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Stewardship or Sprawl?



Proponents of Measure 37 used elderly Dorothy English as a red herring for the Real Deal: outrageous claims by timber companies, developers and other opportunists that would result in huge windfalls and environmental degradation on potentially thousands of acres of watershed-protecting forestland and productive farmland. Some conservationists contend that to avoid another M37 goals, statutes, rules and codes should reward the long term property owner who's been a good steward of her farm or forest land – let's call her Dottie – by allowing her to parcel out a couple of house sites.

Beyond providing a sizeable income for property owner and realtor, what are the consequences of cutting one or two house sites out of rural resource land? To begin with, most of the trees and shrubs within a 130' radius of the house will have to be removed for a fire break. A road to each site will have to be built, usually with cul de sacs for fire truck turnarounds. Electrical wiring will need to be strung, usually overhead and requiring further clearing. Septics must be installed, perhaps near a creek, river or wetland, as the Land

Management Division (LMD) routinely approves dwellings in floodplains and completely within riparian setbacks that are already inadequately protective.

The division recently sent a mailer to all Lane County residents with property located in the flood plain touting "the natural and beneficial functions of floodplains to help reduce flooding" and their scenic, wildlife and farming values. Nevertheless, the letter goes on to suggest ways to mitigate the impacts of development and protect a dwelling from high water rather than acknowledge that the county's practice of permitting floodplain development is ecologically unsound and should stop.

Since the square footage of the prospective new house also is not restricted, it will likely require a considerable amount of new material — lumber, concrete, steel, plastics, asphalt, paints, etc. — all of which draw on depleted resources and, with its owner, provide additional sources of pollution. It's not Thoreau's cabin we see in the woods these days.

Moreover, what's good for a Dottie is good for a Dexter as well. Dexter hasn't owned his property since 1971;

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Persistent human failure to recognize and live within sustainable limits has inevitably resulted in overpopulation, the corruption and depletion of natural resources, climate change and an imminent threat to the survival of all remaining species on earth – save perhaps the cockroach, the sewer rat and the fly.

For its part, Lane County's Land Management – Developer nexus routinely sites housing and commercial enterprises (and their accompanying infrastructure) on productive farm and forest land, in riparian setbacks and floodplains, on beach sands and even chinked into the barren rock of coastal cliffs.

This newsletter examines the environmental and social impacts of such practices on the county's ground and surface water, soils and wildlife; on its farms and forests; and on the expectation and rights of neighbors. Along the way we'll learn what some public agents and conservationists are doing to reduce or eliminate such impacts and to protect the common good.

Robert Emmons

Newsletter Credits:

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Layout & Design

Chris Berner

Stewardship, continued from page 1

he's from L.A. and inherited it recently from his dad or granddad. The manufactured home his dad lived in, though a doublewide and in good condition, is too small and unpalatable for Dexter who's been inspired by the unaffordable mansions surrounding him in the Hollywood Hills. Now the owner of 70 acres in Oregon, however, he can sell his place in L.A. – even at a loss – relocate to Oregon and site the mega-mansion he's always dreamed of on the highest promontory of his new property. And to help finance this 6,000 square foot dream he'll sell off a couple of lots – as much out of his viewshed as possible – and use the money from the sales to help build the house and pay the mortgage. With what's left over he intends to build a warehouse for his new home occupation/hobby: repairing and restoring cars and motorcycles. As it happens, there's already an "agricultural" building on the property that will serve his purpose. All that's required is an application to the county requesting a change from its present use as a mushroom-growing facility.

Retiree Dottie on the adjacent property and a few other retirees and tree-hugger types nearby may object, but the county has assured Dexter that the noise and the traffic and the carcinogenic chemicals he must use in his "home occupation" do not unreasonably burden adjacent owners or nearby waterways and are allowed by applicable code.

Measure 37's "fix," M49, allows such a hypothetical scenario to occur not only on Dottie's and Dexter's properties but on thousands of acres in Lane County.

The home occupation example, however, is not hypothetical but a current development request from a Lane County resident, and the subject of the last article in this newsletter. Using exceptions, variances, lot line adjustments, a weak riparian ordinance and the marginal land provision in Lane Code, among other pretexts and manipulations, unscrupulous developers, complicit land managers and politicians and the real estate industry have been subsidizing and profiting from sprawl

for decades. M49 simply streamlines the process: no strings attached, no hurdles to jump, three houses virtually anywhere carte blanche, more if you can prove loss of value.

A consideration of context and the consequences of cumulative effects are essential in determining workable solutions to environmental degradation. The rural land owner does not live in isolation. Nor, steward though she may be, will she live forever.

LandWatch and Goal One Coalition have been working to amend Goals 3 and 4 to embody the holistic needs of the ecosystem, not just the bottom lines of exploiters. But our experience, the everyday experience of Goal One staff and LandWatch in dialogues with land managers and before commissioners and hearing officials, reveals what should be obvious: in the goals, statutes, rules and codes and according to the interpretation of legislators, politicians and land management staff, Economy is king and the environment little more than an abused servant.

Little by little, however, we're working to strengthen the same laws that manipulators have weakened by offering a different, more compassionate interpretation, one that reverses the status quo of king and vassal.

LandWatch and Goal One Coalition would be the first to agree that to accomplish our goals more must be done than appealing bad land use decisions. To curb the corruption rife in the LMD, existing and local goals, statutes and codes must be applied equitably, they must be rewritten or amended to pay environmental protection more than lip service and laws must be enforced.

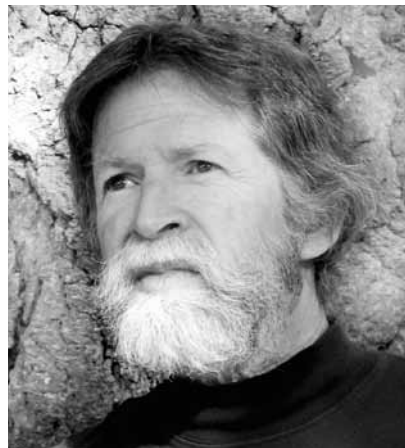
If urbanizing sprawl on farm and forest land is undesirable, how do we assure that these resource lands are conserved? For one thing, the county's routine approval of illegal lot line adjustments and template dwellings and of marginalizing productive farm and forest land for sub-urban development must stop. The longstanding

practice of dividing and subdividing large tracts of these lands, creating a domino effect of ever smaller lots and ever increasing profits to developers and land use consultants must stop. In fact the growth machine must be stopped and a greater effort made through education, example and regulation to bring a localized, steady-state economy to fruition. Surely, community-based agriculture and commerce must be the phoenix that rises from the ashes of the old paradigm.

In order for that to occur, though, the land base must be protected for those able and willing to farm it or, as the case may be, manage it for forestry – to both live on it and live off of it. To assure that stewardship is not just another word for exploitation, conservation easements – deed restrictions – should be mandated conditions for the permitting of dwellings on farm and forest land. To be sure, for that to happen farming and small-scale forestry have to become a lot more attractive and lucrative than they are at present. They need the support of a localized economy.

The learning curve is slow to rise, but it's getting a boost from peak oil, global warming and water shortages. Meanwhile, until the political climate changes, you'll find LandWatch and Goal One Coalition in neighborhoods all over the county doing our best to interfere with business as usual at the LMD.

Robert Emmons, President
LandWatch Lane County



Residents of Lane County tend to take water for granted. And why not? For half the year rain and snow fall abundantly, replenishing aquifers and reservoirs and creating streams that feed creeks and rivers that run dependably into the ocean. It's hard for many of us to imagine it otherwise, particularly after the heavy snowfall this winter (and spring!).

We count on winter and spring precipitation to carry us through the typically dry months of summer and fall, and our native trees, shrubs and groundcovers are well adapted to this wet and dry regime. However, the generic, non-native landscaping that often follows the steady advance of subdivisions and mega-mansions into our rural resource land relies on supplemental water during the dry months drawn from creeks, rivers and wells.

One of the biggest problems his company encounters, says Paul Christensen of Lane County based Christensen Well Drilling, Inc., is the overdraw of wells to water landscape gardens. He offers the example of a Lane County customer who had complained of air in her water supply, usually a result of drawing down well water so low that air enters the system. Afraid that her plants would die from the heat of a summer day, she had been watering them for 10-12 hours a day every day, not only using water unnecessarily but wasting it through evaporation.

Ralph Christensen (no relation to Paul), hydrogeologist and owner of the engineering, geological and surveying company, EGR and Associates, Inc. agrees that irrigation is "the number one killer of the system. The average household uses 90,000 gallons of water per year, about 250 gallons per day. A five-gallon-per-minute sprinkler run for the three months of summer can use more than nine houses all year." In addition to mandatory limits, one way to address overuse, he suggests, is to include educational material with the well or building permit.

Such a brochure might also provide information about hydrogeology and well function. It's not difficult to understand, for example, how running a sprinkler for long hours during the summer could draw down a well beyond its ability to recharge. What – on the surface – seems counterintuitive, though, is that pumping one well might have no effect on a well 150' away, but draw an immediate response from one 1300' distant.

Below ground the reason becomes clear: the well being pumped is drawing water from a crack or a fissure in bedrock that is geologically connected to the farthest well but not to the nearest. In fact, says Christensen, because of the typically tight fractures in bedrock "less than 10% of the time will you get any response from a well within 500'. One well has a hard time affecting another."

Recharge from rain and snow depends on how much falls onto the soil and how efficiently the soil distributes it into the system – how much soaks in, runs off, evaporates or is temporarily stored. As one would expect, the highest recharge rates occur on the valley floor and decrease in bedrock and upslope.

Access to an adequate supply of well water also depends upon lot size. According to Christensen, there's presently enough water in most areas of Lane County to accommodate a house on a five-acre lot. If the lot is between two and five acres, however, groundwater capacity should be analyzed. On lots fewer than two acres he says there is a risk of using more water than will fall on the property. And on lots of one acre or less setbacks are generally too small for a well and septic.

Availability also depends on how the lots are configured. Lots that are not surrounded by other lots will have greater recharge capacity. Clustering houses with common access to open space, therefore, offers greater assurance of adequate well recharge. And the recharge is less likely to be contaminated, says Christensen, if bioswales or sufficient biomass – groundcover, shrubs and trees – are present to serve as filters of toxic substances.

Christensen's twenty years in the field have convinced him that by and large it won't be a scarcity of water that serves as an equalizer to growth. Rather, he considers carrying capacity a social issue dependent on population limits and ecologically sound distribution. "Given human history, however," he's convinced that "we'll continue to grow until some outside force stops us."

With the increase of new residents, both human and animal, on ever smaller rural parcels in closer proximity to each other, the likelihood of wells and waterways fouled by toxic chemicals, especially hard to detect pharmaceuticals, and fecal bacteria increases. The Oregon DEQ, for example, is presently involved in the contamination of shallow groundwater likely caused by agricultural runoff of chemical fertilizers in an area extending from Coburg to Albany.

In addition to problems with arsenic and coliform bacteria, rural residents sometimes find that their wells have been corrupted by e-coli. This may emanate from native fauna, but a more likely source is domestic livestock. According to Lane County's watermaster, existing well construction standards aim to protect wells from contamination by sealing them "at least 18 feet in the ground. This seeks to ensure that any water pumped from the well has gone through at least 18 feet of native geology, which in most cases will remove normal pathogens such as e-coli from neighboring livestock."

Already underway, the change in Oregon's climate is likely to result in wetter, warmer winters and hotter, drier summers. Consequently, wells and waterways will be at ever greater risk of contamination and even of drying up altogether.

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Water Ways, continued from page 3

Rather than react to self-created crises prudent public officials should exercise the precautionary principle, and, as Goal One Coalition's executive director Jim Just suggests, require "an ecosystem assessment in conjunction with any development proposal. This would include identifying and quantifying available water resources projected into the future to capture impacts from global warming. Approval would require demonstration that the proposed

development – and cumulative development – remains within the capacity of the resource."

What goes on or in upstream, of course, affects the health of downstream systems. In the following two articles we learn what the cities of Eugene and Springfield are doing to protect their waterways and drinking water.

Robert Emmons



Eugene's Stormwater Management Program

Prior to the reauthorization of the Clean Water Act in 1987, waterways across the US were highly polluted. Industries such as slaughterhouses, paper mills and food processors discharged untreated process water into the river and cities discharged untreated sewage. When Congress required that communities begin reducing the discharge of stormwater pollutants into "rivers of the state", cities like Eugene revised their stormwater management plan so that it included water quality protection. Certain types of businesses and industry are now required to have permits if the work they do can affect water quality in local waterways. One of the bigger challenges, however, has been stormwater pollution that comes from residential activity.

Even though many people seem to realize the runoff draining into stormdrains, along

ditches, along roads or onto neighboring property isn't treated before it eventually empties into local waterways, once it is out of sight the impact isn't obvious. Problem pollutants include paints, vehicle fluids, sediment, debris from pressure washing, overapplication of chemicals, and much more. As we increase hard surfaces such as roads, driveways, parking lots, etc. there are less places for stormwater to seep into the ground. Instead, water runs over hard surfaces, collecting a myriad of pollutants along the way, making its way to the rivers that people and wildlife rely on. When motor oil, chemicals or any other pollutant is leaked or dumped onto the ground, groundwater contamination can have lasting effects on drinking water from wells.

Pollution complaints are handled by city staff and the Oregon Department of Environmental Quality and can result in fines. Depending on the impact, some fines can be quite hefty. When our waterways get contaminated by pollutants, a domino effect occurs. If water quality continues to diminish, agencies like the

DEQ place more requirements on city government to manage & protect waterways. More regulations increase the cost to agencies and ultimately homeowners through a variety of taxes and the cost of doing business (utilities, building homes, permits, fees and more).

If we don't manage ourselves and act responsibly, we open the door for more regulation – and more cost.

Kathy Eva

Public Information Specialist
Eugene Stormwater Management

Editor's note:

As its 2007 stormwater management annual report details, prevention is paramount in the protection of Eugene's stormwater system and waterways. Preventive maintenance includes the reduction and in many cases the elimination of toxic chemical use in parks, in or near school grounds, near wetlands and watercourses, and the retention and planting of native trees and plants in riparian zones, parks, along roadways and in new construction projects.

The city has its own plant nursery, growing native plants from seeds and cuttings, and relies on Parks and Natural Resource Division staff, Stream Team volunteers and local non-profits to implement natural area, stream, riverbank and wetland restoration and enhancement projects.

Though metals and bacteria pollution from point and non-point sources "continues to have an impact on water quality in local waterways", Eugene's prevention practices and extensive educational outreach may be having an impact as well. According to the report, metals and bacteria counts have decreased in some parts of the Amazon basin and the Willamette. And design and restoration efforts incorporating native plants for bio-filtration, wildlife habitat and a natural aesthetic not only create a healthier environment they begin to re-establish an ecological identity, the sense of a particular place.

Unless and until there's a paradigm shift in the bureaucracy's regard for growth, however, Eugene's commendable efforts may amount to little more than treading increasingly dirty water.



Part of Springfield's extensive effort to protect its drinking water

Springfield's Drinking Water Protection Plan

The Springfield Utility Board (SUB) provides drinking water for the City of Springfield. The source is approximately 90% groundwater from thirty-three wells (some of which are owned by or shared with Rainbow Water District), and 10% surface water from the Middle Fork Willamette River. Groundwater occurs at very shallow depths—10 to 20 feet—which is why we have the motto in Springfield that "we live and work on top of our water supply."

The City of Springfield adopted a drinking water protection plan in 1999 that outlines strategies for addressing the greatest potential threats to our water supply. Within the City of Springfield itself, the primary potential threat is chemical contamination. For this reason the City, through Section 3.3-200 of its development code, regulates the physical use of hazardous materials for the purpose of protecting groundwater. The ordinance is triggered through a land use change, so it affects new businesses or existing businesses that apply for some kind of land use change within the Wellhead

Protection Area (WPA). The WPA encompasses the recharge area for the aquifer; that is, the area where precipitation replenishes the groundwater supply. The WPA delineates time-of-travel zones (TOTZs) for each wellhead, which refer to the amount of time it would take a contaminant that entered the ground surface to potentially reach a well. The most sensitive area, and the area where regulations are the most stringent, is the 0-1 year TOTZ. We have delineated all the way out to the 99-year TOTZ, though regulations extend only to the 20-year TOTZ.

A key feature of the regulation is a prohibition on dense non-aqueous phase liquids (DNAPLs) within the 0 – 10 year time-of-travel-zone. These chemicals—halogenated solvents such as perchloroethylene (dry cleaner solvent) or methylene chloride (typically found in strippers)—are sometimes referred to as "sinkers" because they sink to the bottom of the aquifer, where small amounts can cause large-scale contamination. Treatment of these chemicals is incredibly expensive – prevention is the key. Another important feature of the regulation is the requirement that all hazardous materials harmful to groundwater be stored in secondary containment.

Springfield's drinking water protection program also involves ongoing education and voluntary projects. A recent example of a successful project was the Agricultural Chemicals Legacy Project, a collaborative effort led by the Eugene Water and Electric Board (EWEB), which provided growers in Lane County with the opportunity to dispose of unwanted, obsolete agricultural chemicals at no cost and no risk. SUB focused our efforts on growers in the Middle Fork Willamette Watershed. Two collection rounds resulted in 126 participants and 87,340 pounds collected.

SUB is concerned with prevention of chemical contamination along the Middle Fork Willamette River because our treatment plant uses a biologic process that does not treat for chemicals. Again, prevention is key to protection. Watershed restoration and protection efforts, such as those implemented by the Middle Fork Willamette Watershed Council, have important downstream benefits for drinking water.

Through our education and voluntary project efforts, we focus on the kinds of human activities that have the potential to degrade our water quality: improper use, storage, or disposal of household and/or industrial chemicals; misapplication of pesticides or lawn/garden chemicals; chemical spills and leaks; poorly functioning septic or wastewater systems; improperly abandoned wells; and stormwater pollution.

Amy Chinitz

Water Quality Protection Coordinator
Springfield Utility Board



A potential source of drinking water contamination



Interview with Michael Mattick, District Watermaster

Starting in 1985, Michael worked for the Water Resources Department (WRD) for three years in Bend before moving to Salem as a planner, initially working to implement 1987 legislation-related conservation and in-stream water rights. He has been the District 2 watermaster since 1998. There are twenty watermaster districts in Oregon. District 2 covers most of Lane and Linn counties and small parts of Benton and Douglas. Michael has an Associate's Degree in Forest Technology from the New York State Ranger School and a Bachelor's Degree in Environmental Resource Management from SUNY at Syracuse in New York.

LW: You oversee both surface and groundwater rights and permits. What are the job requirements for your watermaster position?

MM: Ideally people come to the job with some engineering background, knowledge of Oregon water law and good people skills. Recruitment typically stresses science and engineering competency. However, people can acquire knowledge and skills for this type of work through progressive job

training. It is helpful to have civil engineering technician experience including land surveying; water flow measurement; collecting and reporting hydrological data; and knowledge of water storage, irrigation system and water transportation facility design and construction.

Working conditions may include wading in swift, cold streams, traversing rough terrain, traveling in varied weather and road conditions in motor vehicles, snowmobiles, ATVs, or on skis or snowshoes and dealing with individuals who are angry or hostile.

I respond to water right disputes, informational inquiries and complaints, and enforce Oregon water laws and administrative rules. A timely response to complaints associated with water distribution, dam safety and well construction is critical to prevent potential loss of crops, life, property or aquatic life.

LW: Tell us something about water law and water rights.

MM: Generally, a water right is authorization to take control of public water from a specific source, use the water at a specific location and for a specific beneficial use. A water right has a priority date, a maximum rate of use and may have a maximum duty or volume.

The date an application is submitted is the tentative priority date for the right. The priority date is important because, during a time of shortage, the oldest rights get water first. One aspect of the review process is that WRD must find that water will be available for the new use without injuring other water rights. If an application passes all tests, a permit is issued, usually allowing 5 years for the construction of the system and beneficial use of water.

LW: Are any new water rights being granted?

MM: New water rights for use of live flow continue to be granted although typically not for summer months, since there are few places in the state where there is water available for a new use during the summer months. We do issue permits allowing the storage of winter flows and the subsequent use of that stored water in the summer. And we issue new irrigation rights to those who have access to stored water which includes those who have a contract for stored water in the US Army Corps of Engineers Reservoirs.

LW: Can a property owner gain an additional right by acquiring property that already has a water right?

Generally, once water rights are certificated, they are appurtenant to specific piece of land. If the land is sold, the water right remains appurtenant to the land. A water right holder may change a certificated water right through a "transfer" application that must be approved by the Department. In this way, water rights may move on either a permanent or temporary basis. A water right holder may sell her or his right to someone else.

The State is not involved in the actual sale of a water right, but a transfer is required if fundamental changes are made to the right. Water rights may also be leased or donated back to the stream on a permanent or temporary basis. All lease or transfer applications must include proof that the right was used in the last five years. All rights come with limits and conditions. Rights issued long ago have few conditions; those issued more recently have more.

Generally, once a right is established by a water right certificate, it cannot be revoked. However, if it undergoes five successive years of non-use it may be subject to forfeiture and may be cancelled.

LW: How is water use monitored and measured?

MM: All new permits come with a notice that permittees may be required to measure and report their use. Anyone using over 0.1 cubic feet per second (a cfs is 449 gpm) is required to install a measuring device. People using over 1.5 cfs are required to measure their use and report monthly use annually.

On salmon-bearing streams where stream flows are a limiting factor and there is potential for improving those flows through monitoring and regulation to protect in-stream flow the WRD will be working to require measuring devices for the larger users.

LW: How much unpermitted water use would you estimate occurs in your district?

I estimate that less than 1% of the water in any given major watershed in my district is being used illegally. We consider "excessive" return flows to be a waste of water, and I may be able to reduce those if people bring them to my attention.

LW: You also oversee standards for construction and permitting of wells. In your ten years as watermaster, how much of an increase in applications for new wells have you seen? For new wells to replace old ones? For lowering existing wells? Are wells going dry?

Based on our records in Linn and Lane counties, the number of new wells constructed in 1998 and 2007 are 588 and 556. The number of existing wells deepened during these two specific years is 43 and 13, respectively. Drillers are increasingly reluctant to alter an existing well because they have to ensure that the well meets all of today's construction standards. It is much easier and less expensive to construct a new well than it is to try to bring one constructed in 1957 up to 2007 standards. The number of water wells abandoned in Linn and Lane Counties during 1998 and

2007 increased from 57 to 65. Every summer I get calls from people saying their wells have gone dry. Most of the time the cause is an overdraw or a leak in the system. I have not noticed more of these calls in recent years.

LW: Wells become contaminated. What are the causes and what is being done by the county or the state to protect the public health? For example, if a recalcitrant owner whose horse has contaminated a neighbor's well with e coli refuses to remove the horse, what recourse does the affected neighbor have?

Groundwater contamination may occur for many reasons, including failing septic systems, over-application of or improper storage of fertilizers, pesticides and herbicides, improper well construction, and lack of well maintenance. The best way to ensure that the neighbor will not put livestock next to your well is to construct the well in the center of your property. When a well is drilled next to the property line you may have little control over what happens next door. New septic drain fields must be at least 100 feet from existing wells, and new wells must be 100 feet away from existing septic drain fields. If a well will not produce bacteria-free water, there may be obvious pathways for "shallow" water to be contaminating the well water.

LW: Given Measure 49, given continued growth, what problems would you expect to encounter, and how will you protect the quality and quantity of ground and surface water in Lane County? It appears that there is very little practical enforcement of increasingly commonplace violations.

MM: There are a number of ways the WRD would approach this. I can regulate new uses in favor of existing uses if it can be scientifically determined the new uses are causing substantial or undue interference to the existing uses and the existing uses have done all they can to get the water that is available in the aquifer. For a broader approach, if the Department finds that groundwater

resources are being consumed at unsustainable rates, we can regulate or close the area to new appropriation through a public process. Before taking this approach we would have to determine scientifically that unsustainable declines are occurring. We cannot prohibit new well construction, but we can prohibit water use because there might not be enough water for future uses.

While the law allows the use of groundwater for domestic purposes in quantities up to 15,000 gallons per day, that does not mean that each household is entitled to use that much. The water must be used beneficially without waste. I can distribute the groundwater resource based on water rights and priority dates.

I believe that practical enforcement takes place. My district is large, however, and would benefit from additional oversight. As more homes are built in the county, more people may experience well problems.

With increased pressures, conflicts over water are inevitable, and I hope that the state will be able to dedicate more resources to water management over time. With only 20 watermasters statewide, each watermaster must prioritize his or her workload. Currently, we prioritize our efforts with emphasis on illegal uses and interference with public interest values such as listed fish species.

We hope that through education, in articles such as this, and talks I give to Watershed Councils, Realty Brokers and anyone else who requests them, that we are able to educate the public about water management in Oregon. I also hope that the people will take advantage of the resources on our Web Page: www.wrd.state.or.us to educate themselves and find answers to common questions. The more you use the website, the more comfortable you will be with its tools and resources. Also, feel free to call me.

Michael J. Mattick
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Growth of the Soil

I've lived in Lane County all of my 56 years. My first twelve years were spent on my parents' 2½-acre "garden plot" up the Mohawk Valley, where they endeavored to grow the majority of the family's food — meat, milk, vegetables, fruit, and eggs. Though of very modest means, we were close to the soil and ate well.

As an 8 to 12-year old, I began to observe the impacts of development on our idyllic life. Larger farm and forest parcels became multiple horse ranchettes, our trout streams overrun with people who had no connection with the history of that place.

I had been instilled by that young age with the joy and peace of food self-sufficiency, derived from good soil, good work, and cooperation with the "creator" in the natural world.

In 1964 my parents, along with my older brother and sister-in-law, bought a

256-acre farm and forest parcel between Crow and Lorane. Since 1972 at age 19, I assumed responsibility for farming and caring for 50 acres of garden and pasture land on the acreage. I've always searched for the best practices of animal and plant production aimed at a healthy sustainable food system. I don't call myself an organic farmer. I'm an Agrarian who espouses care for land and all creation. I intend to spend a lifetime learning which practices and interrelationships are capable of being sustained.

In the fall of 1994, Lane County staff compiled an inventory of Lane County "high value soils," as required by LCDC Agricultural Land Rule (OAR 660-33 Feb. 18, 1994). They simply categorized soil types identified by the Soil Conservation Service (now NRCS) as to productive class, and assigned the number of acres of each class in the county. They did not (as I advocated) create overlays of zoning and development that had occurred or were planned that impacted these various soils' agricultural availability. Over a period of years I was able, with the efforts of many people, to have a map of Central Lane County printed that includes most of the region's best soils, and its urban centers as well.

Using 1993 data, overlays of urban growth boundaries and rural residential zoning can be placed over the Class I, II, and III agricultural soils' mapping. This map-composite has been shown to county planners, commissioners, and many citizens over the last ten years or so. It strikingly illustrates how much of our best agricultural soil is under and around development, but to my knowledge that data has been ignored in planning and government policy.

According to the 1994 high value soils compilation mentioned above, less than 1.7% of Lane County's land area was of undeveloped Class I soil. (Class I soils are capable of growing any climatically adapted crop.)

I don't believe any update has been made or any effort given to publicly illustrating which soils are impacted by each new zoning change or UGB expansion.

What should be done to protect what we have left? With the use of up-to-date G.I.S. data, the county and state should create a complete map of zoning and current development overlays set upon soil type and class. This mapping project should also include a running total (over time) of the percentages of each soil class that has been lost. That information then needs to be made public and readily apparent at all planning and zoning-related hearings or rulings.

All new building permits should be subject to site-specific soil tests, and the construction of roads and buildings on that portion of a property which is of Class I or II capability, for example, must be severely limited. We need to recognize that most of the best soils are within or in proximity to urban growth boundaries. Thus, food production needs to be made compatible with neighborhoods and near urban areas. I believe this will best be accomplished when open space, riparian protection/water quality consideration and organic/market garden values coalesce in and around our urban centers in order to preserve precious soils.

Local government advocacy of local food consumption, encouragement in siting local food processors and the promotion of conservation easements to permanently protect near-urban farming all have a part to play in protecting our best agricultural soils, thus enhancing long term community food security.

Paul Atkinson
Laughing Stock Farm



Lane County Update

For years the Lane County planning department has protected its long-standing illegal practice of approving requests for replacement dwellings in resource zones even when the existing dwellings were placed after the implementation of zoning and land use laws and had no land use or permit approvals. This illegal practice:

- Violates the statutory provisions that govern the replacement of dwellings in resource zones, which require land use and permit approval prior to siting the dwelling
- Allows owners of property with illegally-sited dwellings to avoid paying applicable enforcement penalties and gives enforcement officers a way out of taking action
- Provides an unwarranted, illegal way for property owners with illegally-sited dwellings to either legalize or replace the dwelling

A recent appeal of one of these approvals by a neighbor working with Goal One Coalition resulted in a decision from the county Hearings Official establishing that dwellings sited after the implementation of land use

and zoning do require land use and permit approvals.

Not surprisingly, requests to replace dwellings that lack land use approval continue. LandWatch must remain vigilant to ensure that the hearing official's ruling is upheld by staff when making decisions on replacement dwelling proposals.

Meanwhile, persistent politics of growth and development are pushing the County to adopt population projections for the year 2030 that reflect assumptions about future growth based on recent sub-prime mortgage activity. These projections, produced by LCOG at the request of several small cities in Lane County, are problematic on many fronts, and it will take more than vigilance by LWLC alone to assure that projections of future population growth throughout Lane County reflect reasonable assumptions about the future.

In an attempt to force the County to do their bidding, four of Lane County's small cities recently filed a frivolous LUBA appeal challenging the County's approval of a resolution concerning their position on adoption of population projections. As a result, county staff has recommended that, in order to avoid the threat of another LUBA appeal, the resolution be withdrawn and replaced with a new one that meets with the approval of the small cities.

Population projections are a requirement of state law and must be made a component of a county or city's comprehensive plan in order to be relied on for planning purposes. The intent behind the desire for unrealistically

high projections by these small cities is to ultimately justify urban growth boundary expansions.

It is likely that the County will adopt coordinated, county wide population projections before the end of 2008. Please stay tuned for information about how you can help ensure that the County provides accessible opportunities for citizen involvement in the adoption of these projections.

If you'd like to learn more, or are interested in joining us in our efforts to put an end to illegal and entrenched pro-growth practices, please contact me at: Lauri@goal1.org

Lauri Segel
Community Planner
Goal One Coalition

We are now in the early stages of an energy crisis that was foreseen by some but blindly ignored by our political leadership. It makes no sense to continue to base our land use and transportation planning on the assumption that the energy necessary to power new roadways and new subdivisions will be cheap or even available. Oregon's "forecast and provide" model of planning is simply no longer realistic. The sooner we face hard reality, the easier the transition to a new arrangement will be.

Jim Just
Executive Director
Goal One Coalition
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Former mushroom growing facility proposed for auto repair shop

Friends and Neighbors: “Home Occupation” in the Mohawk Valley

My family and I have lived on 12 secluded acres in the Mohawk Valley for 10 years. On a one-lane road well off the main highway, our property is surrounded by farm and forest land, and BLM holdings on its eastern boundary provide seemingly endless trails for horseback riding.

When we first bought the property, our nearest neighbor was growing mushrooms in two large agricultural buildings. It was a quiet operation – mushrooms appear to need little attention – and it seemed that oversight was limited to once or twice a week with no impact on the surrounding area.

Our neighbors are mostly retirees who have lived in the same houses for over 20 years and younger families such as ours. It's a good mix.

Since we had moved from a farm located by the Eugene airport, I was looking forward to the tranquility of our new surrounds. We loved our other home and neighbors, but found that the planned airport expansion would bring more traffic and noise than we were willing to tolerate.

Soon after settling in, we got to know our new neighbors. Each one had a story about the Mohawk Valley and how much they loved living here. They made me think of people that I knew in town who didn't even know their neighbors' names, what they did for a living, or how many children they had – and they lived just an arm's length away from one another.

Only a few families have moved out of this neighborhood, and when a house goes on the market it doesn't stay for sale very long. That was the case when my closest neighbors put their 26 acres, a manufactured home and the two agricultural buildings up for sale. The property was purchased by a single father with three sons, 14, 16 and 19 years of age.

Only the teenagers reside on the property. They've hung out in the agricultural buildings with their friends, setting up skateboard ramps, working on hotrods, and having numerous parties that have gone on until all hours of the night. We never saw their father or any other adult on the property.

It wasn't until one of the neighbors reported a fire behind one of the ag-buildings burning out of control that we learned about the new crop planned for the building. The new owner, Bud

Johnson, who owns Acme Collision Service in Springfield, had applied to the county for approval to convert one of the ag-buildings into a “home occupation” auto body repair and restoration shop that would allow work on up to 100 cars a year (not including motorcycles and various parts). These buildings were previously put in place by an “agricultural” permit, and the property is surrounded by farm and forest land with a few rural residential lots. An auto repair shop would be incompatible with the zoning and the neighborhood.

When we received official notice of the county's approval of this application in August 2007, we were shocked. A full time industrial use seemed outrageous and insupportable.

Our expectations for those buildings were lost in the pile of incongruities filed by the applicant. The extent of the modifications required to suppress noise, provide adequate ventilation, and meet state fire code standards far outweigh “hobby” that the applicant claimed as his reason for the home occupation.

With 32 of my neighbors I appealed the county's decision on February 13th, and a hearing on the matter occurred on March 20th.

To better understand what we were in for we made an appointment with Lauri Segel of LandWatch Lane County and Goal One Coalition. Though she warned us that our legal foundation was thin, she recommended consulting an acoustical engineer. Art Noxon, a licensed acoustical engineer, provided us a list of decibel readings that one would expect from the activities the new owner would carry on in the two metal buildings.

During our hearing, Johnson cited a decibel reading taken from his ag-buildings using an unprofessional and legally unacceptable measuring device. This instrument was not operated by a licensed acoustical engineer but by Mr. Johnson himself. Its lowest reading would register only 55 decibels, therefore eliminating the possibility of an ambient sound reading.

The noise generated by an auto body shop is one of industries' highest violators, and it is strictly regulated by the DEQ/EPA. Though the auto repair business proposed for our neighborhood would use the same equipment and chemicals as Johnson's shop in town, it would not be regulated in the same way by the county because it is categorized as a “home occupation.”

In addition to the intrusion of noise, the storage of 67 gallons of known carcinogenic and flammable material on a one lane country road would put neighbors, their land and their animals at great risk. According to a list provided by the property owner, procedures to be followed in the event of fire include:

- *Extinguishing Media: use foam, CO2 or dry chemical extinguishing media.*
- *Fire Fighting Procedures: Full protective equipment including self-contained breathing apparatus. Water spray may be ineffective. If water is used, fog nozzles are preferable. Water may be used to cool containers to prevent pressure build-up due to extreme heat. Run-off water from fire may be contaminated; contain if possible. Notify authorities.*

Our volunteer fire department is not equipped to fight such highly flammable materials, let alone handle the run-off

associated with this “home occupation.” Because we're not supported by a sanitation system, run-off, whether from chemical or dust drift, will be carried to the nearby Mohawk River and then deposited in the McKenzie.

Nearby wells and grazing lands are in a direct path of deposits that will occur during day to day operations. There are three nearby properties actively farming, cultivating hay and grazing livestock. As noted in EPA reports, the chemicals Johnson expects to use could endanger both human and livestock reproduction.

At the hearing several neighbors pointed out that, since the applicant owns a fully operational auto body shop in Springfield open five days a week, they couldn't understand how he could also work the same hours and days at his home occupation. During his testimony, the owner admitted that he presently lives on Deerhorn Lane. Statutory provision reflected in Lane Code requires that for a “home occupation” the owner must live on the property. On this requirement alone the hearings official should rule in our favor.

If our appeal fails, however, who will assure neighbors that their once tranquil and clean surroundings will stay that



way? When violations occur – among them pollution of air, soils, and ground and surface water from carcinogenic solvents, paints and lubricants, excessive noise, disturbance of the peace – who will enforce them? It's not likely to be the county's code enforcement program, which relies on complaints from the public, seeks voluntary compliance, and avoids levying fines. Not the EPA or DEQ who claim that their resources are spread too thin to investigate such concerns. And certainly not the sheriff's office, which is reluctant to respond even to theft.

No, the hard lesson we neighbors have learned is that we suffer the consequences of a system corrupted by weak law and no enforcement – we and the wildlife and our natural environment. But perhaps we will have learned something else as well: that ignorance may not be bliss, and that joining with our neighbors and working with non-profit watchdog groups like LandWatch and Goal One Coalition to challenge bad land use decisions may ultimately result in the enforcement of stronger laws and in greater community safety.

Michelle Briggs