



Community Development Department

Planning Division Building Safety Division Environmental Soils Division

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April 6, 2017

**To: The Honorable Brian Clem, Chair
House Committee on Agriculture and Natural Resources**

From: Nick Lelack, AICP, Deschutes County Community Development Director

RE: Deschutes County testimony in support of HB 2222-3

Chair Clem and members of the Committee. Thank you for the opportunity to provide comments on behalf of the Deschutes County Board of Commissioners in support of HB 2222-3. The Association of Oregon Counties has asked that I also represent their support for this legislation.

Deschutes County is consistently one of the fastest growing counties in Oregon, and projected to grow from about 176,000 today to over 357,000 in 2065 according to Portland State University. At the same time, we have demonstrated to be stewards of the Oregon Statewide Planning program through our extensive work engaging citizens and partner organizations in developing and adopting many of the most innovative land use plans, policies and regulations of any county in the state. We are committed to balancing population and economic growth while maintaining and enhancing the rural environment and our extraordinary natural, scenic and recreational resources.

One of our challenges over the past four decades in maintaining this balance has been inaccurately designated agricultural lands. The challenge is that Exclusive Farm Use (EFU) zoning makes it extremely difficult for landowners with these designations from considering other appropriate rural uses on their property. To date, agricultural land designations have been entirely based on soils classifications; other factors that may also be considered in designating or re-designating agricultural lands are summarized below.

- a. Rocky landscape, and poor soil quality and depth.
- b. Limited water due to:
 1. Low rainfall (less than 12 inches per year),
 2. Limited water rights for irrigation (laws of prior appropriation; surface water rights fully allocated; new groundwater uses require mitigation), and
 3. Increased demands of irrigated water for non-agricultural uses (urban and rural development, river).
- c. High elevation (2700-4000 feet) which contributes to a short growing season (88-100 days, the fewest frost free days in Oregon, and the possibility of frost every month of the year).
- d. Land use pattern, including the number, size, and locations of farm and rural residential parcels.
- e. Negative annual average farm income for Deschutes County according to the United States Department of Agriculture, National Agricultural Statistics Service 2012 Census of Agriculture.
- f. Distance to major markets.

Over the past decade, Deschutes County has supported and participated in numerous state legislative processes and coordinated with the Department of Land Conservation and Development (DLCD) to study and legislatively update agricultural land designations. Unfortunately, these efforts have not resulted in a clear path forward to undertake such a process.

Two examples highlight the need to re-evaluate agricultural land designations in Deschutes County because they either (1) do not meet the definition of agricultural land, or (2) are mapped in error today even if they were correctly mapped during the initial Comprehensive Plan acknowledgement in 1979.

1. **Lands that do not meet the definition of agriculture.** The Oregon Department of State Lands (DSL) successfully amended the County's Comprehensive Plan designation from Agriculture to Rural Residential Exception Area, and amended the Zoning Map from the Exclusive Farm Use (EFU) to Multiple Use Agricultural (MUA)-10 for a 340 acre property recently included in the Bend Urban Growth Boundary (UGB). DSL's property had Class 7 and 8 soils with no history of irrigation or prior farm use. DSL is now under contract with a planning consultant to re-designate and rezone an additional 300 acres of agricultural land for similar reasons. This quasi-judicial plan amendment and zone change process costs tens of thousands of dollars in consultant and application fees, and often are subject to land use appeals. These costs are prohibitive for most property owners. Hence, Deschutes County has sought and continues to explore opportunities to conduct a legislative (County) review of agricultural lands.
2. **Lands designated as a farm or forest in error.** Several platted and partially developed subdivisions in Deschutes County are incorrectly designated as Agriculture or Forest with corresponding EFU and Forest zoning. Please find attached five examples of such subdivisions. These subdivisions were created prior to the Statewide Planning Program. They were designated as resource zones during the initial acknowledgement of the County's Comprehensive Plan because they were undeveloped at the time with the potential for farm or forest use of the properties. Since then, the subdivisions have gradually developed by property owners applying for and obtaining approvals for non-farm dwelling conditional use permits (CUPs) or template dwelling CUPs. Each individual CUP costs several thousands of dollars and takes several months to process and is subject to land use appeals.

The authority for Deschutes County to legislatively correct such errors would result in re-designating these subdivisions from Agriculture to Rural Residential Exception in the Comprehensive Plan, and rezoning from EFU to Rural Residential-10 or MUA-10. The outcome would be the same – each lot would be developed with a single family home. The difference would be to remove the time and expense of applying and paying for a CUP review process and approval.

Deschutes County supports HB 2222-3 to provide a path forward to legislatively re-evaluate and accurately designate agricultural lands in the County through a comprehensive and public process. The result will be accurately designated rural lands and rural land uses.

Deschutes County supports HB 2222.3 for several reasons, including:

1. Retains accurately designated and zoned farm and forest lands in the comprehensive plan and zoning map.
2. Addresses lessons learned from the Southern Oregon Regional Pilot Project (SORPP) such as allowing a single county (rather than requiring two or more counties) to initiate the re-evaluation process and a short timeframe to complete the project.

3. Limits land proposed for re-designation to rural land uses consistent with the Statewide Planning Program.
4. Ensures fiscal responsibility and reduces regulatory processes by:
 - a. A county choosing to implement the legislation is required to bear all costs relating to the project.
 - b. A county choosing to implement the legislation shall study the financial impacts of public facilities and services for lands re-designated as non-resource lands.
 - c. Correctly designating rural subdivisions as rural residential areas achieves the same outcomes (single family home on a lot) without requiring the same CUP process.

Thank you for the opportunity to provide comments in support of HB 2222-3.

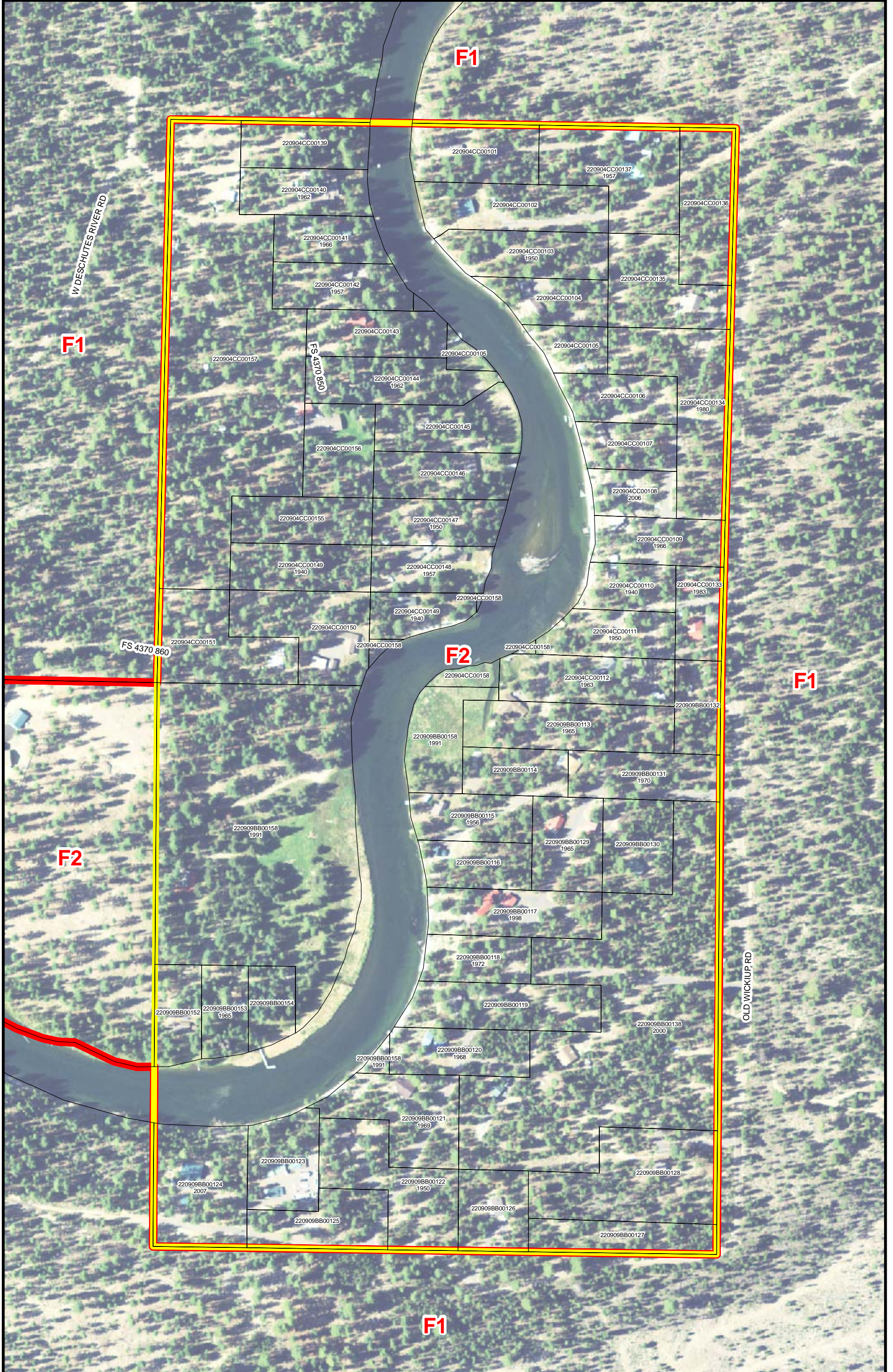
Attachments:

1. Resource (Farm and Forest) Zoned Rural Subdivisions
2. Photographs of Selected EFU Zoned Areas



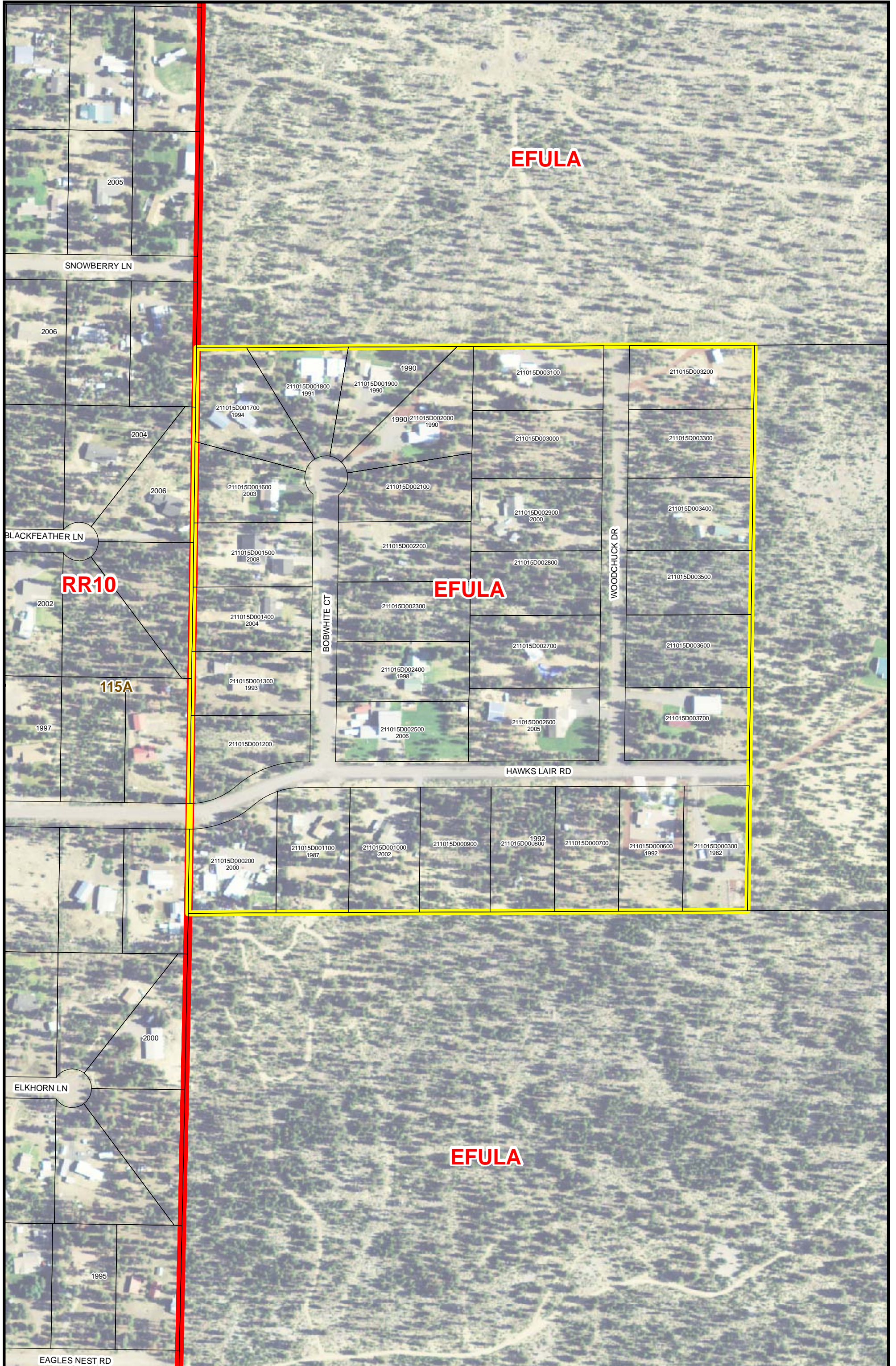
1" = 200'

Haner Park

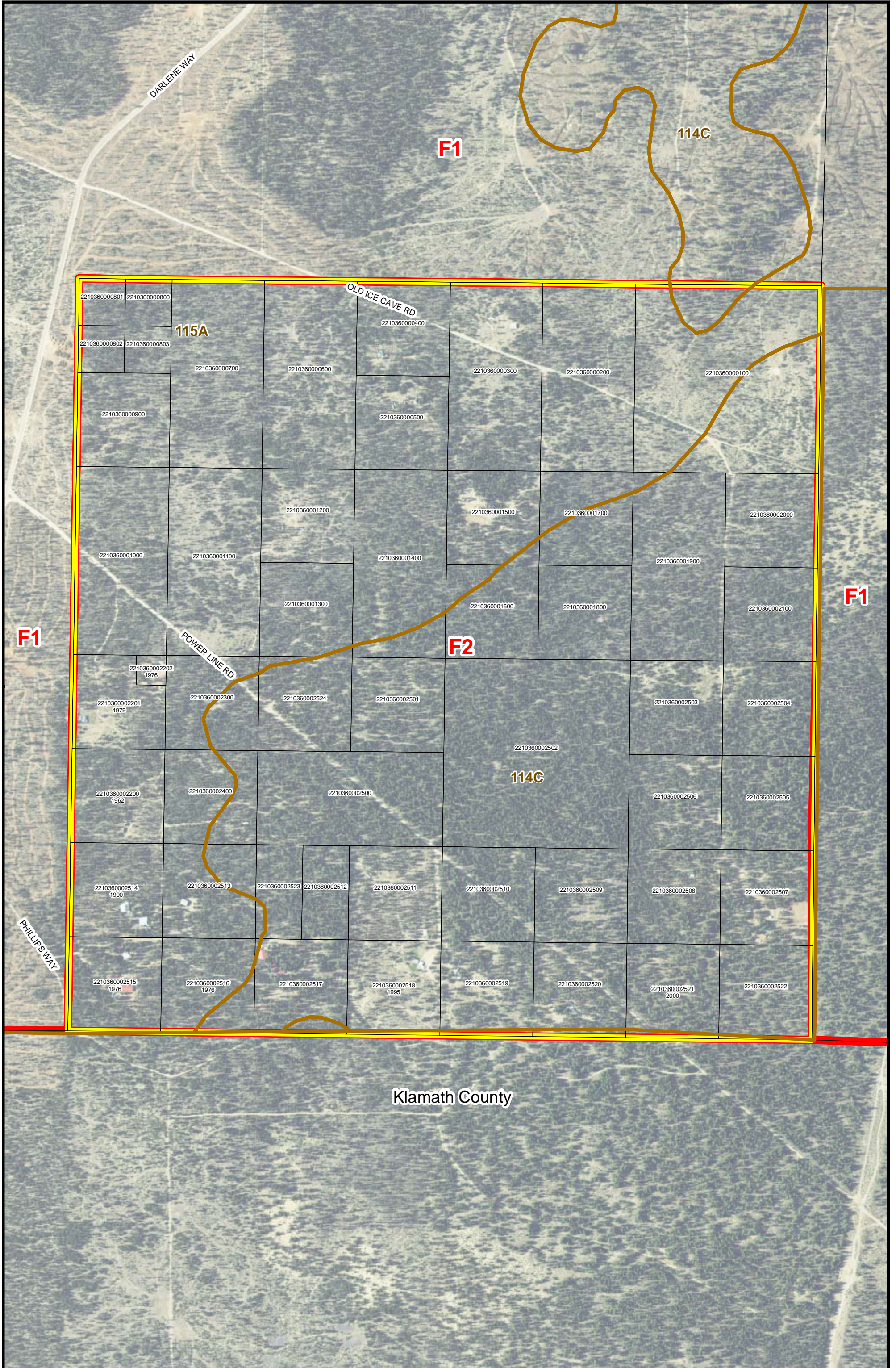




Meadow Crest Acres



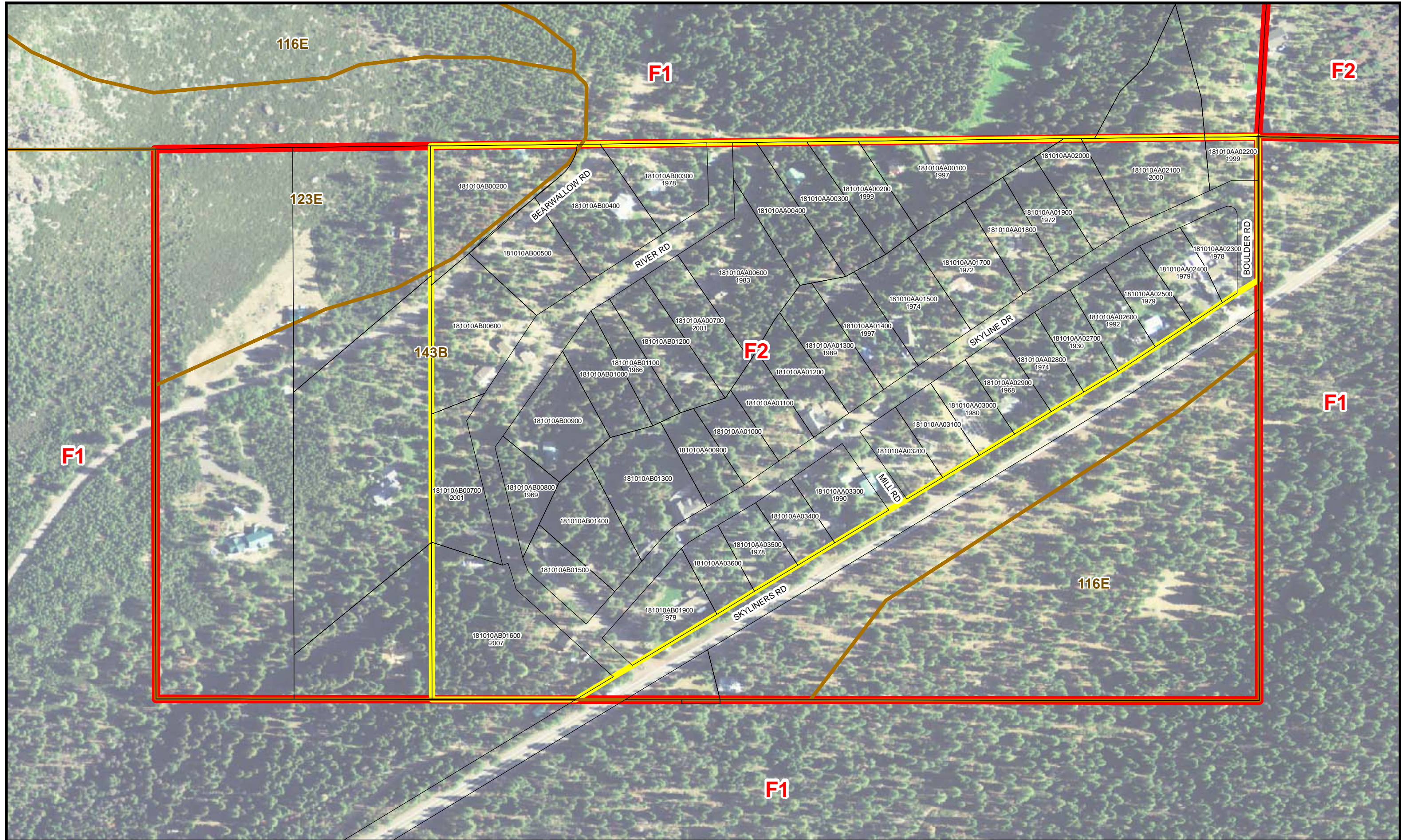
Section 36



Klamath County

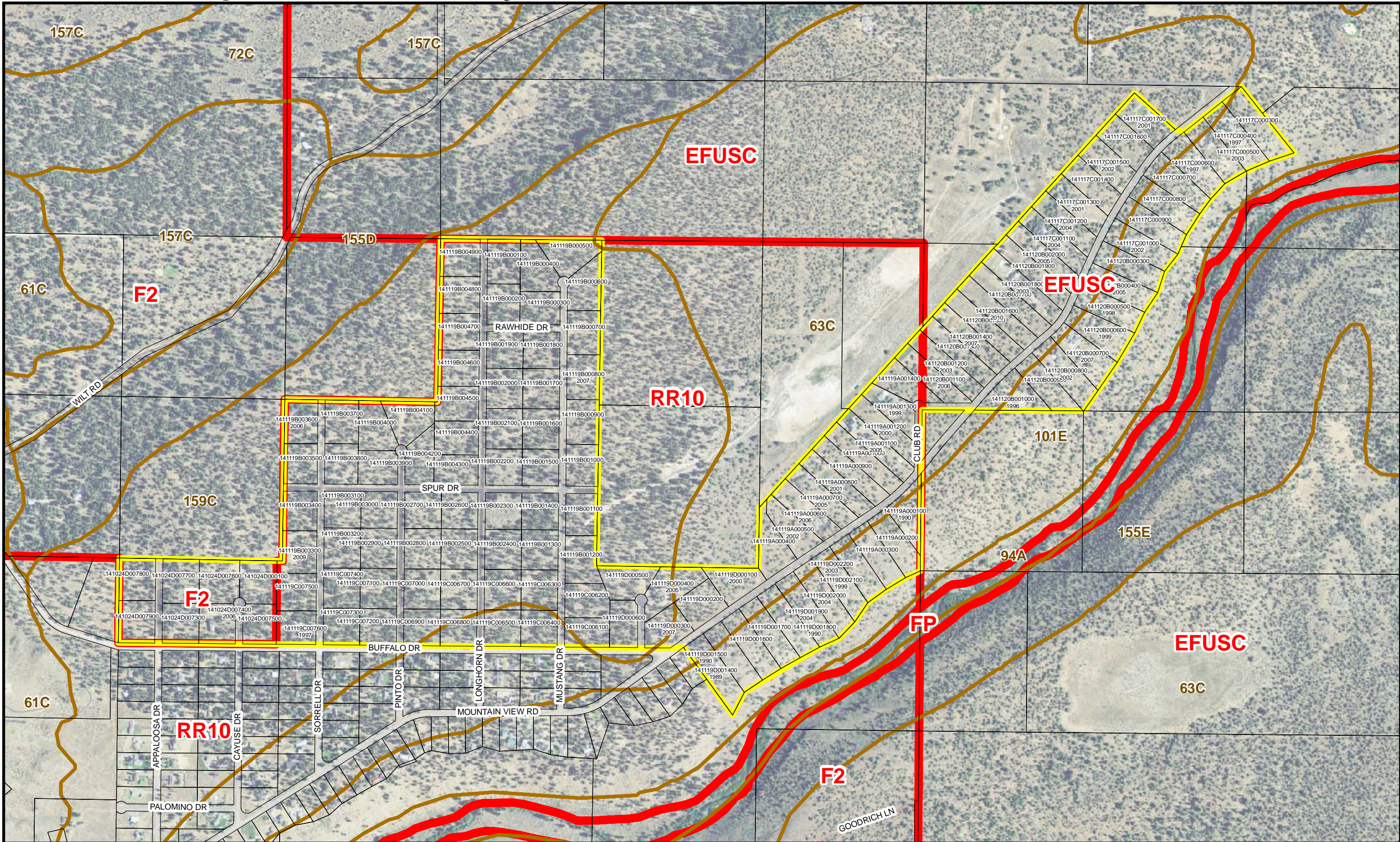


Skyline Subdivision

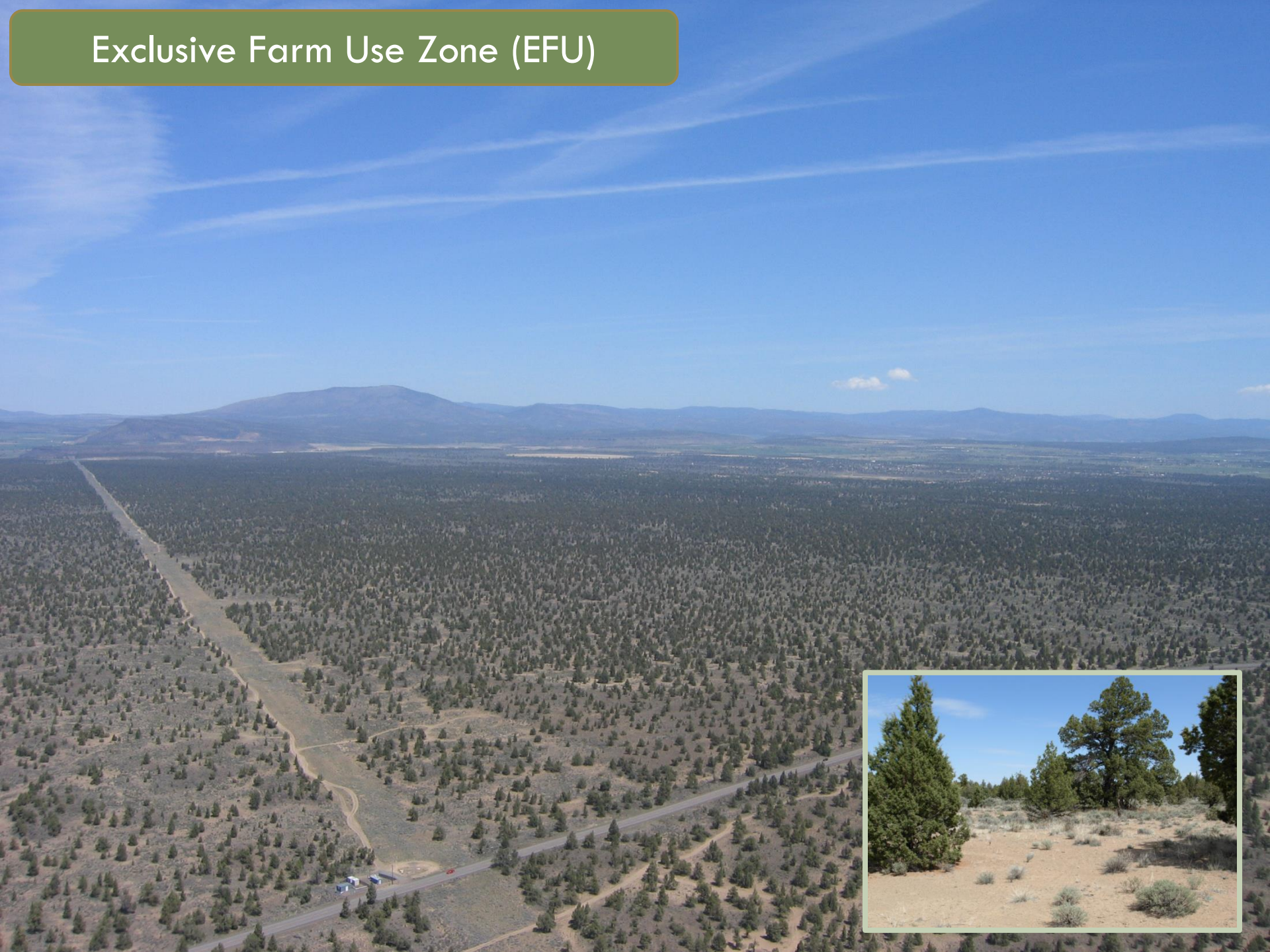




Squaw Creek Canyon Recreational Estates 1st Addition



Exclusive Farm Use Zone (EFU)



Exclusive Farm Use Zone (EFU)



Exclusive Farm Use Zone (EFU)

