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Emerald Meadows Events Betray Buford Legacy



View of Seavey Loop farms from the Theodore Trail on Mt Pisgah

It's taken 40 years of volunteer labor and of negotiation with county, state and federal agencies, The Nature Conservancy and the Wildfish family to transform a mountain and its bottomlands overrun with cattle and blackberry into a world class nature preserve and regional park.

Buford Park-Mt. Pisgah has received quite a makeover from "the damned brown mountain" that pioneer Lane County planner Howard Buford convinced Gov. Tom McCall to buy in 1973. No one would be more pleased by the transformation, the largely volunteer effort necessary to achieve it, and the 1994 master plan that presently guides it than Buford himself.

As reported in the Register Guard, in a tribute at Buford's retirement in 1973, former Eugene mayor Les Anderson said he "has shown that planning involves human and environmental

values, the need for the people of a community to come together in the spirit of co-operation and goodwill if they are to succeed." And Lane County Commissioner Ken Omlid observed that Buford helped create public awareness that "land is not only a finite resource, but that its use is the single most important element affecting the quality of our environment."

Surely, then, this first county planner would appreciate a master plan for the park he helped make possible that calls for "protection of sensitive habitats" and the "restoration of degraded areas." In keeping with these efforts he would certainly support the plan's definition of "low intensity recreation" to mean activities such as hiking and horseback riding and low-key one-day events, such as the Wildflower and Mushroom festivals, that fulfill the park's educational objective.

It's doubtful, therefore, that Buford would have approved the commercial mass gatherings his successors and commissioners have imposed since 2009, without a permit or public hearing, on the park, its visitors, its wildlife and the surrounding community.

These misfits reached a crescendo of intolerance in Kaleidoscope. The three day event gathered some 27,000 mostly out of town, out of state celebrants pumped by drink, drugs and amplified music so loud it rattled houses five miles away, traumatized pets and livestock and disrupted the work and rest of nearby farmers and residents.

Last fall the Board of County Commissioners responded to the public outrage that followed by taking the bully pulpit and directing county planning (Emerald Meadows, continued on page 2)

The Register-Guard

Commentary



Electronic dance music fans in front of the stage at the 2013 Kaleidoscope Music Festival at Buford Park southeast of Eugene. CHRIS PLETCHER/The Register-Guard

BETRAYING BUFORD

Large, loud events just aren't in the spirit of Mount Pisgah

View of Emerald Meadows near Seavey Loop farms in the summer of 2013

(Emerald Meadows, continued from page 1)

staff to research regulations governing mass gatherings in other jurisdictions and to consider requiring a permit and hearing not only for gatherings of 3,000 or more but for 500 or less. A unanimous Board, especially Jay Bozievich and Faye Stewart who were campaigning for re-election, strongly suggested that they would support a moratorium on music mass gatherings in 2015. They requested the staff report back to them by February 2014.

However, in a meeting with Pisgah/Seavey Loop neighbors, Parks director Mike Russell made it clear that, while Kaleidoscope's contract would not be renewed, he insisted he might have to close other parks if the Faerieworlds music festival and Dirty Dash fun run events were discontinued.

By February lobbying by Russell, events promoters and, likely, land development consultants had paid off in a decision by four out of the five commissioners to dilute the issue and shift their

responsibility to an Emerald Meadows work group. The group was made up of five Seavey Loop neighbors, six event promoters, Russell and two mediators.

Russell began the first of two meetings by directing members to consider how events in 2015 and beyond might be improved rather than eliminated and by voiding any discussion of the Buford Park-Mt Pisgah Master Plan and of legal issues, including LandWatch Lane County's pending appeal. The second and last meeting resulted in a heated stalemate, with neighbors united in opposing any occurrences in 2015.

For sure the Lane County Parks Department has suffered a long history of funding deficits. In the early 80s the system shut down entirely.

Desperation often leads to bad behavior, and to contradictory and counter-productive tactics. The contracts for Faerieworlds and Dirty Dash, for example, provide \$8,000 and \$5,000

subsidies, respectively, to help the promoters "defray costs associated with the event."

How is it that a county whose parks director has threatened to shut down other parks in the system can afford to hand out \$13,000 to two commercial promotions?

Instead of selling his soul, Russell should stimulate his imagination by taking a lesson from the park the county has been willing to punish for the last five years. McCall's "damned brown mountain" has turned a rich green through the largely volunteer labor of dedicated users and the creative funding and cooperation generated by visionary leadership.

Despite a staff report recommending continuation, the Board voted May 13 to cancel mass gatherings in Emerald Meadows in 2015. It's important to understand, however, that the 4-1 decision does not necessarily end such gatherings in the meadows. Indeed, the large events task force that succeeds this decision will be charged with recommending what events, if any, would be appropriate and acceptable at the site.

For years, meanwhile, Springfield, Eugene and Lane County, no longer in a cooperative relationship, have been plotting to expand urban growth boundaries and urbanize a region that includes Seavey Loop, the Lane Community College basin and Goshen. Driving out farmers and other neighbors in the Buford - Mt. Pisgah community with loud and disruptive gatherings may be more than collateral damage.

It's clear from tributes at his retirement event that Buford understood the meaning of community and environment, of cooperation and coordination, and exemplified what Thomas Jefferson thought to be the most precious facet of government, "the art of being honest."

Robbing Peter to pay Paul makes for bad art and bad economics.

Robert Emmons
Fall Creek

Lane County Reforms Buried in the Ashes of Duplicity

BurningManPortland 2013 (SOAK, Inc.) was held in all its flaming glory at the height of fire season in the forest at Prindel Creek Farms in Lane County, not far from where I live in Lincoln County.

LandWatch Lane County, my neighbors and I appealed to LUBA Lane County's approval of permits for a private park and campgrounds allowing Prindel Creek to continue its expanding music venue and the burning of large and dangerous effigies. In a case well-argued by LandWatch attorney Sean Malone, LUBA reversed Lane County's approval—a rare occurrence—ruling that the frequency and extent of the event schedule was not an allowed forest use.

After our successful decision, John White (the prevailing petitioner in White vs Lane County, LUBA), Lauri Segel of LandWatch and I were appointed to a two meeting work group authorized by the Lane County Board of Commissioners that included others favorable to such events in rural areas. Ostensibly, the group was to provide feedback on a proposed draft ordinance prepared by staff on outdoor gatherings.

In the first meeting staff proposed that the ordinance and its guidelines include gatherings from 250 to 3000 people. However, the agent for Prindel Creek and Prindel Creek's attorney recommended raising the lower threshold to 500. By the final meeting staff raised the lower threshold to 1000 people based on a further suggestion by Prindel Creek's agent and input from outdoor event promoters.

Adopting the higher threshold means that anyone in any neighborhood in rural Lane County could have up to 1,000 people gather with no validation of the number of attendees, no regulation, no permits, no fees, and no accountability to neighbors.



BurningMan burning in Prindel Creek forest, summer 2013

Staff explained that gatherings of fewer than 1,000 people would still be subject to State non-mass gathering regulations, restricting events to four a year, at least 90 days apart and lasting no more than 120 hours. However, with neither Lane County nor the State playing a regulatory role, there is no reason to believe that these statutes would be obeyed. Indeed, many people who hold gatherings are unaware of any regulation.

Oversight at a lower threshold would allow Lane County to inform event organizers of both county regulations and applicable state law. It would also reduce friction between neighbors, and neighbors would not have to bear the time-consuming and costly burden of suing Lane County to enforce State regulations.

Unfortunately, Lane County refused to take a lesson from the mass gathering fiascos foisted on Buford Park-Mt. Pisgah. Instead of creating guidelines to protect parks, farms, forest land and the rights of neighbors, planning staff opted to weaken or eschew oversight and continue to cast residents as adversaries and litigants.

On May 13 the Board of Commissioners approved staff's continuing its work on the promoter-biased proposal.

Authorities look at things a little differently on the Lincoln side of the county line.

Last year Lincoln County Planning Director Onno Husing and County Commissioner Bill Hall were sympathetic and helpful to my neighbors and me in our yearlong fight against unregulated outdoor music events at Prindel Creek in Lane County near our Lincoln County homes.

BurningManPortland SOAK 2014 is slated to take place nearby, as well, but this time it will be in Tidewater Falls in Lincoln County. Husing promised concerned neighbors that, "Burning Man PDX could not have chosen a more challenging place to try to hold SOAK 2014."

Those are encouraging words, but the county is seeking only "voluntary compliance" from the host landowner this year. Husing says, however, that "this will be the last summer of having Tidewater Falls being used as an events center."

Soon, rural Lincoln County will discover if the county is actually up to the challenge of protecting its residents and resource lands. Will BurningMan burn during the height of fire season this year?

Mona Linstromberg
Five Rivers



Riprap destroys habitat, creates downstream erosion and protects a permitted house where it doesn't belong on the McKenzie River

EWEB Voluntary Incentives Program for McKenzie Landowners

Municipal water utilities across the western United States are facing similar pressures on the watersheds that are the sources of drinking water for over 80 million people. These pressures include increased development in floodplains and riparian areas, increased impervious surface, declining health of headwater forests, increased threats from severe wildfire and resulting mudslides, and extreme weather patterns as climate change becomes a reality.

Unfortunately, today's economic drivers continue to support development, resource extraction and short-term job creation, while placing no economic value on naturally functioning ecosystems. However, it is this natural capital that water providers and the populations they serve depend on for filtration of pollutants, erosion control, reducing water temperatures, mitigating impacts of flooding and creating a buffer between human activities and drinking water sources.

To address those needs the Eugene Water & Electric Board (EWEB) has spent the last three years designing a voluntary incentives program (VIP) with landowners who value the natural capital of riparian forests. EWEB is currently piloting this concept with 16 landowners and a number of partners as part of a grant-funded project to develop and test the infrastructure needed to launch a program.

EWEB has been investing in protecting the McKenzie Watershed — the sole source of drinking water for nearly 200,000 people in Eugene, Oregon — since 2001. In 2009 EWEB contracted with the University of Oregon (UO) to conduct an extensive analysis of the land-use and development trends in the McKenzie Watershed. The analysis concluded that there has been a continuing trend of residential development along the McKenzie River, so that currently there are over 200 homes built in the floodway and nearly 1,200 in the 100-year floodplain above EWEB's intake at Hayden Bridge. This development has potential negative impacts on water quality due to increased areas of impervious surface, the removal of riparian vegetation, and the flooding or leaking of septic systems, among other concerns.

Although Lane County implemented a 50-foot riparian setback requirement in 1992, the Community Planning Workshop report documented multiple examples of the issuance of conditional use permits to allow development within 50 feet of the river. Over 200 structures are located within 50 feet of the McKenzie River above EWEB's intake. Additionally, development along the river is typically not limited to structures; it also includes clearing of native vegetation to enhance river views and establish lawns that reach to the river's edge.

While individual actions may not have serious impacts on the watershed, the collective actions of hundreds of landowners can have detrimental consequences to downstream water quality. EWEB and the Lane Council of Governments (LCOG) conducted a future build-out analysis of the McKenzie Watershed that shows nearly 1,000 new homes could be built above EWEB's intake under existing code and laws.

EWEB has chosen to pursue a voluntary path and work with landowners after a regulatory riparian protection ordinance failed in 2010. The goal of the VIP is to provide incentives to landowners with healthy riparian forests to set these areas aside for conservation and prevent future development. The VIP also aligns EWEB investments with local, state and federal resources and focuses these investments on protecting and restoring the approximately 8,200 acres of riparian and floodplain areas in the McKenzie Watershed above EWEB's intake.

EWEB will reward land stewards who maintain high quality riparian habitat to ensure that those practices continue. This differs from other programs, such as National Resource Conservation Service's Conservation Reserve Enhancement Program or the DEQ-approved water quality shade credit program, that offer incentives to



Healthy riparian habitat along the McKenzie River

landowners to restore their degraded properties to an improved condition. Instead, EWEB has chosen to reward landowners already implementing outstanding management practices and to provide a high standard for other landowners to strive for.

Based on Light Direction and Ranging (LiDAR) remote sensing analysis, only 21% of the 8,200 acres of riparian forests appears to be healthy, with 57% classified as significantly degraded.

The VIP will provide another tool for protection that, according to UO survey

data, appears to have wider acceptance with landowners than the traditional and more expensive land acquisition or conservation easements. Landowners who do not currently qualify to enter the VIP can obtain assistance for restoration to improve their properties to the point where they can participate.

The VIP pilot project will compare 14 healthy riparian forest reference sites throughout the watershed to the 16 landowner properties to determine if they are eligible for incentives to protect their properties and/or provide funding for restoration design and

implementation. Funding may come from a variety of sources, including existing EWEB rates, corporate sponsorship, state and federal programs, grants, and other sources that are being explored as part of the pilot project.

For more information, visit www.eweb.org/sourceprotection/vip or contact: Karl Morgenstern (karl.morgenstern@eweb.org) 541-685-7365.

Karl Morgenstern
EWEB, Environmental Management Supervisor



Interview With Lisa Arkin

Bio: Lisa Arkin, Executive Director of Beyond Toxics, has 13 years of experience in research and teaching in higher education and 12 years of non-profit management experience. Arkin initiated legislation for the Oregon State Senate that changed the statewide discussion around pesticides, drift and children's health and resulted in key legislation to reduce pesticides at all schools and state property in Oregon.

Her organization was also the first to research the relationship between field burning and underreported asthma in Oregon rural communities. This research helped make the case for the ban on field burning in the Willamette Valley.

Under Arkin's leadership, Beyond Toxics organized the model Environmental Justice project in the West Eugene Industrial Corridor.

This project revealed correlations between children's asthma and proximity to industrial sites emitting significant amounts of air toxics.

Arkin serves on a number of state workgroups on toxics, health, air quality and water quality.

LandWatch: *What motivated you to organize and work against the use and/or manufacture of toxic chemicals? Was there a defining moment?*

Lisa Arkin: I'm often asked how I went from being a university professor in the performing arts to becoming a fulltime environmental health advocate. There was a defining moment, indeed. It involved an egregious land use fiasco and two inspiring people, and suddenly I wanted to help stop the construction of the Hyundai chip plant in the West Eugene wetlands.

At that time I was a mother of two young boys, and I often took them to explore the wetlands. It was a wonderland of wildlife and plants, but after Hyundai was built, and spewed toxic chemicals such as hydrofluoric acid into the air, most of the critters died off or went away. I started thinking about how industrial chemicals wreak havoc on the environment and on all bio-systems. I was incensed that people who never gave their permission to be poisoned were exposed to noxious chemicals against their will.

At the same time I met Mary and Bob O'Brien, two motivating environmental leaders who were working to change the way lenient land use laws allow chemical trespass to occur. The first phase of the factory was already built, thanks to cronyism. But I joined the successful effort to stop Hyundai's plans for a second and third expansion of the plant; that was my first lesson in grassroots organizing.

The factory is now a mothballed wetlands eyesore, having ruined the landscape and siphoned off tax dollars that would have gone to school funding. But it would have been three times as devastating had we not taken action. I became a true believer in the effectiveness of citizen organizing to prevent harm to our community, both environmentally and economically.

LW: *Honey bees, elk, human autism and cancers. Toxic chemicals have been implicated in the declining health of potentially the entire biological spectrum. What will it take to meaningfully curb or stop their use? Do you think that's possible on a scale large enough to be effective?*

LA: I became familiar with how infinitesimal amounts of toxic chemicals are able to change biological systems when I was in graduate school. I participated in a study that administered a chemical to newly born rats, and tracked how exposure to that chemical could affect gender and reproduction. The expression of gender and behavior was determined by the injection of the chemical during vulnerable early development, not the gender the animal was born with. That experiment convinced me that the cumulative and synergistic chemical exposures we are receiving from our environment are primary contributors to disease and habitat pollution.

Toxics exposure is ubiquitous. The best way I know of to solve the problem is for our society to adhere to and invest in three key concepts: the Precautionary Principle, Nature's Legacy for Future Generations and the practice of Full Cost Accounting. Humankind must get off the treadmill of toxic chemicals and onto a path of preventing adverse environmental, social and economic harm. To do that I think will require disengaging from a culture of over-consumption, quick fix chemicals and corporate personhood. I believe it's possible, or I would not be doing the work of Beyond Toxics.

LW: *Tell us about your work. What strategy or strategies has/have proven most effective to stop toxics exposures and use?*

LA: Beyond Toxics' vision of social and environmental change integrates three strategies: 1) lifting community voices through grassroots organizing, 2) policy advocacy, and 3) citizen-based science. We work very closely within

communities, because we have a strong commitment to nurture authentic and respectful relationships with individuals and organizations. These values are necessary to truly empower communities to fight deeply embedded systems of discriminatory policies, corporate dominance, racism and exporting the burden of toxic pollution to the public.

When we work within community, that means we "show up" and spend time: we stay overnight, we visit people's homes and invite them to our homes, we bring doctors and help people get medical care, we have meals together, we get them face-to-face meetings with elected officials, and we send journalists to meet them so that media coverage is as accurate and authentic as possible.

We use a variety of strategies to accomplish our victories. I would characterize our work as being nimble and creative. A few examples of the scope of our strategies include:

Environmental Justice: In 2012, Beyond Toxics organized the first Oregon Environmental Justice Bus Tour, which revealed the disproportionate burden of air pollution in disenfranchised communities in the Industrial Corridor. Notably, a successful outcome is a new awareness and the adoption of environmental justice criteria in the City of Eugene planning policies.

Old-Fashioned Protests and Rallies: Also in 2012, we led the local protests against coal trains slated for the southern Oregon coast. We helped bust a secret cabal of energy export corporations when we filed a public records request to uncover a plan to resurrect a defunct and abandoned rail line that sliced through rare salmon habitat on its way to the coast. Beyond Toxics led rallies, wrote scathing editorials, constructed a dirty coal train for the Eugene Celebration parade, and introduced a local No Coal resolution. The No Coal resolution was passed by the Eugene City Council. All these tactics helped kill the project to build the coal export terminal.

Citizen Science: In December 2013, Beyond Toxics published the first-ever report on "Oregon's Industrial Forests and Herbicide Use: A Case Study of Risk to People, Drinking Water and Salmon." We used GIS mapping, water quality sampling and statistics to show why rural communities were complaining they were getting very sick from chemical exposure – because forestry corporations had increased herbicide use by 99% over the course of only three years. Our extensive report exposes the root causes of pesticide poisoning. It was published just before a criminal investigation into an aerial spray that poisoned over 40 people near Gold Beach.

LW: *Are you working on legislation? The Forest Practices Act is one of the most egregious enablers of pesticide application and trespass. What will it take to reform the act, and to severely restrict or stop the use of pesticides in forest practices?*

LA: We have a good track record. Beyond Toxics has successfully introduced and provided leadership for the passage of four significant laws: 1) Ban on Field Burning; 2) No topping off and vapor control at gas stations; 3) Oregon's School Pesticide Reduction law; 4) State Integrated Pest Management.

We have set our sights on bringing forward strong legislation to reform the Forest Practices Act in 2015. Oregon has allowed itself to fall behind regulations in other states by continuing to follow a set of outdated, egregious laws that allow herbicide aerial sprays over homes and tributaries to salmon streams and drinking water. We have publically laid out our policy recommendations (for example, see http://www.beyondtoxics.org/wp-content/uploads/2014/05/PoisonedParadise-8pt5x11_PRINT-Ready.pdf).

We believe that an informed public who can be conversant with specific ways that Oregon laws must improve to protect people and drinking water will win the

day over corporate lobbyists. However, it will take a tremendous and unceasing push from Oregonians all over the state to force a reluctant Governor and legislature to tell the timber industry to quit poisoning our residents with aerial herbicide sprays, a practice reminiscent of the Vietnam War and Agent Orange.

LW: *Is the use of pesticides ever justified?*

I think that there are specific cases where a pesticide might be justified, if and only if it passes the triple test of the Precautionary Principle, Nature's Legacy for Future Generations and the practice of Full Cost Accounting. We must use precaution first and research alternatives. We must know that there is no violation of nature's legacy. We must fully understand and guarantee that the benefits far outweigh the societal/environmental costs. And let's get toxic products like 2,4-D and neonicotinoids off of store shelves so that unsuspecting homeowners are not applying bio-persistent pesticides in residential neighborhoods.

LW: *Must we go beyond toxics?*

LA: Increasingly, medical research confirms that disease and neurological deficits have a developmental origin; in other words, all of our functions, from reproductive to cognitive, are shaped or programmed during critical windows of vulnerability. These mostly occur when babies are developing in the womb or during the early years of life.

There needs to be a paradigm shift that acts decisively to ensure that what we breathe, drink, eat and absorb through our skin is safe, and does nothing to harm developmental processes. I believe that such a paradigm shift will involve inserting a human rights ethic into every aspect of regulation. Each of us has the right not be chemically trespassed upon.

We can go beyond toxics by supporting a system that stops using profit and efficiency as the excuse to poison the planet and all living systems.



Two of the cities likely to become lakes in the wake of a dams collapse

A Dam Big Problem

I went to the Army Corps of Engineers presentation of dam inundation maps on Tuesday, March 18, 2014 in Westfir. Other meetings were held in Eugene, Springfield and Cottage Grove, all downstream from aging federal dams built without seismic considerations.

If Hills Creek dam, upstream of Oak Ridge, collapsed, it could wreck Lookout Point and Dexter dams (along highway 58), and almost all of Eugene and Springfield (and Junction City) would be underwater. North Eugene and River Road would be in worse shape than South Eugene since there are fewer refuges (and in River Road no refuge at all, unless Beltline Highway overpasses were high enough, something not indicated on the maps).

If you live north of 18th Street in Eugene, you'd have to flee to Hendricks Park, College Hill or Skinner's Butte. You might have seven hours from the Hills Creek break before the water arrived, enough time to grab the kids and the pets and your most precious family heirlooms, assuming an earthquake hadn't destroyed roads or trapped people in ruined buildings.

In Springfield, everything would be underwater except the small hill near I-5 and Thurston.

Downtown Eugene might be under 20 to 30 feet of water. If you want to envision what that would look like there are lots of videos on You Tube from the tsunami in Japan three years ago. Most of the towns washed away had waves of this magnitude.

The City of Eugene's Hazard Mitigation Plan notes that damages from a Hills Creek blowout "could easily exceed \$20 billion. Given the large inundation areas, high water depths, and the logistical difficulties in evacuating 250,000 people to safe ground, it is not difficult to imagine that a truly catastrophic dam failure could potentially result in 1,000 or more deaths."

I didn't get to look at all of the maps due to time constraints, but I did see two places with potential risks for much greater inundation. If Cougar dam collapsed, the wall of water in Blue River could be close to 100 feet high. Similarly, if Fall Creek dam collapsed a similar size wave would swamp "downtown" Fall Creek (at the general store). These locations would have very short response times, unlike the cities of Springfield and Eugene.

The maps are extremely detailed and impressive. The cross-section maps are especially important, as they show estimated inundation depths at each location downstream.

The Corps modeled the impact of Hills Creek having a "domino" effect on Lookout Point and Dexter dams, but did not model all of the dams going under in a big flood or big earthquake.

They also did not examine the EWEB dams, federal dams outside Lane County (there are some big dams in Linn and Marion counties) or dam failures on multiple tributaries at the same time; i.e., dams on the McKenzie and Middle Fork breaking due to a Cascadia Subduction Zone earthquake or an exceptional flood event.

They did reassure that the very large earthquakes in Japan and Chile in the past few years had minimal impacts on dams in those countries, and the fact that our local dams are farther away from the coast than the valley might mitigate the amount of shaking they will experience (although that's not the case for Fern Ridge).

Meanwhile, Wanapum Dam in central Washington on the Columbia has had its reservoir drawn down as engineers try to figure out how to fix the crack and bowing of the structure. How we will cope with dam maintenance after fossil fuels depletion is unknown.

The water near the I-5 crossing of Willamette River could reach about 450 feet above sea level in a Hills Creek dam collapse scenario. One of the nearby locations could see a peak of 454.1 feet. A couple feet of fast-moving water is sufficient to sweep someone away; twenty to thirty feet of moving water would be a "Willamette Valley tsunami" – not literally a tsunami but the impact would be the same.

As a mere citizen, you do not have the right to have a copy of the Army Corps reports, although if pre-screened for an event like the Westfir and other meetings you can see the maps but not take a picture or a copy home with you to share with your family, friends, neighbors and co-workers.

However, the Corps is willing to provide people with excerpts that show how far underwater their locations would be. I recommend that everyone, especially those on the valley floor, request a copy.

If you believe in writing politicians urge them all, at every level, to make this material public, since if there's ever an emergency we would all need to know what to do.

The excuse that bad guys would use this information to cause havoc is disingenuous and counterproductive. Even if someone somehow breached a dam, those downstream would need to know how to respond to minimize the chaos and loss of life.

Requests for your individual location information should be directed to:
Scott Clemans
Public Affairs Specialist
Portland District, U.S. Army Corps of Engineers Office: (503) 808-4513
<http://www.nwp.usace.army.mil>
Scott.F.Clemans@usace.army.mil

Mark Robinowitz
Eugene



Lauri Segel

Legal Irons in the Fire

LandWatch has been vigilant in its effort to review all notices of proposed land use actions in Lane County. Counseled by land use attorney, Sean Malone, we participate where we believe illegal requests are being made, and appeal local approvals of illegal proposals to LUBA.

In February of this year, LUBA issued a remand in our appeal of Lane County's proposal to take a Goal 14 exception to enable the urbanization of Goshen. This means that it is unacceptable for the county to allow development on a case-by-case basis if a proposal can demonstrate that its septic needs would not exceed the carrying capacity of the soil. In other words the county must, from the outset, show that an adequate sewer system is available for any development to occur.

While the issue of establishing availability of services is a challenging threshold, Lane County, with help from the City of Springfield, has been building the political framework to cross it. For decades developers and enabling city and county politicians and administrators have been salivating over the opportunity to urbanize the corridor from Glenwood to Goshen, including the Lane Community College basin.

Notwithstanding the confluence of two rivers, Class 1 farmland and a world

class nature preserve and regional park, the Seavey Loop/Mt Pisgah area is high on Springfield's list of places to expand its urban growth boundary. Logger-developers, the McDougal brothers, own extensive land in the basin and Goshen, and their partner, Greg Demers, is eager to offer the services of his Willamette Water Company. Eager to accommodate, their representatives on the Lane County Board of Commissioners have made fast-tracking urban expansion to Goshen their top priority.

A brief reprieve from appeals following our three recent LUBA wins (Rivers Edge in Creswell, Prindel Creek on Five Rivers Road, and Goshen) was not to be. We are currently involved in two unrelated non-farm dwelling approvals, both in the Exclusive Farm Use (EFU) zone, and still proceeding through the local process. One proposal attempts to legalize, for a second time, a dwelling built in 2004 with no permits or other land use approvals. Both times planning staff has denied the application. The Hearings Official (HO) heard an appeal from the applicant on June 5, and we expect a decision by early July.

The second non-farm dwelling request was approved by staff, and our appeal to the Hearings Official resulted in confirmation of the staff approval. LandWatch appealed the HO approval to the Board of Commissioners, asking them not to hear the appeal, an option available to all appellants. On July 8, the Board is tentatively scheduled to consider whether or not to hear the case. Our ultimate goal is to petition LUBA for review of Lane County's interpretation of state statutes that authorize uses in the EFU zone.

We believe Lane County has been misapplying applicable laws in approving non-farm dwellings. Because the county continues to ignore or dismiss our concerns, they will likely end up before LUBA in the near future.

Lauri Segel
*LandWatch board member
and land use consultant;
Executive Director, Goal One Coalition*

Epidemic of Lot Line Adjustments: Old Deeds Lead to Bad Deeds

With elevated timber prices many acres of Lane County's privately owned forestlands have been clear-cut during the past year, accelerating global warming. Huge timber profits trump possible concerns about higher temperatures and serious drought that lead to intense wildfires in the forests that remain and the disappearance of spring-fed streams and rivulets.

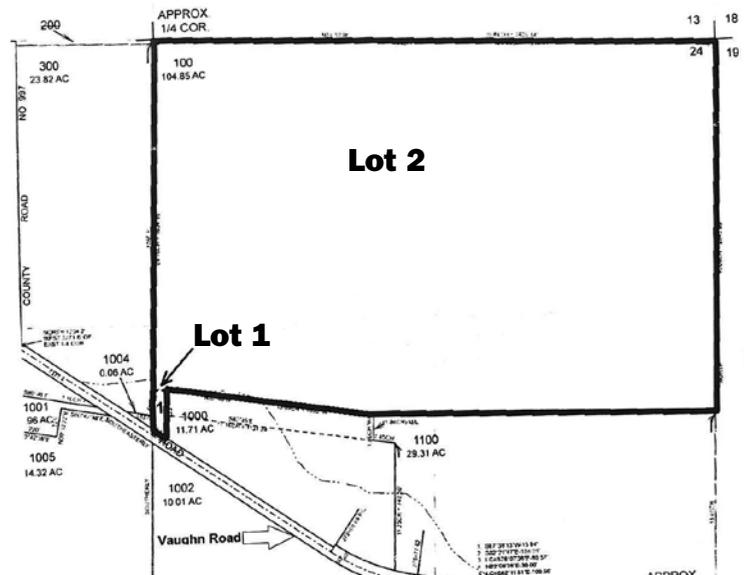
What will become of the new moonscapes? In many cases these "forestlands" will become real estate developments. It takes less time to grow houses than new forests in the county's F-2 (Impacted Forest) zone. As one example, Weyerhaeuser Real Estate Development Company (WREDCo) is a prime mover in the creation of low-density residential sprawl and the semblance of subdivisions in what were formerly densely treed landscapes..

In Lane County many forest owners, owners of farmland and their stable of attorneys and consultants are well-practiced in discovering old deeds, some of them to mere splinters of land—a driveway, a railroad right-of-way—within larger parcels, applying for legal lot verifications and, once approved, adjusting the property lines to morph slivers scarcely big enough for a dog house into buildable lots.

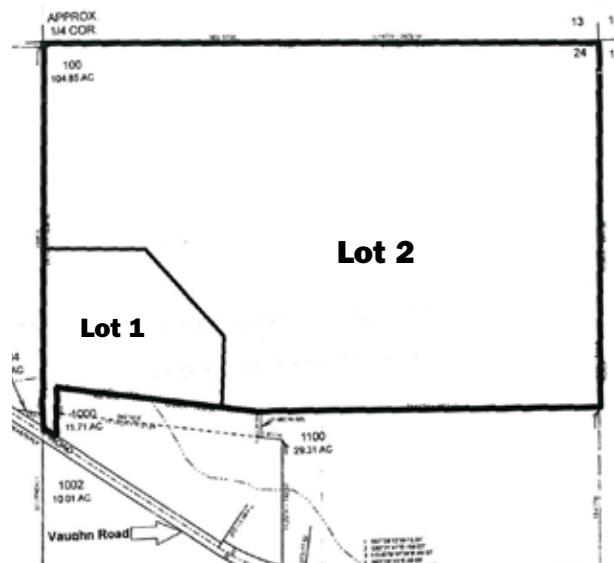
At its inception Oregon's land use program made huge concessions to development interests on resource lands, including the creation of F-2 zoning that allowed limited housing in forestland. Tax deferrals continue for these lands, even as they are exploited by the forest industry's lot line adjustments to grow houses rather than trees.

In the past even though the pioneers of state land use planning acceded to compromises that weakened forest protections, surely they would now be aghast at the feeding frenzy presently turning these lungs of the planet into subdivisions.

Nena Lovinger
LandWatch board member



A narrow passageway ...



becomes a buildable lot using Lane County's latest legal scam



Northwest Land Conservation Trust President Lynn Bowers on her conservation easement

Protecting Oregon Through Northwest Land Conservation Trust

Northwest Land Conservation Trust formed in 1994 to protect and preserve natural, open, scenic and recreational areas; wildlife and riparian habitat; wetlands; forests and agriculture in the State of Oregon. Though the Trust may occasionally receive donations of land, its primary goal is to protect individual ownerships with conservation easements.

A conservation easement is a legal agreement between a landowner and a land trust that protects the special features of the properties, providing both personal assurance and a public benefit.

The Trust works with the landowner and his/her legal counsel in developing the language of the conservation easement. When it is completed to the satisfaction of the owner and the Trust, the owner grants the easement to the Trust. The easement is then recorded in the office of the county clerk and thereafter is attached to the title to the land.

The landowner continues to live on the land and retains ownership; he or she can sell, lease, mortgage, or otherwise convey title to the land, subject to the provisions in the easement. The easement does not grant public access to the property. The conservation provisions set forth in the document are binding on the current owner and all future owners and are recognized by state and federal law and are legally enforceable.

A conservation easement offers the means to protect the special features of the property without the need for government approval or public hearings. The landowner gains the satisfaction of knowing that the land he or she values will be protected and preserved forever, in perpetuity. There also may be federal income tax, estate tax and property tax benefits. Northwest Land Conservation Trust becomes responsible for monitoring and enforcing the provisions in the conservation easement.

NWLCT seeks to champion landowners through locally organized community land trust groups or satellites that function under the auspices of the Trust. As new NWLCT board members, LandWatch President Robert Emmons and LandWatch Advisory Board member Paul Atkinson are eager to work with Lane County residents to protect land both within and outside of urban growth boundaries. Goals are to inhibit urban growth onto farms, forests and open space beyond urban areas, and to address "relief from urban closeness" by protecting agriculture and open spaces within urban growth areas.

Robert and Paul are joined in Lane County by NWLCT President Lynn Bowers, who has served on the NWLCT Board of Directors since 2005. In 2001, she placed her 24.9-acre forest property in Fox Hollow in a conservation easement with the organization. Her easement and those of others are highlighted in NWLCT's website, www.nwlct.org. Jan Nelson, also a Lane County resident, joined the Board in 2012. And Melissa Wischerath,

a Eugene attorney who specializes in conservation easements, sits on the NWLCT Advisory Board.

Northwest Land Conservation Trust is a nonprofit, 501(c)(3) organization, and contributions are tax deductible. The Board of Directors serves voluntarily and without compensation. Donations to NWLCT help with administrative costs to assist those who place property in conservation easements, and to cover defense and stewardship of the property.

NWLCT is supported by a network of professional leadership, including Dan Snyder, Attorney; the Law Offices of Charles M. Tebbutt, P.C. in Eugene; and Shari Scoles, CPA, Hoots, Baker & Wiley in Salem. NWLCT is a member of Land Trust Alliance and maintains defense insurance to protect its properties with Terraforma.

The NWLCT web page contains a Landowner's Questionnaire for those interested in placing their property into an easement: <http://www.nwlct.org/files/Northwest%20Land%20Conservation%20Trust%20Landowners%20Questionnaire.pdf>

Mark Wigg, Vice President of NWLCT, assesses the conservation values of potential easements for the Trust. Mark resides in Salem, OR and is available to assist you with preparation of a site review of your property and will work with you and your legal counsel. Feel free to contact Mark at mark_wigg@hotmail.com or by phone: 503-588-2524.

To learn more about conservation easements with NWLCT please contact Robert Emmons at 541-741-3625; e-mail: hopsbran@aol.com or Paul Atkinson at 541-345-2186.

Kathy Bridges
Board member,
Northwest Land Conservation Trust
Turner, OR