

AGENDA ITEM FOR ADMINISTRATIVE MEETING () Discussion only
(X) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Proposed Meacham East Livestock District

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| <p>Background:</p> <p>Umatilla County received a petition for the formation of a livestock district. The matter is set for a public hearing before the Board on October 20, 2021. Upon conclusion of the hearing, the Board may make a decision on the petition.</p> | <p>Requested Action:</p> <p>(1) Conduct Public Hearing (2) Act on Petition for Formation</p> |
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ATTACHMENTS: Staff Report; Petition; Maps; ORS Provisions

*****For Internal Use Only*****

Checkoffs:

- () Dept. Heard (copy)
- () Human Resources (copy)
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:

Needed at Meeting:

Scheduled for meeting on: October 20, 2021

Action taken:

Follow-up:

STAFF REPORT
Proposed Mecham East Livestock District

1. Petition

The County received a petition from K & L Madison, LLC, to form a livestock district to be known as the Mecham East Livestock District. The general area of the district would be in four sections lying north of I-84 around the Mecham area. The petition and a map of the proposed district are provided. The petition meets the statutory requirements. A livestock district must contain at least 2,000 acres. The district proposes to limit livestock of the bovine species, horses, mules, asses, sheep, goats and swine from running at large within the district.

2. Statute

The legislature substantially revised the process for forming a livestock district in 2019, which is set out in ORS Chapter 607.

3. Process

Upon the filing of a petition, a hearing date is to be set. Notice of the hearing date must be sent by certified mail to owners of record as shown on the most recent property tax assessment roll, for those located within the proposed district and also located within 500 feet of the boundaries of the proposed district, at least 20 days before the hearing date.

The public hearing on the proposed formation is set for October 20, 2021, at 9:00 a.m. The notices of the hearing to both categories of owners were sent out September 27, 2021, and also published in the East Oregonian on September 30 and October 7, 2021, and posted on the county website.

No later than 30 days after closing of the record of the hearing, the Board must take action on the application. The Board may deny the application or may conditionally approve the application. There are not any statutory guidelines or criteria for how the Board is to make its decision on the petition. If the Board does conditionally approve the formation, then the petitioner has 90 days to submit a petition signed by a majority of the landowners within the proposed livestock district in favor of the livestock district formation.

PETITION
FOR FORMATION OF LIVESTOCK DISTRICT

We, the undersigned, petition the Board of County Commissioners of Umatilla County to initiate proceedings to form a Special District and Livestock District to be known as: MEACHAM EAST LIVESTOCK DISTRICT

1. This petition is filed pursuant to ORS 198.705 to 198.955 and ORS 607.008 to 607.055.

2. The names of other affected districts are: District Organized under ORS:
None _____

3. The names of affected counties are: County
Umatilla _____

4. The territory the subject of this petition is inhabited.

5. The following livestock or class of livestock will not be permitted to run at large within the proposed livestock district:

Bovine species, horses, mules, asses, sheep, goats, and swine

6. The proposed boundaries of the district will be:

All tax lots lying east of Interstate 84 in the following sections and townships: Section 28 T1N, R35E; Section 27 T1N, R35E; Section 34 T1N, R35E; Section 33 T1N, R35E; and Section 3 T1S, R35E.

A map of the proposed district is attached.

7. The name and address of the principal petitioner is:

K & L MADISON, LLC

Address: 29229 Madison Rd.
Echo, OR 97826



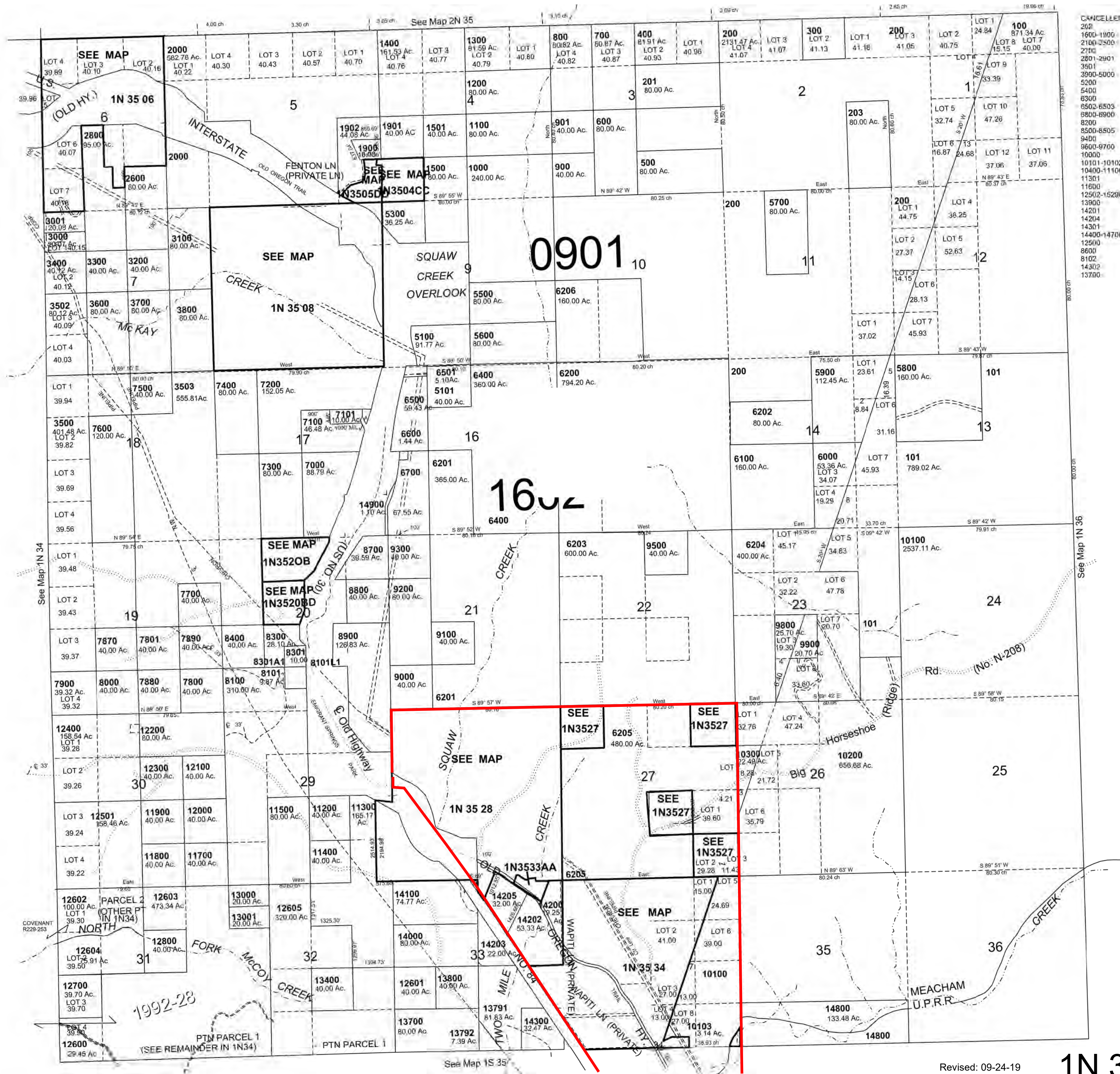
By: Kent Madison, Trustee of the Kent R.
Madison Trust, Member

This map was prepared for Assessment & Taxation purposes only and was NOT prepared nor is it suitable for legal, engineering or surveying purposes.

T1N R35E WM UMATILLA COUNTY

SCALE 1"=2000"

1N 35



- CANCELLED
- 202
 - 1600-1900
 - 2100-2300
 - 2700
 - 2801-2901
 - 3501
 - 3900-5000
 - 5200
 - 5400
 - 6300
 - 6500-6503
 - 6800-6900
 - 8200
 - 8500-8505
 - 9400
 - 9600-9700
 - 10000
 - 10101-10102
 - 10400-11100
 - 11301
 - 11600
 - 12502-15200
 - 13900
 - 14201
 - 14204
 - 14301
 - 14400-14700
 - 12500
 - 8600
 - 8102
 - 14302
 - 13700

Revised: 09-24-19

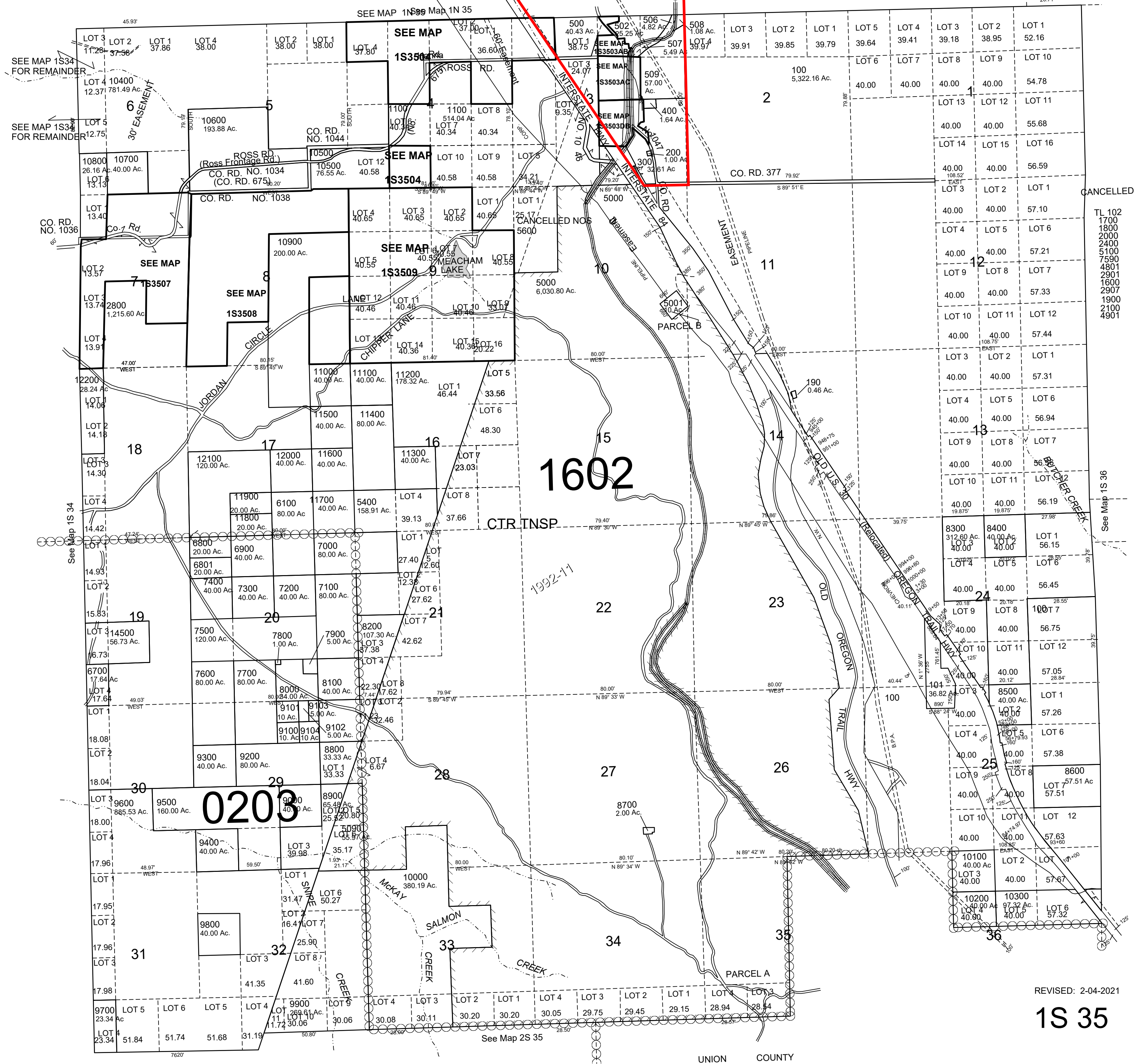
1N 35

This map was prepared for Assessment & Taxation purposes only and was NOT prepared nor is it suitable for legal, engineering or surveying purposes.

T1S R35E WM UMATILLA COUNTY

SCALE 1"=2000'

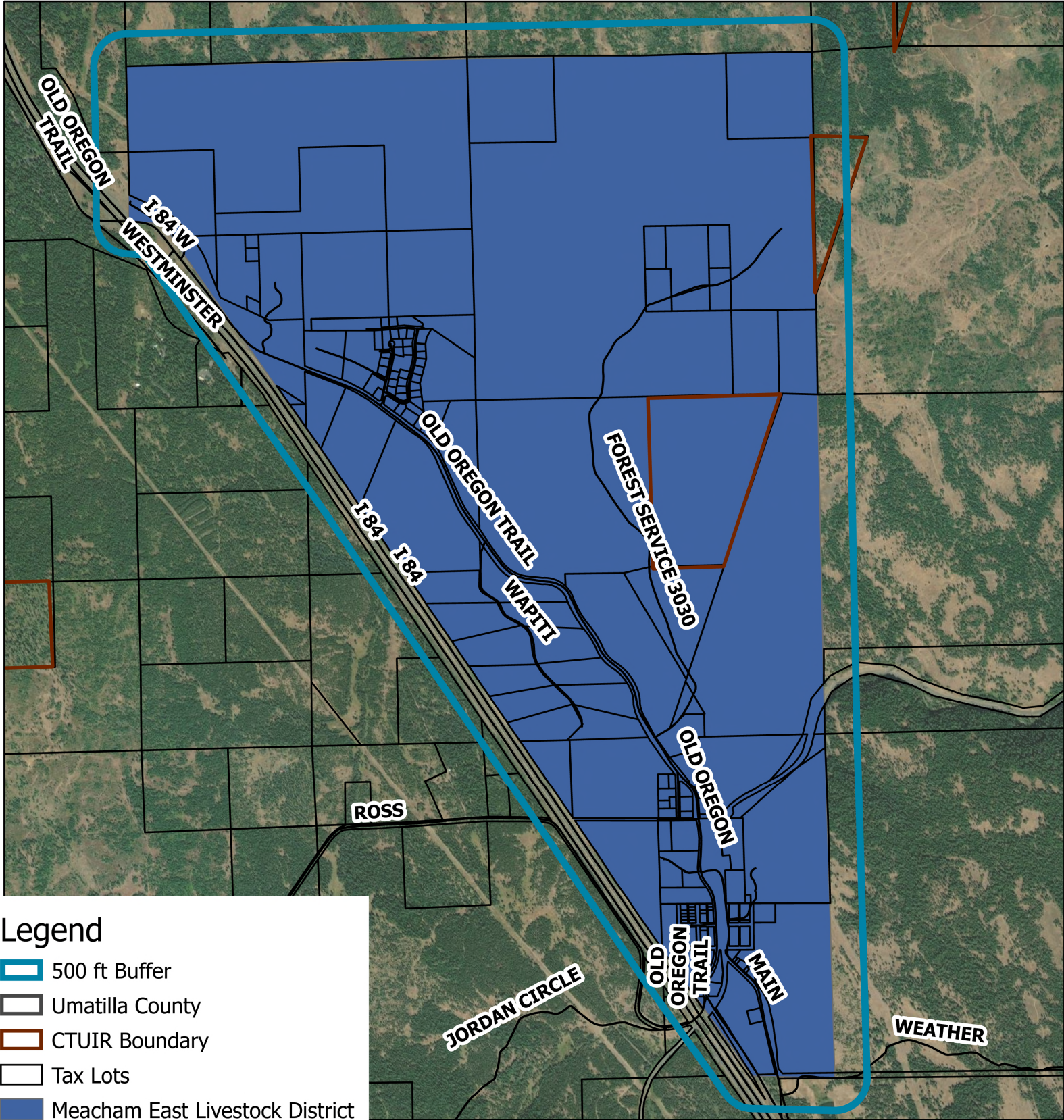
1S 35
AERIAL PHOTO NO. NZ-7P 5-10 AND 85-94



REVISED: 2-04-2021

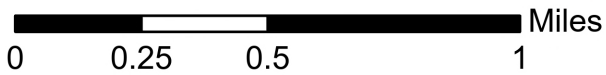
1S 35

**Proposed Meacham East Livestock District
Notified Property Owners within 500 feet of Proposed Livestock District's
boundaries**

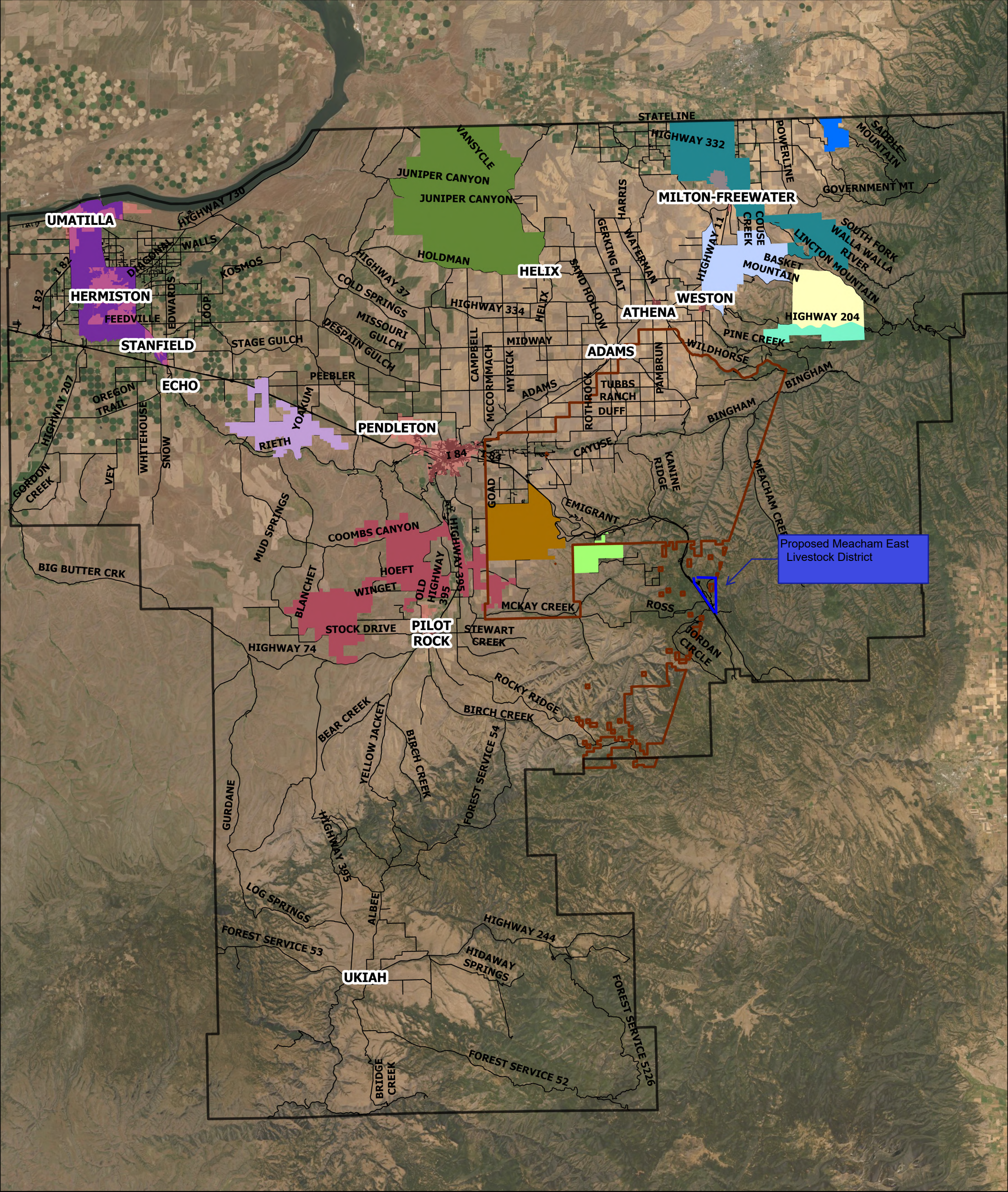


Legend

-  500 ft Buffer
-  Umatilla County
-  CTUIR Boundary
-  Tax Lots
-  Meacham East Livestock District



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department
Date: 9/9/2021

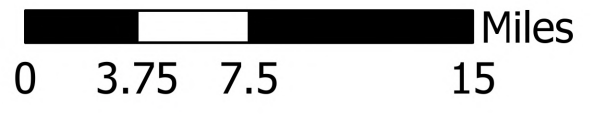


Livestock Districts, Umatilla County, Oregon

Closed Range Areas

Legend

- City
- Umatilla County
- CTUIR Boundary
- North County Livestock District
- Saddle Mt Livestock District
- Yoakum Livestock District
- Weston Mt Livestock District
- S Reservation Livestock District
- Poverty Flats Livestock District
- NW County Livestock District
- George Canyon Livestock District
- East Umatilla County Livestock District
- Dry Creek Livestock District
- Basket Mt Livestock District



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department Date: 4/8/2021

Chapter 607 — Livestock Districts; Stock Running at Large

2019 EDITION

LIVESTOCK DISTRICTS; STOCK RUNNING AT LARGE

ANIMALS

GENERAL PROVISIONS

- 607.005 Definitions
- 607.007 “Adequate fence,” “stray animal,” “taking up” defined

LIVESTOCK DISTRICTS

- 607.008 Incorporated cities are livestock districts
- 607.018 Livestock district creation or annexation
- 607.021 Livestock district characteristics
- 607.024 Action on livestock district application
- 607.028 Livestock district withdrawals or dissolution
- 607.032 Publication of county governing body declarations
- 607.044 Civil liability for livestock at large in livestock district
- 607.045 Livestock at large in livestock districts
- 607.051 Status of districts designated by order of State Department of Agriculture
- 607.055 Application of livestock confinement laws to federal lands

BISON

- 607.080 Bison at large in livestock district prohibited
- 607.085 Civil liability for bison running at large on land

STOCK RUNNING AT LARGE ON OPEN RANGE

- 607.261 Stock running at large on open range

ESTRAY ANIMALS; INTERFERING WITH ANIMALS

- 607.300 Determining adequacy of fences; rules; fees
- 607.303 Owner or lessee of property taking up stray animal; notice to owner and department
- 607.304 Delivery of stray animal to department or owner; payment of costs to person taking up animal; arbitration of costs; fee
- 607.308 Alternative procedure for person taking up stray animal

- 607.311 Taking up estray animal; prohibition
- 607.313 Notice to department by persons taking up estray animal; recovery of costs
- 607.321 Investigation by department upon receipt of notice; procedure if department determines owner
- 607.328 Procedure for sale of estray animal; notice
- 607.332 Claim by owner before sale
- 607.336 Title of purchaser at sale
- 607.337 Use of proceeds from sale to pay department costs
- 607.338 Use of proceeds from sale to pay person taking up animal; arbitration of costs; fee
- 607.339 Liability of department
- 607.341 Jurisdiction of courts
- 607.344 "Freshly branded" defined for ORS 607.345 to 607.360
- 607.345 Interfering with calves and colts on open range; selling freshly branded cattle or horses
- 607.350 Producing, on demand, the mothers of calves or colts
- 607.355 Disposal of calves and colts wrongfully held
- 607.360 Applicability of statutes regulating handling of calves and colts
- 607.365 Driving domestic animals from range

REGULATION OF STOCK ON CERTAIN HIGHWAYS

- 607.505 Stock running at large and grazing on Klamath Falls-Malin Highway
- 607.510 Stock running at large and grazing on certain state highways
- 607.515 Stock at large or grazing on highway from Canyonville to Umpqua National Forest
- 607.520 Stock running at large on highways in Washington County
- 607.527 Stock herded or grazed on interstate and defense highways

PENALTIES

- 607.992 Penalties

GENERAL PROVISIONS

607.005 Definitions. As used in this chapter:

- (1) "Class of livestock" means a class, species, genus or sex of livestock, including a class, species or genus of neutered livestock.
- (2) "Department" means the State Department of Agriculture.
- (3) "Federal land" means a tract of land containing 25,000 acres or more owned or administered by, or under the jurisdiction of, the United States and not subject to the laws of this state.

(4) “Livestock” means animals of the bovine species, horses, mules, asses, sheep, goats and swine.

(5) “Livestock district” means an area wherein it is unlawful for livestock or a class of livestock to run at large.

(6) “Open range” means an area wherein livestock may lawfully be permitted to run at large. [Amended by 1957 c.604 §2; part derived from 1957 c.604 §§17,28; 1971 c.647 §132; 1981 c.413 §5; 1983 c.83 §107]

607.007 “Adequate fence,” “estrays animal,” “taking up” defined. As used in this chapter, unless the context requires otherwise:

(1) “Adequate fence” means a continuous barrier consisting of natural barriers, structures, masonry, rails, poles, planks, wire or the combination thereof, installed and maintained in a condition so as to form a continuous guard and defense against the ingress or egress of cattle or equines into or from the lands enclosed by the barrier. Natural barriers may include hedges, ditches, rivers, streams, ponds or lakes.

(2) “Estrays animal” means:

(a) Cattle, bison or equines that are unlawfully running at large or being permitted to do so; or

(b) Cattle or equines that are found to be trespassing on land enclosed by an adequate fence.

(3) “Taking up” means the intentional exertion of control over an estrays animal, including but not limited to the restriction of movement, holding under herd, feeding, pasturing or sheltering of the animal. [1971 c.579 §2; 2005 c.22 §411; 2009 c.336 §1; 2013 c.312 §4]

LIVESTOCK DISTRICTS

607.008 Incorporated cities are livestock districts. All incorporated cities are livestock districts. [1957 c.604 §3]

607.010 [Amended by 1957 c.604 §4; repealed by 2019 c.450 §9]

607.012 [1957 c.604 §5; repealed by 2019 c.450 §9]

607.013 [1957 c.604 §§6,7; repealed by 2019 c.450 §9]

607.015 [Amended by 1957 c.604 §8; 1971 c.647 §133; 1975 c.647 §50; 1983 c.350 §317; repealed by 2019 c.450 §9]

607.018 Livestock district creation or annexation. (1) A landowner who desires to create a livestock district, or to annex property to an existing livestock district, may apply to the county governing body for formation of, or annexation to, the district. The request shall be filed with the county clerk of the county where the land proposed for inclusion in the district is located. If the application is for the formation of a livestock district, the application shall set forth the name by which the proposed district is to be designated, and shall describe the boundaries of the proposed district. If the application is for annexation to an existing district, the application shall state the name of the district, the location of the district and the location of the land proposed for annexation to the district.

(2) The governing body, or a hearings officer designated by the governing body, shall schedule a public hearing regarding the request. The hearing must be held not less than 30 or more than 90 days after receipt of the application.

(3) The county clerk shall send notice by certified mail to the applicant and to:

(a) Owners of record, as shown on the most recent property tax assessment roll, of property:

(A) Located within the proposed or existing district;

(B) Proposed for annexation to an existing district; or

(C) Located within 500 feet of the boundaries of a proposed district or area proposed for annexation to an existing district; and

(b) Any neighborhood or community organization recognized by the governing body and having boundaries within the proposed livestock district.

(4) The notice mailed by the county clerk shall:

(a) Explain the nature of the application and identify what livestock or class of livestock are or would be permitted to run at large within the livestock district, including any age or breed limitations;

(b) Clearly identify the location of the proposed or existing district, and the location of any area proposed for annexation to an existing district, including both legal and commonly employed geographical references;

(c) State the date, time and location of the hearing;

(d) Include the name of a county government representative to contact and the telephone number where additional information may be obtained;

(e) State that a copy of the application and all documents and exhibits submitted by or on behalf of the applicant are available for inspection at no cost and will be provided at reasonable cost;

(f) If county staff has prepared or is preparing a report regarding the proposed livestock district or annexation, state that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and that copies of the report will be available at reasonable cost; and

(g) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

(5) The county clerk shall mail notice under subsection (3) of this section at least 20 days before the hearing date.

(6) The county clerk shall publish a notice of the hearing in the newspaper having the largest general circulation in the county. If the application is for formation of a livestock district, the notice shall be headed: "Notice of the Proposed Formation of _____ Livestock District, _____ County," stating the name of the proposed district and the name of the county. If the application is for annexation to an existing livestock district, the notice shall be headed: "Notice of the Proposed Annexation to _____ Livestock District, _____ County," stating the name of the existing district and the name of the county. The notice shall:

(a) State the time and place of the hearing on the matter of formation of, or annexation to, the district;

(b) Clearly identify the location of the proposed or existing district, and the location of any area proposed for annexation to an existing district, including both legal and commonly employed geographical references; and

(c) Explain the nature of the application and identify what livestock or class of livestock are or would be permitted to run at large within the livestock district, including any age or breed limitations.

(7) The notice required by subsection (6) of this section shall be published once a week for two successive weeks prior to the time fixed for the hearing. A copy of the published notice shall be forwarded to the State Department of Agriculture by certified mail.

(8) The applicant for formation of, or annexation to, the livestock district shall provide the county governing body or hearings officer with copies of all documents and exhibits that the applicant intends to introduce at hearing in support of the application. The county governing body or hearings officer shall establish the deadline for applicant submission of the documents and exhibits, which may not be later than seven days before the hearing date. The county clerk shall make documents and exhibits submitted under this section available for inspection by the public at no cost and provide copies at reasonable cost.

(9) Any staff report used at the hearing shall be available at least seven days prior to the hearing.

(10) If documents or exhibits are provided in opposition to formation of, or annexation to, the livestock district, the county governing body or hearings officer may allow a continuance or leave the record open to allow the applicant a reasonable opportunity to respond. [2019 c.450 §2]

607.020 [Amended by 1957 c.604 §9; 1977 c.308 §1; 1983 c.83 §108; 1995 c.268 §1; repealed by 2019 c.450 §9]

607.021 Livestock district characteristics. (1) A livestock district must contain at least 2,000 acres.

(2) A livestock district may not cross the boundaries of a county. Except as provided in subsection (3) of this section, the boundaries of a livestock district must follow subdivision lines of sections, section lines, township lines, donation land claim boundaries or lines, lakes, rivers, the boundary line of this state, public roads or county boundary lines.

(3) The boundary of an established livestock district may be used as a boundary for a proposed livestock district if the districts are adjacent to each other and will have a common boundary line.

(4) An area may be annexed to an existing livestock district only if the annexed area is contiguous with the livestock district and the district boundaries after annexation will meet the requirements in subsection (2) of this section. [2019 c.450 §3]

607.024 Action on livestock district application. (1) No later than 30 days after closing of the record for a hearing under ORS 607.018, the county governing body shall take action on the application that was the subject of the hearing. The county governing body may deny the application or may conditionally approve the application.

(2) An applicant for the formation of a livestock district may, not later than 90 days after the county governing body conditionally approves the application, submit a petition signed by a majority of the landowners of record within the proposed livestock district. If the county governing body has conditionally approved the application and receives a petition under this subsection, the county governing body shall declare the livestock district established. If the county governing body does not receive a petition as described in this subsection, notwithstanding any conditional approval the county governing body shall deny the application for the proposed livestock district.

(3) An applicant for the annexation of land to an existing livestock district may, not later than 90 days after the county governing body conditionally approves the application, submit a petition signed by a majority of the

landowners of record within the livestock district and a majority of the landowners within the area proposed for annexation to the district. If the county governing body has conditionally approved the application and receives a petition under this subsection, the county governing body shall declare the land annexed to the livestock district. If the county governing body does not receive a petition as described in this subsection, notwithstanding any conditional approval the county governing body shall deny the application for annexation.

(4) If an application is denied under subsections (1) to (3) of this section, an application filed less than 12 months after the denial may not include any of the same land as the denied application. [2019 c.450 §4]

607.025 [Amended by 1957 c.604 §10; 1995 c.712 §110; repealed by 2019 c.450 §9]

607.028 Livestock district withdrawals or dissolution. (1) An area containing 2,000 acres or more may be withdrawn from a livestock district in the same manner as for annexation to a livestock district under ORS 607.018 and 607.024, except that a petition must be signed by all landowners of record within the area that is proposed to be withdrawn, and not by a majority of the landowners of record within the livestock district and a majority of the landowners within the area proposed for withdrawal from the district. A livestock district may be dissolved in the same manner as provided for the formation of a livestock district under ORS 607.018 and 607.024, except that a petition must be signed by all landowners of record within the livestock district that is proposed to be dissolved, and not by a majority of the landowners of record within the livestock district. Notices sent or published regarding an application for withdrawal or dissolution shall clearly state that the purpose of the application is to allow livestock or a class of livestock to run at large on the land described in the application.

(2) The boundary of an area to be withdrawn from a livestock district must be drawn in compliance with ORS 607.021, except to the extent that it follows the boundary of the livestock district.

(3) No withdrawal from a livestock district shall be allowed if the area remaining within the livestock district will be less than 2,000 acres.

(4) Any withdrawal from or dissolution of a livestock district which is the subject of an order of the State Department of Agriculture issued under section 33, chapter 604, Oregon Laws 1957, shall be made with reference to the boundaries established by that order. [2019 c.450 §5]

607.030 [Amended by 1957 c.604 §11; repealed by 1971 c.647 §149]

607.032 Publication of county governing body declarations. (1) If a county governing body declares the formation of a livestock district, or the annexation of land to a livestock district, the county clerk shall give notice of the formation or annexation by publication, in the newspaper having the largest general circulation in the county, once a week for two consecutive weeks, that on and after the 60th day from the date of the first publication of the notice it shall be unlawful for livestock or a class of livestock to be permitted to run at large within the boundaries of the livestock district. The notice shall state the district boundaries as existing following the county governing body declaration and shall also set forth the penalties for violation of ORS 607.045. A notice of livestock district formation shall also state the name by which the district is to be known.

(2) If the county governing body declares the withdrawal of land from a livestock district or the dissolution of a livestock district, the county clerk shall give notice of the withdrawal or dissolution by publication, in the newspaper having the largest general circulation in the county, once a week for two consecutive weeks, that on and after the 60th day from the date of the first publication of the notice it shall be lawful for livestock or a class of livestock to run at large within the area affected by the withdrawal or dissolution. The notice shall state the boundaries of the area affected by the county governing body declaration.

(3) The county clerk shall maintain a copy of each notice published under this section in the county records. The county clerk shall also mail one certified copy of the last publication of the notice, by certified or registered mail, to the State Department of Agriculture. Formation of, annexation to, withdrawal from or dissolution of a livestock district is not effective until the later of the date in the notice published under this section or the date the certified copy of the last published notice is sent to the department. [2019 c.450 §6]

607.035 [Repealed by 1971 c.647 §149]

607.040 [Amended by 1957 c.604 §12; repealed by 2019 c.450 §9]

607.042 [1957 c.604 §13; repealed by 2019 c.450 §9]

607.043 [1957 c.604 §14; repealed by 2019 c.450 §9]

607.044 Civil liability for livestock at large in livestock district. A person shall be liable to the owner or lawful possessor of land if the person permits an animal of a class of livestock to run at large upon such land and the land is located in a livestock district in which it is unlawful for such class of livestock to be permitted to run at large. [1957 c.604 §15]

607.045 Livestock at large in livestock districts. (1) No person owning or having the custody, possession or control of an animal of a class of livestock shall permit the animal to run at large or to be herded, pastured or to go upon the land of another in a livestock district in which it is unlawful for such class of livestock to be permitted to run at large.

(2) This section is not intended to prohibit a person from driving livestock along a public road.

(3) Justice and circuit courts have concurrent jurisdiction of actions for the prosecution of violations of this section. [Amended by 1957 c.604 §16]

607.050 [Repealed by 1957 c.604 §41]

607.051 Status of districts designated by order of State Department of Agriculture. The livestock districts designated by order of the State Department of Agriculture under section 33, chapter 604, Oregon Laws 1957, shall be subject in all respects to the provisions of ORS 607.005 to 607.045. [1957 c.604 §37]

607.055 Application of livestock confinement laws to federal lands. To the extent permitted by federal law, lands owned or administered by or under the jurisdiction of the United States, other than federal land as defined in ORS 607.005, shall be treated in the same manner as private lands for purposes of ORS chapter 607 and ORS 608.015, 608.310 to 608.400, 608.510 and 608.990. [1999 c.625 §1]

Note: 607.055 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 607 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

BISON

607.080 Bison at large in livestock district prohibited. Notwithstanding the contents of any livestock district application described in ORS 607.018, an owner or possessor of bison or bison hybrids may not permit the bison or bison hybrids to run at large. [2013 c.312 §3; 2019 c.450 §8]

607.085 Civil liability for bison running at large on land. A person is liable to the owner or lawful possessor of land for resulting economic damages if:

(1) The person permits bison to run at large upon the land; or

(2) Bison for which the person is the owner or possessor are running at large or uncontrolled upon the land. [2013 c.312 §2]

607.105 [Repealed by 1957 c.604 §41]

607.110 [Repealed by 1957 c.604 §41]

607.115 [Repealed by 1957 c.604 §41]

607.120 [Repealed by 1957 c.604 §41]

607.125 [Repealed by 1957 c.604 §41]

607.130 [Repealed by 1957 c.604 §41]

607.135 [Repealed by 1957 c.604 §41]

607.140 [Repealed by 1957 c.604 §41]

607.205 [Repealed by 1957 c.604 §41]

607.210 [Repealed by 1957 c.604 §41]

607.215 [Repealed by 1957 c.604 §41]

607.220 [Repealed by 1957 c.604 §41]

607.225 [Repealed by 1957 c.604 §41]

607.230 [Repealed by 1957 c.604 §41]

607.235 [Repealed by 1957 c.604 §41]

607.240 [Repealed by 1957 c.604 §41]

607.245 [Repealed by 1957 c.604 §41]

607.250 [Repealed by 1957 c.604 §41]

607.255 [Repealed by 1957 c.604 §41]

607.260 [Repealed by 1957 c.604 §41]

STOCK RUNNING AT LARGE ON OPEN RANGE

607.261 Stock running at large on open range. (1) No person shall turn upon, or allow to run upon, the open range, any bull other than a purebred bull of a recognized beef breed. The State Department of Agriculture shall by regulation define “purebred bull of a recognized beef breed.” No person shall turn upon, or allow to run upon, the open range, any female breeding cattle unless the person turns with such female breeding cattle one purebred bull of a recognized beef breed for every 25 females or fraction thereof of 10 or over.

(2) No owner of any stallion or jackass, of the age of 18 months or more, shall permit it to run upon the open range during the period April 1 to October 31 of each year. No owner of any ram shall permit it to run at large upon the open range during the period July 1 to October 31 of each year. [1957 c.604 §18]

ESTRAY ANIMALS; INTERFERING WITH ANIMALS

607.300 Determining adequacy of fences; rules; fees. If cattle or equines break through a fence on the open range and a determination of the adequacy of the fence is necessary in order to determine whether the cattle or equines are estray animals, the State Department of Agriculture shall make the determination of the adequacy of the fence and shall consider, among other things, the customs and practices of good animal husbandry in the particular area with reference to fences. The department may adopt rules establishing fees for determining the adequacy of a fence. Fees must be reasonably calculated to compensate the department for the costs of the determination. [1971 c.579 §3; 2009 c.336 §2]

607.301 [1953 c.367 §1; 1957 c.604 §19; repealed by 1971 c.579 §9]

607.303 Owner or lessee of property taking up estray animal; notice to owner and department. (1) A person who finds an estray animal unlawfully being permitted to run at large upon the premises of the person, or premises of which the person has lawful possession or control, may take up the animal if the owner of the animal is known to the person.

(2) A person taking up an animal shall within five days give notice of the taking up by certified or registered mail addressed to the owner or person having control of the animal. The notice shall:

(a) Contain a concise description of the animal, including marks and brands, if any.

(b) State that the animal will be released to and sold by the State Department of Agriculture as an estray animal unless redeemed before sale.

(c) State the date of taking up the animal and that the department may sell an unclaimed animal not less than 30 days and not more than 45 days after the date of taking up the animal.

(3) A person taking up an animal shall, no later than five days after giving the notice provided in subsection (2) of this section, forward a copy of the notice to the department or give a copy of the notice to a brand inspector or other agent of the department. [1957 c.604 §24; 2009 c.336 §3]

607.304 Delivery of estray animal to department or owner; payment of costs to person taking up animal; arbitration of costs; fee. (1) If the owner of an estray animal does not appear in response to the notice given under ORS 607.303 (2), the person taking up the animal shall deliver the animal to the State Department of Agriculture, at a place designated by the department, at least 48 hours in advance of the date of sale. The time of sale may not be less than 30 days and not more than 45 days after the date of taking up the animal. The State Department of Agriculture shall sell the animal in accordance with ORS 607.328.

(2) If the owner of the animal does appear, the person taking up the animal shall deliver the animal to the owner or agent if the owner pays to the person, before the date of sale:

- (a) The cost of taking up the animal;
- (b) The cost of giving notice;
- (c) The cost of keeping the animal; and
- (d) The cost of repairing any damage done by the animal to the property of the person.

(3) The person taking up the animal, upon delivering the animal to the owner, shall notify the department of the delivery.

(4) If the owner is unable to agree with the person taking up the animal as to the amount of the costs payable to the person, no later than five days after the owner is advised of the amount of the payable costs, the owner shall:

(a) Pay an arbitration fee of \$150 to the department; and

(b) Give written notice to the department and the person taking up the animal that the owner disagrees with the amount of the costs, desires arbitration of the disagreement and desires that the department furnish a list of arbitrators.

(5) Upon receiving the notice of the owner described in subsection (4) of this section, the department shall furnish to the owner and the person taking up the animal the names of five arbitrators selected from the list of qualified persons maintained in accordance with subsection (10) of this section. No later than five days after receiving the list of arbitrators, the owner shall give written notice to the department and the person taking up the animal of the name of the arbitrator appointed by the owner from the list. No later than five days after receiving the list of arbitrators, the person taking up the animal shall give written notice to the department and to the owner of the name of the arbitrator appointed by the person from the list.

(6) Upon receiving the notices of appointment of arbitrators, as provided in subsection (5) of this section, the department shall give written notice to each appointed arbitrator of the arbitrator's appointment.

(7) Upon receiving notice as provided in subsection (6) of this section, each of the two arbitrators shall notify the department in writing whether the arbitrator accepts the appointment. Upon acceptance of appointment by an arbitrator appointed by the owner and an arbitrator appointed by the person taking up the animal, the department shall appoint a third arbitrator. An acceptance of appointment by the third arbitrator must be in writing. The department shall pay each appointed arbitrator \$50 from the money paid to the department under subsection (4) of this section for arbitration services. The three arbitrators shall act as a board of arbitration and may hear witnesses, take testimony, inspect documents, the animal and premises and may issue a decision as to the amount allowable as costs. The decision shall be by majority vote and conclusive as to the owner and person taking up the animal upon receipt of the decision by the department. Written notice of the decision shall be given to the department, the owner and the person taking up the animal no later than 30 days after the appointment of the third arbitrator.

(8)(a) If the owner gives the notice to the department and the person taking up the animal that the owner disagrees with the amount of the costs, but does not indicate in the notice a desire to arbitrate or a desire to have a list of arbitrators furnished to the owner, the owner's right to arbitration is waived and the person taking up the animal shall deliver the animal to the department at a place designated by the department. The department shall then sell the animal in accordance with ORS 607.328.

(b) If the person taking up the animal fails to give a notice of appointment required under subsection (5) of this section, the person waives the right to arbitration and the animal may not be sold. The owner shall be entitled to the immediate possession of the animal without payment of any of the costs described in subsection (2) of this section.

(9) At any time during the arbitration provided for in this section, the owner of the animal may give written notice to the department and the person taking up the animal of the owner's desire to regain immediate possession and custody of the animal. If the owner gives such notice, and at the same time deposits with the department a cash deposit in an amount equal to the accrued costs claimed by the person taking up the animal as of the date the notice is given, the animal shall be released to the owner or agent within 48 hours after the giving of notice and cash deposit. The department is authorized to pay the costs determined by the arbitrators under subsection (7) of this section to the person taking up the animal and return the balance, if any, to the owner.

(10) The department shall establish and maintain a list of persons qualified by experience and knowledge to act as arbitrators in accordance with subsection (7) of this section. In furnishing the names of five arbitrators, as provided in subsection (5) of this section, the department shall first determine that none of the listed persons:

- (a) Is related to either the owner or person taking up the animal;
- (b) Is, or has been, an agent, employee or business associate of the owner or the person taking up the animal; or
- (c) Has for any reason bias or prejudice toward the owner or the person taking up the animal.

(11) If the owner or the person taking up the animal intentionally fails to disclose to the department that any of the five arbitrators on the list provided under subsection (5) of this section does not meet the criteria described in subsection (10) of this section, the department shall upon determining an intentional failure to disclose:

- (a) Declare the arbitrator disqualified and any arbitration decision previously rendered void and of no effect;
- (b) Select a person from the department's list to replace the disqualified arbitrator; and
- (c) Direct that the arbitration be undertaken with the newly appointed arbitrator as a member of the board of arbitration. [1957 c.604 §25; 1971 c.579 §6; 1975 c.65 §1; 1981 c.413 §1; 2009 c.336 §4]

607.305 [Amended by 1953 c.367 §13; renumbered 607.344]

607.306 [1953 c.367 §2; repealed by 1957 c.604 §41]

607.308 Alternative procedure for person taking up estray animal. A person taking up an estray animal of a known owner, instead of following the procedure established by ORS 607.303 and 607.304, may, within five days after taking up the animal, deliver the animal and the notice described in ORS 607.313 (1) to the State Department of Agriculture at a place designated by the department. The department shall dispose of the animal in accordance with ORS 607.321 or 607.328. [1957 c.604 §26; 1975 c.65 §2; 2009 c.336 §5]

607.310 [Repealed by 1953 c.367 §13]

607.311 Taking up estray animal; prohibition. (1) A person who finds an estray animal upon the premises of the person or premises of which the person has lawful possession or control may take up the animal.

(2) A person may not knowingly take up or retain possession, custody or control of an estray animal without giving the notice required by ORS 607.313. [1953 c.367 §9; 1975 c.65 §3; 2009 c.336 §6]

607.313 Notice to department by persons taking up estray animal; recovery of costs. (1) Any person taking up an estray animal shall, within five days, give written notice of the taking up to the State Department of Agriculture. The notice shall include:

- (a) A statement of the description of the animal, including marks and brands or other identifying characteristics.
- (b) The date of the taking up.
- (c) The location of the taking up and present location of the animal.

(2) If a person gives the notice required by subsection (1) of this section but fails to do so within the time allowed, the person may recover only those costs verified by the department of taking up the animal, of giving notice and of keeping the animal, as provided in ORS 607.304 (2), 607.332 and 607.338, that were incurred within five days immediately preceding the giving of the notice. [1971 c.579 §4; 1975 c.65 §4; 1981 c.413 §1; 2009 c.336 §7]

607.315 [Repealed by 1953 c.367 §13]

607.316 [1953 c.367 §3; repealed by 1971 c.579 §9]

607.320 [Repealed by 1953 c.367 §13]

607.321 Investigation by department upon receipt of notice; procedure if department determines owner. (1) The State Department of Agriculture, upon receiving a notice as described in ORS 607.313, shall attempt to determine the owner of the estray animal from the recorded brand, marks, other identifying characteristics and other relevant information tending to establish ownership.

(2) A record of the findings of the department supporting a determination of ownership shall be made and retained by the department for three years.

(3) The department shall have 20 days after receiving a notice described in ORS 607.313 to determine the owner of an estray animal. If the department determines the owner of the animal within 20 days, the department shall send written notice to the owner and the person taking up the animal, at their last-known addresses. The notice shall contain

the matters described in ORS 607.328 (2)(b). If the owner does not appear and claim the animal prior to sale, in accordance with ORS 607.332, the sale shall be carried out as provided in ORS 607.328. [1953 c.367 §4; 1975 c.65 §5; 1981 c.413 §2; 2009 c.336 §8]

607.325 [Repealed by 1953 c.367 §13]

607.326 [1953 c.367 §5; repealed by 1971 c.579 §9]

607.328 Procedure for sale of estray animal; notice. (1) The State Department of Agriculture shall cause an estray animal to be sold at public sale if:

- (a) The department is unable to determine in a timely manner the owner of the animal under ORS 607.321;
- (b) The estray animal of a known owner is delivered to the department under ORS 607.304 (1) or (8); or
- (c) The estray animal of a known owner is delivered to the department under ORS 607.308, and sale of the animal is required because of the owner's failure to appear and claim the animal as provided in ORS 607.332.

(2) Prior to the holding of any public sale, as provided in subsection (1) of this section, the department shall:

- (a) Designate a time and place of public sale. Subject to any other sale date restrictions, the sale shall be held not less than five days after the department receives the notice of taking up.
- (b) Cause a notice of the public sale to be given by posting a written or printed notice of the time and place of sale, a description of the animal and that such sale shall take place if the animal is not claimed by the owner prior to the sale. The posting shall be in two public places of the county where the animal was taken up for not less than 48 hours prior to the date of sale. If the department is satisfied that adequate notice has been given an owner pursuant to ORS 607.303 (2), notice need not be posted. [1971 c.579 §5; 1975 c.65 §6; 1981 c.413 §3; 2007 c.71 §182; 2009 c.336 §9]

607.330 [Repealed by 1953 c.367 §13]

607.331 [1953 c.367 §6; repealed by 1957 c.604 §41]

607.332 Claim by owner before sale. (1) If the owner of an estray animal appears and claims the animal prior to sale, the owner shall pay to the State Department of Agriculture all costs described in ORS 607.337 (1) and, except as limited by ORS 607.313 (2), shall pay to the person taking up the animal all accrued costs described in ORS 607.304 (2). Upon such payment, the department shall release the animal to the owner or the agent of the owner. Except as provided in subsection (2) of this section, if the owner fails to pay the costs, the sale shall be carried out in accordance with ORS 607.328.

(2) If the owner is unable to agree with the person taking up the animal as to the amount of the costs payable to the person, the owner and the person shall proceed with arbitration of the disagreement as provided by ORS 607.304 (4) to (10). [1957 c.604 §21; 1975 c.65 §7; 2009 c.336 §10]

607.335 [Repealed by 1953 c.367 §13]

607.336 Title of purchaser at sale. The purchaser of an animal sold in accordance with ORS 607.328 shall have clear and absolute title to the animal. [1953 c.367 §8; 1975 c.65 §8; 2009 c.336 §11]

607.337 Use of proceeds from sale to pay department costs. (1) All costs incurred by the State Department of Agriculture in the taking up and sale of an estray animal shall be paid from the sale proceeds in the following priority:

- (a) Cost of publication of notice.
- (b) Cost of the sale.
- (c) Cost of transportation of the animal to the point of sale.
- (d) Reasonable cost of feed and care prior to sale.
- (e) All other costs including the time and mileage of the employees of the department.

(2) If the proceeds of the sale are inadequate to pay all of the costs mentioned in subsection (1) of this section, the department shall pay the deficiency.

(3) Subject to ORS 607.338 (1) and (3), any balance remaining from the proceeds of sale shall be transmitted to the department. The department shall deposit the proceeds balance in the Department of Agriculture Account in the General Fund. Proceeds so deposited shall be held in such account for a period of one year subject to claim by the owner.

(4) If the owner fails to establish the right of the owner to the proceeds of sale within one year, all right, title and claim thereto shall be transferred to the department to expend and use in carrying out this chapter and ORS chapter

604. [1957 c.604 §§22,23; 1967 c.113 §1; 1967 c.637 §21; 1991 c.660 §4; 2009 c.336 §12]

607.338 Use of proceeds from sale to pay person taking up animal; arbitration of costs; fee. (1) If the State Department of Agriculture sells an estray animal under ORS 607.328, the department shall first recover from the proceeds of the sale the costs described in ORS 607.337 (1), and from any balance remaining pay to the person taking up the animal the costs described in ORS 607.304 (2), except as limited by ORS 607.308, 607.313 (2) and subsection (2) of this section.

(2) If the department sells under ORS 607.328 an estray animal that was delivered to the department under ORS 607.304 (1), the department shall allow to the person taking up the animal only reasonable costs. The department's determination of reasonable costs shall be final. However, the department may, upon written request of the person taking up the animal, submit the question of the amount of reasonable costs to arbitration. If the question is submitted to arbitration, the department shall furnish to the person taking up the animal the names of five arbitrators selected from the list of qualified persons maintained in accordance with ORS 607.304 (10), and the person taking up the animal shall appoint one arbitrator from the list within five days of receiving the list. The department shall then appoint one arbitrator and the two arbitrators shall jointly appoint a third arbitrator from the list. The two arbitrators shall give written notice of the appointment of the third arbitrator to the department and the person taking up the animal no later than five days after receiving the list. The three arbitrators shall act as a board of arbitration and may hear witnesses, take testimony, inspect documents, the animal and the premises and issue a decision as to the amount of reasonable costs. The decision of the arbitrators shall be final. Written notice of the decision shall be given to the department and the person taking up the animal no later than 30 days after the appointment of the third arbitrator. The person taking up the animal shall pay an arbitration fee of \$150 to the department at the time of submitting the written request for arbitration, from which the department shall pay each appointed arbitrator \$50 for arbitration services.

(3) Any balance remaining from the proceeds of the sale after the department has reimbursed itself and has paid the costs of the person taking up the animal shall be paid to the owner of the animal. If the owner fails to establish the right to the remaining proceeds within one year after the sale, all rights to the proceeds shall vest in the department to use in carrying out the provisions of this chapter and ORS chapter 604.

(4) This section does not require the department to pay the costs of the person taking up the animal if the proceeds of the sale of the animal are not sufficient to pay those costs. [1957 c.604 §27; 1971 c.579 §7; 1975 c.65 §9; 1981 c.413 §4; 2009 c.336 §13]

607.339 Liability of department. Except for gross negligence the State Department of Agriculture is not liable for the payment of the proceeds of sale or return of custody of an estray animal to a person claiming to be the true owner of the animal. [1953 c.367 §7; 2009 c.336 §14]

607.340 [Repealed by 1953 c.367 §13]

607.341 Jurisdiction of courts. Justice courts shall have concurrent jurisdiction with circuit courts of proceedings brought on violations of ORS 607.303 to 607.341. [1953 c.367 §11]

607.344 "Freshly branded" defined for ORS 607.345 to 607.360. As used in ORS 607.345 to 607.360, "freshly branded" means any animal on which there is a brand that has not been peeled off or entirely healed. [Formerly 607.305]

607.345 Interfering with calves and colts on open range; selling freshly branded cattle or horses. No person shall:

(1) Hold under herd, confine in any pasture, building, corral or other enclosure, or picket out, hobble or tie together, or in any manner interfere with the freedom of calves or neat cattle or colts of horses, on the open range, which are less than seven months old, unless such animals are accompanied by their mothers.

(2) Sell or offer to sell any freshly branded neat cattle or horses.

607.350 Producing, on demand, the mothers of calves or colts. The person, separating calves or colts from their mothers shall, upon demand of the sheriff, inspector or other officer, produce, within a reasonable time, the mother of each such animal, so that the interested parties may ascertain if the animal, so produced as the mother thereof, does or does not claim or suckle such calf or colt.

607.355 Disposal of calves and colts wrongfully held. All animals held in violation of ORS 607.345 or 607.350 shall be considered estray animals. The nearest stock inspector, upon learning of the violation, shall cause the animals

to be disposed of as estray animals under the laws in force in the stock inspector's county or district. [Amended by 2009 c.336 §15]

607.360 Applicability of statutes regulating handling of calves and colts. ORS 607.345 to 607.355 do not apply to:

(1) The calves of milch cows where such cows are actually used to furnish milk for household purposes or for carrying on a dairy.

(2) Any freshly branded animal which has been branded previously with an older and duly recorded brand, and for which animal the claimant has a legally executed bill of sale from the owner of the older brand on such animal.

(3) Young animals under the age of 10 months which are accompanied by their mothers.

(4) Animals other than cattle or horses, or the offspring thereof, which during some period of the year run at large upon the public range.

607.365 Driving domestic animals from range. (1) No person, who is not the owner of such animal, shall take or drive, cause to be taken or driven, or assist in driving or taking away any horse, gelding, mare, foal, mule, ass, jenny, bull, cow, heifer, steer, calf, sheep, hog or any other domestic animal from the range or place where it is lawfully grazing, pasturing or ranging, or in the habit of ranging, or where it has been herded or placed by the owner thereof, for a distance of more than 10 miles from such place.

(2) Persons violating this section shall be liable to the owner of such animal for all damages sustained by reason of such driving or taking away of such domestic animal. [Formerly 606.210; 2011 c.597 §246]

607.405 [Repealed by 1957 c.604 §41]

607.410 [Repealed by 1957 c.604 §41]

607.415 [Repealed by 1957 c.604 §41]

607.420 [Repealed by 1957 c.604 §41]

607.425 [Repealed by 1957 c.604 §41]

607.430 [Repealed by 1957 c.604 §41]

607.435 [Repealed by 1957 c.604 §41]

607.440 [Repealed by 1957 c.604 §41]

607.445 [Repealed by 1957 c.604 §41]

REGULATION OF STOCK ON CERTAIN HIGHWAYS

607.505 Stock running at large and grazing on Klamath Falls-Malin Highway. (1) No person shall permit cattle, horses, mules, sheep, goats or hogs to run at large, be pastured, staked or tethered upon the state highway extending from the easterly boundary of the incorporated City of Klamath Falls to the westerly boundary of the incorporated City of Malin.

(2) As used in this section, "state highway" includes only those highways over which the Department of Transportation has control.

607.510 Stock running at large and grazing on certain state highways. No person shall allow cattle, horses, mules, sheep, goats, swine or other livestock of any kind, to run at large, be pastured, staked or tethered upon the following state highways:

(1) That part of the Oregon Coast Highway, State Highway No. 9, extending from the north boundary of Tillamook County to the south boundary of Lane County.

(2) That part of the Alsea Highway, State Highway No. 27, from its junction with the Corvallis-Newport Highway in Benton County to Waldport in Lincoln County.

(3) That part of the Corvallis-Newport Highway, State Highway No. 33, from Corvallis in Benton County to Newport in Lincoln County.

(4) That part of the Salmon River Highway, State Highway No. 39, from Valley Junction in Polk County to a connection with the Oregon Coast Highway at or near Otis in Lincoln County.

(5) That part of the Wilson River Highway, State Highway No. 37, from the east boundary of Tillamook County to the intersection of the Wilson River Highway with the Oregon Coast Highway, which is State Highway No. 9. [Amended by 1971 c.579 §8; 1977 c.176 §1]

607.515 Stock at large or grazing on highway from Canyonville to Umpqua National Forest. No person shall permit any cattle, horses, mules, sheep, goats, hogs or other livestock, to run at large, be pastured, staked or tethered upon the state highway extending from the easterly boundary of the incorporated City of Canyonville easterly to the west boundary of the Umpqua National Forest.

607.520 Stock running at large on highways in Washington County. No person, either as owner or in possession or control of any horses, mules, cattle, swine, sheep or goats shall permit them to run at large on any highway or public road in Washington County.

607.525 [Repealed by 1957 c.604 §41]

607.527 Stock herded or grazed on interstate and defense highways. (1) Notwithstanding ORS 366.460, 366.465, 374.340 and 607.045 (2) and notwithstanding the existence of an open range area, except as provided by subsection (2) of this section, no person, except in case of emergency, shall drive, herd, pasture, graze, range, tether or stake any livestock, as defined by ORS 607.005, within the boundaries of the right of way for a state highway that is part of the national system of interstate and defense highways, to wit: Interstate 5, Interstate 84, or Interstate 82. This section is not intended to prohibit the hauling of livestock, in vehicles, on a highway or the use of structures or undercrossings, constructed and approved as provided by law, as stock ways, nor to abrogate a duty provided under ORS 607.303 to 607.341.

(2) Upon application by an owner or person in charge of livestock, the Director of Transportation or duly authorized local representative may issue written permits, on such terms as the person finds proper, authorizing the owner or person in charge of livestock to herd or drive the livestock on a single trip across or within the boundaries of a right of way for a highway as described in subsection (1) of this section. [1963 c.350 §1; 1993 c.741 §70]

607.530 [Amended by 1955 c.275 §1; repealed by 1957 c.604 §41]

607.535 [Repealed by 1957 c.604 §41]

607.540 [Repealed by 1957 c.604 §41]

607.545 [Repealed by 1957 c.604 §41]

607.550 [Repealed by 1957 c.604 §41]

607.555 [Repealed by 1957 c.604 §41]

607.560 [Repealed by 1957 c.604 §41]

607.565 [Repealed by 1957 c.604 §41]

607.570 [Repealed by 1957 c.604 §41]

607.575 [Repealed by 1957 c.604 §41]

607.605 [Repealed by 1957 c.604 §41]

607.610 [Repealed by 1957 c.604 §41]

607.615 [Repealed by 1957 c.604 §41]

607.620 [Repealed by 1957 c.604 §41]

607.625 [Repealed by 1957 c.604 §41]

607.630 [Repealed by 1957 c.604 §41]

607.635 [Repealed by 1957 c.604 §41]

607.640 [Repealed by 1957 c.604 §41]

607.645 [Repealed by 1957 c.604 §41]

607.650 [Repealed by 1957 c.604 §41]

607.655 [Repealed by 1957 c.604 §41]

607.990 [Amended by 1953 c.367 §13; subsection (2) of 1963 Replacement Part enacted as 1957 c.604 §39; subsection (3) of 1963 Replacement Part enacted as 1953 c.367 §10; subsection (5) of 1963 Replacement Part formerly 606.990; subsection (10) of 1963 Replacement Part enacted as 1963 c.350 §2; repealed by 1967 c.113 §2 (607.992 enacted in lieu of 607.990)]

PENALTIES

607.992 Penalties. (1) A person that intentionally, knowingly or recklessly violates a provision of this chapter is guilty of a Class A misdemeanor.

(2) Except as provided in subsection (3) of this section, a person that violates a provision of this chapter, but does not act intentionally, knowingly or recklessly, commits a Class B violation.

(3)(a) A person that violates ORS 607.045, but does not act intentionally, knowingly or recklessly, commits a Class D violation if the person does not have a previous conviction for a violation of ORS 607.045. As used in this paragraph, “previous conviction” means a conviction entered before the commission of the current violation of ORS 607.045.

(b) Notwithstanding ORS 153.019 or any other requirement pertaining to Class D violation fine amounts, the presumptive fine for a violation described in this subsection is \$60. [1967 c.113 §3 (enacted in lieu of 607.990); 2013 c.312 §5]

Chapter 608 — Fences to Prevent Damage by or to Animals

2019 EDITION

FENCES TO PREVENT DAMAGE BY OR TO ANIMALS

ANIMALS

CIVIL LIABILITY

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FENCING AGAINST HOGS

608.510 Fencing against hogs

PENALTIES

608.990 Penalties

608.010 [Repealed by 1957 c.476 §4]

CIVIL LIABILITY

608.015 Civil liability for animals trespassing on adequately fenced land situated on open range. (1) As used in this section, "open range" means an area wherein livestock may lawfully be permitted to run at large.

(2) A person who permits a horse, mule, ass, sheep, goat or animal of the bovine species to trespass on land enclosed by an adequate fence and situated on open range shall be liable to the owner or lawful possessor of the enclosed land for damage done by the animal. The person seeking to recover the damages shall plead and prove that the fence of the person consisted of structures, masonry, hedges, ditches, rails, poles, planks, rivers, streams, ponds, lakes, wire fences, natural or artificial barriers of any kind or any combination thereof. The adequacy of the fence shall be determined by reference to the customs and practices of good husbandry in the particular area with reference to fences. The question of the existence of the fence and the adequacy thereof are questions of fact.

(3) Nothing contained in subsection (2) of this section is intended to modify the provisions of ORS 608.310 to 608.400. [1957 c.476 §§1,2; 2013 c.1 §78]

608.020 [Repealed by 1957 c.476 §4]

608.030 [Repealed by 1957 c.476 §4]

608.040 [Repealed by 1957 c.476 §4]

608.050 [Repealed by 1957 c.476 §4]

608.060 [Repealed by 1957 c.476 §4]

608.070 [Repealed by 1957 c.476 §4]

608.080 [Repealed by 1957 c.476 §4]

608.210 [Repealed by 1957 c.476 §4]

608.220 [Repealed by 1957 c.476 §4]

608.230 [Repealed by 1957 c.476 §4]

608.240 [Repealed by 1957 c.476 §4]

608.250 [Repealed by 1957 c.476 §4]

608.260 [Repealed by 1957 c.476 §4]

608.270 [Repealed by 1957 c.476 §4]

FENCES AND CROSSINGS ON RAILROAD RIGHT OF WAY; RAILROAD LIABILITY

608.310 Erecting and maintaining fences, crossings, gates and cattle guards; rules. (1) Every person, or the lessee or agent of the person, owning or operating any railroad, shall erect and maintain good and sufficient lawful fences on both sides of the railroad line, except at the crossings of and upon public roads and highways, within such portions of cities as are or may be laid out and platted in lots and blocks and at railroad station grounds. Such person shall also at the same time erect and maintain necessary farm crossings and gates and sufficient cattle guards at all public crossings.

(2) Railroad lines shall be so fenced and farm crossings, gates and cattle guards installed, within three months from the time such lines are put in operation. However, the Department of Transportation may prescribe by rule the number, location and character of farm crossings which may be necessary and the manner in which they shall be constructed so that they are reasonably adequate, safe, sufficient and convenient, but not so as to impair the terms of any contract between the landowner and the railroad or judgment in condemnation relative to such crossings.

(3) The Department of Transportation may, by rule, determine and prescribe any other description of fence than that designated as a lawful fence, which shall be constructed and maintained by any such railroad company between the points which are designated in such rule, and may provide for the apportionment of the costs of reconstruction necessitated thereby as between the parties interested.

(4) The Department of Transportation by rule may suspend the operation of this section as to any particular portion of any line of railroad. [Amended by 1971 c.655 §248; 1995 c.733 §46; 1997 c.249 §186; 2003 c.576 §524]

608.320 Penalty for railroad refusing or failing to maintain fences, gates and guards. (1) Any person shall forfeit and pay into the State Treasury the sum of \$100 for each mile of fence on either side of a railroad, or for each farm crossing, gate or cattle guard which the person fails, neglects or refuses to erect and maintain in violation of ORS 608.310. This shall be recovered as other penalties are recovered and paid into the State Treasury.

(2) If a person neglects or refuses to comply with ORS 608.310 to 608.330, the Attorney General or prosecuting attorney of the proper county may, by mandamus, compel compliance with such sections.

608.530 [Repealed by 1957 c.476 §4]

608.540 [Repealed by 1957 c.476 §4]

PENALTIES

608.990 Penalties. (1) Violation of ORS 608.330 is a Class C misdemeanor.

(2) Violation of ORS 608.380 is a Class A violation.

(3) Violation of ORS 608.510 is a Class D violation. [Amended by 1957 c.476 §3; 1999 c.1051 §207; 2011 c.597 §247]
