reversing declines in these resources where possible. This area has also been identified by the Oregon Connectivity Assessment and Mapping Project (OCAMP) as a Priority Wildlife Connectivity Area (PWCA)[4]. The OCAMP effort focused on identifying current wildlife habitat connectivity throughout the state for a wide diversity of species. These species' connectivity models were compiled to highlight PWCAs – an interconnected network representing the parts of the landscape with the highest overall value for facilitating wildlife movement in Oregon. The proposed re-zoning of this application will occur within the boundaries of PWCA NBR-R5, which has been identified with a primary conservation action of restore and a secondary conservation action of protect.

While reclamation will be required by the Department of Geology and Mineral Industries (DOGAMI), reclamation does not always provide benefits to wildlife habitat and is not a replacement for mitigation actions to achieve no net loss. ODFW acknowledges reclamation is an important step in partially restoring habitat impacted by mining activities if it is targeted specifically toward wildlife habitat objectives, as opposed to other reclamation activities such as restoring the area for an industrial use. However, reclamation should not be considered adequate mitigation due to the temporal loss that the habitat will experience during the multi-decade long disturbance from the mining operations.

As stated above, ODFW recommends the site is adequately evaluated for the potential impacts to wildlife habitat, including providing appropriate avoidance, minimization, and compensatory mitigation for impacts:

Recommendation # 1: ODFW recommends the applicant further evaluate avoidance and minimization measures, such as alternative footprints for mining operations.

Recommendation #2: ODFW recommends weed control measures be implemented at the site at a frequency necessary to control annual and recurring invasive vegetation infestations. This includes noxious weeds and invasive grasses such as cheatgrass and medusahead. Soil disturbance and prolonged exposure increases the risk of invasive species establishment. If not routinely treated, roadsides, parking, dump, and excavation sites with long-term lifespans described in the Staff Report can become sources of weeds spread to adjacent areas.

Recommendation #3: Implement timing and seasonal minimization measures. While timing and seasonal restrictions can be beneficial to wildlife, they should be used in conjunction with other measures as it is not compensatory mitigation to offset direct habitat loss, but rather minimization measures for indirect impacts, such as noise associated with mining operations. ODFW recommends a seasonal closure of the

[4] https://oregonconservationstrategy.org/success-story/priority-wildlife-connectivity-areas-pwcas/

Exhibit G

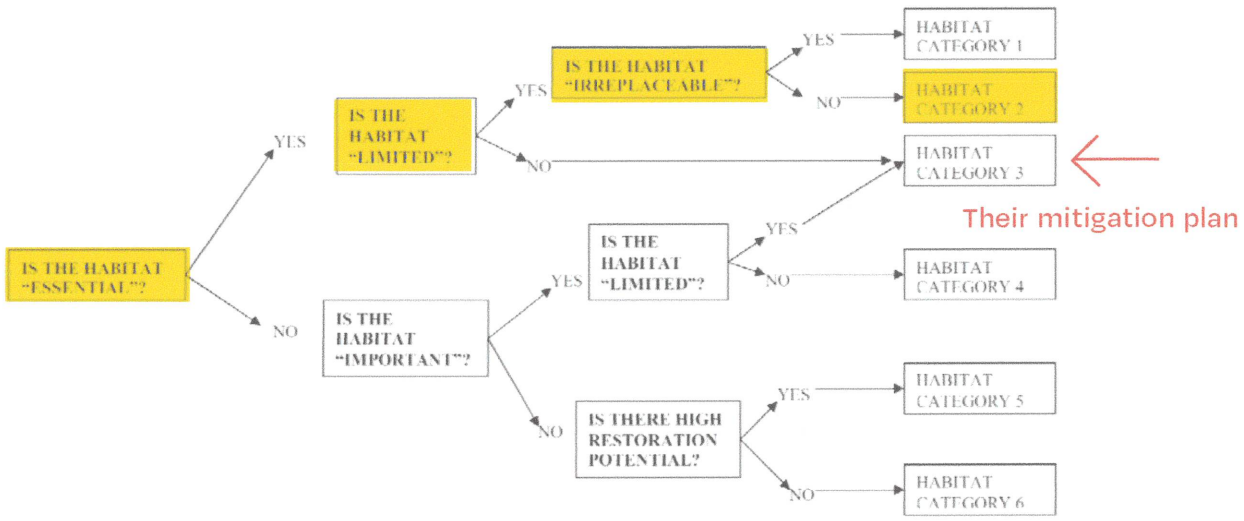

Figure 1. Decision process for identification of habitat function and value relative to habitat category designation.

Step 1: Is the Habitat "Essential"? **Yes.**

"Essential Habitat" means any habitat condition or set of habitat conditions which if diminished in quality or quantity, would result in depletion of a fish or wildlife species.

Winter survival and subsequent reproduction of big game is the primary limiting factor influencing species abundance and distribution in Oregon. Not all winter habitats provide the same functions and values year to year (e.g. thermal cover, security from predation and harassment, forage quantity, adequate nutritional quality, escape from disturbance, etc.) Winter habitats vary in area, elevation, aspect, precipitation, and vegetation association all influencing the relative quantity and quality of available habitat on both an annual and seasonal basis. Factors such as habitat abundance, distribution, and species access to relatively undisturbed winter habitat dictate the specific functions and values winter habitat provides to big game.

Periodic severe winters can result in events of high adult mortality known as "winter die-offs." Individuals that survive severe winters may not recover adequate body condition or health to successfully reproduce later that spring or become reproductive again the following fall. Specific big game distribution and patterns of essential winter habitat use vary greatly depending on site specific influences. Depending on the year, big game animals may use many portions of their winter range. During severe winters, lower elevation portions of the range may become essential and the only remaining available winter habitat. However, even in mild winters, big game will make seasonal movements up/down slope to take advantage of new plant growth with warmer temperatures at lower elevations, to move out of temporary heavy