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Lane County Rejects Regional Planning



This could become a familiar scene under exclusive county oversight

This country was founded on the principle--and practice--of government by a balance of powers as being in the best interest of the country as a whole, a check to the tyranny and corruption that too often results from governing power vested in a single authority. Likewise, with metropolitan planning, Eugene, Springfield, and Lane County benefit singly and collectively by having a governing body where decisions of regional import are based on the separate but equal authority of its three jurisdictions.

Nevertheless, as reasons for seeking to be the sole agency making decisions affecting 35 square miles between Eugene's and Springfield's urban growth boundaries and the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) boundary, Lane County claims on its website that "the inability of the MPC (Metropolitan Policy Committee) to reach consensus on Blue Water Boats and Delta Sand and Gravel's proposal to expand quarry operations" led to the county commissioners being "frustrated about the ability of cities to

override decisions on county land use issues." And it avers that joint regulatory authority "appears to be too far reaching when it impedes the county's ability to make land use decisions on lands beyond city limits and UGBs." That area includes farmland, forestland, wetlands, riparian habitat and other land critical to ecological health and municipal water quality.

Such a declaration assumes, or appears to assume, that each jurisdiction is or should be an island unto itself. But in fact land use decisions that affect Eugene and Springfield affect the county as a whole, and certainly the reverse is true.

Although it may serve some parties to pretend otherwise, air, water, and soil pollution; noise; increases in traffic; and other impacts from, say, a county-approved sand and gravel operation or dwellings and home occupations on rural resource lands do not recognize jurisdictional boundaries. Regional or inter-jurisdictional planning could help mitigate or eliminate negative impacts and protect common resources.

Invaluable assets such as Buford Park-Mt. Pisgah, part of a master planning process that has worked long and hard to create a natural and recreational refuge of regional importance, would be vulnerable to unilateral county land use decisions.

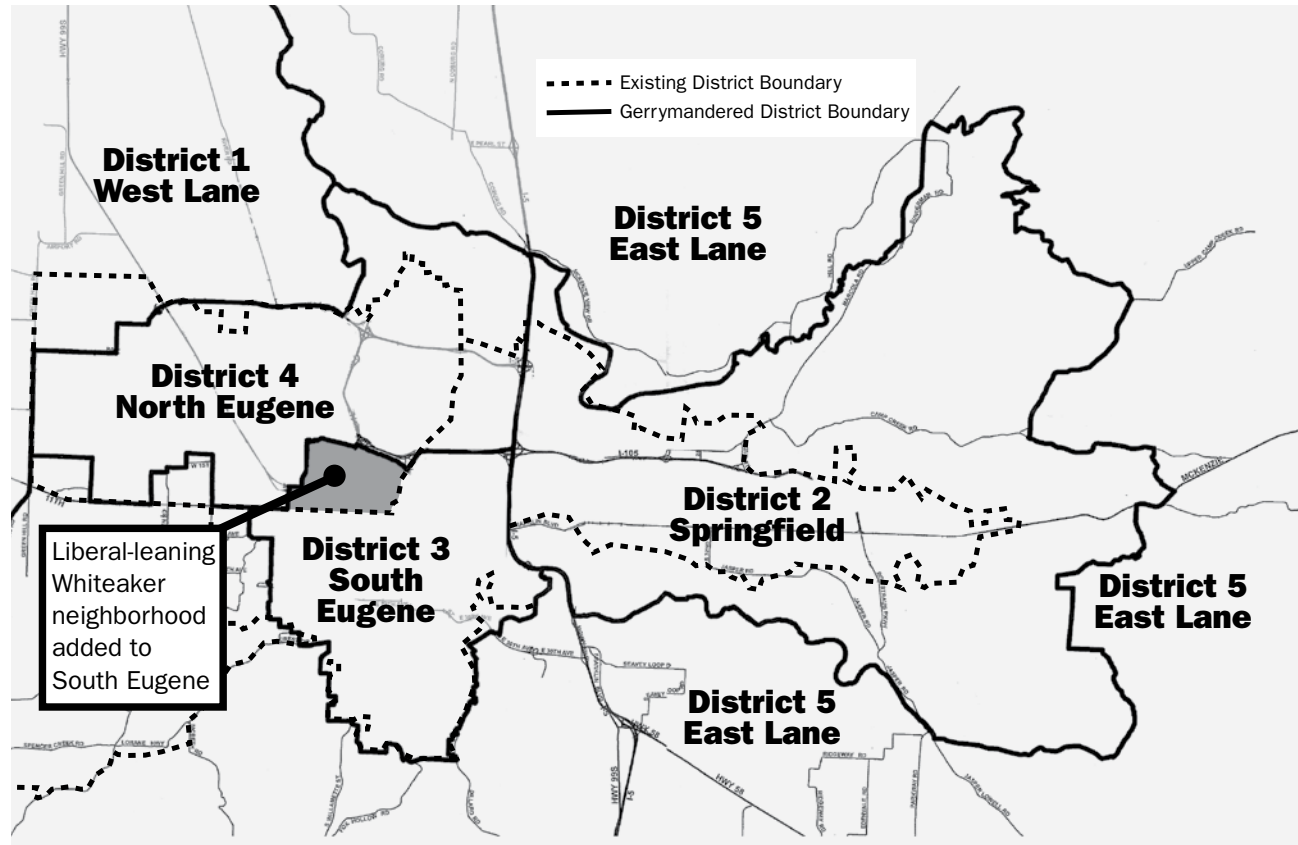
For let's be clear: The conservative majority on the Board of Commissioners voted last February to remove the county from metro land use planning to allow the planning director, Kent Howe, to make decisions of regional importance and impact without official oversight and free of troublesome public awareness and scrutiny.

This is bad governance of a distinctly pernicious, undemocratic sort, driven by conservative ideology and by development interests, particularly those of the sand and gravel and timber companies. Knife River, for example, a national extraction and construction corporation, submitted comments urging the county's withdrawal from regional planning. A sample of what to expect from the company may be seen from I-5 in the mountain top removal occurring between the Coast and Middle forks of the Willamette River and within view of Mt. Pisgah.

With the imperatives of global warming, peak oil, peak water and their root cause, overpopulation, already upon us and demanding regional-- indeed global-- solutions, it is irresponsible at best for Lane County to propose going it alone. For the common good of the county and all its jurisdictions, the Metro Plan boundary should be retained, as well as Eugene's and Springfield's authority in county land use issues of regional significance within it.

It's one county after all.

Robert Emmons



Gerrymandered Lane County Commissioner Districts

How to Rig an Election: Lane County Redistricting 2011

What does southwest Eugene and its Churchill neighborhood have in common with distant Oakridge, Cottage Grove, McKenzie Bridge, Belknap Springs and remote rural areas in East and South Lane County and the foothills of the Cascades? Nothing really, except that this part of the South Eugene Commissioner District has been forced into the East Lane District thanks to a 3-2 conservative majority vote to gerrymander Lane County's once-a-decade redistricting process.

Urged by *The Register-Guard* in its October 26, 2011 editorial, "Keep Current Districts," to avoid "wading into the swamp of controversy" by manipulating districts for partisan advantage, Lane County's new Republican Board majority instead spurned the overwhelming objections of citizens at two October public hearings, as well as a flood of opposing emails, and voted for arch-conservative Commissioner Jay Bozievich's Scenario 8, a districting plan that the RG rebuked as one that "reeks of political partisanship".

The *Guard* correctly warned that in refusing to retain the "as is" Scenario

1, the current equitable and fully compliant County Commission district boundaries, the conservative majority may well trigger a backlash of resentment that could result in rejection at the polls of any forthcoming public safety measure.

Despite Bozievich's protestations that Commissioners technically hold non-partisan positions, unlike many Oregon counties in which political party nominees compete at the polls, it's obvious that "non-partisan office" candidates have beliefs and positions that are easily identified and tracked. Bozievich, for example, is clearly linked with the radical right-wing fringe of the GOP; he is

founding chair of the far-right Koch Brothers' local chapter of "Americans For Prosperity" and a founding member of the Lane County Tea Party. Candidates and office holders signal their political allegiances with their very comments, actions and votes.

Scenario 8 plays havoc with the traditional metropolitan/rural district layouts as mandated by the Lane County Charter and may have far reaching consequences for land use protection and other prevention programs. The Springfield metro district, for example, bloats from 18.3 square miles to 61.6 square miles—a move freshman Springfield Commissioner Sid Leiken publicly applauded because this huge rural swath up the lower Mohawk valley is on a sprawl wish list for the City of Springfield's future expansion.

"Shifting a boundary in one area requires equal adjustments elsewhere," the RG cautioned, "and counter-adjustments often create problems as serious as those original fixes solve." Bozievich's gerrymander shoves 8,200 rural unincorporated residents residing in the East Lane District, including rural residents along Camp Creek and northward toward Marcola—small farm and horse pasture acreages and rural residences sought for escape from cities and suburbia—into the metropolitan Springfield Commissioner District.

The unincorporated Glenwood area of 1,048 residents is also brought into

Springfield, thus triggering the transfer of some 9,000 Harlow residents currently in the Springfield district into the North Eugene District.

To compensate for Harlow's move, 9,459 liberal-leaning Whiteaker and downtown west Eugene residents are relocated into already top-heavy Democratic South Eugene. This is the heart of the gerrymander, aimed at unseating incumbent liberal North Eugene Commissioner Rob Handy. Handy's 250 vote victory in 2008 over conservative Bobby Green appears to have been the main focus of the Bozievich maneuver that, according to the *Guard*, "tilted the North Eugene District's political balance decidedly to the right."

How does South Eugene accommodate this mass infusion of north Eugene liberals? Some 9,200 Churchill and South Eugene residents are combined with another 3,124 Eugene residents currently in the West Lane District, and these 12,424 Eugeneans are transposed to the rural East Lane District and its pro-big timber, pro-sprawl Commissioner Faye Stewart.

Ironically, as one of the three majority votes, Stewart urbanized his own rural East Lane district, "making Eugene, not Cottage Grove, the dominant metro area in his district" (*RG*, 10/28/11). Scenario 8 makes a mockery of Lane County's own

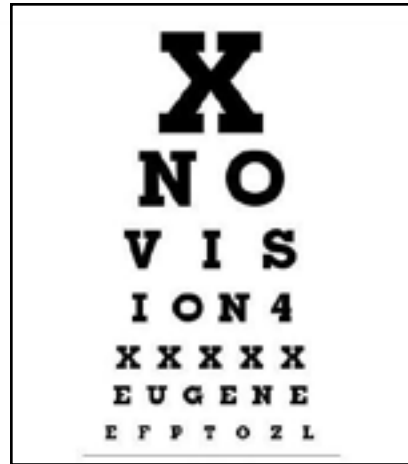
Charter, not to speak of transparent public policy.

The Board-appointed Redistricting Committee chose to exclude the scenarios that were forerunners to Scenario 8. Regardless, immediately after testimony at the October 5 redistricting hearing, Bozievich foisted a Power Point presentation and maps promoting 8 on an unsuspecting audience. Subsequently, the Board majority overrode its own advisory committee and fast-tracked the Bozievich districting scheme. Turning a deaf ear to the "if it ain't broke, don't fix it" editorial and public pleas for fair and balanced County districting policy, the Board has risked strong public repudiation in future ballot funding requests and a potential citizens' referendum.

The result of the upcoming North Eugene Commissioner race and this coming decade's future County elections should be determined by a fair, open and accessible citizen election process, not by the current Board of Commissioners' blatant manipulation and violation of the public trust.

Though we may be limited in impacting the national political climate, conscientious citizens can work together to defeat divisive actions and promote a cooperative, truly bi-partisan approach to our local government.

Nena Lovinger



Eugene bureaucrats are blind to public process visioning

No Vision in Envision Eugene

Envision Eugene is a planning process that will lead sometime in 2012 to a Eugene-only Urban Growth Boundary (UGB) and a set of comprehensive plan policies that largely determine where and what forms of development will be encouraged within Eugene's new UGB for the next twenty years.

The UGB and plan policies will potentially affect agricultural and forest lands; wetlands, waterways and natural storm water drainages; the character and livability of established neighborhoods; housing costs; transportation demand and costs; and the number and quality of local jobs. Envision Eugene is a big deal. And, according to some organizations, things are going swimmingly.

The Department of Land Conservation and Development's Citizen Involvement Advisory Committee awarded Envision Eugene LCDC's annual STAR Award for citizen involvement in land use, praising the process as "innovative, represent[ing] substantial effort and commitment, and [which] has demonstrated successful results." Even the 1000 Friends of Oregon website gushes: "Eugene is

pioneering a collaborative, cooperative approach to urban planning by treating citizens, business leaders and land use advocates as partners, not adversaries." Hearing such praise, Lane County residents may feel at ease about the outcome of this process. However, the truth is that the vaunted "citizen involvement" has thus far been little more than an example of the "Emperor's New Clothes."

In the beginning, Eugene Planning staff set up a Community Resource Group (CRG) of about sixty participants as an outside-the-box way to create "consensus agreements" on the tough issues. The CRG met for endless all-day "listening circles," but after eight months didn't produce a single agreement on any important issue. Faced with no concrete results from the CRG, staff quickly recast the group as merely a source of input and formed the Technical Resource Group (TRG), ostensibly to continue the CRG work by a smaller, but still "diverse" group of citizens. The ten or so members of this group are, by-and-large, knowledgeable and well-intentioned individuals, but they are by no means representative of the Eugene citizenry. The biggest problem, however, is that the TRG is working only within a framework that Planning staff has established, sharply limiting any "visionary" aspects to their efforts.

While the industrial and commercial aspects of Envision Eugene have their own set of problems, my involvement as a CRG member was focused on how housing would be provided for the anticipated increase in Eugene's population. Knowledgeable people recognize that the City cannot dictate a specific number and type of dwellings and force households to live in them. We live in a regional housing market, and households have choices in

price, housing type, amenities and transportation means available in Eugene, Springfield, Junction City and several other outlying communities. And yet planning staff has done their entire analysis of housing "need" (i.e., future demand) without considering the area market at all. Thus, no matter how capable the TRG members are, they can't produce a recommendation that has any validity because of the flawed analytic model they were forced to use.

Staff's approach isn't just deficient in its mechanical aspects; their framework provides no foundation for a housing vision whatsoever. All the many existing and conceivable variations of housing are reduced in their model to just two categories: single-family detached and everything else. There's no place to plan for specific forms of compact housing, such as courtyard cottages, that would attract buyers who might otherwise buy a conventional, single-family detached house on its own lot.

Thus, there can be no vision for how Eugene might replicate some European countries' successes with creative forms of housing or how we might follow Portland's attempts to shift demand to housing forms that are both more land and transportation efficient and also attractive to young families, seniors and other demographics.

Staff's model also ignores context almost entirely, accounting for only a single factor – whether or not an area for potential housing is level or sloped. As just one of several examples, this overly simplistic approach precludes any ability to plan protection for the rapidly diminishing natural storm water drainages in Santa Clara, which aren't officially designated as "wetlands."

Despite lofty aspirations expressed in the draft proposal, the real Envision Eugene work pays only lip service

to "affordable housing." It's clear the real "vision" for most lower-income households is to relegate them to cheap apartments. The result will not be equitable to these members of our community and will also shift some of the housing demand from this income range to outlying communities.

There's a great deal more in the Envision Eugene record that illustrates the true nature of the process. It's an intensive, masterfully-executed public relations snow job wrapped around a complete failure to organize a legitimate public process to produce a vision that has broad community understanding and support and that lays out a sound approach to making that vision a reality.

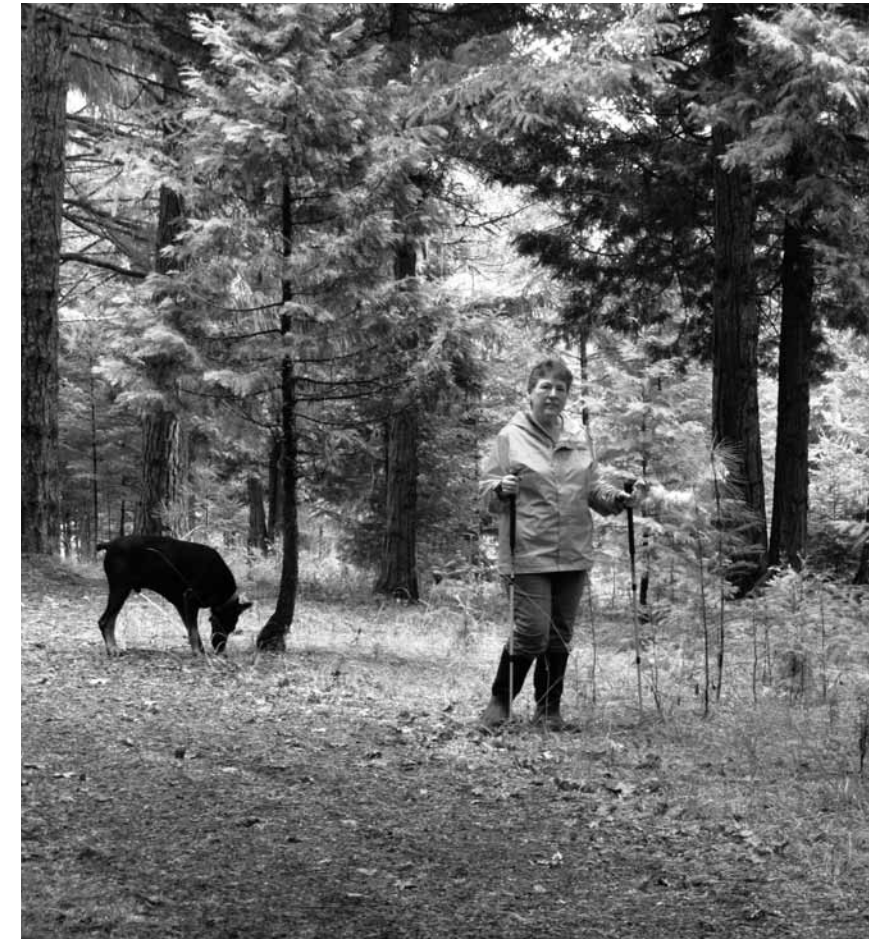
Paul Conte

Conte is a resident in Eugene's Westside Neighborhood and has been an active neighborhood advocate for many years. He can be reached at pconte@picante-soft.com.

To get more information and an independent perspective on Envision Eugene, visit the Jefferson Westside Neighbors website at jwneugene.org/enveug.

Interview with Helen Hollyer

Helen Hollyer's pursuit of a doctorate in cultural anthropology (it eluded her) ended when she realized simultaneously that she was learning more and more about less and less, and she needed to find honest employment. Before abandoning formal education, though, she researched marriage patterns among the Bassa, a slash-and-burn agricultural people of the secondary rainforests of Liberia, West Africa. After her return to the United States, she engaged in serial careers that included residential real estate brokerage, insurance sales and serving as the reporter/photographer/editor/publisher of The Creswell Chronicle, a weekly community newspaper.



Helen Hollyer and Loki enjoy their forest practices...

LW: *You've been restoring your property in the Camas Swale Valley about seven miles west of Creswell to native vegetation for wildlife habitat. What condition was the property in when you bought it, and what motivated you to invest your time and resources in the task of rehabilitating the acreage?*

HH: I first saw the land that eventually became mine in mid-May when I drove across a private bridge, wound through an oak and ash forest bordering a wet prairie with lavender spikes of camas, and ran past a riparian forest along an unnamed tributary of Camas Swale Creek and through a remnant oak savanna. Then the road rose gently to a higher-elevation Douglas-fir and Ponderosa pine-fringed upland meadow dotted with clumps of Oregon tough-leaved iris ranging in color from pale violet to deep purple.

To the east, Camas Swale gave way to the southern end of the Willamette Valley, bordered by the dark blue Low Cascades above which the white peaks of the Three Sisters were silhouetted against a cloudless blue sky.

I knew immediately that I had come home.

In order to construct a single house on land zoned for exclusive farm use, I submitted a timber management plan for planting Douglas-fir, Ponderosa pine and Grand fir on the appropriate soils in the higher elevations.

Unfortunately, in a misguided venture into commercial agriculture, I later allowed a hybrid poplar plantation to be established in the wetland and wet prairie areas. To my horror,

Continued on page 6

Helen Hollyer interview, continued from page 5

site preparation included applying herbicides to kill competing vegetation, including, of course, the native wildflowers. Soon after the poplars were planted the deer eliminated most of them, and the remnants never grew to more than shrub height.

This experience taught me that the highest and best use for this landscape is wildlife habitat, not agriculture. Past farming practices, including channeling the stream and draining wetlands, had already caused environmental degradation and damaged habitat for threatened species such as Western pond turtles, red-legged frogs, Kincaid's lupine and Willamette Valley bitter cress.

I decided to learn more about how to restore the land and find some way to protect it from exploitation after my death.

LW: *You've taken the additional step of creating a conservation easement on 60 acres of your land that will be overseen by the McKenzie River Trust (MRT). You were a real estate broker for many years. Doesn't such an easement reduce your property's value?*

HH: In 2010, McKenzie River Trust and I entered into a conservation easement agreement that encompasses the majority of my property except for the home site, horse barn, pasture area and about 15 acres of timber. The easement provides that the undeveloped 60 acres must be managed to encourage native vegetation and enhance wildlife habitat. Among other prohibitions, no structures may be built nor may crops be grown or domestic animals be raised on that portion of the property.

I, my guests and my successors as property owners may continue to hike and horseback ride on the trails I had already established at the time the easement was created, and one additional trail may be constructed in a designated area.

My partners in restoring and enhancing the wetlands and wet prairies (Coast

Fork Willamette Watershed Council, Oregon Department of Fish & Wildlife, U.S. Department of Fish & Wildlife Service, Division of State Lands and Oregon Watershed Enhancement Board) and I are permitted to pursue projects with MRT's prior approval.

Yes, the property's monetary value was reduced by the inability to eventually harvest the forested portions of the property covered by the easement. As part of the process, MRT paid for a professional appraisal of the projected loss in timber value. Once that figure was established, MRT compensated me for part of the loss, and I will be able to deduct the remainder of the lost value from my personal income taxes over a ten-year period. I was also able to substitute a conservation easement tax deferral for the previous farm tax deferral on part of the property, so my property taxes did not increase as a result of the change of use.

My experience as a real estate broker taught me that the eventual buyers of properties with special characteristics decide to acquire those properties for the same reasons that caused their current owners to choose them. I anticipate that my successors as owners will appreciate the same qualities that I do. There may be fewer potential purchasers, but they will be people who share my values.

LW: *What's the purpose of a conservation easement and how did you work with MRT to bring it about? How did you reconcile your wishes with their guidelines?*

HH: A conservation easement is intended to protect undeveloped acreage from development forever. McKenzie River Trust will monitor the restoration, enhancement and preservation of the streams, wetlands, wet prairies, riparian forest, upland prairies, oak savannas and other land types as habitat for native species of plants and animals.

Because every conservation easement is unique to the property to be conserved and the owner of that property, as part

of the process of creating the Hollyer Prairie conservation easement I spent hours walking the land with MRT's Land Protection Manager discussing the property's special characteristics, my values and goals and MRT's abilities and limitations in providing long-term protection.

I wanted to leave a legacy to future generations and hoped that other landowners, seeing the joy I derive from my relationship with the land and the knowledge that it will survive my demise unchanged, will consider creating such legacies of their own.

My real estate background and familiarity with easements of various kinds undoubtedly helped negotiate the agreement with MRT, and their representatives' knowledge and expertise was invaluable in surmounting occasional obstacles to arriving at a meeting of the minds.

LW: *What is it about your piece of land that makes it desirable for the trust to manage? Do you feel conservancies of the sort you have with MRT are viable and effective tools to protect the county's rural landscape? What are their strengths and weaknesses?*

HH: MRT evaluates a property's suitability for a conservation easement by scoring a variety of characteristics, including the amount of undeveloped land to be protected, number and types of threats to maintaining its relatively undisturbed nature, relationship to surrounding properties that may also be candidates for protection, rare and threatened plants and animals already known to be present on the property and the landowner's values and needs. The mosaic of land types that limited my land's agricultural potential made it more valuable as wildlife habitat for a wide variety of species. The field botanist I contracted with to perform a plant survey of my entire property discovered several populations of threatened Kincaid's lupine, one of the only two host plants of the endangered Fender's Blue Butterfly, until recently thought to be extinct.

Conservation easements are just one type of tool to protect rural landscapes. MRT and other conservation organizations also seek to purchase land parcels, but land acquisition is a much more expensive process and typically doesn't allow landowners to continue to live on and use their properties.

MRT performs an annual audit of my property to verify that the provisions of the easement are being followed, and to identify actions that could be taken to enhance the property and threats to its continued use as wildlife habitat. I've pledged continued financial support to MRT to enable them to monitor properties, including mine, under their protection. The easement is intended to continue into perpetuity, but human societies are notably evanescent. I recognize that my agreement with MRT is vulnerable to human and natural catastrophes, but I believe it to have been the best way available to protect my land.

LW: *We understand that Seneca Jones Timber Company recently clearcut 120 acres of forest that border one side of your property. How has this event affected your experience of and relationship to your land? How does it impact your conservation efforts and easement?*

HH: In mid-July of 2011 I received a letter from Seneca notifying me of their intent to clearcut a parcel of land bordering my property to the west. I immediately contacted them, offering to purchase a 200-foot buffer zone along the boundary line in an effort to prevent my adjacent trees from blowing down and to mitigate other negative impacts.

Seneca refused to consider the sale of any land and proceeded in mid-August to remove every piece of vegetation up to the property line, using a feller buncher, a motorized vehicle whose operator uses an attached tree-grabbing device with a circular saw that cuts several trees off at their bases in as many seconds and lays them down.

Because of extreme fire danger, tree cutting operations began between 1 a.m. and 3 a.m. and continued until noon, with the sound making sleep impossible six nights a week for several weeks. However, sleep deprivation paled in comparison to the anguish of knowing that an entire forest and its animal life from top predators down to soil organisms was being destroyed or driven out.

Along with local jobs, the trees likely will be shipped, tax-free, as logs to China or Japan. Small trees, downed branches and other brushy plant materials, essential to building and rebuilding forest soils, were hauled away as well, likely to Seneca's new biomass plant in Eugene, which recently failed its first LRAPA particulate emissions test.

Seneca's letter indicated that they would prepare the logged land for replanting next summer and plant the following year. It's highly likely that their fully mechanized operation will include aerial spraying of chemical herbicides, pesticides and fertilizers, and virtually certain that only Douglas-fir seedlings will be planted, replacing a vibrant multi-species forest with a single-age, mono-cropped plantation.

The impact on wildlife was substantial—I haven't seen a black bear, cougar, bobcat, coyote or raccoon

since the devastation began, only a few fugitive squirrels. Bird life has been reduced dramatically.

Watershed impacts will be worse. With no vegetation to capture and slow runoff, rainfall will cascade down the denuded slopes, causing more water at higher velocity in the stream running through my riparian forest and wetlands, deepening the stream bed and sweeping downstream the gravels used by cutthroat trout for spawning. The lack of upland vegetation will also cause the stream through my land to dry up during the summer, negatively impacting my efforts to enhance the wetlands and wet prairies.

Furthermore, forest practices of the sort inflicted by Seneca on the land bordering my property are a major cause of landslides, particularly on the steep slopes of the coast range.

It's heartbreaking to witness at close range the results of human avarice. Seneca could have chosen to thin trees periodically in a responsible manner rather than obliterating all living components of the landscape, but it would have been less lucrative in the short term.

Will we ever learn that our very existence ultimately depends on living with the land, not destroying it?



...and inherit the forest practices Seneca enjoys



Without a county permit, Greg Demers and the McDougals begin devouring Parvin Butte

Neighbors Challenge Proposed Parvin Butte Mining

Another proposed quarry mining operation is being challenged in Lane County, this one sitting nearly atop the small town of Dexter, located about 15 miles southeast of Eugene. Residents of the town and the surrounding valley worry about the intrusion of a mine located about a half-mile from and in full view of downtown, and its effect on Lost Creek, a Class I Stream that borders the property and is home to migratory trout, steelhead, salmon and western pond turtles.

Neighbors got wind of the proposed operation nearly a year ago, after the property owners clear-cut the land, which includes a steep butte and local community landmark known as Parvin Butte. Parvin Butte silhouettes Dexter Lake and can clearly be seen from the town of Lowell, about five miles away.

The landowners, the McDougal Brothers, doing business as Lost Creek Rock Products LLC, had previously applied for and received an aggregate mine operating permit from the State Department of Geology and Mining Industries (DOGAMI) to mine a 50+ acre parcel of land that includes Parvin Butte. DOGAMI is not required to notify neighbors when a mining application is received, which left the residents unaware of the plans for a quarry operation in their community.

When residents turned to the county for help, they learned the county was also unaware of the proposed Parvin Butte mining-- the landowners had not filed for Lane County approval, claiming none was needed. However, Lane County staff have formally stated that the company is required to go through the county's permitting process prior to operation of the mine and are awaiting the application for site review.

In 2010 Lane County commissioner Faye Stewart hosted a purported fact-finding community meeting

for neighbors, county staff and the landowners. More than 100 neighbors attended the meeting, hoping to learn more about the proposal; the applicant, however, was largely mute, volunteering little information.

Neighbors began to meet monthly to oppose a project that would, in time, completely remove Parvin Butte from the landscape.

One year later, neighbors continue to watch, wait and document activity on the butte while the county sifts through the legalities of the operation and awaits a land use application. Residents have sent county staff and elected officials video footage of McDougal Brothers trucks hauling rock to off-site locations and excavating and stockpiling rock from the mountainside. They fear it will only be a matter of time before a rock crusher already onsite will be operational.

In the meantime, Lane County is reviewing an application for a riparian modification and a floodplain development permit for a proposed



Above: Further preparation for mountaintop removal

Below: What remains – to date – of Parvin's landscape and legacy. It's a work in progress.

bridge over Lost Creek, to bring traffic in and out of the Parvin Butte quarry. Residents are concerned about flood issues and hazards to aquatic life should the bridge be built.

At a public hearing on November 10, the hearings official extended the public testimony deadline to December 7 and scheduled a site visit to the quarry to better understand the extent of the requested modifications. The public was invited to attend – the first time residents will have been legally allowed on the site.

Neighbors plan to accept the invitation and to provide additional information to the county record. Individuals interested in helping with this fight are encouraged to get involved. Visit the Dexter-Lost Creek Community Association website at www.dlvca.org for more information. To receive automatic updates from the neighborhood group, join their Google group at: groups.google.com/group/dlvca

Kim Metzler
Dexter-Lost Creek Community Association



Photos by John Bauguess



Day Owen, his wife Neili and their rebellious pitchforks

Triangle Lake Pesticide Exposures and the State Statutes that Enable Them

A letter recently sent to Triangle Lake area residents from pro-pesticide forces describes and defends the “Oregon Right to Farm and Forest Laws” (ORS 30.930 to ORS 30.947), a series of pro-industry laws put in place at the instigation of a lobbying group called Oregonians for Food and Shelter. Its members include Monsanto, DuPont and Weyerhaeuser, and it was founded three decades ago to prevent an aerial spray buffer zone from being established in Oregon.

Although I have advocated for an aerial spray buffer zone around homes and schools near Triangle Lake for seven years, I was unaware of the existence of ORS 30.930 to ORS 30.947 until I read the pro-pesticide mail-out. Its reach is astounding, even empowering agencies to not investigate pesticide complaints. <http://www.oregonlaws.org/ors/30.930>

In California a growing number of counties have voted to enact aerial spray buffer zones near homes and schools. But ORS 30.934 titled, ‘Prohibition on Local Laws that Make Forest Practice

a Nuisance or Trespass,’ takes away the rights of local Oregon counties to enact aerial spray buffer zones to protect residents from chemical trespass.

The devil is in the details, in this case the “definitions”. ORS 30.932, Definition of “Nuisance” or “Trespass,” reads in part, “As used in ORS 30.930 to 30.947, ‘nuisance’ or ‘trespass’ includes but is not limited to actions or claims based on noise, vibration, odors, smoke, dust, mist from irrigation, use of pesticides. . . .” In other words, apparently anything-- including claims or actions based on pesticides – is defined in this statute as a “nuisance” or “trespass” and will apply everywhere that the terms are used in ORS 30.930 to ORS 30.947.

The significance of this far reaching definition may be seen in ORS 30.943, “Certain Agencies Not Required to Investigate Complaints Based on Farming or Forest Practice,” which asserts that “The Department of Environmental Quality, Department of State Lands, State Department of Agriculture or State Forestry Department are not required to investigate complaints if the agency has reason to believe that the complaint is based on practices protected by ORS 30.930. Those “protected” practices include everything on the list of “nuisances” or “trespasses”, including pesticide complaints.

This statute boldly permits certain agencies to not investigate pesticide complaints.

Lately, timber companies have been brushing off criticism of ORS 30.930 to 30.947 by claiming that they are only directed at preventing nuisance suits. They neglect to mention that they wrote the legal definition of what should be considered a nuisance and buried it in a separate statute. Or that virtually any claim can be considered a nuisance according to their “Oregon Right to Farm and Forest Laws”.

There are two other paralyzing statutes included in this poisonous package: ORS 30.937 (Immunity From Private Action Based on Farming or Forest Practice) and ORS 30.938 (Attorney Fees and Costs). The first of these sister statutes grants immunity from private legal actions based on any allegations related to the long list of claims designated as either “nuisance” or “drift” related. The second requires anyone still daring or dumb enough to sue under these draconian laws to pay the fees and costs of the other side upon losing.

The first step toward overturning the most objectionable portions of ORS 30.930 to 30.947 is to raise awareness that the laws exist and that they do not just apply to, say, new buildings that encroach into farming zones, though the titles are meant to give that impression. The definitions section ensures that these industry-driven statutes apply to virtually all homes and schools, including those around Triangle Lake, many of which have been there more than fifty years.

Meanwhile, all 34 Triangle Lake residents tested in January 2011 by Dr. Dana Barr, a pesticide exposure expert from Emory University, were found to have both 2,4-D and atrazine—two of the most dangerous timber industry pesticides—in their urine. A second test in April showed levels of atrazine and 2, 4-D higher than the winter baseline. That prompted the current on-going State of Oregon study conducted by Oregon Health Authority (OHA). Results of the urine samples of over 70 residents taken in September will be available in December.

When OHA announced two months in advance of testing that they would limit samples to atrazine and 2,4D, the timber industry said they would not use those herbicides during the course of the study.

**Day Owen, Founder,
Pitchfork Rebellion**
greenlion@pitchforkrebellion.com



Giustina Timber Company's good neighbor policy

Giustina Sprays Fox Hollow and Hamm Road Neighbors

The Giustina family owns hundreds of acres of timberlands between Fox Hollow and Hamm Roads in southern Lane County. After rural neighbors along both roads were notified on August 26, 2011 that Giustina was planning to begin aerial spraying of toxic herbicides on August 30th, Robin Winfree, Neal Miller and Lynn Bowers organized an effort to alert those in the surrounding area, and they began a letter-writing campaign to ask the company to refrain from aerial spraying and discuss alternatives to poisoning the land and the water we all share.

When a concerned neighbor asked the Giustinas to confirm the spray date,

the only response was to tell her to tell people to “stay off their land.” About 25 neighbors had urine samples taken pre-spray.

Working with Miller, attorney Charlie Tebbutt sent a letter asking Giustina to cease and desist. There was no response. August 30th came and went without helicopters.

Then, on the morning of September 9, a neighbor living near the Giustina land discovered aerial spraying occurring with no advance notice. Shortly thereafter neighbors returned to the doctor’s office for a post-spray urine sample. Currently, the samples are being held in a freezer awaiting further lab tests.

A list of the chemicals in the spray formulation and a description of their potential impact on humans, animals, and plant life are available to any con-

cerned citizen. The drift from this toxic brew—primarily 2,4D and atrazine—causes devastating health effects, as people near Triangle Lake have already discovered.

Many neighbors have collected urine samples in order to have a baseline for further testing should the spraying recur. A Drift Catcher is also being installed to measure the concentrations of poisons that drift along the air. And we are informing Giustina of our actions in the hope that it will dissuade them from ever spraying our valley again.

To help us stop the poisoning of our air, soil and waterways, please call Robin Winfree at 541-343-1557 or Neal Miller 541-686-1238.

**Robin Winfree
Chris Berner**