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Landwatch Enforcement Order Against Lane County

According to its website, the Land Conservation and Development Commission (LCDC) in league with the Department of Land Conservation and Development (DLCD) adopts state land-use goals and implements rules, assures local plan compliance with the goals, and coordinates state and local planning. The LCDC is comprised of seven unpaid citizen volunteers appointed by the Governor and confirmed by the Senate.

On Nov 16, 2011 LW notified Lane County of its intention to file an Enforcement Order (EO) with DLCD regarding the county's pattern or practice of exceeding the 150 days allowed for counties to process most land use applications.

This pattern of statutory violation and procedural malpractice has frequently resulted in writs of mandamus going to circuit court that in turn result in applicants receiving the zone changes or development approvals they seek. Lane County's repeated failures to meet the processing deadline effectively exclude neighbors from equitable participation in the land use process.

In response to the county's denial of any problem after reviewing our Enforcement Order, on March 22, 2012 LandWatch filed its Order with DLCD.

Due to a series of delayed responses from Lane County and especially DLCD – despite repeated requests from our attorney Anne Davies – 13 of the 47 examples that LW had listed of applicants exceeding the processing deadline were deemed inadmissible.

In other words the department from which LW was seeking redress was itself responsible for failing to address the county's statutory violations in timely fashion. The consequence for LW was both severely damaging and enlightening: a weakened case and confirmation of the perception that DLCD subverts the public's interest by working in collusion with local governments.

Notwithstanding DLCD's mooted 13 of our examples, the remaining 34 cases constituted a continuous pattern of violations that should have been blatantly obvious to the commission.

By statute only two examples are required to show a pattern and practice. Therefore, no reasonable or unbiased person could conclude that the county

(Enforcement, continued on page 2)

(Enforcement, continued from page 1)

had not, in a group of decisions, violated the statutory and local regulatory mandate.

On March 21, 2013, Lauri Segel, Anne Davies and I attended the LCDC hearing of our case. After delaying the event 10 minutes to allow the last two commissioners to arrive, the commission devoted 20 minutes more to mutual congratulations and appreciation for the outcome of a recent commission retreat.

When the hearing finally commenced we were treated to over two hours of obfuscation and irrelevancy that passed for deliberation on the meaning of pattern and practice, applicable geographic area, and writs of mandamus and their significance.

During the proceeding a secretary, who had left the room to copy some material pertinent to the hearing, returned and distributed a copy to everyone but our attorney.

The commission's purview, it's important to note, was only to determine if there was "good cause" to proceed to a contested case hearing, not to consider or grant our requested remedies. However, the DLCD staff report employed an analysis of "good cause" that attorney Davies had to spend considerable time in her brief repudiating as erroneous and not required by administrative rule. Her argument would figure as a key element if an appeal of the commission's decision were necessary.

Subsequent to our attorney's presentation, however, we were informed

— with no apology — that DLCD was no longer holding to its "good cause" analysis and had somehow forgotten to remove it from the report — or to inform Davies.

It was soon obvious that Commissioner Greg McPherson, silent for most of the proceeding, had been desperately seeking some way to frame the denial of our petition that other Commissioners had been unable to articulate. Since this grandson of the progenitor of Senate Bill 100 believed our 34 cases did not meet his illusory "threshold," comprising "only 4%" of the unsubstantiated 757 applications the Lane County planning director claimed his department processed last year, he averred there was not a pattern or practice, and that the writs of mandamus had likely taught the county a lesson.

Taking it on faith from the planning director's testimony — there was nothing in the record — McPherson thought Lane County was on the right path with its new application forms. And besides, he suggested in closing, if the county continued to err LandWatch and our attorney could always petition the commission for another round. This proved just the thing to resolve his fellow commissioners' difficulty in spinning the decision they all knew they must reach, and to provide a forum for a few patronizing comments in parting.

It's likely that Carrie MacLaren, former staff attorney for 1000 Friends, now assistant director of DLCD, missed much of this innuendo, because she had turned away for most of the commission's deliberation and was

engaged in a discussion and repartee with the Lane County planning director. Her rude and insulting performance offered compelling evidence that she and Laird knew full well how the issue would be decided.

It's been four months since the hearing, and Landwatch has still not received the department's account in a final order — though we've asked about it repeatedly. When we do we'll decide whether to appeal to the Court of Appeals — an unlikely event. For a favorable judgment would only remand the case to the same commission that had already prematurely decided we don't have one.

Considering DLCD's damaging delay of our EO, their staff report, and the performance of the commission on March 21st, it was clear to the three of us who had traveled to Salem with the expectation of a fair hearing that DLCD exists to facilitate the grasping wastrels of the land and their enablers, not the needs of the environment and community. No surprise when one factors in the growth predilection and policies of our Democratic governor and his chief advisor, former DLCD director, Richard Bremer.

Therefore, in the interest of accuracy and accountability, "Conservation" should be deleted from the department's title. Certainly, if the Department of Land Development persists in its charade as overseer of land conservation, it ought to be a major candidate for elimination in the next budget cycle.

Robert Emmons

What's Existing, What's New at River's Edge

As reported in the Winter 2012 LandWatch newsletter, the outdoor events venue "River's Edge," operated by Mark and Peggy Shrives on the Coast Fork of the Willamette near Creswell, was granted a Temporary Use Permit (TUP). The Hearings Official's decision that the business did "not adversely affect the livability... of abutting properties and the surrounding vicinity" conflicted with the neighbors' experience and inadequately acknowledged the provisions of the parent zone (Impacted Forest) and overlay zones (Greenway, Riparian, and Flood Hazard).

Neighbors appealed, requesting that the matter go directly to the Land Use Board of Appeals (LUBA). However, in an unusual procedure, the applicant intervened to ask that the Board of County Commissioners (BCC) hear the case, knowing that a likely favorable decision from the conservative majority could lend it deference at LUBA.

Following the recommendation of county counsel the Board elected to send part of the decision back to the Hearings Official to determine whether a tent and gazebo, erected in June/July of 2011, were "new" or "existing" *as of the date that the application was deemed complete (June 20, 2012)*.

Use of the tent and gazebo had been integral parts of the venue, but in his October 2012 decision the Hearings Official had concluded that they were "new" and therefore did not meet the standard for use under TUP approval criteria. The Board's direction enhanced the possibility that the tent and gazebo would be allowed back into use.

Neighbors did not dispute that the structures had been built nearly a year before the application was deemed

complete. But we were perplexed and dismayed that the Board disregarded their having been built without building or Greenway permits and that the Shrives had established a Limited Liability Company (LLC) and had advertised and been operating as a business for seven months before filing for a TUP (March 2012).

At the remand hearing the applicants maintained that the tent, gazebo, and considerable other infrastructure changes to the property were all put in place for private use — a daughter's wedding six days after they were installed — and should therefore be considered as "existing" in relation to the TUP.

The neighbors contended that since the Shrives had acquired the assumed business name "River's Edge Special Events" in May 2011, one month before starting construction, and formed an LLC (River's Edge Events) in August 2011, less than a month after finishing work and less than three weeks after the daughter's wedding, the construction

work, including the tent and gazebo, was intended for the venue, not just the daughter's wedding, and therefore should be considered "new."

Accepting the Board's narrow and directed interpretation of "new" and "existing," the Hearings Official reversed his previous position, deciding that "for the purposes of the application" the structures were "existing." As a result, the tent and gazebo met TUP approval criteria and are being used by the business this year. At some future date, we're told, the LMD may require a couple of building and Greenway permits to assure the structures' legality.

Meanwhile, the larger issue of whether or not the events venue in part or in its entirety is legal remains contingent on a LUBA decision. Accordingly, we filed a Notice of Intent to Appeal to LUBA on July 9, 2013.

John White
Creswell



One of the unpermitted new structures, ruled "existing" on the Shrives' property in the Willamette River Greenway

Timber Company Foiled in Real Estate Scam

Lane County's Land Management Division (LMD) reviews and makes decisions on a variety of land use issues, including proposals for riparian area intrusions, forest template dwellings, conversion of farm and forest lands for non-resource uses, home occupations, etc. What most county residents don't realize, however, is that Legal Lot Verifications (LLV's) are among the most frequently proposed actions processed and approved by the LMD.

Today most Oregon counties have legal provisions that govern what are known as "lots of record." ORS 215.705 establishes that a lot or parcel of record is one that was lawfully created and was acquired by the present owner prior to January 1, 1985, or from a person who acquired the lot or parcel prior to that date. Lots or parcels of record allow one dwelling outright if no other dwellings exist on the lots or parcels.

In 1991 Lane County decided to give up lot of record provisions in exchange for Marginal Lands. As a result of that decision, staff must verify whether or not a lot or parcel was legally created before they can process and approve a dwelling. Lane County has rarely, if ever, determined that a lot or parcel was not created legally.

In December 2012 one of LandWatch's board members received notice of a pending decision for approval of six LLV's for parcels located adjacent to her and her neighbor's properties east of Cottage Grove. This proposal was submitted by an attorney on behalf of Weyerhaeuser Real Estate and Development Corporation (WREDCO), one of Lane County's most prolific converters

of clear-cut, low elevation, forestland to residential uses.

In this case, as in many of the LLV proposals, the so-called "lawfully created parcels" were created by deeds, prior to adoption of state laws requiring that partitioning or subdividing procedures be used to establish legal units of land. Two of the deeds were from 1912 and 1917; it's not uncommon for applicants to rely on deeds dating back to the early 1900s.

In preparing comments to the LMD, attorneys on behalf of the neighbors noted recent LUBA and Court of Appeals decisions upholding Polk County's denial of a 2011 WREDCO LLV proposal. In that case the LLV had been denied by Polk County because the lots, created by early 1900 era deeds, had subsequently been partitioned, having the effect of eliminating or consolidating any and all old property boundary lines. Although this argument and the associated case law were provided to county staff by attorneys and LandWatch, the LMD approved the proposal, and neighbors filed an appeal.

Weyerhaeuser doing the dirty deed on Rat Creek



Five days prior to the scheduled appeal hearing the applicant's attorney contacted the appellant with an offer of property in exchange for dropping the appeal. The appellant refused the offer. Finally, the night before the hearing, the applicant withdrew the application, ending the process.

Neighbors breathed a sigh of relief. But LandWatch wanted the case to be heard in order to lay to rest Lane County's practice — which continues as of this writing — of approving all LLV proposals regardless of subsequent partitioning or subdividing. Unfortunately, WREDCO's strategic decision to drop the case means LandWatch must remain vigilant to ensure that all LLV proposals are consistent with the state subdivision and partitioning laws.

LandWatch has taken a particular interest in this issue because it represents yet another real estate development ploy to parcelize county forestland, thousands of acres of which have already been impacted.

Lauri Segel



Interview With Pete Helzer

Pete Helzer is a Dexter resident who has been active in the fight to save Parvin Butte from gravel mining. He's an artist who has produced bronze sculpture for public buildings and parks throughout the state of Oregon. He has served on the board of the Eugene Natural History Society for the last fifteen years. Pete's wife Marge is an archaeologist and teacher at Lane Community College. His daughter Alison is a neuroscience major at Dartmouth College in Hanover, New Hampshire.

LW: How long have you been active in land use issues?

PH: In the 70s I became aware of Governor Tom McCall's push for land use planning, but at the time I was more interested in studying earth sciences, and reading people like Aldo Leopold, than becoming involved in politics. I started to pay serious attention to Oregon's Land Use Goals—and the way county codes are written to get around the intent of those goals—after the McDougal Brothers and Greg Demers started removing Parvin Butte, near Dexter, for gravel. Not only does this disrupt the lives of hundreds of people and pollute a salmon-bearing stream, it also removes a geologic feature with historical significance.

LW: So is this when you joined the Dexter Lost Valley Community Association?

PH: I didn't formally join because I wanted to act independently of DLVCA's counsel, Dan Stotter. Dan was solely interested in points of law. I saw a battle unfolding in three interrelated arenas: courts, politics, and public opinion. The problem is we have some bad laws—written by and for the extraction industry—at the county level. The only way to change those laws is to educate the public, which hopefully will result in a more balanced county government.

LW: So county codes are written to get around Oregon's Land Use Planning Goals?

PH: Well, it's a bit more complicated than that. The battles started in 1973 when Governor Tom McCall gave a speech railing against "condomania" on the Oregon coast. But it wasn't just the coast; he talked about developers despoiling the land and the shameless threat to our environment.

The fear was that Oregon would become another Southern California. Lots of people were afraid of this because we could see unregulated development all around us — farms turning into tacky housing developments like the "little boxes on the hillside" that Melvina Reynolds sang about. Remember those bumper stickers that said, "Don't Californicate Oregon?" That was the majority opinion. So, when McCall gave his speech, people were ready.

There was a bipartisan effort to protect agricultural land and some scenic areas from greedy developers and overzealous factions of the timber and mining industries. The result was Senate Bill 100. This established some protection of agricultural land. It also established LCDC (Land Conservation

and Development Commission), and DLCD (Department of Land Conservation and Development). Of course the developers and timber barons were outraged. Regardless of land use goals, they've been working ever since with enabling administrators and politicians to weaken and overturn local codes and state administrative rules and statutes.

LW: How does this play out at the county level?

PH: Well, SB 100 delegated much of the authority and responsibility for planning to the counties. It's both difficult and expensive to change a state law, but there's an easier way around land use regulation; that is, to control county politics. In other words, put the foxes in charge of the chicken house. Let the foxes interpret the law. Let them fire land use attorneys, let them cut funds for enforcement, let them funnel public funds to the extraction industries.

LW: By foxes you mean our Lane County Commissioners?

PH: It's been happening in many counties, but I'm most familiar with Lane County. About 80 percent of Faye Stewart's campaign contributions come from mining and timber. I suspect similar percentages for Jay Bozievich and Sid Leiken.

Stewart worked with the logger-developer McDougal Brothers to steer a half million dollars in Connect Oregon grant money to their company, Lost Creek Rock Products, to mine Parvin Butte for gravel. He pretended to be sympathetic to the plight of Dexter citizens while working behind the scenes to help Lost Creek Rock Products mine the butte.

Eventually, working on a tip, neighbors found a letter he had written urging Oregon Department of

(Helzer Interview, continued on page 6)

(Helzer Interview, continued from page 5)

Transportation (ODOT) to approve a half-million dollar grant for the mining company. We gave a copy of the letter to the Register Guard. In response Stewart told the RG reporter that he didn't realize Lost Creek Rock Products had anything to do with mining rock from the butte next to Lost Creek. He said he thought the grant only applied to a railroad transfer station in Green Hill. Apparently he didn't read the first page of the ODOT application.

LW: *Have you also been involved in changing the laws?*

PH: Well, I gave it a try. For instance, I found some structural problems with DOGAMI, which made it rather powerless as a regulatory agency. There were rules forbidding cutting timber in a setback area around a mine, and rules forbidding mining in that setback area, but there were no meaningful penalties for breaking those rules. If mine owners cut a \$500 dollar tree, DOGAMI's penalty was to make them plant a thirty-five cent seedling. This gave industry a tremendous financial incentive to break the law.

I worked with Senator Floyd Prozanski on a bill that would give DOGAMI real enforcement power. DOGAMI strenuously objected to the bill, and it never made it out of committee. What I learned from the experience is that it's in DOGAMI's best interest to maintain the illusion of a regulatory agency while serving industry as a mining advocate. Not surprising, considering DOGAMI is funded by

the industry. If their funding came from the state general fund, they might have been more open to Senator Prozanski's bill.

LW: *Is there a way out of this mess?*

PH: The short answer is education, but, again, it's more complex than that. One problem is that people have their own idea of what becoming educated entails.

Those with liberal arts degrees may be unlikely to support the interests of multinational corporations. Corporations prefer specialists—people who are narrowly trained in some small component of the corporate agenda. They make the best soldiers. They're also easy to recruit with clichés about jobs, technology, progress, growing the economy, etc.

I think that in order to find our "...way out of this mess" we need

Pete Helzer's sculpture in downtown Eugene's Kesey Square



people with a broader perspective – people with a more balanced understanding of history, literature, biology, geology etc.

LW: *You seem to be avoiding the term Republican. Is there a reason?*

PH: Both Republicans and Democrats are rooted in an anthropocentric view of the world. I would prefer a party grounded in a land ethic — a party that promotes an ecological intelligence, a sense of the interdependence of life, air, land, water....

Remember the Apollo Mission? — the photograph of the earth taken from the moon? That's our home seen from 250,000 miles up. Only the biosphere can support life, and that's an extremely thin and fragile layer. We need to keep that layer clean and livable; but instead we've fouled and poisoned it.

Parvin Butte Review and Update

The members of Dexter Lost Valley Community Association (DLVCA), fighting to save Parvin Butte from destruction for 2½ years, were disheartened when the Oregon Land Use Board of Appeals (LUBA) decided that no site review was required for mining to continue on the butte. Last winter's LUBA decision denied the neighbors their right to input on activities of the mountain removal, such as hours, noise, traffic and dust control, that will greatly impact their rural lifestyles.

The Community's hopes for prevailing at LUBA had previously been dimmed when mining advocates on the Lane County Board of Commissioners, Faye Stewart, Jay Bozievich and Sid Leiken, voted to drop Lane County's LUBA appeal of a hearings official decision that largely exempted the mining from site review. The commissioners in effect reversed the decision of their own Land Management Division (LMD), which had concluded that the County Code required full site review. DLVCA had originally sided with the county in its appeal to LUBA, then faced an uphill battle appealing to LUBA alone after both the hearings official and the commissioners decided against them.

The Dexter citizens' efforts to set sensible guidelines for a new major industry in the middle of their rural neighborhood – or at the very least to have an opportunity to voice their fundamental concerns – have been defeated. In contrast the interests of resource extractors Greg Demers and Melvin and Norman McDougal were well represented – and facilitated – by county officials. Marc Kardell, the county attorney who agreed with DLVCA that site review was required, has been fired.

On a positive note, a related long-standing dispute over the construction of a bridge was recently decided in favor of the neighbors. Demers and the McDougals had proposed building a new bridge and roadway over Lost Creek to accommodate more traffic to and from the site. When the County approved the bridge application, DLVCA appealed the decision to LUBA, then to the Oregon Court of Appeals.

The Court directed LUBA to revisit an earlier ruling, prompting the extractors to withdraw their application and abandon their plans to build the bridge. Both sides in this dispute have requested that the LMD officially revoke its approval of the bridge. According to Division

Director, Matt Laird, "the most expeditious and efficient method" to do so "is to simply place notes on the tracking software." However, DLVCA attorney Dan Stotter has told county counsel that the case will not be laid to rest until the county issues a decision letter expressly revoking the application. To date the latter has not occurred.

DLVCA continues to actively oppose the miners and spread awareness about the destruction of Parvin Butte. The group is committed to exploring every possible avenue to preserve the quality of life in their rural neighborhood.

Jim Babson
Lowell



Flooding at potential bridge site with Parvin Butte in background

Five Rivers Neighbors Fight Events Invasion

In June I received a heads-up from a LandWatch board member that a property owner in my area had applied to Lane County for approval of a private park and campground for conducting events and camps.

Few property owners received official notice in our small, remote Five Rivers valley in the coastal range. The applicant, Prindel Creek Farms, Inc., is located at the south end of the valley in Lane County, while most of Five Rivers is in Lincoln County. Ingress and egress (except over forest service roads) is north, with three miles in Lane County and fifteen miles in Lincoln County before the intersection with Highway 34. The closest store is 55 minutes from Prindel Creek.

Until I read the application I had no idea of the scope of the proposal: a private park, a 250 space campground, and 8 unpaved acres to accommodate 1000 vehicles. Prindel Creek has been holding loud musical and other events for years and is considered more than a nuisance, but the change in capacity — seeking 2500 attendees — would be critical. This expanding event center will be located on a section of 136 acres of F-1 — “Non-Impacted” — forestland, formerly a tree seedling nursery. Events are Prindel Creek’s current industry.

The LandWatch board member and I met at Lane County Public Works to review Prindel Creek’s land use file. Our review raised many concerns. Two enforcement orders had already been issued, the last in 2010.

Currently the stage and other structures are not permitted, and the stage is in the riparian area of the headwaters of Five Rivers and certainly not on Lane County tax rolls. Additionally, people who have attended events report that Prindel Creek has violated its agricul-

tural water right by sucking water out of the river to dampen paths during events.

As if these impacts were not enough, this month Prindel Creek will again be hosting the BurningManPortland event (SOAK), during the height of fire season in a densely forested area more than an hour away from the nearest fire responders. Last year’s event included fireworks, fire dancers, and the burning of a large, accelerant-soaked effigy that sent sparks high into the air to the chanting of a frenzied crowd. Somehow neither county nor forest burn bans seem to apply to a profit-making event.

Neighbors are exposed to these events for three days and nights up to six times per summer, so far. Day and night, nearly constant traffic shatters the normal peace and quiet of our area. Drunk, stoned, and lost drivers careen about on narrow, winding roads. Even residents in Lobster Valley — ten miles away — can hear the event noise.

Many neighbors in Five Rivers have come together to challenge this land use proposal. Lincoln County officials have been targeted, because it is mostly Lincoln County roads and residents that are bearing the impacts. And Lincoln County has been responsive.

Our greatest frustration, however, has been our inability to get Lane County to enforce its regulations governing gatherings of less than 3001 attendees. Certainly in 2012 Prindel Creek was in violation of Lane Code’s allowance of only one event in a three-month period. And this year Prindel Creek’s campground permit expired — it lacked the required inspections — but the County quickly reinstated it when it became obvious that our challenge might interrupt the continuation of events.

The illegal second event this year within a three month period likely will receive Lane County’s stamp of approval, because, as the enforcement officer states in an email to LandWatch’s attorney, she believes Prindel Creek

will eventually comply with Lane Code requirements. But, since it hasn’t in the past, why would Prindel Creek start now? And why, one might better ask, wait for eventual compliance when the property owner is clearly breaking the law and disturbing the peace other property owners — and wildlife — have a right to enjoy?

At the end of June during the first Prindel Creek event several neighbors called the Sheriff Departments in both Lane and Lincoln counties. Vehicles had broken down; people turned away from the event went door to door begging food; and older folks felt intimidated and fearful to leave their homes. Lincoln County responded, but no one saw a Lane County patrol car.

A neighbor driving the backroads found a woman pulled over. She wasn’t lost, she said, she just didn’t know where she was. We could tell her: like us, she was in limbo.

Mona Linstromberg
Five Rivers

Anne Davies Hired by the City of Eugene

Former LUBA judge and long-term legal counsel for LandWatch and Goal One, Anne Davies, is now a staff attorney for the City of Eugene.

Anne worked with Landwatch and Goal One in the successful effort to make the county’s appeal process more equitable and affordable, and she has been an invaluable resource in the interpretation and application of state statutes and local codes to our land use cases. We will miss her expertise and commitment to the protection of Lane County’s farmland, forestland and natural areas.

Agencies Deny Delta Sand and Gravel Expansion

In 2005 Delta Sand and Gravel applied to change the zoning on 72 acres from Exclusive Farm Use (EFU) to Sand and Gravel. The land borders Delta’s current operation on the east side, and borders Santa Clara neighborhoods and farms on its other three sides. That farmland is within the current Metropolitan Growth Boundary; therefore by law a rezoning had to be approved by both the Lane County Board of Commissioners and the Eugene City Council. After almost four years of hearings in front of planning commissions and elected government officials, and an appeal to Oregon Land Use Board of Appeals (LUBA), the application was denied.

In 2013 Delta applied for a Special Use Permit to mine gravel on 68 acres. This acreage, while not the exactly the same as the 2005 parcel, largely overlaps the earlier application. Under

Oregon Law and Lane Code, special permits can be granted to mine gravel on land zoned for exclusive farm use. To obtain a permit, however, it is essential that the land at issue be contained on the inventory in the county’s Rural Comprehensive Plan.

At the March 8 public hearing on the matter, Delta’s attorney Bill Kloos contended that, while the land is not exactly in the Rural Comprehensive Plan, it is listed on some “working papers” or other inventories from the 1970s and 1980s. Two people with mining interests spoke in support of granting the permit, and ten or twelve spoke against. Most of those against granting the permit were neighbors and/or farmers from Santa Clara.

In his April decision the Hearings Official found that the 68 acres does not meet the basic requirement of being on the Lane Code inventory. The rationale for this inventory, he said, is that over the years land included on it has been vetted by the Goal 5 requirement to balance the need for

the resource with other community values, such as farmland, recreation, and open spaces. He concluded that Delta had failed to show that the proposed mining would not affect farm practices or farm costs on nearby land.

After the Hearings Official’s decision, Delta requested that the Lane County Board of Commissioners review it. In response county counsel advised the Commissioners that the case does not meet the legal requirements for a review.

At the June 11 Commissioner’s meeting a number of the Commissioners stated that they support future expansion of gravel mining. But they concluded that any review of the findings would be futile, and, therefore, considering the legal requirements as well, voted unanimously to not review the case.

On July 2, 2013 Delta filed a Notice of Intent to Appeal the decision to LUBA.

Joel Narva
Santa Clara

Delta Sand and Gravel and surrounds



LandWatch Appeals Illegal Mass Gatherings in Buford Park



Masses gathering at Faerieworlds in Buford Park

My friend and former Congressman, Jim Weaver, who lives on Seavey Loop Road, called me about a month ago asking what might be done if anything about the summer events in Buford Park that seemed to be multiplying exponentially. He told me about an event last year that backed up traffic from the park to I-5 and kept him from getting out of his driveway.

I told him I'd look into it and asked one of our LandWatch Lane County board members if she'd see what's on file at the county's Land Management Division (LMD). What the record revealed is that the gatherings occurring last summer and this summer at a Buford site called Emerald Meadows have been piggybacked onto a 2003 county permit for a small campground and caretaker's residence that was renewed and expanded in 2010 with no public input.

On the face of it that permit is not relevant to the sorts of gatherings imposing traffic, noise and other pollution on Weaver and a host of other neighbors and native wildlife. When this was brought to LMD director Matt Laird's attention, he said that because the county owns the land he thought additional permits were unnecessary. Apparently, he's not concerned about the difference between low impact campgrounds and the five festivals from late June to early September that feature amplified music well into the night, alcohol and, likely, drugs—and lots of people needing toilets, parking spaces and possibly medical care.

The Kaleidoscope Music Festival from August 23-24 includes "electronic, indie rock, hip-hop, bluegrass, reggae and more." And the "Tribal Run" scheduled for September 7-8 is an all night event that features "drumming, dancing" and "war-crying." Kaleidoscope alone is expected to attract over 10,000

attendees. Promoters describe the site as desirable because it's "beautiful" and "tranquil".

Virtually sharing the stage with these self-described "meaningful, fun-filled" performances and "adventures," Jim and Mary Evonuk of J & M Farms, whose house is 200' away, typically retire early in order to rise early and grow the corn, strawberries, other fruits and alfalfa that residents and their animals all over Lane County have benefited from for decades.

During this season, when their work is demanding and their rest essential, they've been unable to sleep because so many others are having amped up adventures on into the late hours of the night. While "the tribe" is drumming and war-crying and others in other venues are sleeping off one too many nips and tokes, Jim Evonuk is up at 3 am moving irrigation pipe to keep his crops alive. With traffic jams at the beginning and ends of festivals he's been unable to get from one field to another.

And though Kaleidoscope, for example, may be scheduled for 3 days, Evonuk told me that it's actually more like 2 weeks, what with the set-up and testing of electronic equipment and other necessities days before official commencement, and then break down time at festival end. Main ingress and egress for the multi-thousands of festival comers and goers, many of them likely less than sober, is along narrow Seavey Loop Road.

None of this appears to Laird and his bosses, the Lane County Commissioners, to be a problem, nor, apparently, does it trouble Chris Orsinger, Executive Director of Buford Park-Mt. Pisgah, under whose direction the park has been admirably restored to native habitat. In contradiction to the park's master plan positing passive

recreation, and in an apparent exchange for a handful of cash from the festival venues, Orsinger seems content to turn a blind eye and a deaf ear to the concerns of his neighbors, as well as the good faith of hundreds of volunteers and others who over many years helped him restore the area to a nearby natural refuge from urban stress.

The State, however, is concerned enough that it requires a permit and a public hearing for gatherings of over 3000 people. It allows only four a year and one every three months.

And LandWatch is concerned as well. Lane County, including area commissioner Faye Stewart, is so far willing to be bribed by a kickback from the events to ignore state law and abandon the neighbors and wildlife to "tribal" war whoops and drumming all night long; to days and nights of hip-hop, reggae, rock and other music and to impeding, dangerous levels of traffic, not to speak of sanitation and other pollution associated with large gatherings.

Therefore, as a first step, on July 1 LandWatch filed a Notice of Intent to Appeal to the Land Use Board of Appeals. The appeal challenges the LMD director's decision in 2010 to expand the number of campsites permitted in 2003 as sufficient to address the regulation of mass gatherings. This was done without regard to a state statute limiting the annual amount and frequency of events attracting over 3000 people and requiring a public hearing. Jim Weaver and Jim Evonuk are the neighbors with standing in the notice.

Meanwhile, as the beat goes on, those who feel that the commissioners' cavalier attitude toward neighbors, passive recreationists and the environment may be a tad short-sighted, self-serving and unfair, should remind them who the real bosses are come election time.

Robert Emmons

LandWatch Supports Arizona Representative for Top Democratic Seat on Natural Resources Committee



Raul Grijalva

Recently, LandWatch Lane County joined 18 Oregon conservation and social justice organizations and four public officials, including former 4th District Congressman Jim Weaver, in supporting Arizona Rep. Raul Grijalva instead of Oregon Rep. Peter DeFazio for the top ranking Democratic position on the US House Natural Resources Committee. That seat is being vacated by Edward Markey, who is replacing John Kerry as Senator from Massachusetts.

Here's a condensed version of the letter composed by the Center For Biological Diversity and sent to Rep. Nancy Pelosi that LandWatch co-signed with almost 200 other organizations and public officials:

"With jurisdiction over roughly one-fifth of U.S. lands and almost all of its ocean territory, the Natural Resources Committee plays a singularly important role in overseeing the health of our

national forests, wildlife refuges and national parks. The actions of the committee determine whether our public lands will continue to provide clean drinking water to millions of Americans and whether endangered species will retain strong protections.

For the past two and a half years, the House Republicans have led an all-out attack on the nation's environmental protection statutes, including the Endangered Species Act (ESA) and National Environmental Policy Act (NEPA).

The Natural Resources Committee has been one of the focal points of the Republican Party's assault on the environment. The House has pursued a single-minded agenda to eliminate the public's right to comment on federal projects and to increase logging and mining while minimizing environmental review. They have introduced legislation that would give away or sell the nation's public lands solely to allow the irresponsible extraction of resources owned by every American.

Rep. Grijalva, who has served as chairman and the leading Democrat on the Subcommittee on National Parks, Forests and Public Lands since 2007, has the vision, courage and ability to provide strong leadership on natural resource issues while repelling these constant Republican assaults.

Grijalva was pursuing active oversight of offshore drilling long before the disastrous BP Gulf oil spill. He has spent his career successfully fighting Republican attempts to weaken the Endangered Species Act and every other environmental law that is strongly supported by most Americans. Grijalva led the successful push to protect the Grand Canyon from future

uranium mining claims, held hearings and promoted new public lands designations, and spoke out and voted against the Keystone XL Pipeline.

While he represents the most conservative area of Arizona, Grijalva has not allowed special interests to dictate his positions on protecting public lands in his district or state. He has the conviction and experience to ensure the nation's irreplaceable natural resources – from endangered species to public lands – are protected for the benefit of all Americans for generations to come."

In contrast Democratic Representative DeFazio joined Greg Walden, an extreme right-wing Republican with an 11% OLCV environmental voting rating, in promoting the O&C Trust, Conservation and Jobs Act, a proposal to sacrifice 1.5 million acres of public forestland to private industry. Instead of being protected by federal law, this land would be managed under the State Forest Practices Act by a state board serving as a rubber stamp for industrial deforestation.

Recent surveys reveal that at least 60% of Oregonians support retaining and protecting our forests for their ecological and recreational value. Yet, along with the trees, under the DeFazio plan citizen participation would be clear-cut as well.

DeFazio's timber "trust" would not conserve our trees, our rivers, our soils, our air, our wildlife—or our future. And, together with his support of coal exports from Oregon, a small-scale nuclear plant start-up in Corvallis and massive highway expansion projects, it offers ample proof that we can't trust him to represent the interests of most Oregonians on the committee that oversees our natural heritage.

Robert Emmons