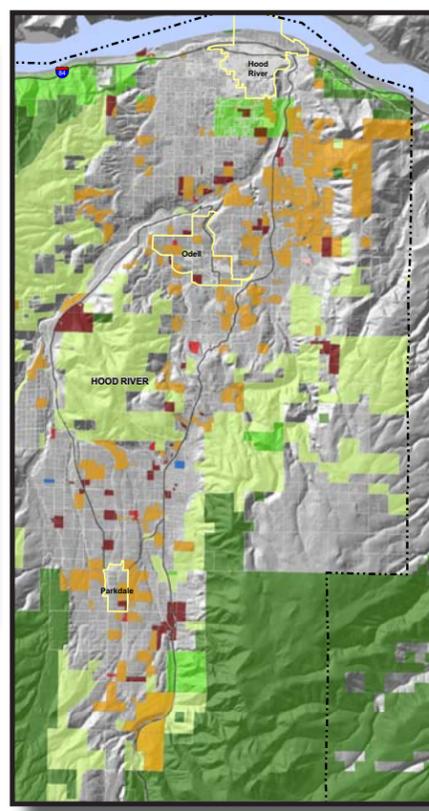
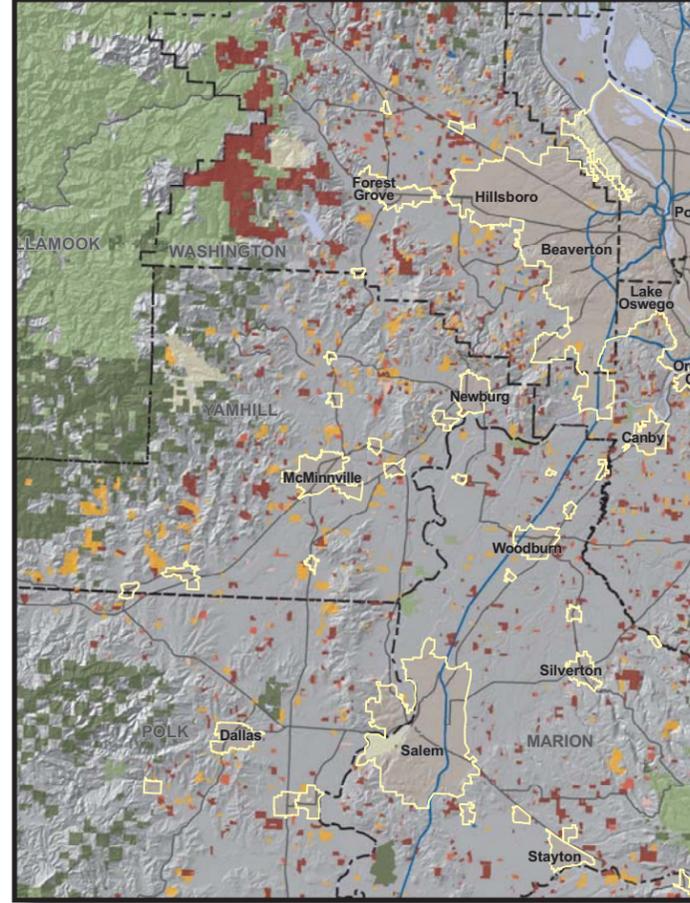
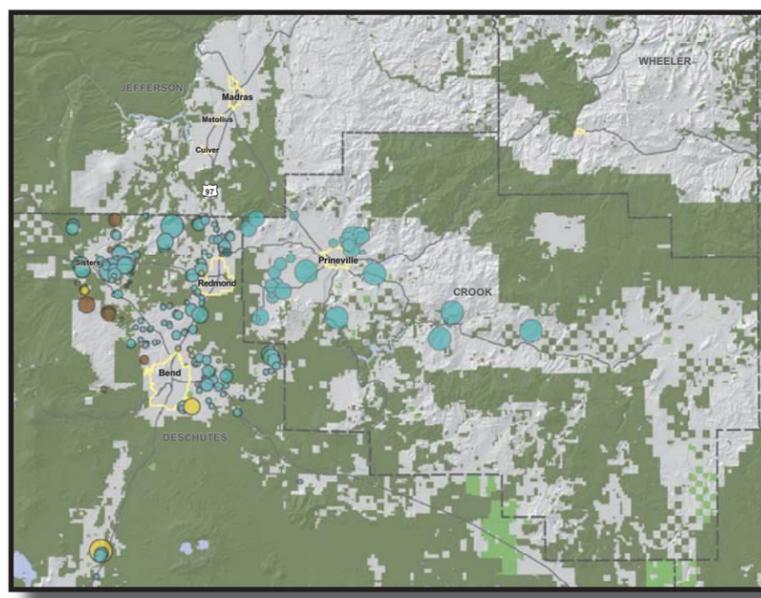
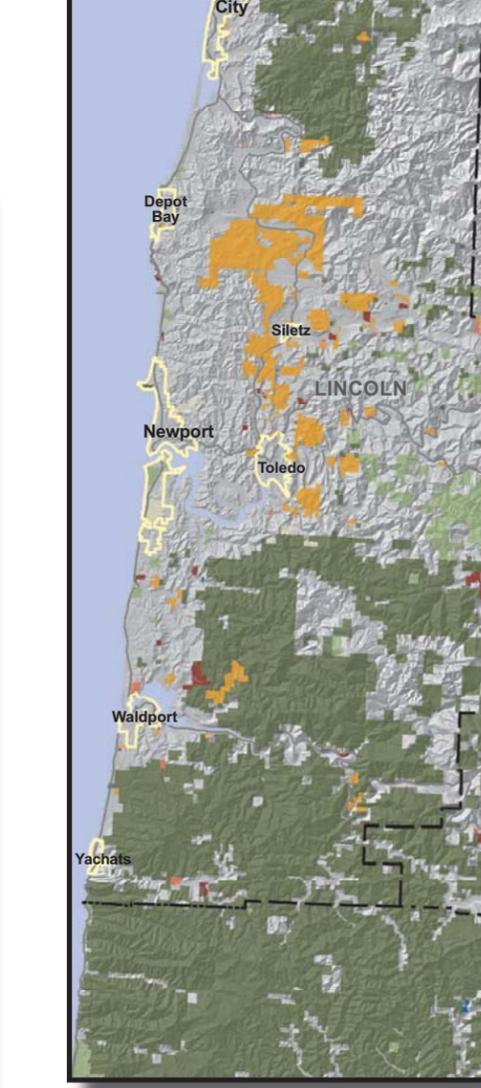
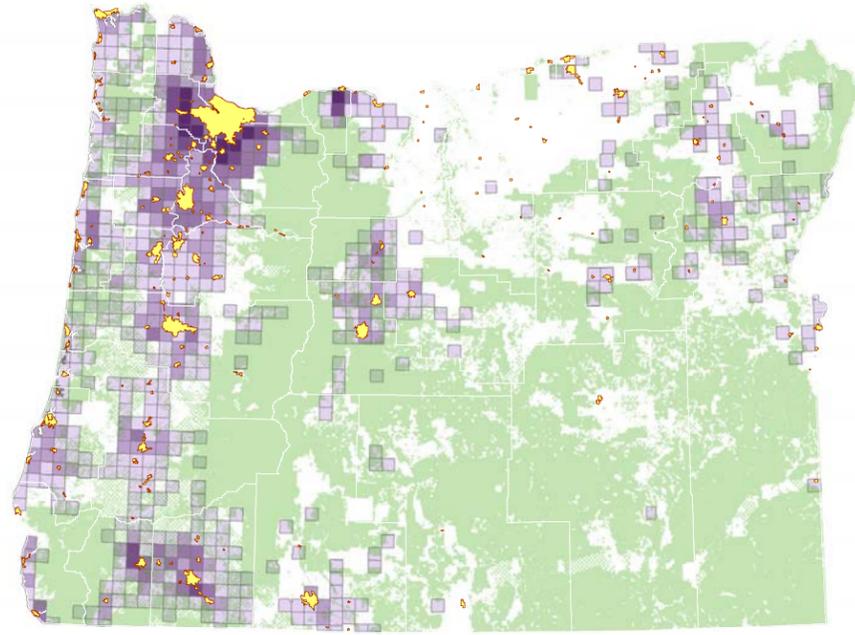
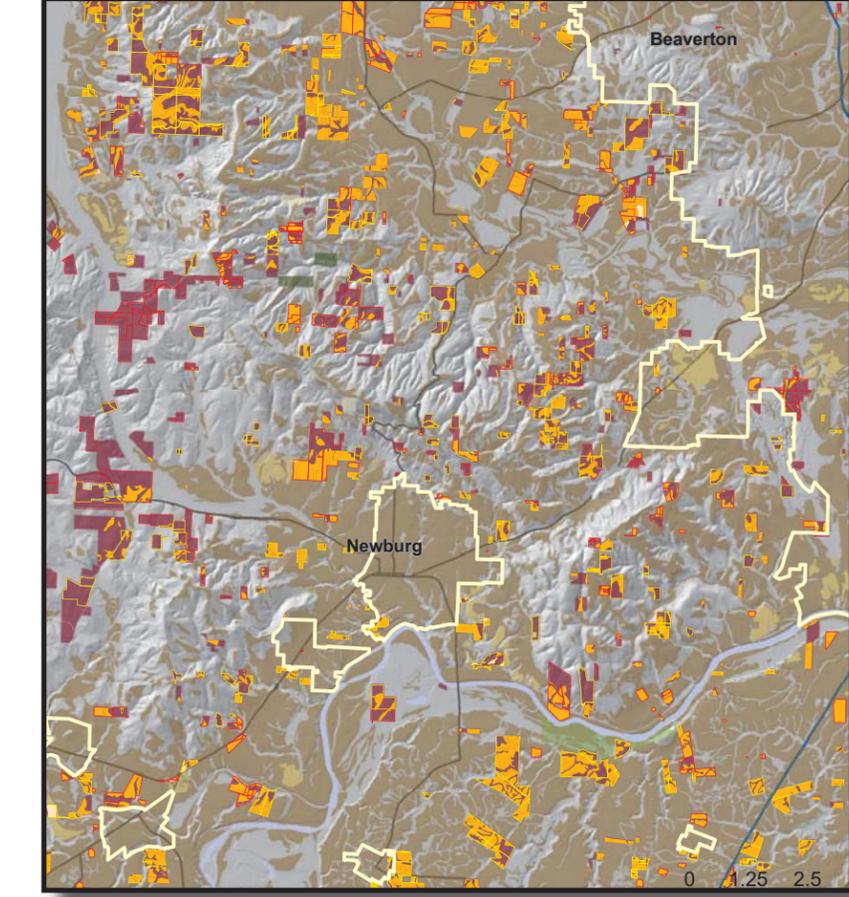


MAPPING MEASURE 37

As of December 4, 2006

A PROJECT OF THE INSTITUTE OF PORTLAND METROPOLITAN STUDIES
College of Urban & Public Affairs, Portland State University

Funded by the Gray Family Fund of the Oregon Community Foundation



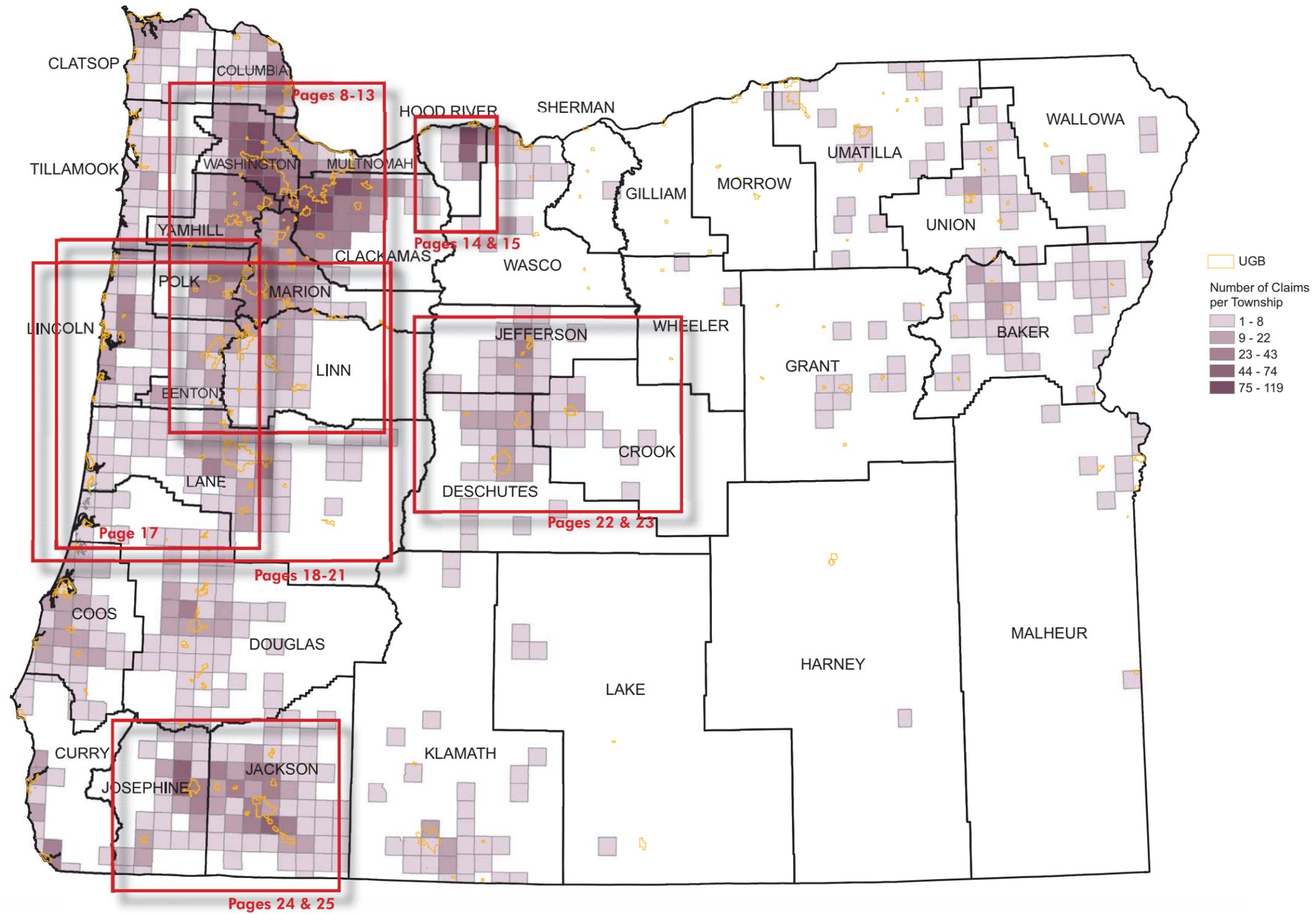


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Introduction & Acknowledgements

This atlas is one of a series of publications produced by the Institute of Portland Metropolitan Studies (IMS) about the extent and potential impact of Measure 37. Its purpose is to offer a visual description of Measure 37 claims and their potential impact on Oregon’s landscape.

Recognizing the need for a central database of information about Measure 37 claims, the Institute began collecting and logging claim information shortly after the Measure passed. Thankfully, the Gray Family recognized the importance of this effort early on, and provided the funding needed to gather and analyze the data through the Oregon Community Foundation. This project would not have been possible without their support.

The IMS staff contributing to the project included Meg Merrick, Erik Rundell, Barrett Chaix, Colin Maher, Diane Besser, and Sheila Martin. We appreciate the assistance of the local and state planning staff who helped us obtain and interpret the claim data. Katie Shriver at the Oregon Community Foundation also provided valuable assistance.

The future of Oregon’s landscape under Measure 37 remains unclear due to a number of continuing uncertainties, including the vote on Measure 49 scheduled for November. We will continue to track Measure 37 claims and developments and the situation unfolds. For additional information, including details about the database and its analysis, please visit our Measure 37 web page at:

<http://www.pdx.edu/ims/m37database.html>

Background

Oregon Ballot Measure 37 passed in November of 2004 by citizen initiative. Simply put, the Measure states that if a restrictive land use regulation enacted after the owner purchased the property reduces its value, the property owner is entitled to compensation from the government that enacts or enforces the regulation, or a waiver of the regulation. (State of Oregon, 2003). If the government continues to apply the subject regulation 180 days from the date of written demand for compensation, the landowner has a right to sue for compensation in circuit court, and is entitled to attorney fees in addition to the compensation awarded.

Facing the threat of significant liability for legal fees, and with neither a fund available for compensation, nor a clear procedure for determining the value of the loss, most local governments have proceeded to waive regulations rather than offer compensation. Oregon's state and local government planners and regulators now face a regulatory environment in which any new land use regulation, as well as the enforcement of existing land use regulations, will force a decision about whether to pay the claimant for lost value, or allow the landowner to develop the land as the law allowed at acquisition.

Measure 37 Claims Database

The Institute of Portland Metropolitan Studies (IMS) established a database for Measure 37 claims soon after the passage of Measure 37 on November 2, 2004. Because the Measure contains little guidance about implementation, local governments developed forms and procedures that vary widely. This has led to a number of difficulties regarding the collection, analysis, and mapping of Measure 37 data. The most important of these is inconsistency in the availability of some of the key variables needed for analysis. We overcame some of these problems by pursuing data from multiple data sources, including the Oregon Department of Administrative Services and each individual state and local government. Table 1 provides a list of the key variables in the database and the percentage of claims for which data are available. We continue to improve the database by acquiring more reliable data as they become available. This publication is based on the data

available for claims that were filed as of December 4, 2006—the last day claimants could file based on an existing land use regulation without first filing a land use application. Additional detail about the procedures used to collect the data is found in the paper “What is Driving Measure 37 Claims in Oregon?” available on the web site mentioned in the introduction.

Complications of Mapping

In addition to the challenges we faced in gathering claim data, we also encountered problems obtaining cadastral geospatial data (GIS shapefiles), which are needed to map the claims to their exact locations. Many of Oregon's counties have only recently completed these files as a part of Oregon's ORMap project, which has sought to create geospatial data at the tax lot level for the entire state. In many cases, counties have not yet determined the legal terms by which these data will be distributed, delaying GIS analysis and mapping for some parts of the state. Moreover, while the development of statewide cadastral GIS data required the adoption of a uniform standard for the spatial data, the attribute data varies considerably from county to county. Complicating things further is the fact that each county historically devised its own system of tax lot identification numbers based on the township and range property description that has been transferred into their GIS tax lot databases. There is no uniform identification of tax lots to link the Measure 37 claims database to each county's tax lot identification scheme.

We have, at this time, been able to aggregate all of the claims in our Measure 37 database by township and range at the state level. In addition, we have obtained the tax lot GIS shapefiles for all of the counties in the Willamette Valley, and Hood River County, the central Oregon coast (Lincoln, Douglas, and Lane), Crook and Deschutes counties in central Oregon, and Josephine and Jackson counties in southern Oregon. We have focused on these areas because they have been the most heavily impacted by actual claims thus far.

The Geography of Measure 37

Because of the possible impacts to resource land and the costs of service provision for unanticipated subdivisions, as soon as Measure 37 became law, policy makers wanted to anticipate how many claims were possible, how many were likely, where they might occur, and how large they might be. Predicting how many claims might be filed and where they could occur has proven to be elusive because of the difficulties of obtaining sales date information for all of the tax lots in the state – the critical point of entry for a right to make a claim. While we cannot identify everyone who could make a claim, through GIS analysis, we can begin to understand some of the potential impacts relating to those claims that have been filed as of December 4, 2006.

Statewide Distribution

Figures 1 and 2 show the density of Measure 37 claims throughout the state of Oregon. Table 2 shows the number of claims and acreage by county. Almost 65 percent of the claims and 40 percent of the claim acreage is located in the 11 counties of northwest Oregon and the Willamette Valley, including Hood River County.

The distribution of Measure 37 claims is geographically defined by the urban growth boundaries that surround every municipality in Oregon and by the presence of federal, state and county public land (Figure 1). Even at this low level of spatial resolution (number of claims per township), we can see that claims are, in general, crowded around the urban growth boundaries. They are also, not surprisingly, especially concentrated in the Portland tri-county area.

Comparing the number of claims per township (Figure 1) with the percent of acreage per township (Figure 2) demonstrates the impact of a small number of very large claims. These claims, generally adjacent to public land, are responsible for the geographic shift in densities of claimed land. Stimson Lumber Company, for example, has claimed more than 35,000 acres in Washington County alone concentrated in the Coast Range, abutting public land.

Elsewhere in the state, a relatively large number of claims occur in the Grants Pass and Medford-Ashland urbanized areas. The density of acreage of claims per township, however, reveals significant acreages under claim in relatively remote areas east of Depoe Bay at the coast, southwest of Prineville in central Oregon, northwest of La Grande, and just north of Halfway at the eastern edge of the state. Claimants in these remote areas are both private parties and corporate land owners including timber companies and corporate ranches.

Claim Size, Current Zoning, and Requested Development

As shown in Table 3, the size of the claims varies by region, with the largest claims in Eastern Oregon, and the smallest in the Willamette Valley. The distribution of claims by size is shown in Figure 3. While just over one percent of the claims are for tracts of land of larger than 1000 acres, these very large claims comprise one-third of the total claim acreage.

The Oregon land use system was designed to limit development on resource land. Not surprisingly, the majority of the claim acreage is on land that is currently zoned for either farm or forest land. Table 4 shows the distribution of claims and claim acreage by current zoning. We know current zoning for about 72 percent of the claims. Only 11 percent of the claims and one percent of the claim acreage are for land that is not currently in resource use. The claims are overwhelmingly requesting residential development; of the 52 percent of claims for which we have data on the type of proposed development, 92 percent of the claims and 86 percent of the acres are for residential development.

Figure 4 shows how the residential development proposals break down in terms of the number of residential lots requested. We have data on this variable for 42 percent of the claims, comprising 58,745 lots. Of the claims for which we have data, 1,288 claims, or 40 percent, are requesting 1 to 3 lots. Another 30 percent are requesting 4 to 9 lots. About 20 percent of the total number of lots requested claimants that are developing very large residential developments of over 500 lots.

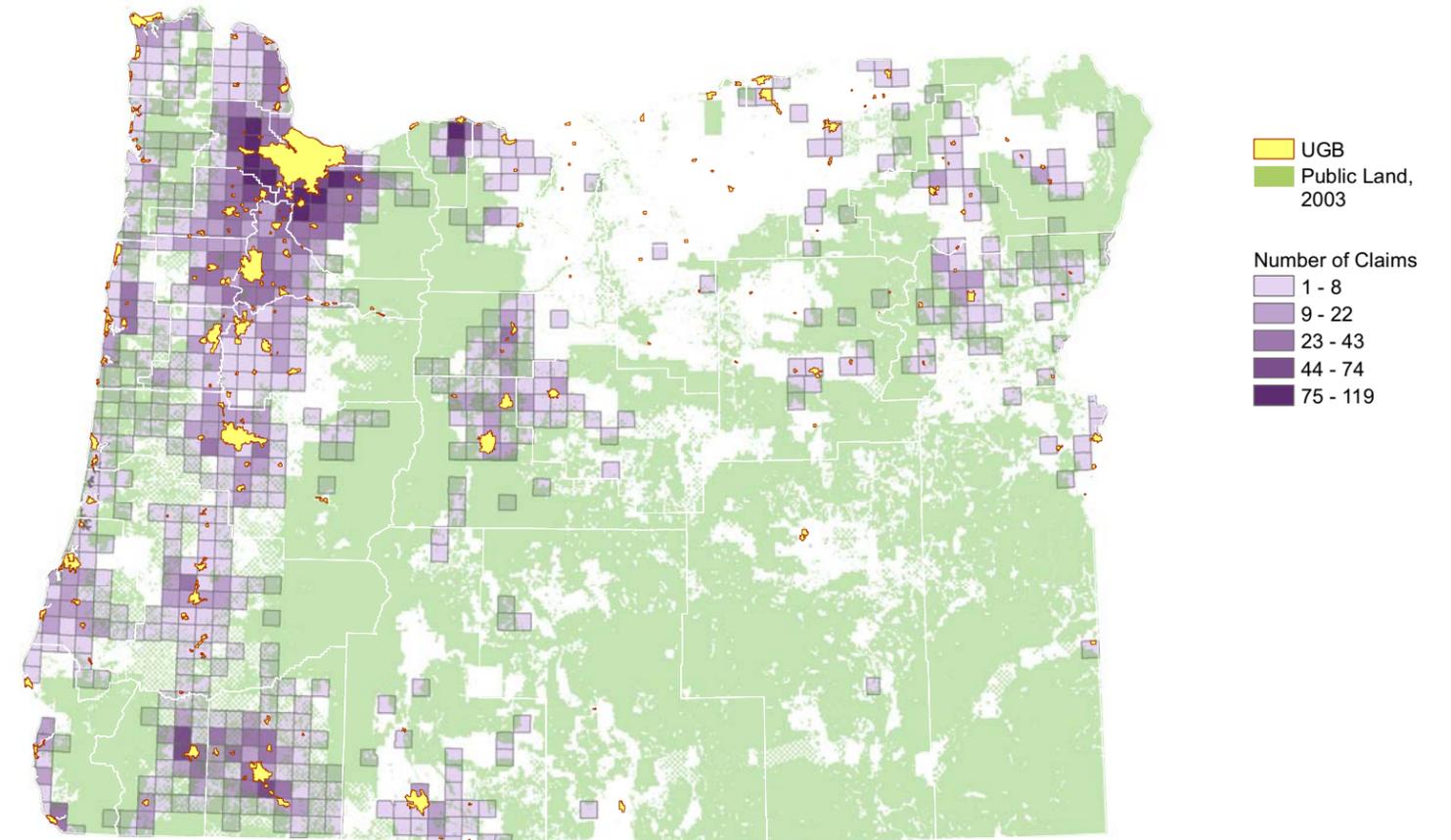


Figure 1

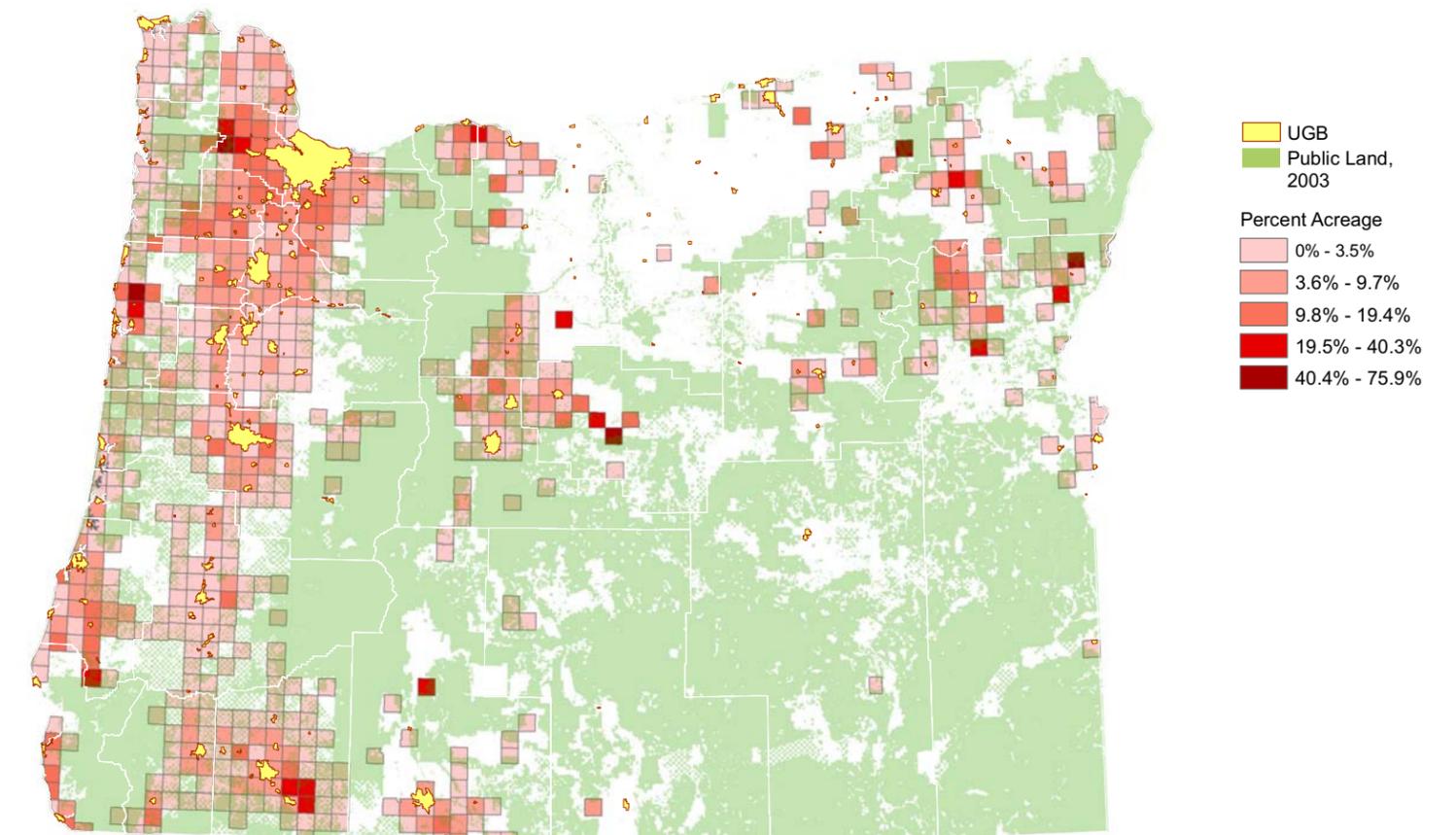


Figure 2

Table 1. Key Variables Available on the Measure 37

Variable	Description	Valid Observations	
		Number	Percent
Jurisdiction type	Jurisdiction with which claim was filed (can be more than 1, e.g., county and state)	7563	100
Date of Demand	Date demand filed with each jurisdiction - County	4774	100
	State	3044	97
City	City where claim is located	7563	100
County	County where claim is located	7563	100
Claim size (acres)	Acres of claim	7294	96
Current zoning	Current zoning of land	5416	72
Type of land division	Partition, subdivision, other, or none	4544	60
Number of lots requested	Where land division is requested, number of lots requested	3184	42
Type of Development requested	Commercial, residential, etc.	3936	52
Compensation demanded	Dollar amount demanded	5064	67
Taxlot ID	Geographical information allowing the mapping of the claim	7164	95

Table 2. Claims, Acreage, and Claim Density by County

County	Claims	Claim Acres	Claim area, % private land area	County	Claims	Claim Acres	Claim area, % private land area
Baker	139	56,945	4	Lane	412	34,857	3
Benton	140	11,765	4	Lincoln	198	43,314	10
Clackamas	1049	33,121	6	Linn	494	39,927	4
Clatsop	109	5,180	1	Malheur	13	976	0
Columbia	182	10,673	3	Marion	489	24,836	5
Coos	230	38,185	6	Morrow	0	0	0
Crook	66	41,349	4	Multnomah	187	4,024	2
Curry	117	22,873	7	Polk	270	18,803	4
Deschutes	185	15,248	3	Sherman	0	0	0
Douglas	258	17,479	1	Tillamook	88	12,710	5
Gilliam	1	7	0	Umatilla	47	29,302	2
Grant	16	6,725	0	Union	62	20,054	2
Harney	1	40	0	Wallowa	31	4,748	0
Hood River	233	13,786	11	Wasco	49	15,608	2
Jackson	574	59,406	7	Washington	902	64,246	16
Jefferson	138	26,427	5	Wheeler	2	1,608	0
Josephine	319	17,396	6	Yamhill	454	36,447	10
Klamath	103	21,248	1	Total	7563	750,530	3
Lake	5	1,217	0				

Table 3. Claims and Claim Size by Region

Region	Claims (N)	Total Acres	Size of Claim		
			Maximum	Average	Median
NW/Willamette Valley**	4812	292,485	14,779	62	26
Coast	742	122,262	6,759	167	50
Southern	1254	115,528	6,646	100	37
Central	438	98,632	15,464	229	57
Eastern	317	121,622	16,078	412	119
All Claims	7563	750,529	16,078	33	33

Table 4. Claims and Acreage by Current Zoning

Current Zoning	Claims	Acres	Percent Claims	Percent Acres
Unknown	2,147	250,650	28%	33%
Exclusive Farm Use*	2,771	305,986	37%	41%
Farm/Forest Use	805	36,563	11%	5%
Forest Use	1,004	145,399	13%	19%
Residential	687	8,329	9%	1%
Industrial	28	256	0%	0%
Mixed Use	9	80	0%	0%
Open Space	21	770	0%	0%
Commercial	41	184	1%	0%
All other	50	2,313	1%	0%
All Claims	7,563	750,529	100%	100%

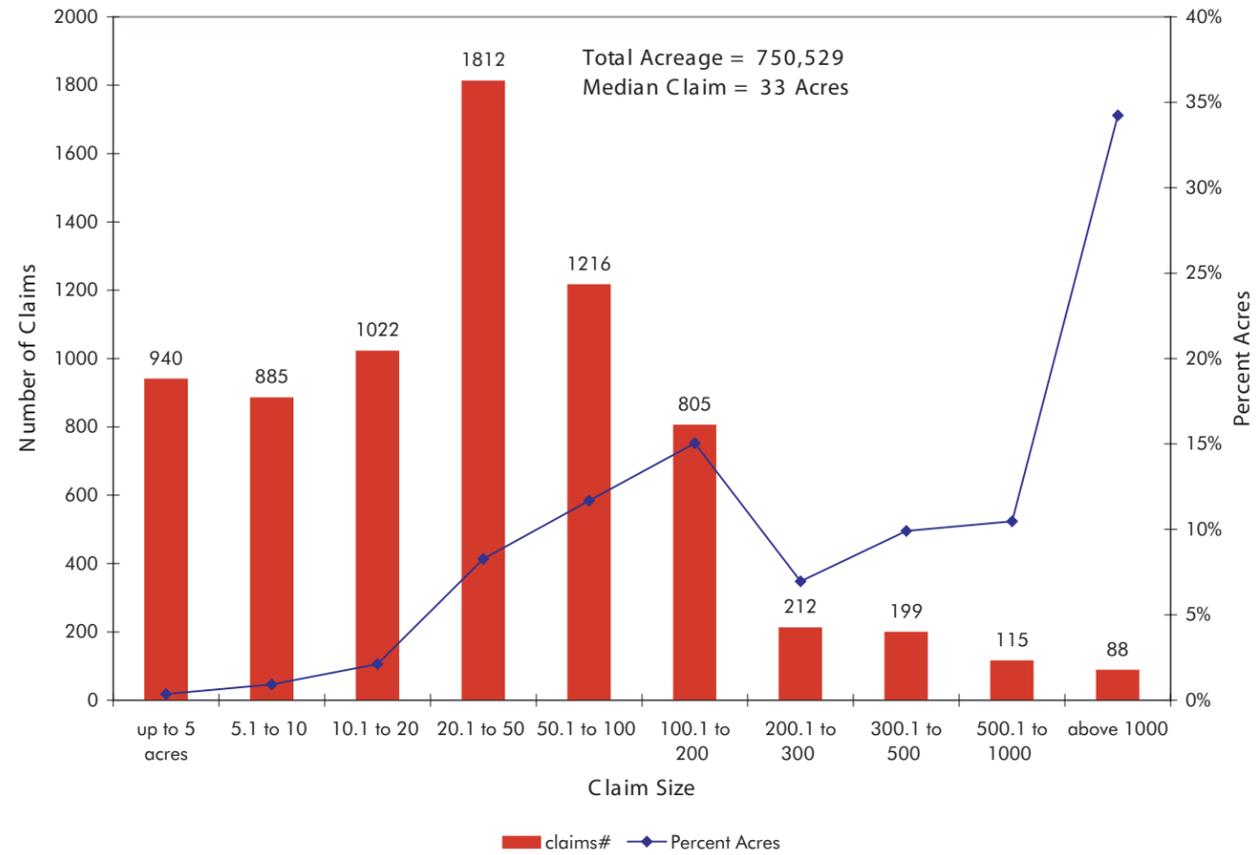


Figure 3. Number of Claims and Percent Acres by Claim Size

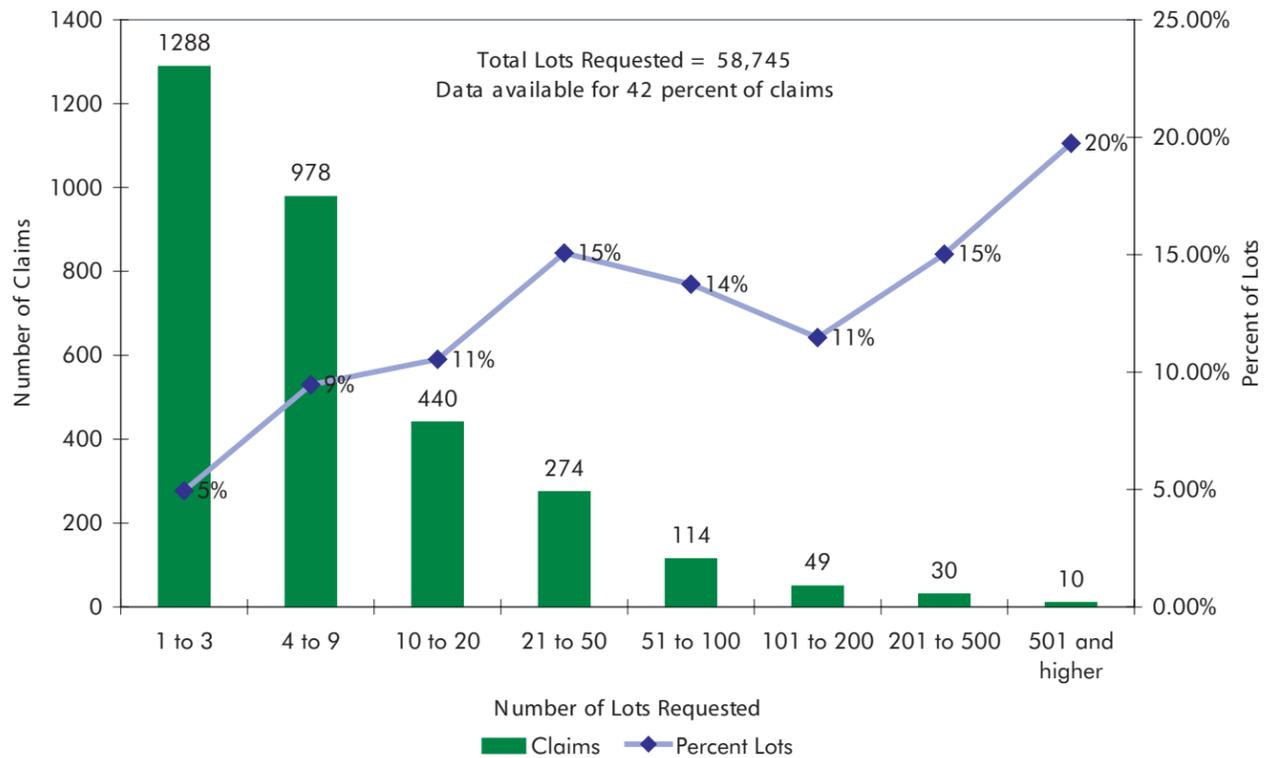


Figure 4. Total lots requested and Percent Lots by Size

Table 5. Percent Acres of Prime Soils Affected by Measure 37 Claims

County	Total Class 1	M37 Class 1	Percent	Total Class 2	M37 Class 2	Percent
Benton	9,019	1,039	12%	80,715	3,964	5%
Clackamas	6,933	381	5%	190,411	14,917	8%
Columbia	365	0	0%	37,006	1,099	3%
Douglas	15,727	409	3%	46,104	938	2%
Hood River	395	188	48%	13,075	2,890	22%
Lane	35,489	1,231	3%	105,220	4,873	5%
Linn	25,383	1,341	5%	155,354	7,449	5%
Lincoln	0	0	n/a	17,250	2,027	12%
Marion	0	0	n/a	210,260	10,408	5%
Multnomah	971	0	0%	21,939	439	2%
Polk	7,213	430	6%	87,604	5,015	6%
Washington	5,351	510	10%	133,341	12,785	10%
Yamhill	7,820	467	6%	106,792	7,670	7%

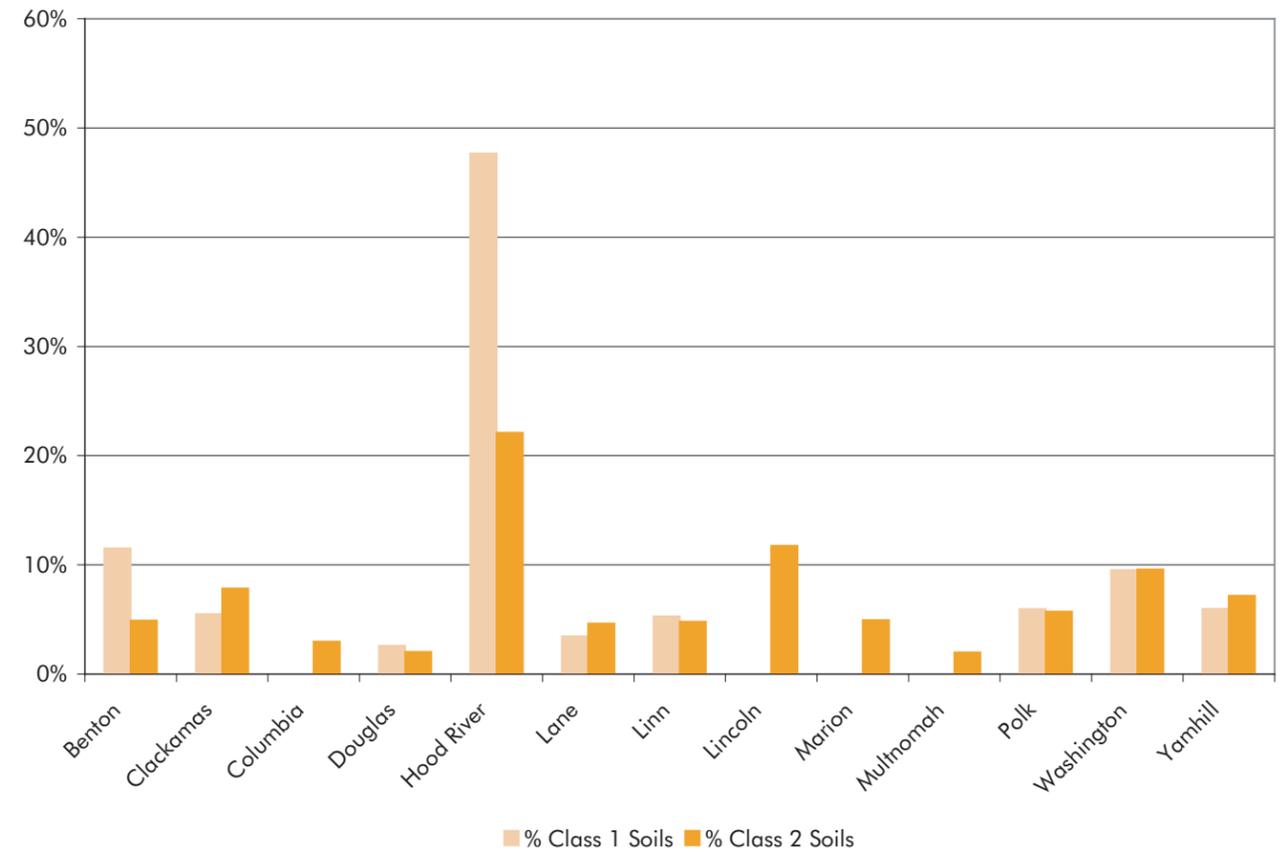


Figure 5. Percent Acres of NRCS Class 1 and Class 2 Soils Affected by Measure 37 Claims by County

WILLAMETTE VALLEY

Distribution

The geographic distribution of claims in the Willamette Valley, like the state as a whole, is largely dictated by the presence of urban growth boundaries (there are few claims inside UGBs, as this land is already considered developable) and publicly owned land (Figure). A simple Euclidean distance calculation of claim locations to UGBs in the Willamette Valley indicates that approximately 90 percent of these claims are within five miles of a UGB, and 51 percent are within two miles of the closest UGB. Only .6 percent of these claims are farther than 15 miles away with the longest distance being 24 miles.

To get a sense of the density of claims between UGBs and public land in the Willamette Valley, a similar distance was calculated between Measure 37 claims and publicly owned land outside of UGBs. Fifty-two percent are within two miles of public land; 89 percent are within five miles of public land; and 100 percent are within 10 miles of public land. Many of the claims in close proximity to the Metro UGB are smaller in size, while the large claims tend to be located closer to the edge adjacent to public lands in the Coast and Cascade Ranges.

The majority of the claims in the Willamette Valley (36.5 percent) have exclusive farm use zoning. As the claims get closer to the Coast Range and Cascades, where many of the largest acreage claims are located, more of the claims are on land with forest use zoning. This is especially noticeable in Washington County as claims transition from exclusive farm use zoned land to forest zoned land to the west (p. 8).

Requested Land Divisions

We have information about requested land divisions for about 70 percent of the claims in the Willamette Valley. The most requested change is for subdivision--dividing a parcel into four or more lots—at 41 percent. About 20 percent of claims specify a partition of the property (division into three lots or less) as the desired land division type. The remaining ten percent of claims are not requesting land division.

Impact on soils

We used the National Resource Conservation Service SSURGO Soil Survey classification of Class 1 and Class 2 soils to assess the impact of claims on prime soils in the Willamette Valley. The maps on page 9 show the percentage of Class 1 and Class 2 soils by county that are affected by Measure 37 claims in the Willamette Valley and Hood River County. While it is clear that Hood River County's agricultural potential is significantly impacted by possible development on its prime soils (48 percent of Class 1 soils and 22 percent of Class 2 soils in Hood River County), some counties in the Willamette Valley are impacted as well. Nearly 12 percent of Benton County's Class 1 soils are affected by claims, as are 10 percent of Class 2 soils in Polk County.

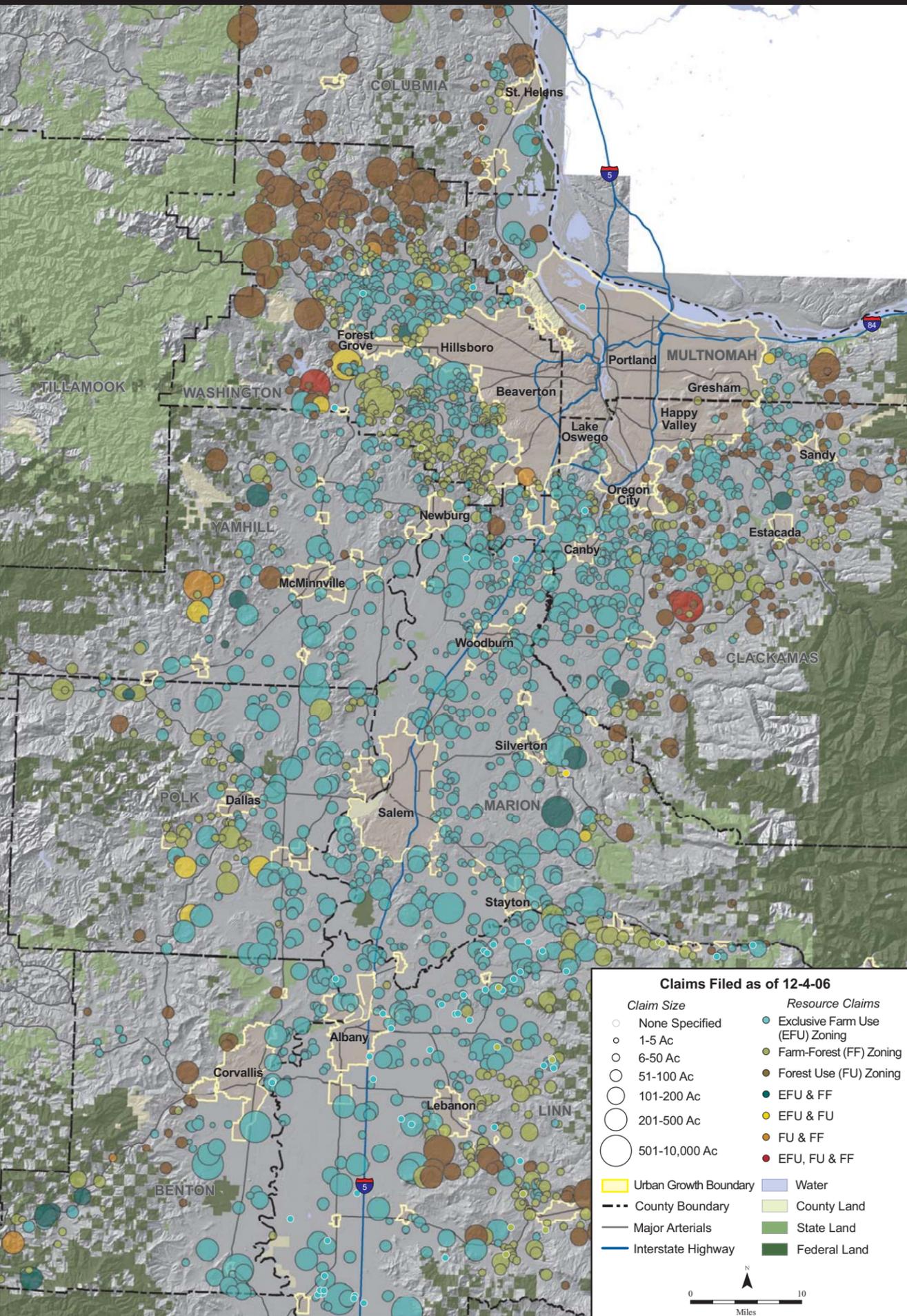
Greenbelt Effect

Sales date data (although incomplete) for Metro's Regional Land Information System (RLIS) GIS dataset offer an opportunity to assess the potential impacts of the measure on farmland and raise questions about the economic viability of the farming enterprise if requested subdivision development should occur. The maps on pages 10-13 provide a sense of the relationship between Measure 37 claims and land purchased after the regional urban growth boundary was acknowledged in 1979 and where claims are unlikely to occur.

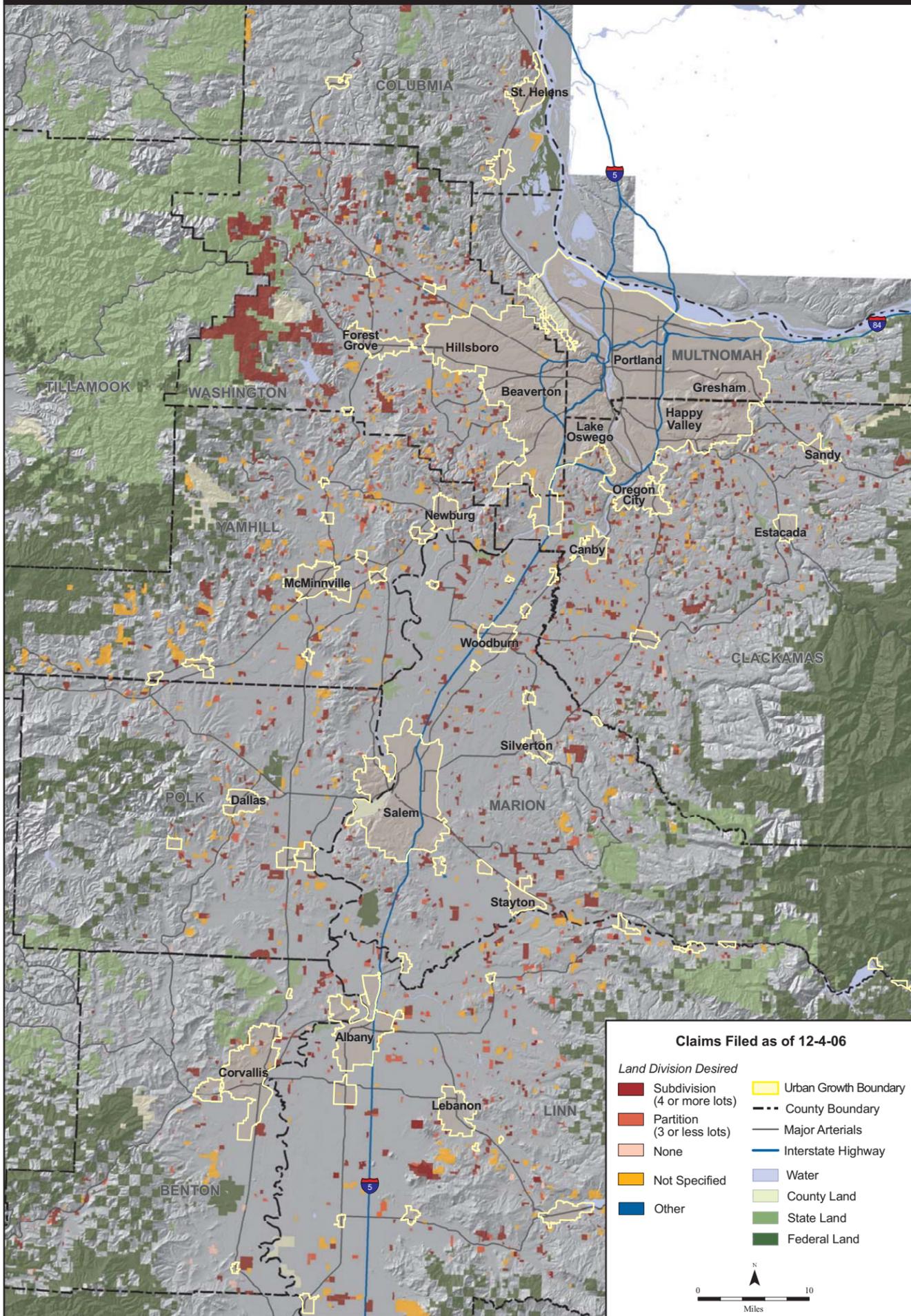
For example, the map on page 11 illustrates an area of western Washington County including Hillsboro, Forest Grove and the land surrounding their urban growth boundaries. Several aspects of this tax lot level map are provocative. First is the size of some of the individual and clustered subdivision claims that approximate the size of a small city such as Cornelius immediately east of Forest Grove. Second, the distribution of claims is relatively even across this western portion of the county. Perhaps what is most striking is seeing the claims in relationship to the tax lots with known sales dates that occurred after two key dates. The first is the 1979 acknowledgement of Metro's urban growth boundary. The second is the 1994 adoption of the \$80,000 minimum gross farm income for high production soils (a lower standard applies for low production soils) for a property owner in an EFU zone to build a "farm residence" (OAR 660-033-0120(B)). Despite the missing sales dates, it is clear that many of the larger Measure 37 claims (many of which have specified the intent to subdivide) in this area have the benefit of being surrounded by what amounts to ensured "open space" because property owners who purchased their land after these dates are much less likely to be able to make a Measure 37 claim. This pattern holds true for the southeastern portion of Clackamas County as well (pages 12 and 13).

This raises serious questions about the viability of the farming enterprise in an environment in which farmland is punctuated by significant leapfrog subdivision development. Over and above the obvious questions of service and infrastructure costs, it raises questions of fairness to farmers who may find a political landscape dominated by suburban interests unfavorable to the less palatable aspects of agricultural production such as the spraying of chemicals and 24-hour harvesting. Moreover, as found in the literature on farmland conversion, the reality of these de facto "greenbelts" could increase the likelihood that the claimants' land will, in fact, be developed.

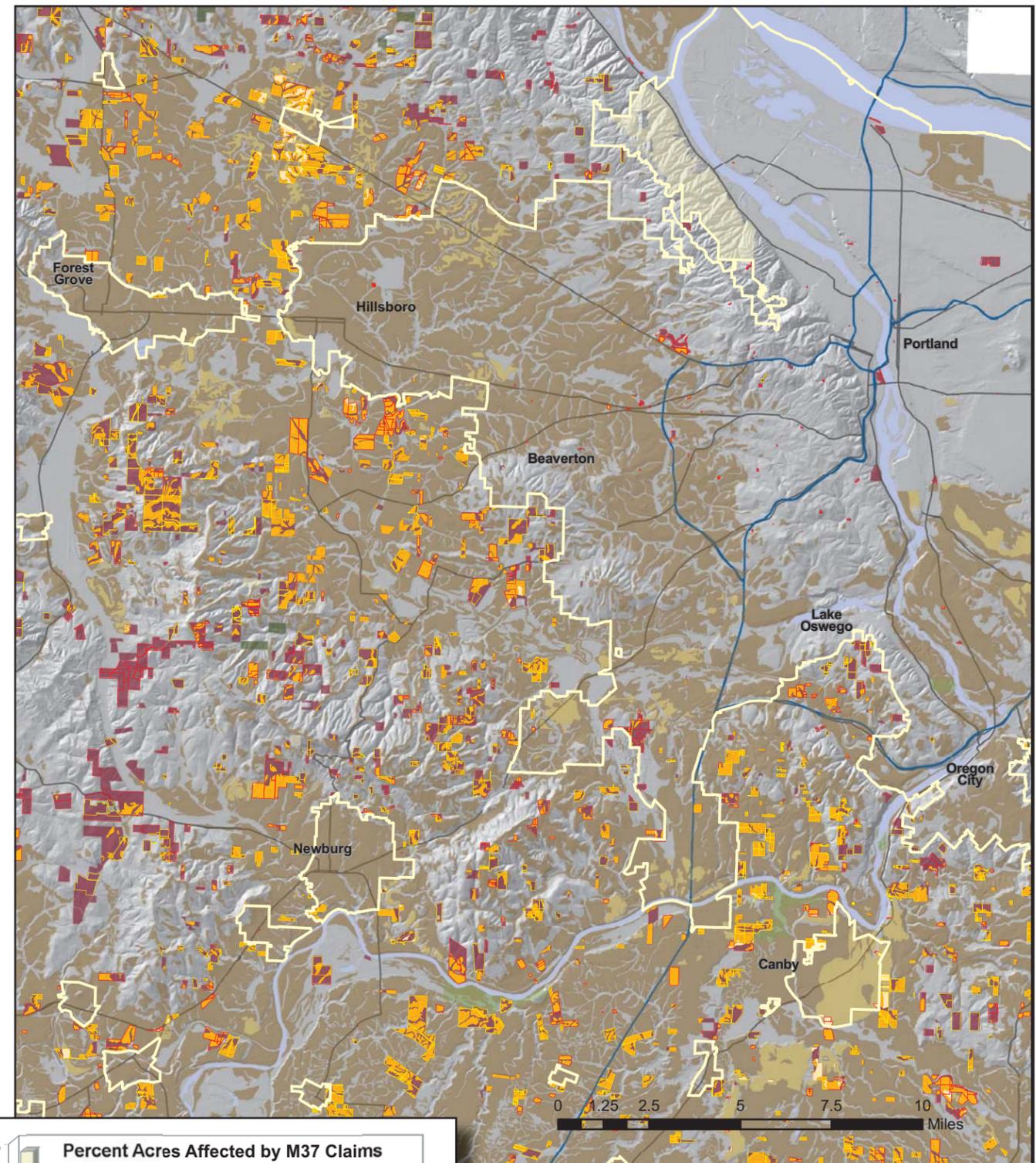
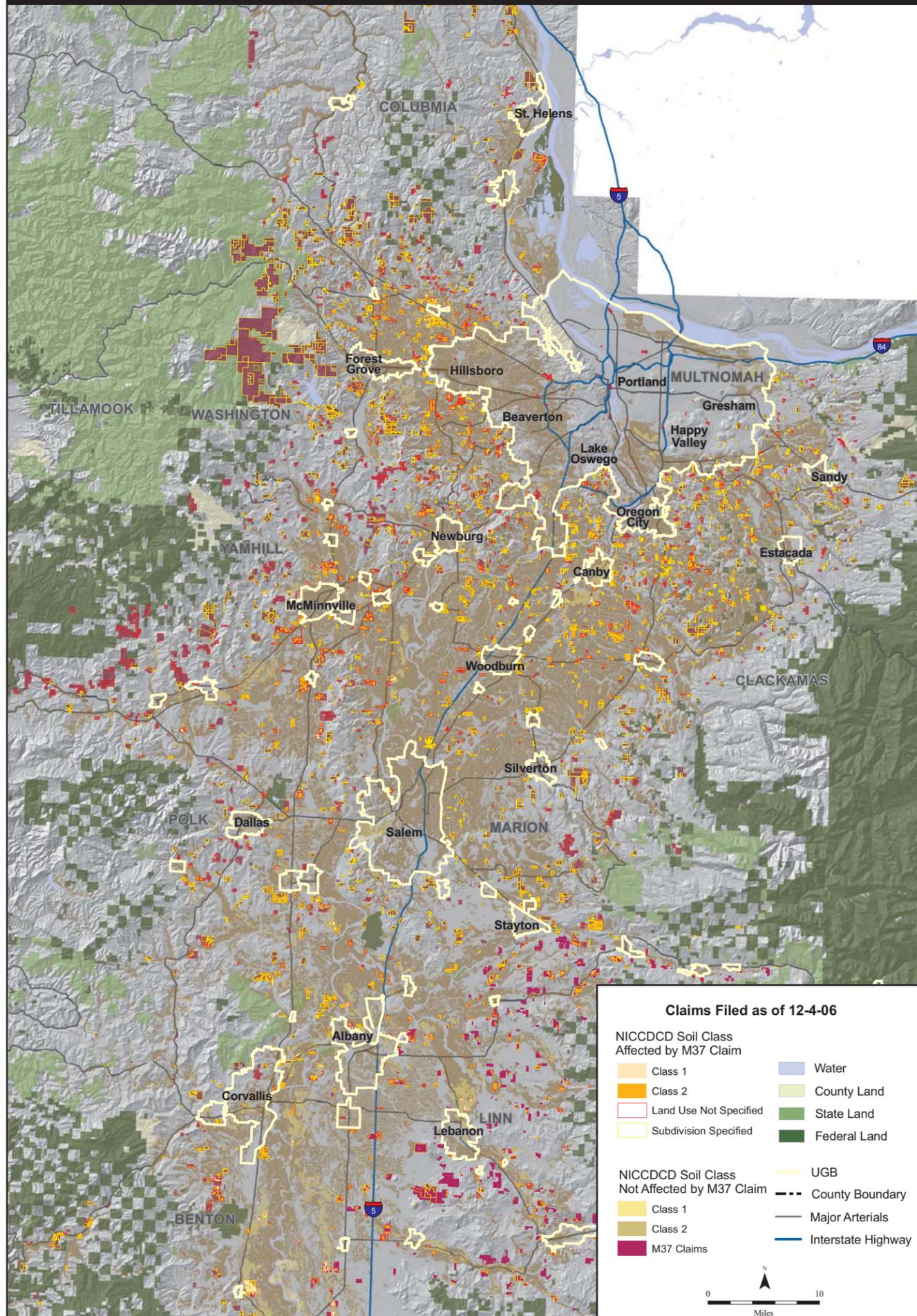
Willamette Valley Measure 37 Claims on Resource Land



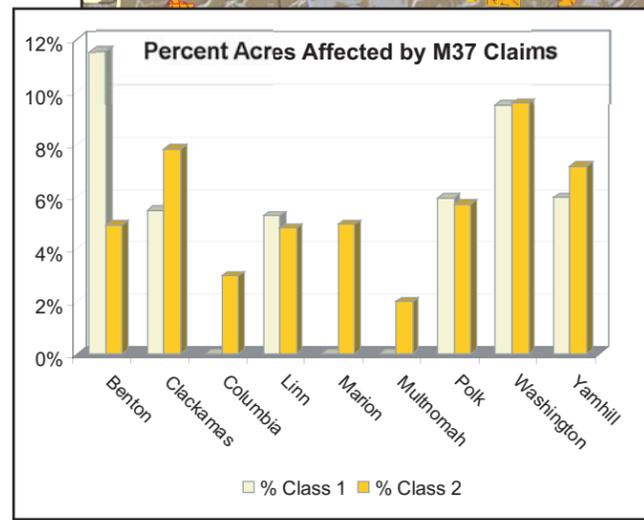
Willamette Valley Measure 37 Claims by Desired Action



Willamette Valley Measure 37 Claims and Class 1 and Class 2 Soils

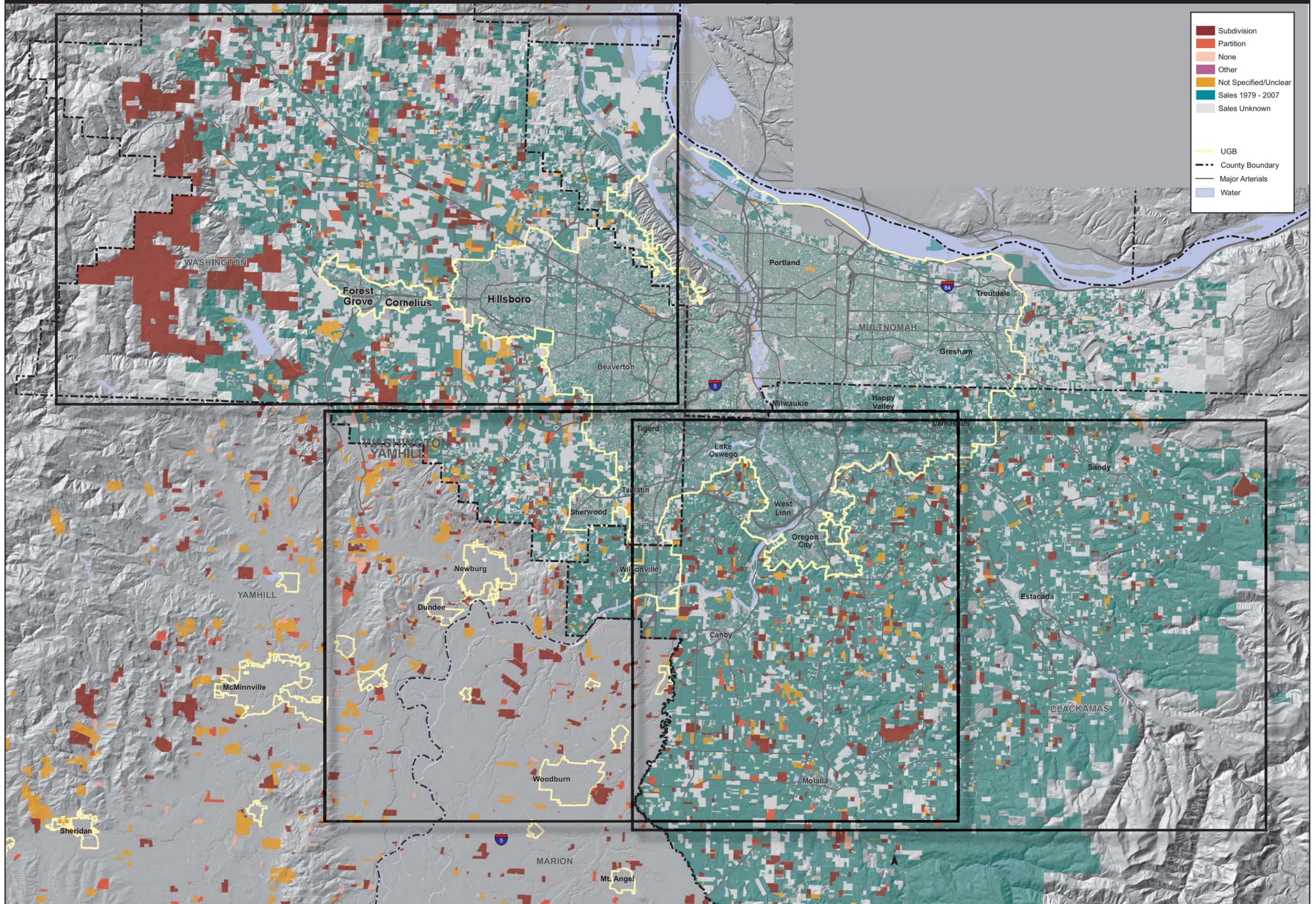


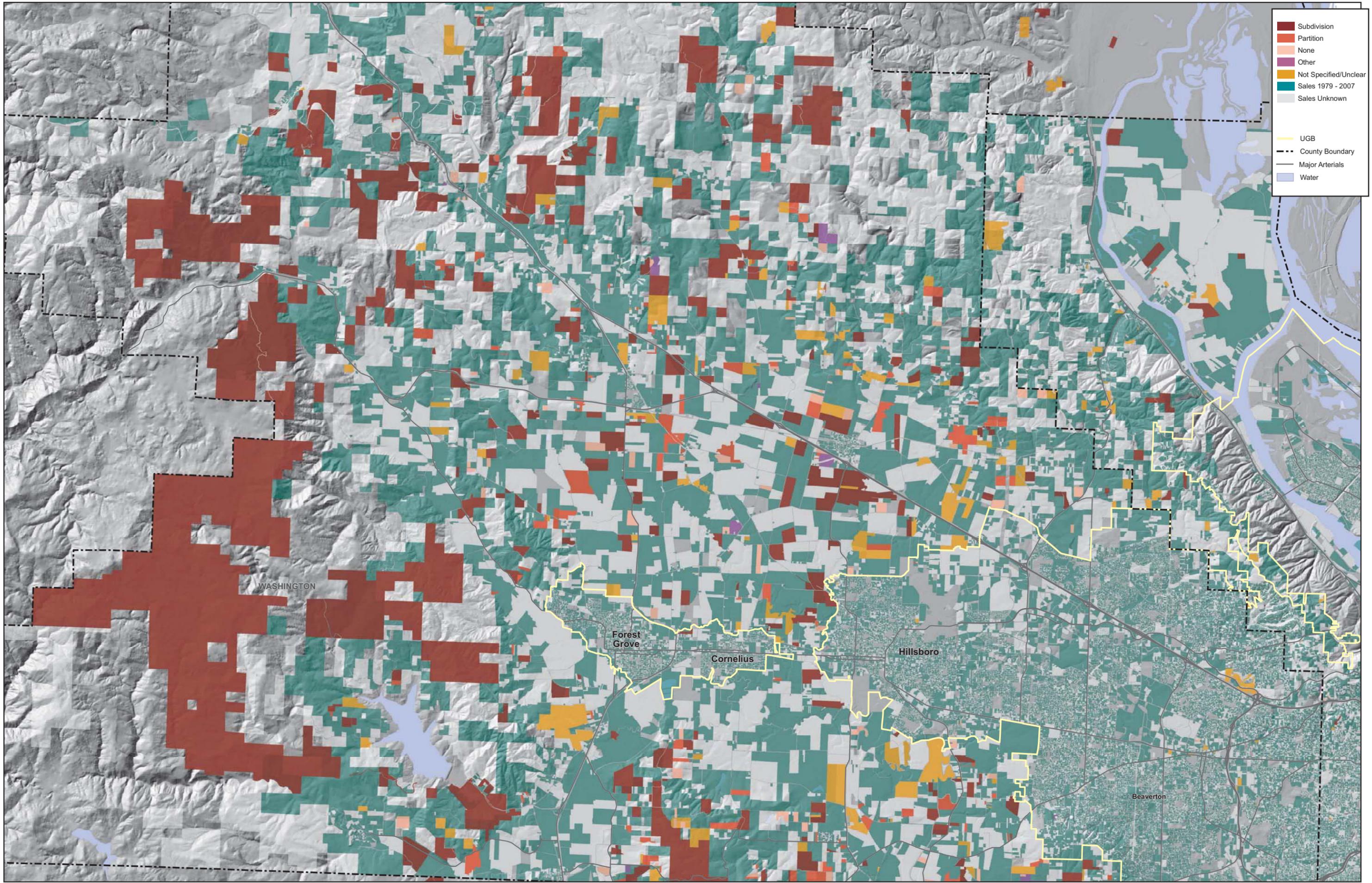
Washington County, and Northern Yamhill and Marion Counties Measure 37 Claims and Class 1 and Class 2 Soils



Sources: M37 Claims: Institute of Portland Metropolitan Studies; National Resource Conservation Service SSURGO Soil Survey; Boundaries, Roads and Water: Metro RLIS, US Census Bureau; UGBs, Tax Lots: Metro RLIS, Marion Co. and Yamhill Co.

Metro Area Measure 37 Claims and Land Sale Dates





- Subdivision
- Partition
- None
- Other
- Not Specified/Unclear
- Sales 1979 - 2007
- Sales Unknown
- UGB
- County Boundary
- Major Arterials
- Water

0 1.25 2.5 5 7.5 10 Miles

