RECLAMATION

Managing Water in the West

Camper's Cove Resort Lands Encroachment

Final Environmental Assessment and Finding of No Significant Impact

Rogue River Basin Project, Oregon
Pacific Northwest Region

U.S. Department of the Interior
Bureau of Reclamation
Columbia-Cascades Area Office
Yakima, Washington

February 2013

Mission Statements

U.S. Department of the Interior

Protecting America's Great Outdoors and Powering Our Future

The U.S. Department of the Interior protects America’s natural resources and heritage, honors our cultures and tribal communities, and supplies the energy to power our future.

Bureau of Reclamation

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

FINDING OF NO SIGNIFICANT IMPACT
Camper's Cove Resort Lands Encroachment
PN-FONSI-13-01

Introduction

The Bureau of Reclamation has prepared an Environmental Assessment (EA) to evaluate the environmental effects of Reclamation's proposed solution to Camper's Cove Resort, LLC, lands encroachment. Of the 23 cabins and associated structures, 19 have encroached upon Reclamation lands.

Camper's Cove Resort is located on the west side of Hyatt Reservoir, approximately 0.65 miles north of Hyatt Dam in Oregon. Hyatt Dam is on Keene Creek, part of the Klamath River Basin of Reclamation's Rogue River Basin Project, east of the Cascade Divide, and situated approximately 27 miles southeast of Talent, Oregon.

The purpose of the proposed Federal action is to resolve unauthorized use of Reclamation land adjoining Camper's Cove Resort. Action is needed to comply with 43 Code of Federal Regulations (CFR) Part 429, which prohibits any unauthorized use of Reclamation land that would result in new private exclusive recreational or residential use.

Alternatives Considered

Three alternatives were developed and evaluated in the EA:

- Alternative 1 – No Action Alternative: National Environmental Policy Act (NEPA) regulations require the Federal action agency to consider a No Action Alternative for comparative analysis purposes. In this case, the No Action Alternative would not meet the purpose and need of the proposed action nor would this alternative comply with or adhere to 43 CFR §429.33.

- Alternative 2 – Removal Alternative: With this alternative, all constructed facilities encroaching upon Reclamation lands would be removed at Camper's Cove Resort's expense. Per 43 CFR §429.33, Camper's Cove Resort would be required to remove structures, materials, and improvements, and restore Reclamation lands to a natural-like condition. Camper's Cove Resort would be required to pay the use fee that would have applied had the use been authorized by Reclamation.

- Alternative 3 – Disposal Alternative: Under this alternative, 3.53 acres of encroached-upon Reclamation lands and an additional 100-foot fuel break for wildfire safety (consistent with the Jackson County, Oregon, 2004 Land Development Ordinance [Chapter 8.7] [Jackson Co. 2004]) would

be sold. The General Services Administration (GSA) would use Reclamation's authority for disposal of the lands. That authority requires that the sale is a competitive bid process open to the general public. GSA would set a minimum bid which would include the costs incurred by GSA, the costs incurred by Reclamation, and the value of the property as determined by an independent appraisal contractor through GSA. With the sale, the 3.53 acres would become private property.

The Preferred Alternative

Reclamation has selected Alternative 3 – Disposal Alternative as the Preferred Alternative for implementation.

Summary of Environmental Impacts

The environmental impacts of the Preferred Alternative are described on page 12 of the EA, which identified no effects to the resources analyzed.

Environmental Commitments

Implementation of the Preferred Alternative will have no change to existing conditions, resulting in no impacts. Therefore, no environmental commitments are necessary or required.

Consultation, Coordination, and Public Involvement

The Bureau of Land Management (BLM) has been consulted on the proposed alternatives and has been involved in review of the environmental compliance. During the development of this EA, BLM has provided cadastral survey services toward determining the extent of encroachment, establishing property boundary verification, and delineating a new proposed property boundary line.

A Draft EA was released on January 4, 2013, for a 30-day public review period, which ended on February 7, 2013. Jackson County, two organizations, and 3 citizens provided letters of comment and information considered in finalizing the EA. The comment letters and Reclamation's responses to those comments are included in Appendix A of the Final EA.

Summary of Review Comments and Reclamations Responses

The major issues addressed in the comments dealt with waste water treatment, fire safety, Jackson County permitting, land exchange, Hyatt Resort, and alternatives considered.

Waste Water

Concerns regarding onsite waste water treatment and water quality impacts were received. No evidence of Camper's Cove Resort contributing to water quality degradation was identified. Oregon Department of Environmental Quality (DEQ) received one complaint pertaining to Camper's Cove Resort on April 30, 2009. DEQ performed an inspection identifying a system inadequacy which did not impact wetlands, Hyatt Lake, or any other water of the United States. According to Oregon DEQ, the problem was corrected and the case closed on November 6, 2009.

Fire Safety

Concerns were raised regarding fire safety and potential future development of the 3.53-acre parcel. Reclamation delineated the 3.53-acre parcel to include a 100-foot fuelbreak from all existing structures as required by the Jackson County, Oregon 2004 Land Development Ordinance.

County Permitting

Alleged misguided Jackson County permitting decisions was the focus of several comments. The intent of this environmental assessment is not to validate or judge the decisions made by Jackson County. Therefore, comments of this nature were not considered with this environmental assessment.

Land Exchange

Other comments referred to a "Land Swap" or land exchange, which Reclamation considered. The land exchange reference applies to discussions regarding lands potentially needed for Reclamation's Hyatt Dam, Safety of Dams Project (SOD). Reclamation has since revised design concepts for SOD, and private lands will not be required to implement dam safety improvements.

Hyatt Resort

Generally, comment letters received reflected some confusion between actions proposed for Camper's Cove Resort and those taken at Hyatt Resort. Hyatt Resort is a separate facility from Camper's Cove Resort and is not the focus of this EA. Any past, present, and future decisions regarding Hyatt Resort are beyond the scope of this EA.

Alternatives Considered

Comment was provided asserting the EA did not analyze an adequate range of alternatives and suggested the No Action Alternative and/or leasing of the 3.53-acre parcel. Reclamation must comply with 43 CFR § 429.31(b) which states:

"Reclamation prohibits any use that would result in new private exclusive recreational or residential use of Reclamation land, facilities, or waterbodies as of the effective date of this part. Improvements that are within the terms and conditions of an existing authorization will not be considered new private exclusive recreational or residential use."

The No Action Alternative does not comply with the law. Leasing a portion of the Federal estate would constitute a new private exclusive recreational or residential use of Reclamation land. This is strictly prohibited under 43 CFR § 429.31(b).

Findings

This Finding of No Significant Impact (FONSI) is based upon the following:

- The proposed action will have no adverse effect on such unique characteristics as cultural resources, wilderness areas, wetlands, and riparian areas.

- There are no identified Indian Trust Assets or Indian Sacred Sites within the Area of Potential Effect.

- The environmental effects of the proposed action do not involve unique or unknown risks.

- The proposed action will have no adverse effect on species either currently listed or proposed for listing as candidate, endangered, or threatened species; neither will it have any adverse effect to designated critical habitat for these species.

- The proposed action would have no effect with regard to Environmental Justice.

Based on the environmental analysis as presented in the Final EA, Reclamation concludes that implementation of the Preferred Alternative and associated environmental commitments would have no significant impact on the quality of the human environment or the natural resources in the affected area.

This Finding of No Significant Impact has been prepared and submitted to document environmental review and evaluation in compliance with the National Environmental Policy Act of 1969, as amended.

RECOMMENDED:

Environmental Program Manager

2/27/13
Date

APPROVED:

Columbia Cascades Area Manager

2-27-13
Date

Camper's Cove Resort Lands Encroachment

Final Environmental Assessment

Rogue River Basin Project, Oregon
Pacific Northwest Region

Acronyms

BLM	Bureau of Land Management
cabins	recreation vehicles
CFR	Code of Federal Regulations
DOI	U.S. Department of the Interior
EA	environmental assessment
GSA	General Services Administration
ITA	Indian Trust Assets
NEPA	National Environmental Policy Act
ORS	Oregon Revised Statutes
Reclamation	Bureau of Reclamation

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February 2013

Introduction

Camper's Cove Resort, LLC, is located on the west side of Hyatt Reservoir, approximately 0.65 miles north of Hyatt Dam in Oregon. Hyatt Dam is on Keene Creek, part of the Klamath River Basin of Reclamation's Rogue River Basin Project, east of the Cascade Divide, and situated approximately 27 miles southeast of Talent, Oregon.

In accordance with the National Environmental Policy Act (NEPA), the U.S. Department of the Interior (DOI), Bureau of Reclamation, has prepared this environmental assessment (EA) to evaluate the environmental effects of Reclamation's proposed solution to Camper's Cove Resort lands encroachment. The land considered in this EA was acquired by Reclamation from Talent Irrigation District for the congressionally authorized rehabilitation of numerous irrigation facilities. Reclamation completed rehabilitation work on structures of the Talent Division from 1957 to 1961.

Reclamation Manual Directive and Standard LND 08-02, *Land Disposal*, states, in part: "*Reclamation will dispose of or relinquish lands or land interests no longer needed for Reclamation purposes. Reclamation will retain only those lands required for present and identifiable future project or program purposes*." Currently, the land encroached upon by Camper's Cove Resort is not considered necessary for Reclamation purposes (see Figure 1).

Background

In 2006, Camper's Cove Resort acquired a 2-acre parcel of private land surrounded by Reclamation project land. Camper's Cove Resort is situated on Hyatt Prairie Road, in Jackson County, Oregon. At the time of acquisition, the lands were used as a resort with a few mobile home trailers, corrals, and a restaurant. The facilities were in need of repair or removal. Camper's Cove Resort began to develop the site for recreation vehicles (cabins) by providing and/or improving utilities, a store, a restaurant, access roads, individual parking, site pads, garages, and patios.

Based upon an observed potential land encroachment, Reclamation entered into an agreement with the Bureau of Land Management (BLM) in 2011 to survey Reclamation land holdings in Section 16, Township 39 South, Range 3 East, Willamette Meridian. The results of the survey verified that 19 of Camper's Cove Resort 23 cabins and

associated structures encroach upon Reclamation lands. All of the encroaching cabins and facilities infringe only a few feet upon Reclamation lands and closely follow the existing land boundary between Reclamation and private ownership.

Reclamation Manual Directive and Standard LND 08-03, *Identification of Unneeded Land*, provides direction for identifying unneeded project lands. Once identified, unneeded lands will be disposed of in a timely manner in accordance with LND 08-02, *Land Disposal*. If the land in question is needed to meet project purposes, then the land shall be retained by Reclamation. However, if lands identified are not necessary for current or future project purposes, the lands should be appropriately processed for disposal. Land considered for disposal in this EA is not necessary for current or future project purposes.

Reclamation's primary mission is not land management; therefore, Reclamation has the option to utilize public entities as managing partners. This action is being considered because Camper's Cove Resort encroachment issues must be resolved prior to implementation of any management option.

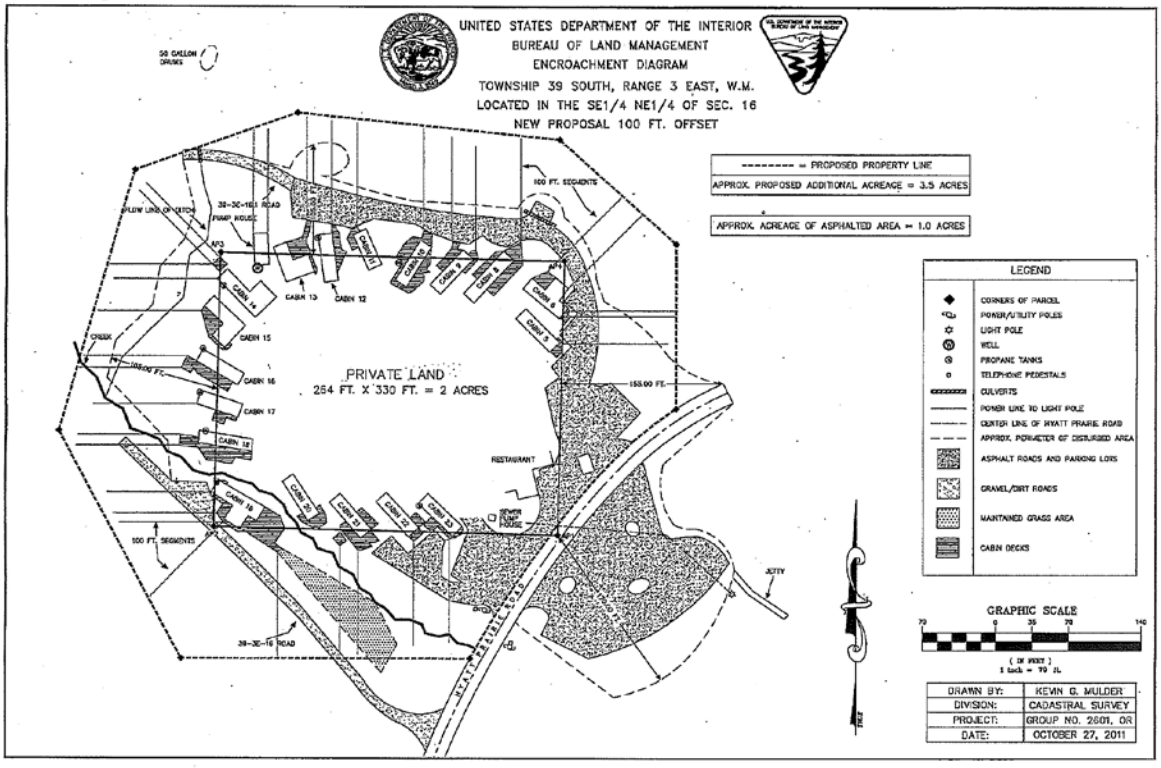

Figure 1. Cabins Encroaching on Reclamation Lands

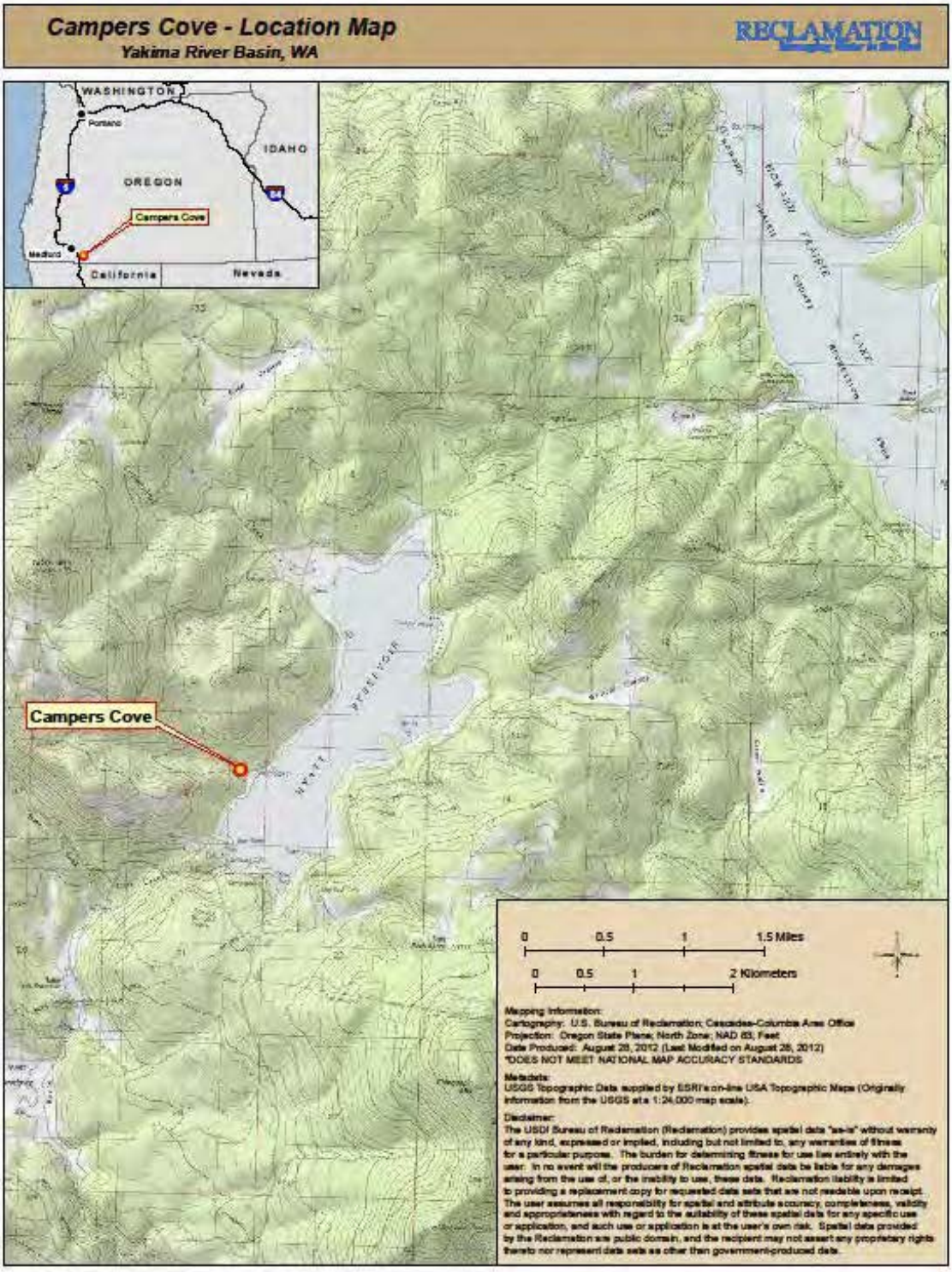

Figure 2: Vicinity Map

Need for the Proposal

The purpose of the proposed Federal action is to resolve unauthorized use of Reclamation land adjoining Camper's Cove Resort. Action is needed to comply with 43 Code of Federal Regulations (CFR) Part 429, which prohibits any unauthorized use of Reclamation land that would result in new private exclusive recreational or residential use.

Alternatives Considered

Alternative 1 – No Action Alternative

NEPA regulations require the Federal action agency to consider a No Action Alternative for comparative analysis purposes. In this case, the No Action Alternative would not meet the purpose and need of the proposed action nor would this alternative comply with or adhere to 43 CFR §429.33. Under the No Action Alternative, Reclamation lands would not be sold into private ownership and there would not be an additional 3.53 acres of private land included in the Jackson County taxable land base.

Alternative 2 – Removal Alternative

Under the Removal Alternative, all constructed facilities encroaching upon Reclamation lands would be removed at Camper's Cove Resort's expense. Per 43 CFR §429.33, Camper's Cove Resort would be required to remove structures, materials, and improvements and restore Reclamation lands to a natural-like condition. Camper's Cove Resort would be required to pay the use fee that would have applied had the unauthorized use been authorized by Reclamation. Interest accrued on the use fee from the date of unauthorized use would also be assessed from the time said encroachment first occurred.

The land that would be disturbed under this alternative could be difficult to rehabilitate to a natural-like condition. In addition, the Removal Alternative would create undue hardship on those people who unknowingly invested in the Camper's Cove Resort development and/or leased the encroaching cabin sites from Camper's Cove Resort.

Figure 3: Encroachments at Camper's Cove Resort

Alternative 3 – Disposal Alternative (Preferred)

Under the Disposal Alternative, the encroached-upon Reclamation lands and an additional 100-foot fuel break for wildfire safety (consistent with Jackson County, Oregon, 2004 Land Development Ordinance [Chapter 8.7] [Jackson Co. 2004]) would be sold. This land sale would encompass 3.53 acres adjoining the 2-acre Camper's Cove Resort. With the sale, the 3.53 acres would become private property.

Reclamation's authority to dispose of lands is limited and is regulated by the General Services Administration (GSA). One of the overriding limits relates to the value of the property. Any property with a value greater than $15,000 must be disposed of by GSA. Preliminary estimates of value indicate this threshold will likely be exceeded and, as such, GSA would perform the land disposal function.

The original intent was for GSA to use Reclamation's authority for disposal of the lands to ensure correct accountability of the proceeds under its regulations. That authority requires that the sale is a competitive bid process open to the general public. Upon further investigation, GSA is allowed to dispose of the lands and return the proceeds to Reclamation for accountability, but the same general process will be used. GSA would set a minimum bid which would include the costs incurred by GSA, the costs incurred by Reclamation, and the value of the property as determined by an appraisal conducted by GSA.

Once the lands proposed for sale are conveyed from Federal ownership, State and local laws, regulations, and ordinances will control and govern any future use and/or development of the property.

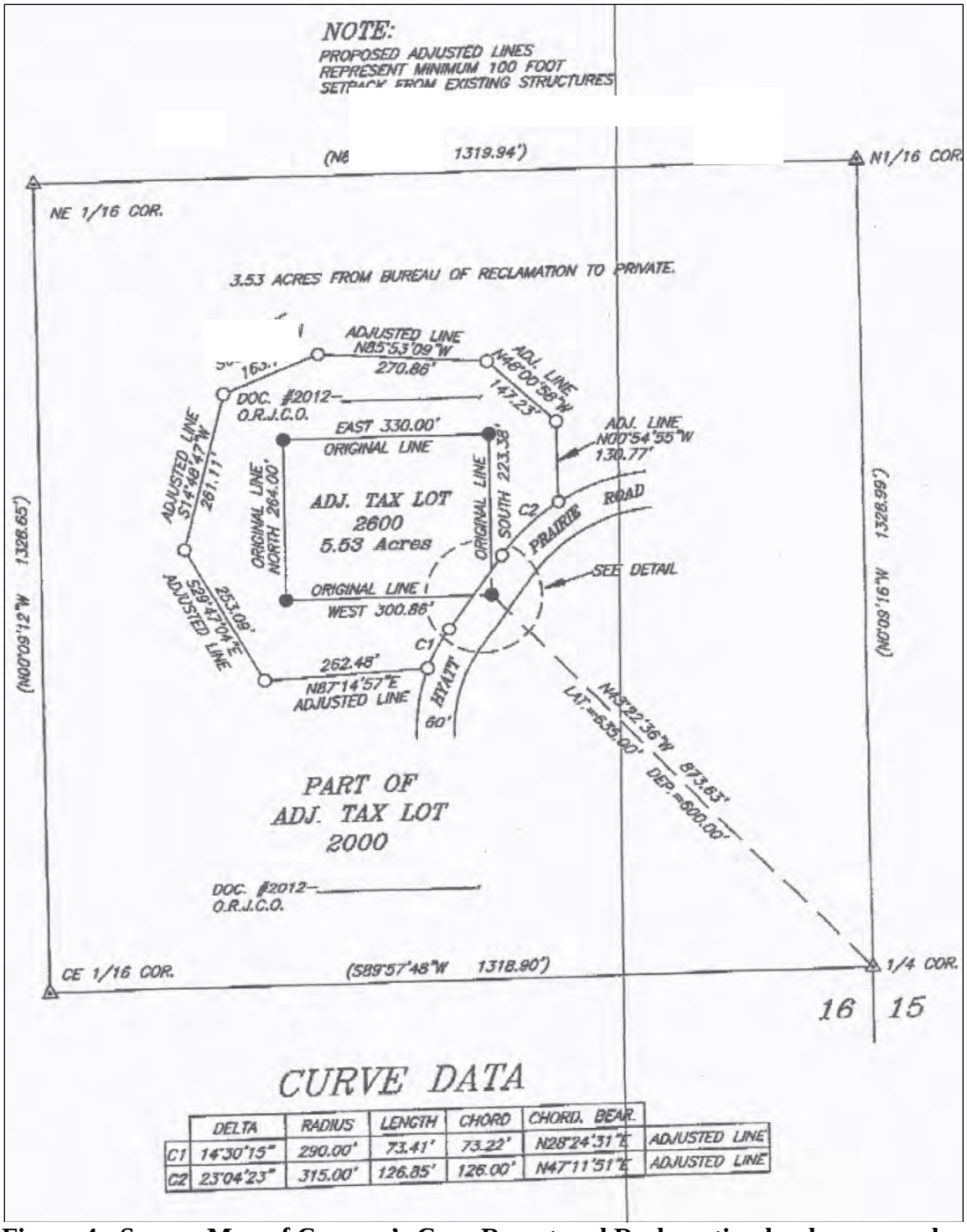

Figure 4: Survey Map of Camper's Cove Resort and Reclamation lands proposed for disposal

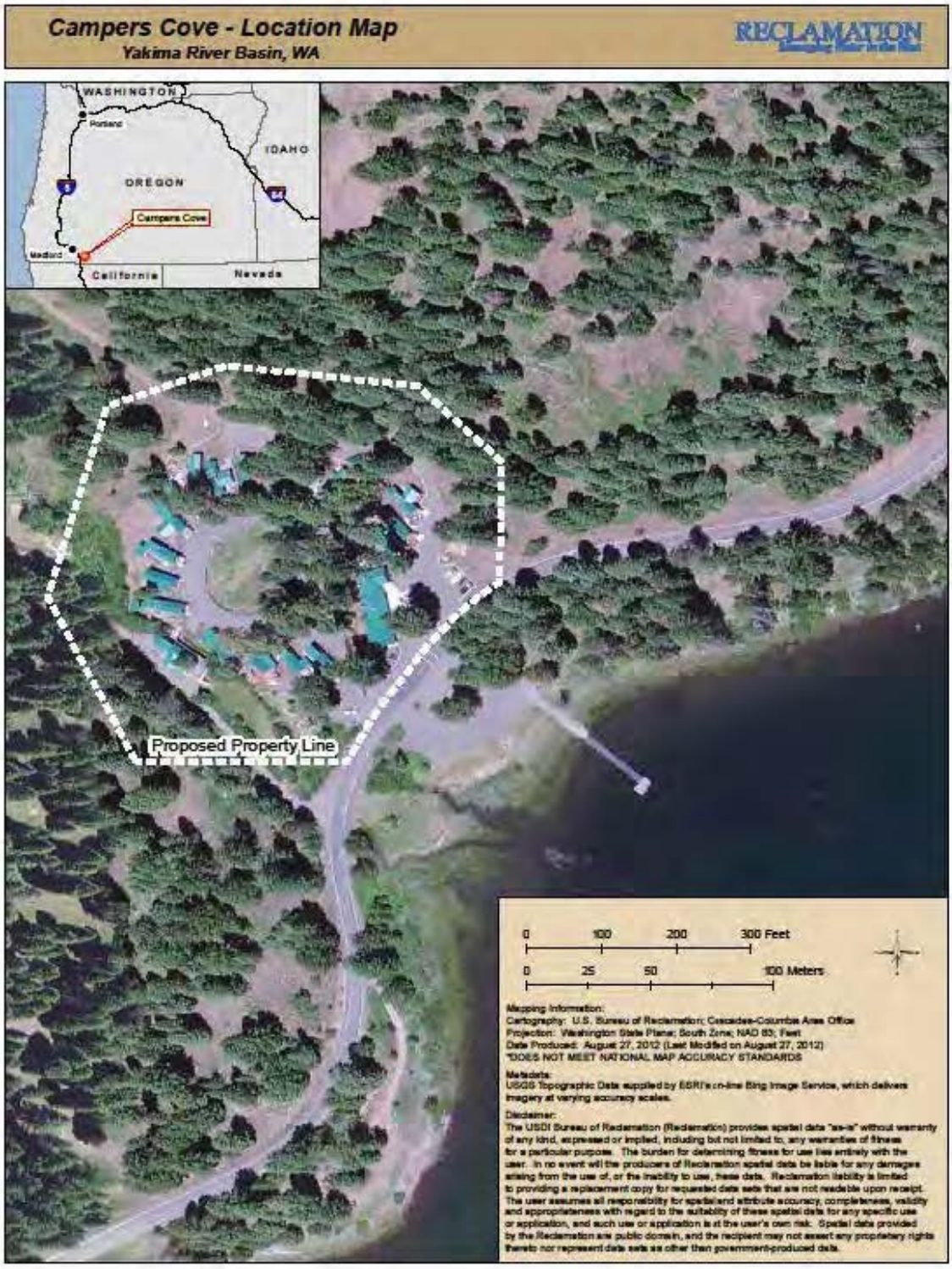

Figure 5: Location Detail

Environmental Effects

Alternative 1 – No Action

Public Health and Safety

No impacts have been identified with this alternative to public health and safety because no changes to current land use would occur.

Recreation Values and Uses

No impacts would be anticipated with the implementation of Alternative 1 because no changes to current operations of Camper's Cove Resort would result.

Cultural Resources

Alternative 1 would have no effect on Cultural Resources.

Indian Trust Assets and Indian Sacred Sites

There are no identified ITAs within the Area of Potential Effect.

Wildlife

Alternative 1 would have no effect on Wildlife.

Threatened and Endangered Species

Alternative 1 would have no effect to listed species.

Vegetation

Alternative 1 would have no effect to vegetation.

Wetlands

Alternative 1 would have no effect on wetlands.

Invasive Species

Increased risk of invasive species establishment would not result from implementation of this alternative.

Water Quality

Alternative 1 would have no effect on water quality.

Environmental Justice

Alternative 1 would have no effect on Environmental Justice.

Cumulative and Indirect Impacts

No cumulative or indirect impacts would be realized with Alternative 1, as no change from current conditions or land use would occur.

Alternative 2 – Removal Alternative

Public Health and Safety

No significant impacts are anticipated with the removal of encroaching facilities associated with Camper's Cove Resort. There would be minor temporary localized safety, air and water quality, and noise considerations during the removal process with some risk to public safety and health inherent to demolition and structure relocation work involving heavy equipment and earth moving activities.

Recreation Values and Uses

Long-term impacts to recreation could be substantial, depending on the ability of Camper's Cove Resort to rebuild or relocate the facilities completely within their privately owned 2-acre tract. Temporary impacts that would occur during the removal process would be noise, land disturbance, vegetation removal, and air quality (dust and equipment exhaust). Water quality impacts could also occur (see *Water Quality* below).

Cultural Resources

A considerable amount of land surrounding Hyatt Reservoir has been surveyed for cultural resources by both Reclamation and the BLM, with several prehistoric and historic archaeological sites identified in the immediate vicinity of the reservoir. A prehistoric site was documented in 1979 by Southern Oregon State College students in the vicinity of Camper's Cove Resort. As neither the survey nor the site form was conducted and completed to professional standards, some doubt has remained as to the existence of such a site. Nevertheless, in accordance with Section 106 of National Historic Preservation Act and promulgating regulations codified in 36 CFR 800, the encroached-upon Reclamation land was inventoried and tested for cultural resources. Although two subsurface isolated finds were documented, isolated finds do not qualify for site designation and are consequently not eligible for listing on the National Register of Historic Places. Therefore, this project will result in a *No Effect* determination, a decision of which the Oregon State Historic Preservation Office concurred in a letter to Reclamation dated August 31, 2012.

Tribal notification and requests for consultation were sent by Reclamation on January 20, 2012, to the Confederated Tribes of Grand Ronde Community, the Confederated Tribes of Siletz, and the Klamath Tribes. To date, no responses have been received.

Indian Trust Assets and Indian Sacred Sites

Indian Trust Assets (ITAs) are legal interests in property or rights held in trust by the Federal Government for federally recognized Indian Tribes or individual Indians. Trust status originates from rights imparted by treaties, statutes, or Executive orders. Examples of ITAs include lands, minerals, instream flows, water rights, and hunting and fishing

rights. A defining characteristic of an ITA is that an asset cannot be alienated, sold, leased, or used for easement without approval from the United States. The DOI's Departmental Manual Part 512.2 defines the responsibility for ensuring protection of ITAs to the heads of bureaus and offices (DOI 1995). DOI is required to protect and preserve Indian Trust Assets from loss, damage, unlawful alienation, waste, and depletion (DOI 2000). It is the responsibility of Reclamation to determine if the proposed project has the potential to affect ITAs. There are no identified ITAs within the Area of Potential Effect.

Wildlife

Impacts to wildlife would be temporary with this alternative and would be limited to inadvertent mortality of small animals and nesting birds that may utilize the existing facilities. The disruption of dens, burrows, and roosts associated with removal would likely occur. Minor temporary displacement impacts would be expected due to heavy equipment operation.

Threatened and Endangered Species

LISTED SPECIES

Birds
Northern spotted owl (*Strix occidentalis caurina)* – The project location is within northern spotted owl range; however, this site is not designated as northern spotted owl Critical Habitat and current forest conditions are not characteristic of spotted owl nesting, roosting, or foraging habitat. Forest features that support nesting, roosting and foraging are often found in older forests and include a multilayered, multispecies canopy with moderate to high canopy closure (60 to 90 percent) and key habitat and structural components such as large cavities, broken tops, and large snags. Previously logged and historically grazed habitat in the surrounding area is not expected to support spotted owl nesting, roosting, or foraging. Spotted owl movement through the site during dispersal is conceivable and heavy equipment operation could potentially affect dispersal. Impacts from equipment operations would be temporary.

Invertebrates, Crustaceans:
Vernal pool fairy shrimp (*Branchinecta lynchi)* – No effect.

Plants
Gentner's fritillary *(Fritillaria gentneri)* – No effect.
Large-flowered woolly meadowfoam *(Limnanthes floccosa ssp. Grandiflora)* – No effect.
Cook's lomatium *(Lomatium cookie)* – No effect.
Kincaid's lupine (*Lupinus sulphureus ssp. Kincaidii)* – No effect.

PROPOSED SPECIES

None.

CANDIDATE SPECIES

Mammals, Terrestrial:
Fisher *(Martes pennant)* – The project location is within Fisher range; however, this site does not contain the late-successional coniferous or mixed forest that contain key habitat and structural components suitable as fisher habitat. Previously disturbed habitat in the surrounding area is not expected to support fisher denning or foraging. Fisher dispersal through the site is conceivable and heavy equipment operation could potentially affect dispersal. Impacts would be temporary.

North American wolverine *(Gulo gulo luscus)* – No effect.

Invertebrates, Insects:
Mardon skipper *(Polites mardon)* – No effect.

Plants
Siskiyou mariposa lily (*Calochortus persistens)* – No effect.
Whitebark Pine *(Pinus albicaulis)* – No effect

Vegetation

Impacts to vegetation would be unavoidable with the Removal Alternative. The area of potential effect is comprised of willow-dominated riparian wetlands and early-successional conifer forest. Effects would be minor, but could be long-term, depending on vegetation avoidance, land disturbance extent, and success of revegetation efforts.

Wetlands

There is potential for wetlands impacts with this alternative. Several of the cabins and related facilities are located as close as 10 feet from wetlands on the southwest side of the development. Without appropriate avoidance and protective measures, wetlands could be impacted by equipment operation and/or surface runoff with the Removal Alternative. Any impact to wetlands is significant and would require permitting, mitigation, and restoration or be in violation of Section 404 of the Clean Water Act and Oregon's Removal-Fill Law (ORS 196.795-990). It is estimated that up to 1 acre of wetlands could be temporarily impacted with the implementation of this alternative.

Invasive Species

Depending on avoidance and land disturbance limitations practiced by equipment operators during removal, exposed soils would be subject to invasive weed infestation. Reclamation would require revegetation of Reclamation lands; however, disturbance on private land is not under the purview of Reclamation's best management practices.

Water Quality

Alternative 2 could have temporary impacts on water quality due to land disturbance and equipment operation associated with removal activities. The small ephemeral stream that meanders by the southwest side of Camper's Cove Resort empties into Hyatt Reservoir approximately 150 feet southeast of Camper's Cove Resort. Runoff from disturbed areas

could contribute silt and equipment operation could emit petroleum-based pollutants, resulting in water quality degradation to the stream and Hyatt Reservoir.

Environmental Justice

Executive Order 12898 requires each Federal agency to achieve environmental justice as part of its mission by identifying and addressing disproportionately high adverse human health or environmental effects, including social and economic effects, of its programs and activities on minority populations and low-income populations of the United States. With the Removal Alternative, minority or low-income populations or communities would not be adversely impacted.

Cumulative and Indirect Impacts

Cumulative impacts are those effects on the environment resulting from the incremental consequences of a proposed action when added to other past, present, and reasonably foreseeable future actions, regardless of who undertakes these actions. Alternative 2 could adversely impact the long-term continued operation of Camper's Cove Resort as a recreational facility depending on the owner's ability to rebuild on the existing 2 acres of private land. As a result, negative economic effects could be realized at a local level.

Alternative 3 – Disposal Alternative (Preferred)

Public Health and Safety

No impacts have been identified with the disposal of Reclamation lands to public health and safety because no changes to current land use would occur.

Recreation Values and Uses

No impacts would be anticipated with the implementation of Alternative 3 because no changes to current operations of Camper's Cove Resort would result.

Cultural Resources

Alternative 3 would have no effect on Cultural Resources.

Indian Trust Assets and Indian Sacred Sites

There are no identified ITAs within the Area of Potential Effect for Alternative 3.

Wildlife

Alternative 3 would have no effect on Wildlife.

Threatened and Endangered Species

Alternative 3 would have no effect to listed species.

Vegetation

Alternative 3 would have no effect to vegetation.

Wetlands

Alternative 3 would have no effect on wetlands.

Invasive Species

Increased risk of invasive species establishment would not result from implementation of this alternative.

Water Quality

Alternative 3 would have no effect on water quality.

Environmental Justice

Alternative 3 would have no effect on Environmental Justice.

Cumulative and Indirect Impacts

No cumulative or indirect impacts would be realized with Alternative 3, as no change from current conditions or land use would occur.

Consultation and Coordination

The BLM has been consulted on the proposed action and has been involved in review of the environmental compliance. During the development of this EA, BLM has provided valuable information and cadastral survey services toward determining the extent of encroachment, establishing property boundary verification, and delineating a new proposed property boundary line.

References

DOI 1995 — U.S. Department of the Interior. 1995. "Departmental Responsibilities for Indian Trust Resources, American Indian and Alaska Native Programs." *Departmental Manual*, Chapter 2, Part 512. Office of American Indian Trust.

DOI 2000 — U.S. Department of the Interior. 2000. "Indian Trust Responsibilities - Principles for Managing Indian Trust Assets. Office of American Indian Trust." *Departmental Manual*, Chapter 2, Part 303. Office of American Indian Trust.

Jackson Co. 2004 — Jackson County, Oregon. 2004. *Land Development Ordinance.* http://www.co.jackson.or.us/page.asp?navid=3724. Last accessed December 2012.

Appendix A - Comments and Responses

JACKSON COUNTY
Oregon

DEVELOPMENT SERVICES
Kelly Madding
Director
10 South Oakdale, Rm 100
Medford, OR 97501
Phone: (541) 774-6519
Fax: (541) 774-6791
maddinka@jacksoncounty.org

February 4, 2013

Chuck Carnohan
Bureau of Reclamation
1917 Marsh Road
Yakima, Washington 98901-2058

RE: Camper's Cove Resort Land Encroachment at Hyatt Lake

Dear Mr. Carnohan:

This memorandum is in response to the Encroachment Draft Environmental Assessment (DEA) and alternatives analysis received by our department January 7, 2013. The County understands that the DEA is in response to the unauthorized encroachment by Camper's Cove Resort onto Bureau of Reclamation (Reclamation) property. The County has read the assessment and would like to comment on Alternative #3, Disposal Alternative.

Alternative #3 essentially will reconfigure the property and transfer 3.53 acres from Reclamation to Camper's Cove Resort, a private land owner. This property and surrounding properties lie in an area susceptible to wildfire hazard and are subject to Section 8.7 of the Jackson County Land Development Ordinance (LDO). Section 8.7, Wildfire Safety, requires that a minimum 100-foot fuelbreak be developed and maintained around all new structures. If Alternative #3 is preferred by your Department the County would favor a minimum 100-foot fuelbreak be provided on the private land for all structures for wildfire safety purposes. This is to assure that the fuelbreak is maintained on the private property. In addition, the proposal is essentially a property line adjustment. To ensure the property line adjustment is done in conformance with Section 3.4.2 of the LDO, the County recommends the applicant apply for and receive County approval for a property line adjustment.

Sincerely,

Kelly A. Madding
Director

Under the Preferred Alternative, Reclamation proposes to dispose of the 3.53-acre parcel of land through a competitive bid process open to the general public. The land will be sold to the highest qualified bidder.

With regard to the 100-foot setback, the United States delineated the 3.53-acre parcel to include a 100-foot fuelbreak from all existing structures. The setback distance is consistent with Jackson County requirements.

The United States is not subject to Section 3.4.2 of the Land Development Ordinance of Jackson County. Once sold and held as part of a private estate, the State of Oregon and Jackson County codes and ordinances would apply to the parcel. Page 5 of the Draft Environmental Assessment states: "Under the Disposal Alternative, the encroached-upon Reclamation lands and an additional 100-foot fuel break for wildfire safety (consistent with the Jackson County, Oregon, 2004 Land Development Ordinance [Chapter 8.7 Jackson Co. 2004]) would be sold. This land sale would encompass 3.53 acres encircling the 2-acre Camper's Cove Resort. With the sale, the 3.53 acres would become private property."

2/8/13 DEPARTMENT OF THE INTERIOR Mail - Comments on Campers Cove EA from SOCRLUP

Comments on Campers Cove EA from SOCRLUP

Pamela Hardy <pam@pamhardy.com> Thu, Feb 7, 2013 at 3:33 PM
Reply-To: Pamela Hardy <pam@pamhardy.com>
To: "ccarnohan@usbr.gov" <ccarnohan@usbr.gov>

Dear Mr. Carnohan,

Attached are comments submitted on behalf of Southern Oregon Citizens for Responsible Land Use Planning on the EA addressing the situation at Camper's Cove in near Hyatt Lake.

Please submit these comments to the record, and place me on any notice lists regarding further action on this matter.

Sincerely,
Pam Hardy

****

Pam Hardy
Attorney at Law
1629 NW Fresno Ave
Bend, OR 97701
(541) 914-9698

13-02-07 SOCRLUP Comments CC EA.pdf
280K

https://mail.google.com/mail/u/0/?ui=2&ik=fa94f60ad5&view=pt&q=Campers%20Cove%20Comments&search=cat&th=13cb701c10fef8c3 1/1

PAMELA HARDY
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February 7, 2013

Charles Carnohan
Environmental Protection Specialist
Bureau of Reclamation
1917 Marsh Road
Yakima, WA 98901-2058

VIA EMAIL: ccarnohan@usbr.gov

Re: Draft EA Camper's Cove Resort

Dear Charles,

I am writing today on behalf of Southern Oregon Citizens for Responsible Land Use Planning whose members reside and/or recreate in the Hyatt Lake area. Please enter these comments into the record for the Camper's Cover Resort Environmental Assessment.

The NEPA analysis of the proposed project is incomplete.

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4322, requires the BOR to take a "hard look" at the environmental consequences of its actions. *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1211 (9th Cir.1998). A "hard look" is a "crucial evaluation" and demands that the agency "take seriously the potential environmental consequences of a proposed action." *Ocean Advocates v. Army Corps of Engineers*, 361 F.3d 1108, 1124 (9th Cir. 2004).

The Analysis has failed to take a hard look in two critical ways. It has failed to consider an adequate range of alternatives, and it has failed to consider both direct and cumulative environmental impacts from sewage discharge into the nearby wetlands.

The Analysis has failed to consider an adequate Range of Alternatives.

The alternatives analysis is the "heart" of a NEPA document, and is intended to provide a "clear basis for choice among options by decision makers and the public." 40 C.F.R. § 1502.14; *Idaho Sporting Congress*, 222 F.3d at 567. These regulations require federal agencies, including the BOR to "study, develop, and describe appropriate alternatives to recommend a course of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources." 42 U.S.C. § 4332.

Pertaining to environmental impacts from sewage discharge, a thorough review and analysis of available water quality data was conducted and no evidence of Camper's Cove contributing to water quality degradation was identified. Oregon Department of Environmental Quality (DEQ) received one complaint pertaining to Camper's Cove on April 30, 2009. DEQ performed an inspection identifying a system inadequacy which did not impact wetlands, Hyatt Lake, or any other water of the United States. According to Oregon DEQ, the problem was corrected and the case closed on November 6, 2009.

As found on page 4, *Need for the Proposal*; in the Draft Environmental Assessment, Reclamation must comply with 43 CFR § 429.31(b) which states: "Reclamation prohibits any use that would result in new private exclusive recreational or residential use of Reclamation land, facilities, or waterbodies as of the effective date of this part. Improvements that are within the terms and conditions of an existing authorization will not be considered new private exclusive recreational or residential use."

The No Action Alternative does not comply with the law. Granting a use authorization for a portion of the Federal estate would constitute a new private exclusive recreational or residential use of Reclamation land. This is strictly prohibited under 43 CFR § 429.31(b).

The Ninth Circuit has consistently held that failure to consider a reasonable alternative is fatal to an agency's NEPA analysis. *See e.g., Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1519-20 (9th Cir. 1992) (The existence of a viable, but unexamined alternative renders an environmental impact statement inadequate.") NEPA regulations require that agencies "[r]igorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14; *See also Citizens for a better Henderson v. Hodel*, 768 F.2d 1051, 1057 (9th Cir. 1985) (agency must consider every reasonable alternative.) NEPA regulations require that EAs follow the same guidelines regarding development of alternatives as do full environmental impact statements. 40 C.F.R. § 1508.9(b).

NEPA regulations provide the agency an opportunity to explain why a particular option is not feasible, or otherwise not reasonable, and hence eliminate from further consideration. 40 C.F.R. § 1502.14(a). The courts however must scrutinize this explanation to ensure that the reasons given are adequately supported by the record. *Muckleshoot Indian Tribe v. United States Forest Serv.*, 177 F.3d 800, 813-15 (9th Cir.1999); *Idaho Conservation League*, 956 F.2d at 1522 (while agencies can use criteria to determine which options to fully evaluate, those criteria are subject to judicial review.)

The EA has failed to address any alternatives besides removal and disposal. For example, the BOR could lease the property for a term of years which would give the property owners time to recoup a large majority of their investment, and then move their cabins. All the cabins on the property were installed as recreational ***vehicles*** merely occupying a campsite. Hence, the cabins can be easily removed. Jackson County code does not allow for residential subdivisions in the forest zone where this is located, and the legality of such arrangements has been the subject of other non-federal inquiries. Although the recreational vehicles all have skirting to obscure their true nature, they were all designed to be moved by truck or trailer. To reduce the short term impacts on cabin owners, the BOR could lease the property for a short period of time giving owners the opportunity to find an adequate place to relocate. This is a viable alternative that has not been fully explored. The EA is not complete until it is explored.

The EA fails to explain why the No Action alternative is not sufficient, especially if the no action alternative were combined with a lease agreement as described above. The EA states that if the land were not sold, 3.53 acres would not be added to the Jackson County tax base. But the purpose of the action is not to add private property to the Jackson County tax base. The purpose of the action is to "resolve unauthorized use of Reclamation land." There are other ways to resolve the illegal use besides to sell the property. A lease and eventual removal would be a better resolution.

The Analysis has failed to adequately consider both direct and cumulative impacts.

NEPA regulations also require agencies to take a "hard look" at the cumulative impacts of each of the alternatives discussed. *Lands Council v. Powell*, 395 F.3d 1019, 1027 (9th Cir.2005); 40 C.F.R. § 1502.16; 40 C.F.R. § 1508.8; 40 C.F.R. § 1502.1. Cumulative impacts result "from the

incremental impact of the action when added to other past, present, and reasonably foreseeable future actions." 40 C.F.R. § 1508.7. "They can result from individually minor but collectively significant actions taking place over a period of time." *Id.* Agencies must even take into account the impacts of activities reasonably likely to occur on private lands. *Sierra Club v. United States Forest Service*, 46 F.3d 835, 839 (8th Cir.1995).

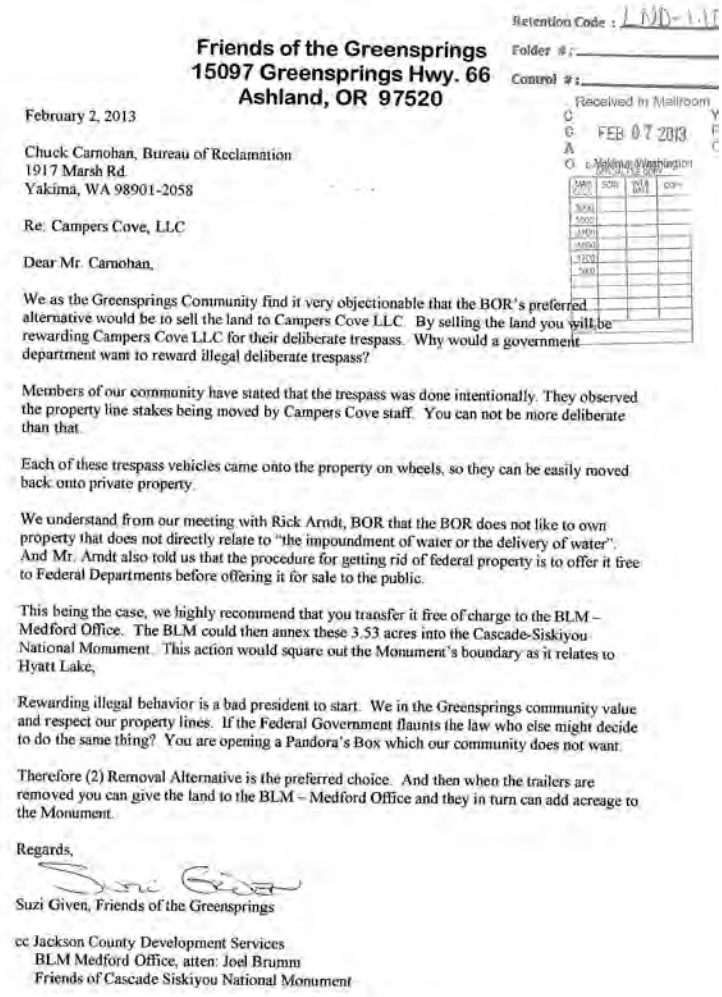
Cumulative impacts analysis requires an agency to "give a sufficiently detailed catalogue of past, present, and future projects, and provide adequate analysis about how these projects, and differences between the projects, are thought to have impacted the environment." *Lands Council* 395 F.3d at 1027. "A proper consideration of the cumulative impacts of a project requires some quantified or detailed information; general statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided." *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Management*, 387 F.3d 989, 993 (9th Cir.2004) (internal quotations omitted).

The BOR has failed to seriously address the local allegations that sewage from the Camper's Cove site has run, untreated or insufficiently treated, into the nearby wetlands, and down to the lake which is less than 200 yards away. Although the proposed solution maintains the status quo, the EA must acknowledge the historic impact of allowing the illegal behavior compared to the impact without the illegal behavior. Further, a true "hard look" will require the BOR to determine whether long term occupation of the site will increase toxic accumulations over time, or whether there is evidence that the current status is likely to be stable, even in wet weather events. In short, the analysis has failed to adequately consider the direct, indirect or cumulative impacts of the sewage discharge in the area. Without such analysis, the EA is incomplete.

Please place me on your notice list regarding further developments in this matter.

Sincerely,

Pam Hardy



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Received in Mailroom
FEB 07 2013

Friends of the Greensprings
15097 Greensprings Hwy. 66
Ashland, OR 97520

February 2, 2013

Chuck Carnohan, Bureau of Reclamation
1917 Marsh Rd.
Yakima, WA 98901-2058

Re: Campers Cove, LLC

Dear Mr. Carnohan,

We as the Greensprings Community find it very objectionable that the BOR's preferred alternative would be to sell the land to Campers Cove LLC. By selling the land you will be rewarding Campers Cove LLC for their deliberate trespass. Why would a government department want to reward illegal deliberate trespass?

Members of our community have stated that the trespass was done intentionally. They observed the property line stakes being moved by Campers Cove staff. You can not be more deliberate than that.

Each of these trespass vehicles came onto the property on wheels, so they can be easily moved back onto private property.

We understand from our meeting with Rick Arndt, BOR that the BOR does not like to own property that does not directly relate to "the impoundment of water or the delivery of water". And Mr. Arndt also told us that the procedure for getting rid of federal property is to offer it free to Federal Departments before offering it for sale to the public.

This being the case, we highly recommend that you transfer it free of charge to the BLM – Medford Office. The BLM could then annex these 3.53 acres into the Cascade-Siskiyou National Monument. This action would square out the Monument's boundary as it relates to Hyatt Lake.

Rewarding illegal behavior is a bad president to start. We in the Greensprings community value and respect our property lines. If the Federal Government flaunts the law who else might decide to do the same thing? You are opening a Pandora's Box which our community does not want.

Therefore (2) Removal Alternative is the preferred choice. And then when the trailers are removed you can give the land to the BLM – Medford Office and they in turn can add acreage to the Monument.

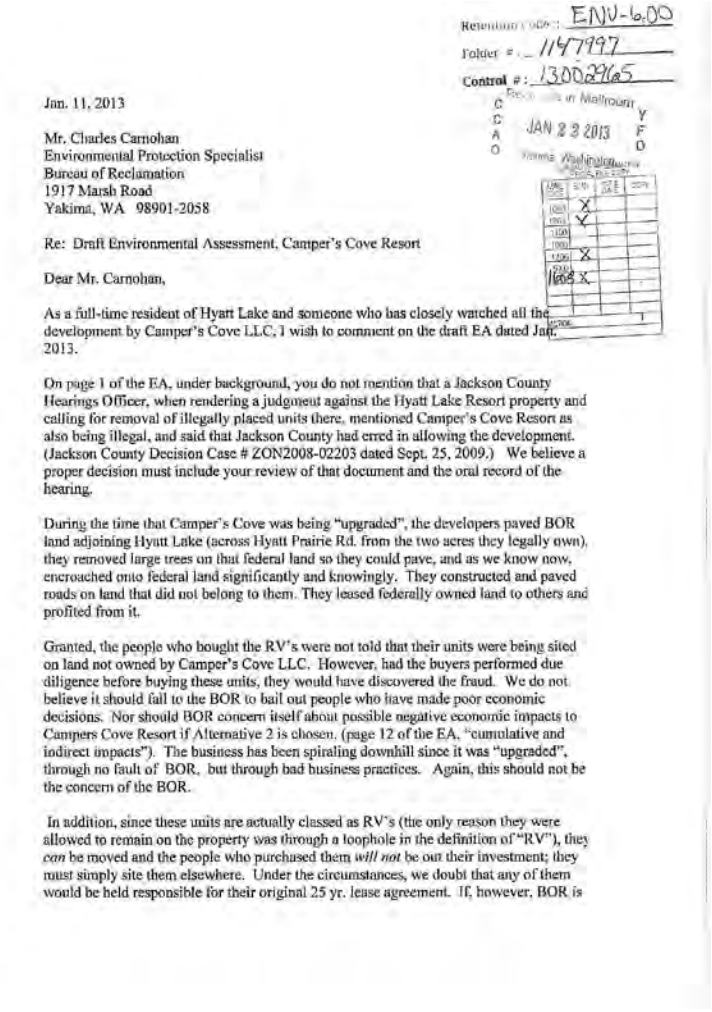
Regards,

Suzi Given, Friends of the Greensprings

cc Jackson County Development Services
BLM Medford Office, atten: Joel Brumm
Friends of Cascade Siskiyou National Monument

The Preferred Alternative proposes to dispose of a 3.53-acre parcel of land through a competitive bid process open to the general public. The lands will be sold to the highest qualified bidder.

Reclamation's primary mission is not land management; therefore, Reclamation has the option to utilize public entities as managing partners. This action is being considered because Camper's encroachment issues must be resolved prior to implementation of any management option. If the land in question is needed to meet project purposes, then the land shall be retained by Reclamation. However, if lands identified are not necessary for current or future project purposes, the lands should be appropriatelyprocessed for disposal.



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Folder #: 1147997
Control #: 1300296S
Received in Mailroom JAN 23 2013 Yakima, Washington

Jan. 11, 2013

Mr. Charles Carnohan
Environmental Protection Specialist
Bureau of Reclamation
1917 Marsh Road
Yakima, WA 98901-2058

Re: Draft Environmental Assessment, Camper's Cove Resort

Dear Mr. Carnohan,

As a full-time resident of Hyatt Lake and someone who has closely watched all the development by Camper's Cove LLC, I wish to comment on the draft EA dated Jan. 2013.

On page 1 of the EA, under background, you do not mention that a Jackson County Hearings Officer, when rendering a judgment against the Hyatt Lake Resort property and calling for removal of illegally placed units there, mentioned Camper's Cove Resort as also being illegal, and said that Jackson County had erred in allowing the development. (Jackson County Decision Case # ZON2008-02203 dated Sept. 25, 2009.) We believe a proper decision must include your review of that document and the oral record of the hearing.

During the time that Camper's Cove was being "upgraded", the developers paved BOR land adjoining Hyatt Lake (across Hyatt Prairie Rd. from the two acres they legally own), they removed large trees on that federal land so they could pave, and as we know now, encroached onto federal land significantly and knowingly. They constructed and paved roads on land that did not belong to them. They leased federally owned land to others and profited from it.

Granted, the people who bought the RV's were not told that their units were being sited on land not owned by Camper's Cove LLC. However, had the buyers performed due diligence before buying these units, they would have discovered the fraud. We do not believe it should fall to the BOR to bail out people who have made poor economic decisions. Nor should BOR concern itself about possible negative economic impacts to Campers Cove Resort if Alternative 2 is chosen. (page 12 of the EA, "cumulative and indirect impacts"). The business has been spiraling downhill since it was "upgraded", through no fault of BOR, but through bad business practices. Again, this should not be the concern of the BOR.

In addition, since these units are actually classed as RV's (the only reason they were allowed to remain on the property was through a loophole in the definition of "RV"), they *can* be moved and the people who purchased them *will not* be out their investment; they must simply site them elsewhere. Under the circumstances, we doubt that any of them would be held responsible for their original 25 yr. lease agreement. If, however, BOR is

During the preparation of responses to comments on the Draft Environmental Assessment, it was noted that considerable confusion exists between actions proposed for Camper's Cove Resort and those taken related to Hyatt Resort. Comments submitted toward a Jackson County hearing in 2009 regarding Hyatt Resort will not be considered with this environmental assessment.

Once the lands proposed for sale are conveyed from Federal ownership, State and local laws, regulations, and ordinances will control and govern any future use and/or development of the property.

A hard look at the economic consequences is required for an environmental assessment. Reclamation must consider the economic impacts to the community regardless of the wisdom of choices made by investors or cabin owners.

concerned about the hardship Alternative 2 places on the owners, perhaps the use fee and the accrued interest could be waived when the RVs are removed.

In looking at the BLM encroachment diagram done in Oct. 2011, it appears that some of the units could be moved just a few feet into the property and still be within the legal 2 acre description of the property. Others might have to remove an add-on or a deck and hot tub to become legal.

Even if all the RVs were re-located on the legally-owned two acres, we have a real concern about the septic treatment at Camper's Cove. Years ago, when it was a small campground under the ownership of the Deans, it was general knowledge that the septic system was substandard. The owners frequently had septic problems that never seemed to be solved adequately.

We believe the septic problems have worsened under operation by Camper's Cove LLC. There are more RVs feeding into the system, and the amenities that are in those RVs (dishwashers, full bathrooms, washing machines, hot tubs, garbage disposals) produce more waste water than campers that used the old campground ever did. In fact, there is evidence in the official oral records of the County Decision previously referenced that the Camper's Cove LLC developers knew full well that raw sewage was flowing into the creek that in turn flows into Hyatt Lake. During the public hearing for the Hyatt Lake Resort property, a spokesperson pointed out that some Camper's Cove LLC employees called the creek "Poop Creek". The developer, Mr. McNeely, stated in rebuttal that "Poop Creek is at the Cove, not the Resort!" This can be verified by checking the oral record of the above referenced County Hearing.

RV #19, while sited on the legally-owned two acres, is located across this creek from the septic system. Our concern is "How does the effluent get across the creek?" The mission statement of the BOR states the "mission . . . is to manage, develop, and *protect* water and related resources in an environmentally and economically sound manner in the interest of the American public." If RV#19 is not safely discharging effluent, we believe BOR should also be concerned as that effluent would be going into Hyatt Lake.

On page 4 of your draft EA, under Alternative 2, you state that you think it would be difficult to restore reclamation land to its natural condition. We disagree. We believe it is essential to the health of Hyatt Lake to return the property to its natural condition. The paving should be removed, the jetty/dock either permitted by BOR and fees paid for use, or it should be removed.

The paving that was illegally done on BOR land (across Hyatt Prairie Rd. from Camper's Cove Resort) allows oil and fuel residue from vehicles to flow directly into the lake without filtering through the ground as it should. The Camper's Cove maintenance people further add to the unfiltered run-off by plowing the paved roads within the Campers Cove property and piling all the snow on the paved BOR property adjacent to the lake, thereby depositing even more mechanical pollution as that snow melts.

It has been unfortunate for this entire area that one developer was allowed to coerce and browbeat Jackson County Zoning officials to get permission for a marginal development (the hearings officer referred to it as a Planned Unit Development, i.e., a subdivision, instead of a campground/RV park as was allowed by the zoning.)

We applaud the BOR for insisting on the removal of illegal improvements at the Hyatt Lake Resort near the dam and for insisting on restoration to the land's original condition. We urge the same restoration of the public lands surrounding Camper's Cove Resort.

The development at Camper's Cove was done so quickly that people who live here and use the area for recreation did not realize the scope of the development until it was too late to stop it. BOR now has a second chance to do the right thing for Hyatt Lake and this pristine forest setting adjacent to the Cascade/Siskiyou National Monument.

We strongly support Alternative 2 - Removal of units that cannot be relocated completely on the original privately-owned two acre parcel. It sets a bad precedent for the federal government to allow a private group to blatantly steal use of the land, and to profit from it, and then to gain ownership simply by apologizing for the error. If it is that easy to steal federal land, there may be more people up here who wish to increase their private holdings in the same manner. The laws should apply equally to all.

Sincerely,

Sandy Speasl

Sandy Speasl
Southern Oregon Citizens for Responsible Land Use Planning
7744 Hyatt Prairie Rd.
Ashland, OR 97520

Cc: Pamela Hardy, Attorney at Law, Bend, OR
Dave Willis, Soda Mt. Wilderness Council, Ashland, OR
John Ward, Friends of the Greensprings, Ashland, OR

A thorough review and analysis of available water quality data was conducted of Camper's Cove and no evidence of Camper's Cove contributing to water quality degradation was identified. Oregon Department of Environmental Quality (DEQ) received one complaint on Camper's on April 30, 2009. DEQ performed an inspection identifying a system inadequacy which did not impact wetlands, Hyatt Lake, or any other water of the United States. The problem was corrected and the case closed on November 6, 2009.

The parking area and floating dock across Hyatt Prairie Road from Camper's Cove have been in existence for many years and is open to the public. Inherent to hardened surfaces is the potential for runoff and increased contaminant contribution to water quality. The existing paved surface, maintenance of the facility, and floating dock are beyond the scope of this Environmental Assessment.

The Preferred Alternative proposes to dispose of a 3.53-acre parcel of land through a competitive bid process open to the general public. The lands will be sold to the highest qualified bidder.

BISON CONNECT

Carnohan, Charles <ccarnohan@usbr.gov>

Fwd: Campers Cove, Hyatt Lake, Ashland, Oregon.

1 message

Boelman, Scott <sboelman@usbr.gov> Wed, Feb 6, 2013 at 6:52 AM
To: Charles Carnohan <ccarnohan@usbr.gov>

FYI, I received this yesterday.

Scott

Scott Boelman P.E.
Bend Field Office Manager
U.S. Bureau of Reclamation
1375 SE Wilson Ave, Suite 100
Bend, OR 97702
office: 541-389-6541 x226
cell: 541-408-8343

---------- Forwarded message ----------
From: <Moglassie@aol.com>
Date: Wed, Feb 6, 2013 at 6:12 AM
Subject: Campers Cove, Hyatt Lake, Ashland, Oregon.
To: dwiedmeier@usbr.gov, mpaquin@usbr.gov, ctafoya@usbr.gov, rarndt@usbr.gov, SBoelman@usbr.gov

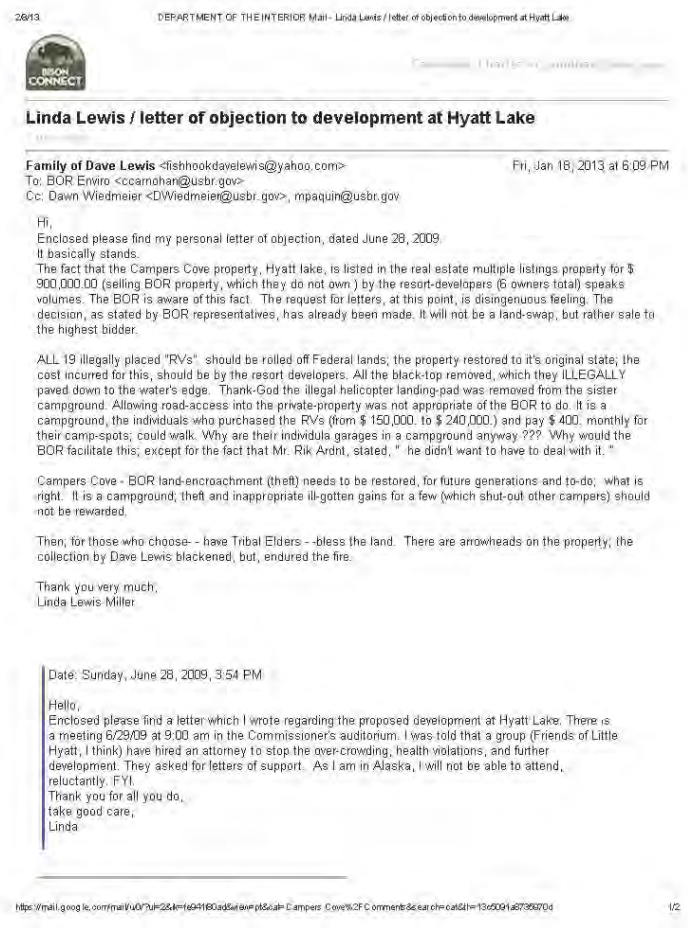
Dear Sirs,

Regarding the decision of Bureau of Reclamation and Campers Cove Resort, please choose recommendation # 2 and restore the property, as it previously was. The reasons are varied and numbered, but this would be most appropriate for the long-term health and wholesomeness of Hyatt lake and preservation of surrounding areas.

Thank you very much.

Ayn Boleyn

Comment noted.



2/6/13 DEPARTMENT OF THE INTERIOR Mail - Linda Lewis / letter of objection to development at Hyatt Lake

BISON CONNECT

Linda Lewis / letter of objection to development at Hyatt Lake

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Jan 18, 2013 at 6:09 PM
To: BOR Enviro <ccarnohan@usbr.gov>
Cc: Dawn Wiedmeier <DWiedmeier@usbr.gov>, mpaquin@usbr.gov

Hi,
Enclosed please find my personal letter of objection, dated June 28, 2009.
It basically stands.
The fact that the Campers Cove property, Hyatt lake, is listed in the real estate multiple listings property for $ 900,000.00 (selling BOR property, which they do not own) by the resort-developers (6 owners total) speaks volumes. The BOR is aware of this fact. The request for letters, at this point, is disingenuous feeling. The decision, as stated by BOR representatives, has already been made. It will not be a land-swap, but rather sale to the highest bidder.

ALL 19 illegally placed "RVs" should be rolled off Federal lands; the property restored to it's original state; the cost incurred for this, should be by the resort developers. All the black-top removed, which they ILLEGALLY paved down to the water's edge. Thank-God the illegal helicopter landing-pad was removed from the sister campground. Allowing road-access into the private-property was not appropriate of the BOR to do. It is a campground, the individuals who purchased the RVs (from $ 150,000. to $ 240,000.) and pay $ 400. monthly for their camp-spots; could walk. Why are their individula garages in a campground anyway ??? Why would the BOR facilitate this; except for the fact that Mr. Rik Ardnt, stated, " he didn't want to have to deal with it. "

Campers Cove - BOR land-encroachment (theft) needs to be restored, for future generations and to-do; what is right. It is a campground; theft and inappropriate ill-gotten gains for a few (which shut-out other campers) should not be rewarded.

Then, for those who choose- - have Tribal Elders - -bless the land. There are arrowheads on the property; the collection by Dave Lewis blackened, but, endured the fire.

Thank you very much,
Linda Lewis Miller

> Date: Sunday, June 28, 2009, 3:54 PM
>
> Hello,
> Enclosed please find a letter which I wrote regarding the proposed development at Hyatt Lake. There is a meeting 6/29/09 at 9:00 am in the Commissioner's auditorium. I was told that a group (Friends of Little Hyatt, I think) have hired an attorney to stop the over-crowding, health violations, and further development. They asked for letters of support. As I am in Alaska, I will not be able to attend, reluctantly. FYI.
> Thank you for all you do,
> take good care,
> Linda

https://mail.google.com/mail/u/0/?ui=2&ik=fa941f60ad&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c5091a87358704 1/2

Linda Lewis
12801 Dead Indian Memorial Road
Ashland, Oregon 97520

Jackson County Planning
Jackson County Commissioners
10 South Oakdale
Medford, Oregon 97501

Re: Development-Proposed Expansion
Mountain Resort at Hyatt Lake
Campers Cove/7900 & 7979 Hyatt Prairie Road
Property of Jeanne Plante
Robert Wayne McNeely, et.al

To Whom It May Concern:

My brother, David Edwin Lewis, formerly worked on the cabins and property sites (in question) developed by Robert W. McNeely and his wife Jeanne Plante. David Lewis was found murdered and heinously burned on September 4th, 2008. Prior to his death; David Lewis and Robert W. McNeely had a "verbal altercation," and David's death shortly ensued. Jeanne Plante and "Bob" McNeely were subsequently interrogated and questioned by the Jackson County Sheriff's department, a team of highly professional Detectives and the FBI. The McNeelys can substantiate and verify my commentary to be factual and true. The murder has not been solved and there are no charges to date.

The investigation is currently an open-and-ongoing homicide case, with the Jackson County Sheriff's department; case # 08-16617. The detectives and investigators in David's homicide case, have informed us that, "no one has been cleared in this case."

While everyone is, "presumed innocent until proven guilty" it is important for the

Reclamation had no part in facilitating the development of Camper's Cove Resort. Jackson County is solely responsible for the permitting of this facility. The encroachment upon Reclamation lands occurred and is now the existing condition which the Environmental Assessment analyzes.

The "Land Swap" referenced applied to discussions regarding lands potentially needed for Reclamation's Hyatt Dam Safety of Dams Project (SOD). Reclamation has since revised design concepts for SOD. Private lands will not be required to effect the proposed dam safety improvements.

The parking area and floating dock across from Camper's Cove have been in existence for many years and is open to the public. These facilities are beyond the scope of this Environmental Assessment.

The Preferred Alternative proposes to dispose of a 3.53-acre parcel of land through a competitive bid process open to the general public. The lands will be sold to the highest qualified bidder.

Under the Preferred Alternative, once the lands proposed for sale are conveyed from Federal ownership, State and local laws, regulations and ordanances will control and govern any future use and/or development of the property.

Jackson County Commissioners and Jackson County Planners, to be aware of these facts. In the interest of public protection and public good; the credibility of individuals and their history is commentary and opinion worthy of consideration. Robert McNeely and Jeanie Plante have various and miscellaneous lawsuits in which they have been involved. These can be researched on JUSTIA, or through the Jackson County Courthouse computer records in Medford , or with a subscription to OJIN which records State wide criminal and civil records in Oregon. There are multiple cases involving the McNeely/Plante's Whaleshead Resort (similar to their development now at Hyatt lake) in Curry County, which can be obtained through the Court Clerk in Gold Beach. These would include, but are not limited to: Encroachment Issues (94-cv-078). Personal Injury and Negligence (92cv104): "McNeely[sic] " in concealing the deep ruts by loose gravel causing a deceptive appearance to the path." And a lawsuit of a very serious nature: Battery and Intentional Infliction of Emotional Distress (90cv033): (3.)"Defendant Robert McNeely intentionally touched Plaintiff on her intimate parts." "The acts of Robert McNeely as alleged were committed in the course and scope of the partnership business." .Additionally, there are recorded Federal Tax liens and violations. The lawsuit involving the McNeely/Plante's: 94-cv-078, " defendants trespassed upon Plaintiff's property, cut-down and carried away trees and timber owned by the plaintiff's." (Removed merchantable timber without permission). Defendants' actions were contrary to the provisions of ORS 105.810. McNeely/Plante without lawful authority has willfully entered upon Plaintiff's property described herein and committed continuing acts of trespass, thereby causing injury to Plaintiffs and disturbing their use, occupancy and enjoyment of their property. Said acts of trespass include, but are not limited to construction and paving of roadways and residential driveways, placement of water and utility lines, placement of residential structures, planting of grass, trees and shrubs, and other miscellaneous acts which interfere with Plaintiff's use and enjoyment of Plaintiff's property."

There was also work done on the McNeely/Plante's Whaleshead RV Resort which was in Violation of the Oregon State Building Codes, Instrument # 99-6131. Nine units were sighted for non-inspection in 2003; this is registered with the Curry County Clerk (Map 40-14-3, tax lot 1700) 8/20/2003; regarding Whaleshead RV Resort. There are also National courthouse record searches available for Washington State, which show the lawsuits the McNeely/Plante's have been involved in.

Our hope and concern is that the Jackson County Commissioners and Jackson County Planners will proceed with the utmost due diligence, process and investigation, and strict regard for the laws of Oregon, as well as, that of the developer's historic non-compliance issues and disrespectful, repeated, disregard for adherences to code and that of the law. This also includes blatant disregard for other's personal property and boundaries.

The impact of the Jackson County Commissioner's and Planning Division's land use decision, may be precedent-setting and can open-the-door and give cause to rampant development on lands which were clearly not designated for those purposes. Because McNeely/ Plante's request is for an Alteration of a Non-Conforming Use, on a very small piece of land, an extremely careful and through process (and thought) should be given. Especially regarding the proposed alterations and expansions (and misinformation and erroneous claims of what was pre-existing at Campers

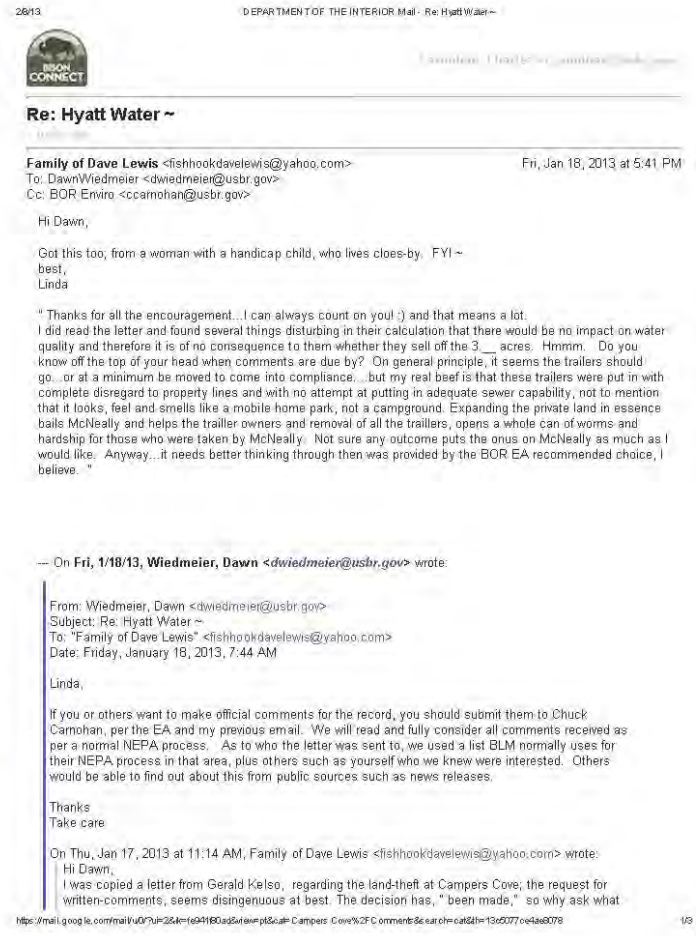
Cove), and with steadfast regard for the over-all goodwill, health and wholesomeness of the community and the development of the Hyatt Lake area.

Hyatt Lake was Dave Lewis' favorite fishing lake for over 25 years. David Lewis would want his love of the lake, his previously expressed and documented concerns of the McNeely / Plante's development plans, and his voice to be heard.

Thank-you for your time and consideration regarding this matter of importance. Please do not hesitate to contact me.

Kindest Regards,

Linda Lewis



2/6/13 DEPARTMENT OF THE INTERIOR Mail - Re: Hyatt Water ~

BISON CONNECT

Re: Hyatt Water ~

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Jan 18, 2013 at 5:41 PM
To: DawnWiedmeier <dwiedmeier@usbr.gov>
Cc: BOR Enviro <ccarnohan@usbr.gov>

Hi Dawn,

Got this too, from a woman with a handicap child, who lives cloes-by. FYI ~
best,
Linda

" Thanks for all the encouragement...I can always count on you! :) and that means a lot.
I did read the letter and found several things disturbing in their calculation that there would be no impact on water quality and therefore it is of no consequence to them whether they sell off the 3__ acres. Hmmm. Do you know off the top of your head when comments are due by? On general principle, it seems the trailers should go...or at a minimum be moved to come into compliance. ...but my real beef is that these trailers were put in with complete disregard to property lines and with no attempt at putting in adequate sewer capability, not to mention that it looks, feel and smells like a mobile home park, not a campground. Expanding the private land in essence bails McNeally and helps the trailler owners and removal of all the traillers, opens a whole can of worms and hardship for those who were taken by McNeally. Not sure any outcome puts the onus on McNeally as much as I would like. Anyway...it needs better thinking through then was provided by the BOR EA recommended choice, I believe. "

--- On **Fri, 1/18/13, Wiedmeier, Dawn <*dwiedmeier@usbr.gov*>** wrote:

> From: Wiedmeier, Dawn <dwiedmeier@usbr.gov>
> Subject: Re: Hyatt Water ~
> To: "Family of Dave Lewis" <fishhookdavelewis@yahoo.com>
> Date: Friday, January 18, 2013, 7:44 AM
>
> Linda,
>
> If you or others want to make official comments for the record, you should submit them to Chuck Carnohan, per the EA and my previous email. We will read and fully consider all comments received as per a normal NEPA process. As to who the letter was sent to, we used a list BLM normally uses for their NEPA process in that area, plus others such as yourself who we knew were interested. Others would be able to find out about this from public sources such as news releases.
>
> Thanks
> Take care
>
> On Thu, Jan 17, 2013 at 11:14 AM, Family of Dave Lewis <fishhookdavelewis@yahoo.com> wrote:
> Hi Dawn,
> I was copied a letter from Gerald Kelso, regarding the land-theft at Campers Cove; the request for written-comments, seems disingenuous at best. The decision has, " been made," so why ask what

https://mail.google.com/mail/u/0/?ui=2&ik=fe0491f80ad&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c5077ce4ae8078 1/3

A thorough review and analysis of available water quality data was conducted and no evidence of Camper's Cove contributing to water quality degradation was identified. Oregon Department of Environmental Quality (DEQ) received one complaint pertaining to Camper's Cove on April 30, 2009. DEQ performed an inspection identifying a system inadequacy which did not impact wetlands, Hyatt Lake, or any other water of the United States. According to Oregon DEQ, the problem was corrected and the case closed on November 6, 2009.

2/8/13 DEPARTMENT OF THE INTERIOR Mail - Re: Hyatt Water ~

the general public thinks ? If 1000 Friends of Hyatt Lake, all wrote letters, would it matter ? We are guessing not.

Also, what seems odd & concerning is that on the list of," interested parties," that were copied the BOR letter; not one resort-developer is listed, no cabin owners are listed, no local & surrounding neighbors who are effected by the RV mobile home.

That all just seems very odd; please advise ~

Thanks & take good care,
Linda

PS: I was sent this after the President's Executive Orders regarding firearms, yesterday. Mike Winters (no-goodnick Sheriff of Jackson County) held a 26 minute press-conference, admitting he had not even read the Orders; but that he was not going to follow Federal mandates of " that kind "

Just an FYI ~ regardless of what one's stance is on these issues:

" Sheriff Mike is on the job! Impressive.... maybe he needs to look into the hierarchy in Jackson County that call the shots, protects the growers, brings them in and then funnels the proceeds through local banks. He should start there and that would definitely save the taxpayers a lot of money. It's ironic, they'll patrol "federal land" when it suits them for the "evil marijuana plants", but when it comes to selling off federal land to the Hyatt Lake scumbags, I guess that's okay. Even criminals need a vacation home to enjoy their spoils. Let's just steal federal land so that they can relax and plot their next criminal endeavor. "

~ We seek justice because the victim can not ~
www.themurderofdavelewis.webs.com

— On **Wed, 1/9/13, Wiedmeier, Dawn <dwiedmeier@usbr.gov>** wrote:

From: Wiedmeier, Dawn <dwiedmeier@usbr.gov>
Subject: Re: Hyatt Water ~
To: "Family of Dave Lewis" <fishhookdavelewis@yahoo.com>
Date: Wednesday, January 9, 2013, 1:55 PM

Linda,

Happy New Year to you too!

If you or others want to submit official comments, please do so to Chuck Camohan - his contact info is in the EA and his email address is ccamohan@usbr.gov

I am not aware of any sewage problems causing any water quality problems in the Lake. The County would likely have records of that though if there are any.

On Tue, Jan 8, 2013 at 4:16 PM, Family of Dave Lewis <fishhookdavelewis@yahoo.com>

https://mail.google.com/mail/u/0/?ui=2&ik=641f80ad8&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c5077ce4ae6078

2/8/13 DEPARTMENT OF THE INTERIOR Mail - Re: Hyatt Water ~

wrote:
Hi Dawn,
Another email just FYI ~ there is more than one like this.
Merry New Years too.
best,
Linda ~

"Linda,

Thanks for sharing. I read through the DEA...hmmm. Has anyone addressed the sewer issues going into the Hyatt Lake from camper's cove development? Seems to me that unless that has been resolved that there is most definitely a water quality issue and that if would therefore concern Bureau of Rec. I find it interesting that the leaving of all those units on that private and potentially extended private land would have no impact on water quality, never mind other things. "

~ We seek justice because the victim can not ~
www.themurderofdavelewis.webs.com

–
Dawn Wiedmeier
Deputy Area Manager
Columbia-Cascades Area Office
Bureau of Reclamation
509-575-5848 x255 work
509-654-0865 cell

–
Dawn Wiedmeier
Deputy Area Manager
Columbia-Cascades Area Office
Bureau of Reclamation
509-575-5848 x255 work
509-654-0865 cell

https://mail.google.com/mail/u/0/?ui=2&ik=641f80ad8&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c5077ce4ae6078 3/3

During the preparation of responses to comments on the Draft Environmental Assessment, it was noted that considerable confusion exists between actions proposed for Camper's Cove Resort and those taken related to Hyatt Resort. Comments submitted toward a Jackson County hearing in 2009 regarding Hyatt Resort will not be considered in this Environmental Assessment. The comments on the following pages through page 15 are of this nature.

Hyatt lake -Campers Cove Letters

Family of Dave Lewis <[redacted]@yahoo.com> Mon, Jan 26, 2015 at 4:49 PM
To: BOR Ewen <[redacted]@usbr.gov>
Cc: [redacted]

Hi Mr. Carnohan
Please confirm upon receipt
Thanks very much & take good care,
Linda

Hello,
Attached are the first batch of letters regarding Hyatt lake. This does not include one's from the 1,000 individuals... for Save Little Hyatt Dam Project ...which was appropriately & successfully done.

Perhaps someone could revisit this entire situation, de novo.

There have been multiple requests, from multiple entities...it makes my head swim.

There are multiple batches, which the BOR has had in their possession.
Thanks very much & take good care...
Linda Lewis Miller >

attached

Batch #1.doc
75K

July 1, 2009
Tracie Nickel
Jackson County Development Services
10 S. Oakdale
Medford, OR 97520
RE: File ZON2008-02203
I am a single parent of three children. For the past seven years we have spent the week of the 4th of July and the week of August 22 (my daughter's birthday) camping at the BLM campground at Hyatt Lake. We spend a lot of other days in the Hyatt Lake area hunting, fishing, looking for mushrooms and just spending time in the woods.
I think the clean-up of Camper's Cove Resort is an improvement of the area. My problem is with the cabins or RV's or mobile homes or whatever you call them. These are not RV's. You cannot just back up to them, hook up and drive away. The last thing I want to see when I'm in the woods trying to get away from the hustle and bustle of the valley is a mobile home park!
I think a campground should stay a campground. Last year I sat in the BLM campground on July 3 and watched over twenty campers drive through with nowhere to camp. If they are allowed to put these cabins in, we will be eliminating CAMPING spaces for people to camp in. I do not want to see Hyatt Lake turned into a subdivision. Let's keep campgrounds for everyone to use, not just a select few.
Sincerely,
Jeff Peabody
465 Freeman Rd.
Central Point, OR 97502

July 3, 2009
Tracie Nickel
Jackson County Development Services
10 S. Oakdale
Medford, OR 97501
Re: File ZON2008-02203
Dear Tracie,
My family moved to Oregon from Longmont, Colorado in 1968. I remember the long drive out here over some pretty desolate land (Nevada, the Salt Flats, Eastern Oregon). When we dropped into the Klamath Basin, I knew it had been worth the trip. Our family spent almost every weekend camping and trying to get to know the area. One of our favorite spots was Hyatt Lake.
This was such a quiet little lake then, and the BLM campground was rarely full. If it was we camped further along the lake at what is now known as Wildcat. We used to come up in the winter to play in the snow (this was before the Winter Snow Play area at Table Mountain) and we once ice skated in front of the resort where they had cleared the snow off the ice at the edge of the lake. In the summer, our son and his friends swam off the dock at the BLM campground and we even taught our dog to swim in that area. Several times in the fall, when the summer crowd had gone home, we brought our son and his friends up to the resort to run their remote-controlled boats. They borrowed a row-boat

from the resort owners so they could retrieve their boats when they drifted out of remotecontrol
range. This was the place, only 30 minutes from our home in the valley, where we chose to come for quiet recreation and to get away from crowds. While others opted for Lake of the Woods, where they could ski and drive fast boats, we always appreciated the rural nature of this small lake. We often ran into other people we knew from town when we were camping or hiking or fishing.
In 1987 we had a chance to buy a cabin on the east side of the lake on land leased by BLM. In spite of the massive cat-fish die-offs and the shallowness at that end of the lake after mid-July, we loved it. Once I watched an osprey dive-bomb an eagle to drive it away from a nest. We saw otters and geese and pelicans besides the hawks, owls and other predatory birds. We spent every New Year's Eve up here with our son and his friends and our friends. We'd always have a big bonfire and snowmobile from one home to another to bring in the New Year. It was a peaceful, safe place to be.
We now have built our own full-time home here at the lake. The things we have always valued – the quiet, the nature right out our back door, the way the neighbors help each other when there is a need -- are still very important to us. We know we must help ourselves and others in times of power outages, trees blown down, breakdowns on the road, etc. We have chosen to live in a beautiful environment without city water, city sewer, city fire and ambulance service, etc. and we realize we are not the first priority when the power goes out or when it snows. That's the way we want it.
Since the campground at the Hyatt Resort changed into a mobile home park, we have lost some of what we value about our home. The place in front of the Cove where we used to watch otters play has been paved down to the water, and we have not seen the otters there since. The quiet and peacefulness is broken by more cars speeding by on the road, our powdery cross-country trails right out our back door frequently cross groomed snowmobile trails, we hear music and partying all summer long instead of just on New Year's Eve, people's dogs run at large and chase the fawns and does on BLM land, our lazy afternoons fishing on the lake are frequently disturbed by speeding boats with big motors, and the lights coming from the homes at the resort and at Camper's Cove pollute the night sky. Where once we saw only stars and the moon reflected in the lake, now we see porch lights left burning all night.
I'm really concerned about the encroachment of urban development on rural and forest lands. The cabins that have gone up at Whaleshead on the coast, and now here, and are being touted as "RVs" are NOT moveable. Hyatt Resort is no longer a campground. The middle-class people who used to frequent the forest areas for recreation are being discouraged to come because they can't afford to "rent" these special cabins that have taken the spaces that used to be devoted to camping. I believe these developments will not be the last. Once the door has been opened to this kind of development on forest lands, we won't be able to stop it.
As a child in Colorado, I used to travel across the Rockies to Grand Junction to visit my grandparents a couple of times a year. The interstate had not yet gone in, and the road was crooked and went over some spectacular mountains. I very vividly remember that in 1960 when we made the trip there was a sign where my mom's cousins owned a cattle ranch that said "Future Home of Vail Village". We puzzled over what that meant and did not even dream of the significance of that little sign. Now, when one travels that road,

for miles in either direction the mountains are covered with condominiums, restaurants, gas stations, etc. There are major ski areas all around, and they don't necessarily cater to the recreational needs of the middle class. It makes me physically sick to drive through that area now because I remember what it used to look like as a cattle ranch.
I'm truly worried for Oregon. The Oregon tourism board had a motto a couple of years ago that said "Things Look Different Here". I'm afraid they won't for long. Please stop this abuse of land use laws before Oregon looks like Colorado.
Sincerely,
Sandy Speasl
PO Box 3057
Ashland, OR 97520

Pam Hardy
From: Jaygander@aol.com
Sent: Friday, July 03, 2009 1:15 PM
To: Pam@PamHardy.com
Subject: Hyatt Lake
7/3/2009
When my husband and I purchased our west shore lakeside property in 1969, it was with the knowledge
that the Hyatt Resort property was for recreational use, with only a few rustic cabins along with the
restaurant and bait shop as permanent stick structures. There was only one trailer park type trailer being
used year round. Frequent snow up the five feet and higher and winter temperatures as low as 20 below
zero made camping in the traditional travel trailer sense both impractical and undesirable.
Up until the last few years, year round occupancy with county road access was limited to dwellings on
land of with rural residential zoning size minimums. This exclusivity has vanished. As a landowner, I feel
that the resale value of my property and that of my neighbors has been diminished.
janet dunlap
****

Make your summer sizzle with fast and easy recipes for the grill.
(http://food.aol.com/grilling?ncid=emicntusfood00000005)

Pam Hardy
From: Janet Bolin [jkbolin@charter.net]
Sent: Friday, July 03, 2009 11:57 AM
To: Pam@PamHardy.com
Subject: Hyatt Lake File # ZON2008-02203
7/3/2009
Dear Mr. Hardy,
In regards to Mr. McNeely's statement that the units at Hyatt Lake are primarily occupied by the owners, I was
invited to a get away function with a group of my friends to stay at one the cabins at Hyatt Lake Resort. There were
eight of us that stayed in one unit.
I hope this information will help.
Sincerely, Janet Bolin
2220 Morada Lane
Ashland,Oregon 97520

Tracie Nickel July 1, 2009
Jackson County Development Services
10 S. Oakdale
Medford, OR 97501
RE: File ZON2008-02203
Dear Ms. Nickel,
I attended the public hearing regarding this matter on Monday, June 29th and understood the applicant to make several claims which I feel need some correction/clarification.
I believe Mr. McNeely stated that he had donated "thousands" of dollars to the Greensprings Fire and Rescue volunteer fire dept. As a Board member of this non profit, I
am aware of the major amounts donated from various entities and individuals. I know that
the entity of Hyatt Lake Resort and Camper's Cove developments have made one donation
of $500, in late 2008 or early 2009. In addition, in 2008 they purchased a large ad in the GSFR community newsletter, costing $500.
Permits from BLM to operate commercial snowtractor tours on public land were said to have been obtained, however sometime during 2008, BLM advised me that there were no
permits issued or contractual relations of any kind between BLM and the applicant. It is possible such events occurred after my inquiry, and it is appropriate that this allegation be
verified.
Mr. McNeely stated that they plowed the access road from the development to Hwy 66 and the community benefitted. This is true, however to clarify, shortly after starting the development, he advised me that he did not wish to join the existing community fundraising to pay Oregon Dept of Transportation to plow the road. He intended to plow it
when and how they saw fit to benefit their clients. It is debatable whether this plowing effort was as effective or safe as ODOT's efforts, and in fact, in January of 2008, his equipment could not keep any width or depth to the drive lane, and the community hired ODOT to plow out the road twice. Unfortunately, in February of 2008, while driving on the road, through deep icy ruts, I lost control of my own vehicle which turned over and resulted in a total loss.
Brad D. Inman

Pam Hardy
From: SuziGwen@aol.com
Sent: Wednesday, July 01, 2009 1:12 PM
To: pamhardy.law@gmail.com; sspeasl@yahoo.com
Subject: Hyatt Lake
Attachments: GSF&R donationsJuly01_2009.pdf
7/1/2009
After hearing Mr. McNeely say at the Public Hearing that his donations to GSF&R the local volunteer fire department were "generous".
Attached is a recap of donations to Greensprings Fire and Rescue totaling $1500 over a four year period.
Other prominent community members donations are in the range of $3000 to $30,000 per donor during the same time period. Therefore Mr. McNeely's contributions would not be characterize as "generous"

Make your summer sizzle with fast and easy recipes for the grill.
1

Tuesday, June 30, 2009
Tracie Nickel
Jackson County Development Services
10 S. Oakdale
Medford, OR 97520
Re: File ZON2008-02203
Dear Ms. Nickel:
I am writing regarding the public hearing of Campers Cove Resort LLC. As I am employed on a full time basis, I was unable to attend the hearing that was held on
Monday June 29th. However, as I am a resident and close neighbor of Hyatt Resort
having lived at 7682 Hyatt Prairie Rd for the last 10 years, I would like to add a few
thoughts in regards to the legality of the recreation vehicles that Campers Cove Resort
LLC and Mr. Bob McNeeley have installed.
As I see it, the entire basis for Mr. McNeeley to have gotten a green light for his recreational vehicles' installation at Hyatt Lake is that they are RVs, and not permanent
manufactured homes. I quote from the Oregon State DMV Camper and Travel Trailer
regulations, found on the State of Oregon's website:

CAMPER AND TRAVEL TRAILER SCHEDULE OF REGISTRATION FEES
1. A camper is a structure that:
a) Has a floor;
b) Is designed to be mounted upon a motor vehicle;
c) is not permanently attached to a motor vehicle upon which it is mounted;
d) Is designed to provide facilities for human habitation (permanent sleeping and cooking facilities);
e) Is 6 feet or more in overall length;
f) Is 5.5 feet or more in height from floor to ceiling at any point; and
g) Has no more than one axle designed to support a portion of the weight of the camper.
Campers are measured from the extreme front to the extreme rear of the camper body. Any fraction of a foot in length is rounded down to the nearest foot.
A camper permanently attached to a pickup or other motorized vehicle is registered as a motorhome. A camper permanently mounted on a trailer is registered as a travel trailer.
2

2. A travel trailer is designed to provide facilities for human habitation (permanent

sleeping and cooking facilities).
A travel trailer is any of the following that is 8,5 feet wide or less that is not used for commercial or business purposes:
a. Manufactured dwelling
b. Recreational vehicle
c. Prefabricated structure
The width of 8.5 feet is measured when any expansion sides or "tipouts" are in the usual travel position. The length is measured from the foremost point of the trailer hitch to the rear extremity of the trailer body, not including the spare tire. Tent trailers are measured by overall length when folded for travel. Any fraction of a foot in length is rounded down to the nearest foot. A travel trailer may not exceed 45 feet in length. If the trailer exceeds 45 feet in length, it cannot be registered."
Mr. Jay Harland of CSA Planning Ltd. stated, when rebutting the historical use of the land as a campground, stated that "It was an RV park before and it is an RV park after".
Exactly whose definition of an RV park is being considered here? Clearly, the structures as Hyatt Lake are not recreational vehicles. (Or is the Emperor fully clothed??) The width of the units actually are well over 8.5 feet. They measure a full 14.5 feet. A large majority of the units at the Resort are coupled with a **second RV unit** in different configurations, side by side, and also at acute angles to each other to create a structure that assumes a profile of well over 30 feet in width. The only place that any configuration like these are found is in a designated, lawful mobile home park. In any traditional RV park in Oregon or other states I have been in you would never find two RVs coupled together on a post and pier or otherwise foundation. This includes Mr. McNeeley's other RV Park Whaleshead Beach Resort. I reference their own website, http://www.whalesheadresort.com/rv-park.html. Their description states clearly and shows photos of a traditional, licensed RV park setting with traditional RVs.
The "cottages" at Whaleshead Beach Resort are referenced on a separate page as rentals. They, by their own terminology define the difference between an RV and a cottage. As I understand it, this is the basis of their entire case, stating that the Resort at Hyatt Lake is an RV park, not a mobile home park or planned development community.
http://www.whalesheadresort.com/creekview-description.html
3
If you read further in the DMV regulations, you will find their say in the matter as they address manufactured structures:
"Manufactured structures are regulated through the Building Codes Division (BCD) of the Department of Consumer and Business Services. Most manufactured structure transactions are handled at your county assessor's office, which acts on behalf of the BCD. View the list of county assessors for contact information by county. Contact the County Assessor's Office in the county where the manufactured structure is located."
I believe it is a serious mistake, actually illegal, to allow their units to be categorized as RVs—not only the additional "cabin-like" RVs that are in their planned expansion, but the units that are currently permanently in place at beautiful Hyatt Lake. I care deeply for the forest that I inhabit. To slip in a destination resort with so little planning seems a grave error.
The other issue I wish to address is the sewage problem. I personally witnessed what appeared and smelled to be raw sewage, flowing into the stream that results from the water that is released from the Hyatt reservoir dam. I saw it in the waters directly below the southeast end of the Hyatt Resort "RVs". It smelled awful of sewage, and I saw it several times each week over a period of three weeks in the fall of 2008. I was so concerned over this that I went to Camper's Cove Restaurant, to see if Bob McNeeley was around in order to alert him to this. The employees there said he was not there. I told the employees what I had seen and smelled and asked them to please alert the owner.
I understand from the hearing that Mr. McNeeley states he needs to have a facility that can handle 100 gallons a day from each "RV". I ask based on what occupancy? The units have one bedroom. However, to quote from an advertisement on his website,
"All cabins feature hot tubs, many with lofts and some with add-ons. Cabins sleep from 2 to 6 people."
I personally an acquainted with an owner (who wishes to remain anonymous) who often has family gatherings with more than six individuals staying over at the unit they have purchased for week-ends and weeks at a time!
Six people can very easily produce more than 100 gallons of waste water a day. I can tell you I have seen and smelled the raw sewage myself. And 2008 was NOT the first year. I also witnessed raw sewage the year before. And the sad truth of the matter is I felt totally powerless to do anything about it.
I ask this process to please consider all the testimony of the concerned citizens and neighbors of this resort. I live in the forest because I love it. I am deeply concerned by
4
the creation of a destination resort, under the disguise of a "campground of RVs". It is a sham.
Furthermore, I am suggesting to the concerned neighbors coalition that we also consider raising the issue of Campers Cove unit development with regards to sewage, water and other issues. I will be raising the question to our group that we request a review of the existing project at Campers Cove Resort LLC with regards to the same issues being raised at the Hyatt Resort project. I am aware that this would take it from this particular venue to a true courtroom environment hearing. If this cannot be done, then I am truly saddened by that fact that this situation cannot be dealt with in an effective manner.
I respectfully ask Jackson County to do the right thing and deny the expansion of Campers Cove Resort LLC. I also suggest that the current establishment of the cabins is illegal and in violation of the law, I suggest that there are issues Jackson County should consider before continuing down this road of yielding to pressure to green light a project that is clearly in violation of all that decent law abiding citizens of Jackson County expect.

Sincerely yours,
Carol McCutcheon
7682 Hyatt Prairie Road
PO Box 3392
Ashland, OR 97520
Enclosure: Photos of Whaleshead Beach Resort taken from their website

481 Thornton Way
Ashland, OR 97520
July 3, 2009
Ms. Tracie Nickel, Planner III
Jackson County Development Services
10 S. Oakdale Ave.
Medford, OR 97501
Dear Ms. Nickel:
Re: ZON2008-02203 Hyatt Lake
On Monday, June 29, 2009, I attended the public hearing on the referenced application and tentative decision involving further proposed development by Camper's Cove Resort LLC. I attended as an interested party in two respects: First, my wife Marilyn and I are owners of the unimproved building site at 7493 Hyatt Prairie Road. Secondly, for a number of years I have been launching a small sailboat from various sites around the south and west end of the lake. Our property ownership and frequent trips to the lake have enabled us to gain a sense of the beauty and character of this wonderful resource and, in contrast, to observe the relatively obtrusive development involving the "Park Model" manufactured housing units.
As you know Hyatt Lake is especially attractive because of what has historically been its minimal, dispersed development in harmony with the natural environment. It has been peaceful to the ear and eye and has left the visitor as well as the resident with the feeling that the lake and its natural environs is the primary focus, not the man-made structures and supporting facilities. This is changing rapidly with the introduction of the numerous Park Model units, and will become exacerbated if Camper's Cove Inc is to prevail in introducing additional "residences" beyond what is currently in place, let alone the number of units tentatively approved in Development Services' notice of May 19, 2009. The density and permanence of the structures on the two current sites owned and managed by Camper's Cove Inc; the introduction of commercial winter SNO-Cat excursions; and the periodic arrival and departure of privately owned helicopters are already intrusions into this serene environment. These motorized intrusions cannot but have a dilatory impact on wildlife in the area, including cougar, bald eagles, osprey, etc. One can readily speculate what further urban-like, year round development will bring by comparing Hyatt Lake to the development at Lake of the Woods.
I urge the Hearing Officer and Jackson County to reject those portions of the application which would enable the placement of additional Park Model units in the Hyatt Lake Resort.
Sincerely yours,
cc: Pam Hardy
Sandy Speasl Ronald S. Bolstad
July 3, 2009

Tracie Nickel
Jackson County Development Services
10 South Oakdale Ave.
Medford, OR 97501
Re: File ZON2008-02203 (Campers Cove LLC)
Dear Tracie,
I am writing this letter in rebuttal to several statements made at the hearing from representatives of Campers Cove LLC.
1. In response to fiber cement siding and the buildings being fire safe. While it is true this siding and metal roofing reduce fire danger, each unit has steps and decks constructed with treated wood that readily burns and gives off noxious fumes.
2. It was stated that they contacted Keno Fire to obtain a burning permit. Keno Volunteer Fire Dept is in Klamath County and has no jurisdiction in Jackson County. The correct agency to contact would be the Oregon Dept. of Forestry.
3. It was stated that helicopters were not encouraged to land. I find that hard to believe since there were at least two owners and an additional pilot (for a total of three) who landed frequently on three different locations either on Campers Cove LLC property or BLM property. I believe one owner has recently sold. One owner landed again in the last month.
4. Fire safety and evacuation: There is only one road in and out of Hyatt Lake Resort to evacuate. As previously stated each unit has at least a 120 gallon propane tank.
5. Fire training: While it is true anyone can fight a fire on their own property, it is quite a different matter to have a trained staff with proper equipment to fight structure fires (ie: two in two out). It was noted that Campers Cove LLC has two trucks that can carry water (and while it is only a formality) no permit is on file with TID so water can be drawn from Hyatt Lake.
6. Road Plowing: Campers Cove does plow the three mile BLM access road from the BLM campground to Hwy 66. But because they do not have a snowplow or snow blower to throw snow farther than the shoulder of the road, the road becomes narrower as the snow builds up. This can make for a one lane road.
Sincerely,
Dan Speasl
PO Box 3057
Ashland, OR 97520

Pam Hardy

From: GLENN MUNSELL [ggmunsell@dishmail.net]
Sent: Wednesday, July 01, 2009 7:43 PM
To: pam@pamhardy.com
Subject: Fwd: Emailing: Jan 08 040, Jan 08 041
Attachments: Jan 08 040.jpg; Jan 08 041.jpg

Hi Pam, this is part of an email I received from my friend that has a cabin at Campers Cove. I have removed some of the stuff she wrote to me.

These are pics of the cabin that was hit by the tree. In the Jan 5th , 08 storm up there. They had already removed the tree, but you can see the damage. This was just above the pizza parlour. It was the cabin of Bill and Twitzie. They worked there. Dont know Bill and twitzies last name, but do know they worked at Whales head, and then Hyatt for almost 2 years. After the storm, they had to live in a 5th wheel in town, and commute. MeN. fired her son from the restaurant, before this happened.

[redacted]

Grace

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Pam Hardy

From: [redacted]
Sent: Friday, July 03, 2009 9:24 AM
To: pam@pamhardy.com
Subject: Hyatt Lake:

July 3, 2009

Ms Hardy:

Hyatt Lake:

I have lived in Ashland since 1948.
As a child, my family used to go up to Hyatt Lake and Howard Prairie and Little Hyatt, take a picnic lunch, dangle our feet in the water, enjoy the mountains.

Hyatt has always been a fun place to go, to fish, to hang out on a summer's day.

Change comes to every community.

But this particular change at Hyatt, to me, is not about some sprucing up of the place and a new look.
It is about a developer, who says the right things, and appears to care about the earth and the way people live their lives and the eco system and is there only to bring an upgrade to Hyatt area.

[redacted]

But this particular change at Hyatt, to me, is not about some sprucing up of the place and a new look.
It is about a developer, who says the right things, and appears to care about the earth and the way people live their lives and the eco system and is there only to bring an upgrade to Hyatt area.

[redacted]
or at a community meeting.
He has built more cabins than the dirt can hold for septic purposes.
These are cabins, not mobile homes, no matter his descriptions.
These are cabin homes, not a winter or summer vacation getaway.
The ground is already saturated with waste water.
There is nowhere for the effluent to go.
It can saturate the water table, contaminating wells.
It appears that he has not lived up to the original contract with the county.
And now he wants even more county aporovals.

My thought:
All of the county commissioners and planning department, take a little road trip up to Hyatt, check it out yourselves.
Take a picnic lunch.
See if you want to eat with the smell lingering in the air.
Have a drink out of the tap water.
See if there are any particulates floating about.

Sincerely
A long time Rogue Valley resident.

2/8/13 DEPARTMENT OF THE INTERIOR Mail - Hyatt lake developers: BK Fraud NorWester // my research

BISON CONNECT

Hyatt lake developers: BK Fraud NorWester // my research

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Feb 1, 2013 at 3:53 PM
To: bor <mpaquin@usbr.gov>
Cc: BOR Enviro <ccarnohan@usbr.gov>

Hi
Please confirm regarding the developers at Campers Cove - Mountain Resort at Hyatt lake.
FYI ~

Attached. FYI ~

~ We seek justice because the victim can not ~
www.themurderofdavelewis.webs.com

BK fraud NorWester.doc
265K

https://mail.google.com/mail/u/0/?ui=2&ik=fe941f80ad&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c982e5674fa941 1/1

11/10/09

If you have been wronged or harmed by the business practices of:

Nor'Wester Industries: Bankruptcy Case # 09-584-9093 (Washington State)

Robert Wayne McNeely, Jeanne Plante, Donny McNeely

Please immediately contact:
Attorney General Rob McKenna
1125 Washington Street SE
Box 40100
Olympia, WA 98504-0100

Attorney General John Kroger
1162 Court Street NE
Salem, Oregon 97301-4096

Bankruptcy Trustee phone: 360-584-9093
Mr. Brian Budsberg
Box 1489
Olympia, WA 98507

A meeting of creditors is scheduled for 11/17/09, please attend or ask to be teleconferenced in*** Express your point of view.
Section 341(a) of the Bankruptcy Code requires every debtor to personally attend a meeting of creditors and to submit to an examination under oath. The United States Trustee, her designee or, in a chapter 7 case, a panel trustee, presides at the meeting. *** Creditors may question the debtor under oath, elect a trustee other then the one assigned, and ***conduct such other business as may be appropriate. Creditors are not required to attend the meeting.
District Attorney
District Attorney's Office, Mark Huddleston
715 West 10th Street
Medford, Oregon 97501
Phone: (541) 774-8181
Fax: (541) 608-2982
Email: huddlemd@jacksoncounty.org

Prosecutor Michael Golden
Law & Justice Center, 2nd Floor
345 West Main Street
Chehalis WA 98532
(360) 740-1240

The Camper's Cove Environmental Assessment is not prepared for the purposes of indictment or discovery of alleged misconduct of individuals involved with Nor'Wester. Comments of this nature will not be considered in this Environmental Assessment. The comments on following pages through page 18 are of this nature.

I apologize for the mish-mash of information and that it is not appropriately formatted; there is a lot of background and information. Nor'Wester actually closed their WA state-tax account on 5/31/09, not in August as they listed in the filing. They did continue to take money from people into summer of 2009 (example Kimberley & Michael Howell). I believe there are parties listed, some of whom I have spoken to, who will substantiate that the debts owed to them by McNeely & Plante were not incurred through their Nor'Wester business, but their other businesses (Whaleshead Beach Resort or Hyatt Lake). Example: the electrician in North Bend, Oregon (17K); or Gerald Ross Insurance Agency ($1,240), Brookings, Oregon; Mr. William McFerrin (40K) in Fresno, California.
I think you will find that although Mr. McNeely will say, "yes sir and no sir," his story is not factual and his demeanor can quickly escalate to rage and cussing, if you do not agree with him. I do sincerely hope that you have the time, energy, resources and man-power to thoroughly research this bankruptcy. If possible, watch the television clip and listen to the radio pod-cast; please keep in mind McNeely & Plante closed NorWester at the end of May, by their own documentation, submitted to the state tax dept. Many people have been injured by the three individuals involved: Bob McNeely, Jeanne Plante (wife and also unlicensed book keeper), and Donny McNeely.

Thank you.
take good care,
Linda Lewis

I am reporting bankruptcy fraud in Washington & moving tangible goods to Oregon:

Nor'Wester Industries, Inc.
case 09-47254-PBS
Washington State

Honorable Judge Paul Snyder:
1717 Pacific Ave.
Tacoma, WA. 98402-3233
253-882-3950

Persons who are committing the fraud:

Robert Wayne McNeely and Jeanne Plante (husband & wife)
Donny McNeely (brother/ on biz license & also listed as creditor)

Title of business that filed for bankruptcy:
Nor'Wester Industries, Inc.
1722 Bishop Road
P.O. Box 209
Chehalis, WA 98532

Other owned businesses by McNeely's & Jean Plante, where manufacturing goods, trucks, materials, may have been moved to:

Mountain Resort at Hyatt Lake
7979 Hyatt Prairie Road
Ashland, Oregon 97520

Campers Cove Resort
7900 Hyatt Prairie Road
Ashland, Oregon 97520

Whaleshead Beach Resort
19921 Whaleshead Beach Resort
Brookings Oregon 97415

McNeely & Plante's :
541-482-3331 current phone contact, Hyatt Lake, Oregon

541-469-7446 Don McNeely in Brookings, Oregon.
800-943-4325 Whaleshead Beach Resort

This case involves the bankruptcy of a manufacturing facility that made small cabins, which had an "RV" label-status on them. Thus allowing permanent dwellings to be placed in RV campgrounds, as "park models." Bob McNeely and Jeanne Plante manufactured the cabins, sold the cabins as residences, had in-house financing, own several campgrounds where the RVs are placed, monthly rented the RV-spaces to the owners, placed the RVs and then rented them out for the owners when they were not there. McNeely sat on the board(s) which gave RV designation to the cabins (thus creating a loop-hole; an obvious residence got RV status). They currently own multiple campgrounds. When McNeely illegally placed too many cabins at Hyatt Lake, he was red-tagged and an extensive investigation ensued. It was determined on 9/25/09 by a Jackson County hearing officer, in a 50 page decision, that none of the cabins should have been allowed to be built on a non-conforming forest-zoned campground. McNeely is currently attempting to blame Jackson County and a small neighborhood group: Southern Oregon Citizens for Responsible Land Use Planning.
However, McNeely was clearly closing his manufacturing plant prior to the hearing in June, or decision in September.
Multiple individuals have complained (4 on record with the WA Attorney General Office) that they gave McNeely deposits and/or paid for cabins which they never received, during or after his facility was closing. They believe McNeely took their money, knowing he was closing. McNeely and his wife Jean Plante did the same thing in Southern Oregon, only to a greater number of people. Additionally, Nor'Wester, the company that makes the park models, is a distinct business from Camper's Cove, the business (ie: Mountain Resort at Hyatt Lake & Campers Cove campground) that operates the campgrounds. They should be financially separate. Why should problems in the campground business impact the manufacturing business? The money received for the manufacturing business should go exclusively to manufacturing—not to costs for a totally separate business.

In their fraudulent bankruptcy filing:
1. they are listing Oregon and out-of-state creditors, who never did any business with them in Washington State and/or for their Nor'Wester business (example: Reese Electric, North Bend, Oregon; who Jean Plante delivered a personal promissory note to) the electrician does business for Hyatt lake and Whaleshead Resort, not Nor'Wester. He lives and works in Oregon & does no business in Washington. He is only a licensed Oregon contractor.
2. after closing, McNeely removed from the Washington State manufacturing facility: full containers and a semi-truck load of equipment, tools, materials, appliances, and acquired assets, to his other business properties in Oregon. One of the men that helped him to do this is: Bill Duke. Kathy McNeely is also aware of these wrong-doings, but I do not know if either individual would admit this. The Nor'Wester office secretary made a deposition statement to this effect (enclosed and in the bankruptcy documents).
3. This was a multi-million dollar business, which McNeely is claiming only has minimum remaining value; they removed extensive and expensive materials. They have substantial holdings, which they are hiding. Equipment, horses, trucks, cabins, manufacturing equip.
4. I have pictures (poor) of some of the industrial trucks, cargo hauler, 4 wheeler, removed from Nor'Wester premises to Hyatt lake.
5. McNeely continued to take deposits, and sell cabins, when he knew he was closing the plant which made these RVs; he did not inform these customers he was going-under.
6. McNeely (in the radio clip attached) openly states Nor'Wester Industries are going bankrupt because of Jackson County and his neighbors. All untrue. He closed prior to any hearing.
7. Kim Howell, who claims McNeely frauded her in Washington, said she was charged by McNeely for Washington sales tax; but she said there does not appear to be any of those taxes forwarded to the state revenue department, as required by law.
8. McNeely & Plante are currently obtaining the old Lindsey Ranch, on the Dead Indian Memorial Road, Ashland, Oregon for, " just over $ 500,000." quoted by Bill Lindsey, October 2009, owner of the 80 acres. McNeely, Plante and Donny McNeely all have substantial personal holdings and assets, including an elaborate RV (the kind you drive).

I became aware of this fraud after research and speaking / contacting multiple individuals who know of McNeely's business dealings, bankruptcy fraud, and history with employees. Jeanne Plante is listed as the sole accountant.
Please see enclosed info. There is also a letter from Kim Howell in the bankruptcy filing, which details the fraud, involving the deposit she placed. There are multi-multi thousands of dollars owed to the creditors. McNeely has a tax lien on the Whaleshead property totaling nearly $ 100,000. I do not know if that is filed for in the case.

CERTIFIED STATEMENT OF

ARNIE LINK

1. My name is Arnie Link, and I am the president of Link Bros.

Distributing Co., Inc., and reside in Chehalis, Washington.

2. On May 23, 2006, Link Bros. Distributing, as landlord, executed a

lease agreement with Nor'Wester Industries, Inc. as tenant for office and warehouse

space at 1722 Bishop Road in Chehalis. The lease was for five years, commencing

May 10, 2006, and terminating May 9, 2011. The monthly rental is $7,260.00. It's a

triple-net lease, so with monthly charges for insurance and taxes, the total due monthly

for 2009 was $8,286.60.

3. A copy of the lease is attached hereto as Exhibit A.

4. Nor'Wester defaulted on this lease, and made its last payment in May

2009.

5. Nor'Wester Industries closed operations and gave me the keys to the

premises above August 7, 2009. Their personnel vacated, and they removed a lot of

their tools and equipment. However, they left behind a number of partially completed

"park model cottages." On a Sunday at the beginning of August, Nor'Wester loaded

trailers with material and a semi- trailer based with other property from the premises.

I tried to confront them about it, but got no information from them. Additionally,

Nor'Wester left behind an enormous amount of lumber, building materials, building

supplies, tools and various items of equipment, including two forklift trucks, a number

of large bench tools, scaffolding, large metal frames for cottages, etc. The cottages

and all these materials left behind occupy the entire 24,000 square feet of this building.

6. It is impossible for me to re-rent these premises with the property of Nor'Wester Industries still in there.

7. I have a landlord's lien for two month's rent ($16,573.20) pursuant to RCW 60.72.010.

8. RCW 60.72.040 says that a lien may be foreclosed as provided in RCW 60.10. This allows me to foreclose the lien by "summary procedure" under RCW 60.10.030, by disposing of it by "notice and sale" procedure with the proceeds to be applied under the priority scheme set forth in this statute. The only logical way to dispose of all of this personal property is by public auction, and I have contacted James G. Murphy Co. of Seattle to conduct the sale.

9. I am also willing to direct the auctioneer turn over the net proceeds of the sale (following the auctioneer's expenses) to the bankruptcy court for distribution as directed by the bankruptcy court, if this would facilitate obtaining relief from stay.

CERTIFIED STATEMENT

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED at Chehalis, Washington, on October 29, 2009.

/s/ Arnie Link

No. 09-47254

CERTIFIED STATEMENT OF

LUELLA HAMILTON

1. I was the operations/general manager of Nor'Wester Industries' operation located 1722 Bishop Road in Chehalis. I left that position on June 2, 2009, about two weeks before Nor'Wester closed their doors.

2. After the business closed, I had the opportunity to walk through the warehouse with the landlord, Arnie Link, to see what Nor'Wester left on the premises. I am aware that before they closed their doors, the owners of Nor'Wester took two trailer loads and one semi load of materials and tools off the premises, which also (I believe) including the appliances that were going to go into the park model cottages that were under construction at that time.

3. I was asked to give my opinion on the value and disposition options of the park model cottages that are under construction, and were left at this site by Nor'Wester.

4. What I observed were two park models under construction, two frames for park models, and modular home under construction. The modular home is actually a two story home, built to different specifications than the park models. The second floor for the manufactured home is on its own trailer. In trying to give an opinion on the total value of these five items, it is necessary to take into account several factors. First, some of these units cannot be moved off site as they presently sit. They have to have windows installed, and be made weather tight. Then you have to have a licensed professional actually move the unit to another licensed manufacturer who can get the units completed and titled. The manufacturing cost of the four park models are in the range of, at most, $3,500.00 cash for the frames (cost of manufacture), and $16,000.00 for the park model, and $30,000.00 for the second park model. At auction, they will sell for considerably less. I believe the manufacturing cost of the half completed modular home, as it sits, is about $35,000.00, and again, it will sell for less at auction.

5. In my opinion, a lot of the manufacturing supplies and lumber that were left behind on the premises is "junk" that was deliberately left behind by Nor'Wester. They took most of the "uncut" lumber and supplies that could be re-used. A lot of it doesn't have a use or market beyond being used for construction of park models, and therefore would have a very limited interest at auction. So, I estimate the materials at under $10,000.00. There are some power tools and woodworking tools, and the two fork lifts, that would have a substantial value. However, I doubt that the total value of all of those miscellaneous tools and equipment would exceed $20,000.00, and another $20,000.00 for the two fork lifts.

CERTIFIED STATEMENT

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED at Chehalis, Washington, on October 30, 2009.

/s/ Luella Hamilton

LUELLA HAMILTON

http://www.kmed.com/pages/bill_meyer_podcast_page

McNeely on the radio. 10/29/09 drumming local support.

http://rvlife.com/index2.php?option=com_content&do_pdf=1&id=1316

RV life article info.

http://www.currypilot.com/20021109108237/Features/Features/A-ROCK-CALLED-WHALESHEAD historic background

Whaleshead Manta info:
http://www.manta.com/coms2/dnbcompany_0hn9kx

Nor'Wester Manta info:
http://www.manta.com/company/mn59cmy

Mountain Resort at Hyatt Lake manta info.
http://www.manta.com/c/mm4kt9p/hyatt-lake-resort

McNeely on TV:

http://kdrv.com/news/local/144383

http://www.rvlife.com/index.php/First-Glance/first-glance-buyers-market-for-park-models.html
(McNeely claims that the sales in January were the best ever)

http://www.co.mason.wa.us/commissioners/Minutes_2006/MIN2006-10-10.REG.pdf

(McNeely on the board that made the rules/laws)

http://74.125.155.132/search?q=cache:epwIEvpWSD4J:www.ga.wa.gov/pea/contract/07405c.doc+nor%e27wester+industries&cd=14&hl=en&ct=clnk&gl=us
(government contract summer) $$$$$$

http://www.zoominfo.com/people/Scott_Wayne_38650134.aspx
Nor'Wester threatens suit against another county along with Wayne Scott "Thick as Thieves."

http://www.cbs.state.or.us/bcd/boards/pdfs/msp/00/060100m.pdf
Parks advisory board 2000-Oregon

http://www.dor.wa.gov/Content/DoingBusiness/RegisterMyBusiness/brd/Results.aspx?RequestType=3&UBI=601842602#brdResults

I searched on their UBI number from the dol licensing site and found them under Nor'Wester Industries. Notice account was closed on 5-31-09. They took my $11K check 3 weeks after that. Is that fraud? K.

http://www.whaleshead.com/ Whaleshead Beach resort

http://www.hyattlakeresorts.com/

Nor'Wester removed it's website prior to the Hearing Officer's decision

2/6/13 DEPARTMENT OF THE INTERIOR Mail - Fw: Hyatt Lake property line adjustment

Fw: Hyatt Lake property line adjustment

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Jan 18, 2013 at 6:16 PM
To: BOR Enviro <ccamohan@usbr.gov>, bor <mpaquin@usbr.gov>

HI,
Meaning it will no longer be a land-swap (as decided by Bill Duke - resort and Mr. Rik Ardnt - BOR) it will now be sold to the highest bidder; as stated by BOR.
FYI ~

Please forward & share with appropriate individuals.
Thank you ~
Easter 2012.

As for the information on the Property Line Adjustment. Go to

http://web.jacksoncounty.org/CrystalReports.Net/Planning.aspx?sCaseMain=SUB2012-00003&isCase=true

and there you will see the information related to the case. Scroll down and click on PDFs.

--- On **Fri, 4/6/12, Tracie Nickel** <*NickelTL@jacksoncounty.org*> wrote:

From: Tracie Nickel <NickelTL@jacksoncounty.org>
Subject: Re: Hyatt Lake property line adjustment
To: "Lewis, Family of Dave" <fishhookdavelewis@yahoo.com>
Date: Friday, April 6, 2012, 9:39 AM

Linda,

Based on a recent conversation with the Bureau of Reclamation I will be reversing the decision to allow the property line adjustment. The case status will be updated on-line sometime today.

JACKSON COUNTY
OREGON

Development Services
Tracie Nickel
Senior Planner

10 S. Oakdale Ave., Rm100
Medford, OR 97501
Phone:541-774-6851

https://mail.google.com/mail/u/0/?ui=2&ik=fe94180ad&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c50079b994bc72 1/2

The "Land Swap" referenced applied to discussions regarding lands potentially needed for Reclamation's Hyatt Dam Safety of Dams Project (SOD). Reclamation has since revised design concepts for SOD. Private lands will not be required to effect dam safety improvements.

The intent of this Environmental Assessment is not to validate or judge the decisions made by Jackson County. Therefore, comments of this nature will not be considered in this Environmental Assessment. The comments on the following pages through page 31 are of this nature.

[illegible] DEPARTMENT OF THE INTERIOR Mail - Fw: Hyatt Line property line adjustment

Fax: 541-774-6791
nickelti@jacksoncounty.or

Nickel, Tracie.vcf
1K

JACKSON COUNTY

APPLICATION TYPE:

PLA (Property Line Adjustment)

Case Status: Final Denial

Assigned Staff: Tracie Nickel

APPLICATION NO:	[illegible]	MASTER NO: SUB2012-00003	PROJECT NO: SUB2012-00003
ZONE(S):	FR		RECEIVED DATE: 04/13/2012
PROCESS:	Type 2		ISSUED DATE: 05/23/2012
SITE ADDRESS:	7900 HYATT PRAIRIE RD #1		EXPIRATION DATE: 05/22/2012
PRIMARY PARCEL NUMBER:	39-3E-2600		FINALED DATE: 05/22/2012
ASSOCIATED LOT 1:	39-3E-35-600		
ASSOCIATED LOT 2:	39-3E-2600		
DIRECTIONS TO PROPERTY:	ASHLAND DAMPERS COVE AT HYATT LAKE		

[illegible]

Maps Associated With This Case

Owner
KALAMS G DAVID /TERESA A
505 BARNEBURG RD
MEDFORD, OR 97504

Owner
FITZPATRICK EDWARD
7851 SKYHAR DR
PORTLAND, OR 97223

Owner
DYER LINDA
1400 WHITMAN AVE
MEDFORD, OR 97501

Owner
LUNDBERG OLA
PO BOX 293
TALENT, OR 97540

Owner
CHENOWETH ALLEN R /KIM W
40 DEERWOOD DR
GRANGEVILLE, ID 83530-5163

Owner
JOHNSEN GARY /JULIE
629 CEDAR ST
CENTRAL POINT, OR 97502-2616

Owner
VINICKY JOHN /BARBARA
4620 TRAVIS WAY
KLAMATH FALLS, OR 97603

Owner
WAGNER SCOTT /RENEE
619 SITKA DR
WALNUT CREEK, CA 94598

Primary Owner
CAMPERS COVE RESORT LLC
7900 HYATT PRAIRIE RD
ASHLAND, OR 97520

Owner
CAMPERS COVE
7900 HYATT PRAIRIE RD 11
ASHLAND, OR 97520

Owner
HUGHES REV LIV TRUST ET AL
4768 SAMS VALLEY RD
GOLD HILL, OR 97525

Owner
CAMPERS COVE
7900 HYATT PRAIRIE RD 3
ASHLAND, OR 97520

Owner
METCALF ELIZABETH
PO BOX 370
SELMA, OR 97538

Case Description

PLA **Request for HO received on 4/13/2012 from Bill Duke. Request for HO WITHDRAWN on 5/22/2012**

Owner
CLAY ARCHIE D TRUSTEE ET AL
220 DOUGLAS LN
GRANTS PASS, OR 975274062

Owner
KAMM GORDON /PLAIN
2789 DAVID LN
MEDFORD, OR 97504

Owner
WAGNER SCOTT /RENEE
619 SITKA DR
WALNUT CREEK, CA 94598

Owner
SIMMS ROBERT /JAMIE
4527 EL CERRITO WAY
KLAMATH FALLS, OR 97603

Owner
CHLOE PROCTOR LIVING TRUST ET AL
125 CHAPARAL DR
GRANTS PASS, OR 97526

Owner
FAAS LEONARD & PATRICIA FAMILY TRUS
18041 SUNNYVIEW CIR
YORBA LINDA, CA 92886

Owner
WIESNER SHARON L
PO BOX 354
JACKSONVILLE, OR 97530

Owner
MARTIN GARY TRUSTEE ET AL
98 FORREST GLEN
GRANTS PASS, OR 97526

Owner
RIFFLE FRED /GLENDA
6347 PIONEER RD
MEDFORD, OR 97501

Owner
HARBOURNE JOHN /STEPHANIE BELL
655 CRICKET FIELD CT
WESTLAKE, CA 91361

Owner
CAMPER'S COVE RESORT LLC
7900 HYATT PRAIRIE RD
ASHLAND, OR 97520

Owner
L E & D HOLDINGS LLC
290 WILLOW BEND WAY
CENTRAL POINT, OR 97502

Owner
BARTRUM SMITH ET AL
451 GALAXY DR
WINSTON, OR 97496

BILLABLE
7900 HYATT PRAIRIE RD
ASHLAND OR 97520

PARCEL TAGS:

Parcel No	Description	Updated	Updated By
39-3E-16-600	Code Enforcement Soft Hold	07/31/2012	TRM
Solid waste			
	FLOODPLAIN	05/15/2012	SYS
This parcel or a portion of this parcel is in the mapped floodplain. A Floodplain Development Permit may be required.			
39-3E-2000	Code Enforcement Soft Hold	05/14/2012	TRM
As of 5-14-12, the restaurant building has been demolished, the store removed, the "Hyatt Lake Resort" sign removed and the boat ramp closed			
	FLOODPLAIN	05/15/2012	SYS
This parcel or a portion of this parcel is in the mapped floodplain. A Floodplain Development Permit may be required.			
39-3E-2900	FLOODPLAIN	05/15/2012	SYS
This parcel or a portion of this parcel is in the mapped floodplain. A Floodplain Development Permit may be required.			

ATTACHED DOCUMENTS:

Document: SUB2012-00003_PLOT_PLAN_REVISED.PDF
Path / Root: R:\ATTACHED_DOCUMENTS\PDF

Document: SUB2012-00003_SR_REVISED.PDF
Path / Root: R:\ATTACHED_DOCUMENTS\PDF

ACTIVITY DETAILS:

Description	Date 1	Date 2	Date 3	Done By	Description
	Date Submitted	30-Day Rev. Deadline	Application Received		
Application Received	01/11/2012	02/10/2012	01/11/2012	VSR	DONE
	Date Activity Added		Date Processed In		
Process In	01/13/2012		01/13/2012	PG	DONE
	Session Request Date	Target Session Date	Date Session Held		
Work Session Notes: ASSIGN - TS	01/18/2012	01/18/2012	01/18/2012	TH	DONE
	Date Activity Added	30-Day Deadline	Task Complete		
Completeness Review	01/11/2012	02/10/2012	02/09/2012	TLN	DONE
	Date Activity Added	180-Day Deadline	Date Deemed Complete		
Letter Approving as complete	02/09/2012	08/08/2012	02/09/2012	TLN	DONE

	Date Activity Added		Date Logged		
Log Application As Incomplete Notes: Deemed incomplete by Tracie N. on 2/9/12.	02/10/2012		02/09/2012	PG	LOGD
	Date Activity Added	Date App. Complete	Acceptance Letter Out		
Accept App As Complete	03/26/2012		03/26/2012	TLN	DONE
	Date Activity Added		Date Logged		
Log Application As Complete Notes: Deemed complete by Tracie N. on 3/26/2012. 150th Day: 8/23/12	03/26/2012		03/26/2012	PG	LOGD
	Date Activity Added	Target Date	Task Completed		
Lot Legality	01/11/2012	01/18/2012	01/27/2012	TLN	DONE
	Date Activity Added		Task Complete Date		
Staff Review	01/11/2012		03/27/2012	TLN	DONE
	Date Activity Added	Appeal Deadline	Tentative Exp. Date		
Staff Approval	03/29/2012	04/12/2012	04/29/2012	MH	DONE
	Date Activity Added	Appeal Deadline	Tentative Exp. Date		
Staff Approval Notes: Staff report mailed on 3/29/2012. Request for hearing expires on 4/12/2012.	03/29/2012	04/10/2012	03/29/2012	LM	DONE
			Date Processed Out		
Process Out			03/29/2012	LM	DONE
	Date Activity Added	Appeal Deadline	Tentative Exp. Date		
Staff Denial	04/06/2012	04/16/2012	04/06/2012	LM	DENY
Notes: Staff report mailed on 4/6/2012. Request for Hearing expires on 4/16/2012.					
			Date Processed Out		
Process Out			04/06/2012	LM	DONE
			Request Submit Date		
HO Request For Hearing Recd			04/17/2012	VSR	RCVD
			Withdrawn Date		
HO Rqst Withdrawn Notes: Written request to Withdraw the Appeal was received on 5/21/12 from Bill Duke.			05/22/2012	MH	DONE
	Any Complete Date	Target Critical Date	2nd Exten Deadline		
Decision Deadline	03/26/2012	05/25/2012	08/23/2012	PG	OPEN
	Date Activity Added	Drafting Target Date	Task Completed		
Drafting - Background Research	01/11/2012	01/18/2012			
		Expiration Date	Final Exp. Date		
Staff Denial Becomes Final					

JACKSON COUNTY
Oregon

JACKSON COUNTY
DEVELOPMENT SERVICES

Nonconforming Use
TYPE 3 LAND USE DECISION

DEVELOPMENT SERVICES
Tracie Nickel
Planner III
10 South Oakdale Ave.
Medford, OR 97501
Phone: (541) 774-6951
Fax: (541) 774-6791
nickelt@jacksoncounty.org

OWNER: Campers Cove Resort LLC
7900 Hyatt Lake Prairie Road
Ashland, OR 97520

FILE: ZON2008-02203

AGENT: CSA Planning Ltd.
4497 Brownridge, Ste 101
Medford, OR 97504

MAP DESCRIPTION:

TWP	39	RANGE	3E	SECTION	16	TAX LOT(s)	600
TWP	39	RANGE	3E	SECTION		TAX LOT(s)	2000

LOCATION: The property is located at 7900 and 7979 Hyatt Prairie Road.

NATURE OF APPLICATION: This application is a request for a Non-Conforming Use Verification and the Alteration of a Non-Conforming Use. The applicant requests: 1) verification of a pre-existing restaurant/café; a pair of fuel pumps; a fish cleaning station; a bait shop; a dump station; 5 cabins with full utilities; 1 workshop/maintenance building; a fixed and floating dock system; 2 pit toilets; 3 single-family dwellings; recreational facility consisting of 35 sites with full hookups, 22 sites with water and electrical hookups, 8 sites with electrical hookups, and 18 sites with no utilities; 1 shower/laundry building; a playground; horse amenities; 16 cabanas; and 13 garages as a pre-existing, lawful non-conforming use; and 2) alteration of a pre-existing, lawful non-conforming use including the reconstruction of the bait shop and 5 cabins; upgrade of the workshop/maintenance building; modification of recreational facility sites to 35 sites with full hookups, 0 sites with water and electrical hookups, 22 sites with electrical hookups, and 8 sites with no utilities; upgrade shower/laundry building; the construction of a new reservation and administrations office; the construction of 2 garages and 1 cabana; and expansion of a deck on the restaurant/cafe.

STAFF DECISION: Approval with Conditions.

I. APPLICABLE CRITERIA

To approve this application, the County must determine that it is in conformance with Section 3.1; Section 3.2.4;, Section 4.3.4; Section 4.3.10(A); Section 7.1.1; Section 11.2; Section 11.3; Section 11.4; and Section 11.8 of the Jackson County Land Development Ordinance (LDO); and Transportation and Land Use Coordination Policy 4.3.1-B of the Jackson County Transportation System Plan.

II. KEY ISSUES

A. Section 11.8 (Verification of Nonconforming Use) and Section 11.2.2 (Discontinuance)
B. Section 11.2 (Nonconforming Uses), Section 11.3 (Nonconforming Structures), and Section 11.4 (Nonconforming Dwellings), Section 3.1.4 (Type 3 Land Use Permits), Section 4.3.4 (General Review Criteria for Type 2-4 Permits)
C. Section 4.3.10 Parks/Public/Quasi-Public Use Regulations
D. Section 7.1.1 (J) ASC 90-9 Scenic Resources

III. FINDINGS OF CONFORMANCE WITH THE LAND DEVELOPMENT ORDINANCE

All standards and criteria identified from the Land Development Ordinance as being applicable to this request have been reviewed by staff. The following findings reflect only the criteria and standards considered relevant to the issues identified in Section II of this report. Conditions required as part of any approval, are based upon review of the Land Development Ordinance (*Standards and Criteria Listed In Section III*) and the findings established in the following section.

A. Section 11.8 (Verification of Nonconforming Use) and Section 11.2.2 (Discontinuance)

Section 11.8.1 Process
Owners of nonconforming uses, structures, or signs may request a "verification of lawful nonconforming status" by filing an application with the Director in accordance with Type 2 decision-making procedures. In cases of nonconforming lots or parcels, determinations regarding lawful lot creation may be made in accordance with the provisions of Section 10.2.1. (Amended by Ordinance 2004-12, effective 2-9-2005)

A) The application must be accompanied by documentation that establishes the approximate date that the use, structure, or sign was established; proof that the use, structure, or sign was lawfully established at the time it became nonconforming; and proof that the use has not been discontinued or abandoned, except as provided in Section 11.8.2 below. The Director may require or provide additional information if deemed necessary to permit an accurate determination.

B) Notwithstanding subsection (A) above, the applicant will not be required to prove the existence, continuity, nature, and extent of the use for more than a consecutive 10-year period immediately preceding the date of application. Documentation showing the use existed and was continued during this time period creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application. [ORS 215.130]

C) Once issued, a County provided verification will be recorded in the County deed records by the applicant. Such verifications will run with the land, and their status will not be affected by changes of tenancy, ownership, or management.

Section 11.2.2 Discontinuance

*A) **General Rule***

If a nonconforming use, other than a use specified in this Section, or a single family dwelling as provided in Section 11.4.1(B), is discontinued for a period of more than two (2) years, the subsequent use of the lot or parcel will conform to the regulations and provisions of this Ordinance applicable to that lot or parcel. An application for a determination that a nonconforming use that has been temporarily discontinued may continue to operate is subject to a Type 2 review, and a finding that the use has not been discontinued for more than two (2) years. A cessation of use that is the result of government action, court order, or land use code violation not related to the nonconforming use is not considered discontinuance for purposes of this Section.

FINDING: The process by which to verify a lawful non-conforming use, structure, or sign is through the following process:

1. Determine the approximate date the use, structure, or sign was established;
2. Determine whether the use, structure, or sign was lawfully established at the time it became nonconforming;
3. Determine if the use has been discontinued or abandoned.

Evidence suggests that the property has been used in some manor or another as a recreational facility since at least 1956. Passage of an amendment to administrative rule OAR 660, Division 006, Goal 4 Forest Lands, on June 1, 1998 made the recreational facility portion of the use non-conforming by prohibiting *"Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites"*. The entire language of the amendment is as follows:

(B) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by paragraph (4)(e)(C) of this rule.

(C) Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(e)(A) Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth

boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

Accordingly, it can be found that the recreational facility use on the site, as described in detail in this report, became a non-conforming use on June 1, 1998. Next, the question of whether the use was lawful at that time can be answered by determining when land use regulations came into effect to govern the use on the property. It was found that rules governing campgrounds became effective upon the adoption of the 1973 Jackson County Land Ordinance (JCLDO) on September 1, 1973. The 1973 JCLDO indicated that a campground in the Forest Resource Zone required a Conditional Use Permit. Specifically, Article VI (of the 1973 JCLDO as amended through September 1978) which was titled Conditional Use Permits, Section 1.4. Pre-Existing Use states:

A use which lawfully existed prior to this Ordinance but which is classified as a conditional use in the zoning district in which the use is located, shall not be allowed to undergo a substantial alteration prior to receiving a conditional use permit for such substantial alteration. For purposes of this section, a " substantial alteration" is defined as being any modification to the structure, use, or premises which is likely to increase noise, odors, traffic, dust, or to otherwise have a significant impact upon abutting properties or their occupants.

Any substantial expansion of the facility post September 1, 1973 would have required a Conditional Use Permit. No evidence suggests that a Conditional Use Permit was obtained from the Jackson County Planning Department after September 1, 1973; therefore those facilities that lawfully existed on September 1, 1973 would constitute the most intense use of the site to exist lawfully minus any allowances by the Planning Department for alternations considered to not be substantial.

In the following analysis Staff enumerates the nonconformities at this facility based on documents provided by the applicant as well as documents and information obtained by Staff. The intent of the analysis is to determine the extent of the use on September 1, 1973 (the year determined relevant for lawfulness of the use) and on June 1, 1998 (the year the use became nonconforming), and to determine whether the use was discontinued or abandoned.

Documents submitted by the applicant and reviewed by Staff include those from Oregon Department of Human Services, State of Oregon Health Division, Jackson County Health and Human Services, Jackson County Environmental Health Division, and Jackson County Department of Planning and Development. Documents obtained by Staff were also utilized in the analysis. Staff reviewed documents dating from 1956 through 2008. The following tables detail the results of the research. An explanation precedes each table.

Jackson County Environmental Health License Records: Table 1 below represents annual license renewals for Hyatt Lake Resort, required pursuant to Oregon Revised Statute (ORS) 446.320. The only differentiation between the two types of licenses is one is for the Recreation Park (spaces) and one is for the Traveler Accommodations (cabins). The Recreation Park license does not differentiate utilities provided to the spaces. In other words, a unit space is just a unit space and may or may not have utilities. The table clearly shows that licensing of the tourist facility commences in 1956 and is active through 2008. Prior to 1976 the forms used for licensing were different from those used after 1976. For this reason reference to cabins, trailer spaces, recreational park (RP) and traveler accommodations (TA) appear to differ in description table. The total number of sites including cabins is shown directly after the date and the unit sites are subsequently broken down into Recreational sites (RP) and Traveler Accommodations (TA).

Table 1. JC Health Department Licenses Records

Before 1976 Map			1976-1993			1994-Present		
			Including Cabins TA* RP*			Including cabins		
1956	6	cabins	1976	70	65 RP/5 TA	1994	70	65 RP/5 TA
1957	5	tents &cabins	1977	70	65 RP/5 TA	1995	70	65 RP/5 TA
1958	5	cabins	1978	70	65 RP/5 TA	1996	26-50 RV< 6 M	5 TA > 6 M
1959	no licenses		1979	70	65 RP/5 TA	1997	26-50 RV< 6 M	5 TA > 6 M
1960	6	cabins	1980	70	65 RP/5 TA	1998	26-50 RV< 6 M	5 TA > 6 M
1961	7	cabins	1981	70	65 RP/5 TA	1999	26-50 RV< 6 M	5 TA > 6 M
1962	4	cabins	1982	70	65 RP/5 TA	2000	26-50 RV< 6 M	5 TA > 6 M
1963	4	cabins/picnic park	1983	70	65 RP/5 TA	2001	26-50 RV< 6 M	5 TA > 6 M
1964	no licenses		1984	70	65 RP/5 TA	2002	26-50 RV< 6 M	5 TA > 6 M
1965	no licenses		1985	70	65 RP/5 TA	2003	26-50 RV< 6 M	5 TA > 6 M
1966	30	trailer space	1986	70	65 RP/5 TA	2004	35 RV	5 TA
1967	30	trailer space	1987	70	65 RP/5 TA	2005	35 RV	5 TA
1968	30	unit space	1988	70	65 RP/5 TA	2006	35 RV	5 TA
1969	30	cabins/spaces	1989	70	65 RP/5 TA	2007	35 RV	5 TA
1970	no licenses		1990	70	65 RP/5 TA	2008	35 RV	5 TA
1971	50	45 camps/5 cabins	1991	70	65 RP/5 TA			
1972	no licenses		1992	70	65 RP/5 TA			
1973	65	65 spaces/5 cabins	1993	70	65 RP/5 TA			
1974	65	65 spaces/5 cabins	KEY:					
1975	no licenses		RP=recreational park/camp sites					
			TA= traveler accommodations/cabins					
			26-50 RV< 6 M =26 to 50 RV sites operating less than 6 months out of the year					
			TA ≥ 6 M= traveler accommodations operating year round					

The record shows 5 cabins or Travel Accommodations have been consistently licensed throughout the years except prior to 1976 when there appears to be periodic lapse. The record also shows a varying number of unit spaces ranging from 30 to 65 units. In 1996 the resort host licensed between 26-50 spaces and 5 Traveler Accommodations. It is unclear the exact number of spaces as fees are based on a range of sites. From 2004 through 2008 the licensing of 35 spaces and 5 traveler accommodations is definite.

The historic licensing shows in 1998, when the use (amenities provided to individual sites) became non-conforming, there were 26-50 campsites with an unknown number provided with sewer, water and electrical. The number of campsites licensed on this site was reduced in 2004 to 35 sites. The number of traveler accommodation has consistently been licensed at 5 units. Gary Stevens from the Jackson County Health Department states in an e-mail to Staff,

"The units for Travelers Accommodations are for the total # of cabins/motel rooms/bungalows etc. regardless of type. The same holds true for RV spaces. We license by total. We don't separate out the number of full hook-ups versus tent sites versus those with just water and electric outlets.

Since licensing is based on sites within a facility and not amenities, the evidence is inconclusive as to the number of sites with full hook-ups. The evidence shows 35 campsites with an unknown number of sites provided with sewer, water and electrical and 5 traveler's accommodations have been licensed in this facility since 2004 as evidenced in Exhibit A. It should be noted the Health Department "license a facility and an operator, regardless of tax lots" (Gary Stevens, Health Department).

1977 Health Department Maps and Inspections Report: Historical central file documents include an inspection report dated November 24, 1976 from the Health Department to new applicants of a Licensure of Tourist Accommodations, Jack W. Pepperling, Jr. and Douglas L. Sanders. The inspection report is a laundry list of deficiencies and violations occurring within the facility. Distinctions are made with regard to violations occurring with the cabins, the electrical system, the park plumbing and sewage systems, and the shower and laundry building. The Health Department writes to Mr. Pepperling and Mr. Sanders: "Please review each of the specific items noted in this report and the "plans" from the former operator. Violations will be grouped by category to show how many locations had similar infractions."

Prior to the aforementioned request for application the Health Department office requested a park plan from Mr. Lee, the former operator. The plans were to be submitted by June 16, 1975. They were requested again in a letter dated June 8, 1976. A rough sketch of the facility was received by the Health Department on September 20, 1976. The inspection report is a result of an onsite inspection based on the map provided by the former operator. Inconsistencies with the map are noted in the report.

An 'updated' facility plan (Exhibit A) was received by the Jackson County Health Department on February 4, 1977, presumably submitted by the new applicants. The February 4, 1977 map was verified by the Health Department to be true and accurate.

In the analysis Staff was able to make a correlation between the 1977 map and the violations report. The following is a summary of the analysis related to non-conformities and facilities violations associated with space numbers and structures.

Cabins: The map shows four (4) cabins north and east of the "Lodge" and one (1) cabin in the west corner south of space 63 and north of space 33. The inspector reported "only two cottages were available for inspection". The cabins were equipped with water heaters, flushing toilets and gas space heaters. Additionally the plan shows two (2) trailers one south of the cabins and one west of the cabins. The reports states, Unit #11 is an older recreational trailer being used as tourist accommodations. "Another travel trailer designated "T-2" is being used as another tourist accommodation and has been built into and made a part of a frame structure". Sewer connections to the cabins and trailers are depicted on the map. No kitchen facilities are noted in the report.

Electrical System: Campsites shown labeled with "E" are sites with electric provided. Problem spaces identified in the inspection report are spaces 10, 19, 22 and 45. Staff was unable to locate a space 10 on the map. Consistent with the report, Spaces 19, 22, and 45 are shown as water and electrical spaces only. The 1977 map shows 22 sites with electrical and water.

Park Water System: Campsites labeled with "W & E" are sites with water and electric provided. There are 25 sites on the inspection report noted to be in violation. The map indicates 22 sites as water and electric only. Water is provided to all sites with sewer, which explains the additions sites beyond 22.

Park Plumbing and Sewage System: The report documents space 12 being occupied by a trailer, but the map shows Space 12 only provided with water and electric. Two (2) trailers noted earlier as being traveler accommodations are shown to have sewer connections. Space 12 may be one of these trailers. Spaces noted with sewer violations are 10, 40, 41, 48, 50, 51, 52, 56, 57, 58, 59 and 61. The facility map shows sewer connections to spaces 11 (10), 40, 41, 48, 49, 50-63 (2-60's), 65 and 66 for a total of 22 sewer hookup. Space 10 is not shown on the map but is believed to be Space 11 shown on the map.

Other non-conformities not noted in the Inspection Report, but shown on the map: The 1977 map indicates 4 mobile homes, the lodge and the gas fuel pumps.

Space amenities shown on 1977 facility plan map:

Dry camps/ no utilities: 1, 2, 3, 4, 5, 6, 7, 8, 25, 26, 27, 28, 29, 30, 30A, 32, 34, 64, B, C, D, E, F, G, H, J, and K. Total = 27.

Electrical only: 24, 31, 32, 33, 33, 36, and 39. Total = 7.

Water and Electric: 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 23A, 35, 37, 38, 40, 42, 43, 44, 45, 46 and 47. Total = 22.

Sewer/Water/Electrical: 11, 40, 41, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 60, 61, 62, 63, 65 and 66. Total = 22.

While duplications exist, the sum of all sites shown on the 1977 facility plan is 78.

It should be noted the inspection report is based on Mr. Lee's plan submittal and not the 1977 plan. As evident by the noted inconsistencies, the 1977 map is updated from the map originally submitted by Mr. Lee. For example, the report states "spaces A, B, C, D, ect were identified on the park but do not appear on the plan". The 1977 map indicates the spaces identified as missing. Staff reviewed the inconsistencies and noted those to be missing from the original plan have been corrected on the 1977 plan.

Based on the analysis of the above information Staff finds the 1977 map to be an accurate representation of 'on the ground' utilities in 1977. Staff also finds 4 cabins, 4 mobile homes, and a lodge to be accurately represented by this map. On March 10, 2009, Staff had a conversation with Gary Stevens of the Health Department. Mr. Stevens verified an onsite inspection was conducted to verify the accuracy of the map and those utilities noted above are the amenities provided to each campsite in 1977.

Health Department Inspection Reports/ 1977 Health Department Map Comparison Chart and Analysis: The applicant submitted Health Department Inspection Reports within Exhibit 29 of the application. The reports notate violations found by the Health Department at various camp sites over a number of years. Table 2 below identifies the camp sites where sewer violations appear in Exhibit 29. Over a period of 25 years approximately 42 different camp sites have sewer or illegal discharge of waste violations of some form. The identified sites are cumulative, but do not necessarily account for what was or was not on the ground in 1999. The table accounts for changes in possible site numbers over the years. The table does not indicate camp sites with sewer that did not have violations. In 1991 the inspection report is based on a map obtained from the Health Department, which shows space number changes. Staff utilized the 1977 map and correlated the changes to the 1991 map as indicated in the table after 1990. After 1999 the facility appears void of violations or information was omitted.

Table 2. Sewer Violations Noted in Health Department Records

			Sewer Violations Noted in Health Department Records (exhibit 29)																																							
																	Site Numbers																									
	9	10	11	12	14	15	16	17	18	19	20	21	23	26	31	32	37	40	41	42	43	44	46	48	49	50	51	52	53	54	56	57	58	59	60	61	62	63	65	66	f	h
1975								O							O	O		X																	X							
1976		X																X	X					X		X	X	X			X	X	X	X		X						
1977																																										
1978		X																X						X	X		X		X	X			X	X	X		X	X	X			
1979			X															X									X				X				X							
1980		X																	X						X			X					X	X		X	X	X	X			
1981																														X			X	X	X	X	X	X				X
1982	O		X	O			O	O		O	O	O											O				X		X				X	X	X	X		X	X	X	O	X
1983																																										
1984	X				O								O								O				X	X						X						X				
1985																																										
1986			X		O					O								X						X	X					X							X		X			
1987											O					O					O																		X			
1988			X																						X							X		X								
1989																O	O									X							X		X							
1990																																										
																1977 Map Site Numbers																										
	9	10	11	12	14	15	16	17	18	19	20	21	23	26	31	32	37	40	41	42	43	44	46	48	49	50	51	52	53	54	56	57	58	59	60	61	62	63	65	66	f	h
															Revised 1991 Map Site Numbers																											
																				6	7	8								15		18	19	20					26			
1991																																							X			
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"X" indicates sewer hook-up on 1977 map; "O" indicates no sewer service on 1977 map

The map dated February 14, 1977 from the Health Department is the closest 'on the ground' representation of the site available. The map shows spaces 11, 40, 41, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 60, 61, 62, 63, 65 and 66 are provided with sewer, water and electrical. Working chronologically Staff compared the violations reports to the map and made the following findings.

In 1975 violations are noted on Spaces 17, 31 and 32. A failure at Space 17 is highly unlikely as Space 17 is only shown to be served by water and electric. Comments read, "Holding tank not connected to sewer pipe." It is feasible that space numbering on the map may not match to the numbering on the ground. Spaces 31 & 32 are shown to have electric only with no water, making a sewer connection unlikely. The report states, "Appears to have no connection to sewer. "Pipes into ground". Spaces 40 and 60 likely have sewer as shown on the 1977 map.

Sewer violations noted in 1976, 1978, 1979, 1980 and 1981 through a Violation and Deficiency Report are consistent with the 1977 map (those noted with sewer riser violations are spaces shown to be connected to sewer, those with open receptacle or uncapped RV outlet are spaces without sewer connection). The exception is Space 10 noted in the violation and not shown on the map. The map shows a camp space near the travel trailer identified as Space

11. Within the 1981 Health Department records a notation is made regarding Space 10. The note reads, "Place # 9 sign where #10 sign is, place # 10 sign on unnumbered space by # 11 – Today".

In 1982 multiple violations are reported. The document describes violation in spaces shown on the map as those being provided sewer and also in those not provided sewer. The violations read as follows:

1. Sewage being discharged onto ground. #17, #46 and # 21. Cap lines.
2. Uncapped RV sewer lines #12, #19, 'F'. Cap line at once.
3. RV flex hose/sewer riser connection not water tight #9, #11, #58, #59, #60, #61, #65 others. Provide water tight connection – Today.
4. RV flex hose/sewer riser connection not water tight #53. Provide water tight connection – Today.
5. RV discharging sewage (sink waste) into open receptacle #16, #19, #20. Provide water tight receptacles – Today.

(1) Spaces #17, #46 and # 21 are shown on the map as not having sewer connections, which would explain sewer discharge on the ground. (2) Likewise spaces #12, #19, 'F' are not shown to be connected to sewer nor does the statement made by the inspector indicate a connection to a sewer system. (3)/(4) Space # 9 has never been identified on any map and it appears there was a numbering issue with Space #9 in 1981. Spaces #11, #53, #58, #59, #60, #61, #65 are identified on the 1977 map as having sewer connections. (5) Spaces #16, #19 and # 20 are shown on the map as not having sewer connections, which would explain "sewer discharge into open receptacles".

Consistent with sewer connected sites, in 1984 sewer violations are shown on spaces #49, #50, #57 and #63. Space #14 is noted to have an 'RV' sewer outlet uncapped, and Spaces #23 and #43 are noted to have sink waste discharging into an uncapped container. Spaces # 14, 23 and 43 are shown on the map as not having connection to a sewer system consistent with notes made by the inspector.

The 1986 report shows violations with RV flex hose and sewer riser connections at Spaces #11, #40, #48, #49, #54, #62, #65 and others. Again these numbers are consistent with the Health Department map in that these sites are shown to be hooked up to a sewer system. Spaces # 4 and #19 are shown as not having a sewer connection and are noted to be depositing sink waste onto the ground.

The 1987 report notes discharge of waste to open buckets at Spaces #20 and #32 and sewage deposit on the ground in the space next to #44, which is space #43. Consistent with the Health Department map these spaces are not connected to a sewer system. Space #65 received a violation for a sewer riser connection. Space #65 is shown to be connected to a sewer system.

The 1988 report shows that those sites in receipt of sewer riser violations to be connected to the sewer system on the 1977 map. (#11, #49, #57, #59) Staff identified Space # 10 as being

that space behind #11. In the 1989 violation report Spaces 50, 55 and 60 are in violation for sewer risers and are shown on the map as connected to sewer. Spaces 32 and 37 are in violation for deposit of sink waste either on to the ground or into an open bucket. These sites are not shown to be connected to a sewer system.

An analysis post 1990 appears to suggest a different map was used during the inspection. This conclusion is drawn based on a note in the 1991report and the violations are inconsistent with the 1977 map. The following explains this reasoning.

In 1991 a sewer connection violation was noted on Space #26. However, a note in the report states "Current plan on file does not reflect current park layout i.e. Spaces behind 22-26 no #'s Submit copy of approved plan (approved by building codes division). Provide space #'s(OHD)". Staff found no spaces located behind the mapped Space #26 on the 1977 map. Evidence shows, as stated by the inspector, the current park layout does not match the 1977 Health Department map, where Space # 26 is shown to be a dry site. However, Staff obtained a map dated 8/19/91 from the Health Department (Exhibit C, page 1). Staff believes the 1991 map was the map used during the inspections process. This map shows Space 26 in an area where Space 65 is located on the 1977 map (Exhibit C, page 2). This is also the case in 1992 where Spaces 8, 18 and 20 are shown to have sewer riser violations. These spaces are in the location of Spaces 44, 57 and 59. Space 8 on the 1977 map is shown to be a dry camp down by the lakeshore and spaces 18 and 20 as water and electric only. Again in 1993 Spaces 7 and 15 were noted with violations along with 'others'. When comparing the 1991 map with the 1977 map Space 7 is shown in the location of Space 43, and Space 15 is shown in the area or Space 45. Space 7 on the 1977 map is a space near the lake shore and space 15 is shown to be provided water and electric. The 1994 violation report refers to Space 19, which is in the approximate location of space 58 on the 1977 map. In 1996 and 1997, Spaces 6 & 7 are in violation for sewer risers, which is represented as Space 42 and 43 on the 1977 map. Spaces 42 and 43 are noted on the 1977 map as being connected to a sewer system. The last noted violation is on June 11, 1999. This violation is associated with Space 19 on the 1991 map and represented by Space 58 on the 1977 map.

Based on an analysis of the violation documents Staff finds evidence that correlate with the 1977 map showing sites 11, 40, 41, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 60, 61, 62, 63, 65 and 66 are provided with sewer, water and electrical through 1999. Those sites noted in the violations report and identified by Staff as having sewer riser violations are consistent with sites provided with a sewer connection. For example in 1982 the violation shows the RV flex hose/sewer riser connection not water tight in spaces 9, 11, 58, 59, 60, 61 and 65. The same is noted in the 1986 report which shows violations with RV flex hose and sewer riser connections at Spaces 11, 40, 48, 49, 54, 62 and 65. A violation with a sewer riser is consistent with a site that is provided sewer as, a sewer riser is a portion of the sewer system which extends vertically to the ground elevation and terminates at each trailer space.

Violations on the sites not shown to be connected to sewer are violations consistent with a site without a sewer connection. For example in 1982 Spaces 16, 19 and 20 were found to be discharging sewage (sink waste) into open receptacles. Another example is in 1987 the report notes discharge of waste to open buckets at Spaces 20 and 32 and sewage deposit on the ground in the space next to 44, which is Space 43. Staff concludes if sewer was provided to

the sites there would be no need to dump waste into a receptacle. The evidence does not support the existences of sewer service provided to those sites. The violations are enumerated above and more extensive descriptions are located in Exhibit 29. Evidence in the record shows chronic misnumbering at the facility. Therefore, sites such as Space 9 and Space 14 are not identified on the map and cannot conclusively be verified in existence as the 1977 Health Department map is the most conclusive evidence available as to the utilities provided at the facility.

Historic Central File Documents: "Central Files" were files kept by the planning department. The files typically housed sanitation records, but later morphed to include land use actions along with sanitation records. Central files are a source of historical information relied upon daily by planning staff for research purposes. The following represents data related to non-conforming amenities collected from the central file. The page numbers refer to those page numbers in the record. Duplicate information will not be noted. For example, page 1 and page 38 shows the renewal of the liquor license. Only page 1 will be referenced. Around 2002 County Planning began using a new records keeping program known as Tidemark. Relevant information from Tidemark was added to the data table as well as to the record. Data not added to the table are the numerous building, electrical and planning information sheets related to the 22 recognized RV sites. The following is a summary of the table below:

Restaurant/Lodge found on tax lot 2000:

a) In 1977 Dick Florey, county sanitarian, created an interoffice memo noting needed repairs to a septic system which serves the restaurant (p. 90).
b) In 1978 DEQ forwards draft proposal to Dave Couch of DEQ Medford Branch Office for review. Restaurant shown to have 40 seats and 10 stools (p. 76).
c) In 1985 a letter from a real estate office requested County sign off on a liquor license in order to transfer the license (p.69).
d) Liquor licenses were approved by the County Planning from 1986 through 1992 (p. 1).
e) In 1989 a private party proposed to the County Planning Department intent to renovate the facility. The documents submitted to the County indicate one area of renovation is the restaurant (p.45).
f) Same party as above submitted photos of the existing restaurant (p. 52).
g) Same party as above submitted a site plan with proposed improvements noting the restaurant on the site plan (p. 54).
h) In 1992 the manager of the recreational facility discussed with the County Planning Department authorization for a horse camp. Attached to this request is a Recreational Park Plan showing the restaurant (pgs. 14 & 15).
i) Liquor licenses were approved by County Planning '95', '96 and '97' (p. 13).
j) On May 22, 2001 a Woodstove insert was authorized through permit # 2001-0716-S (p.116).
k) On November 3, 2006 remodel of restaurant siding and roof was approved through case ZON2006-02391 (p.117).

Bait Shop found on tax lot 2000:

a) In 1992 the manager of the recreational facility discussed with the County Planning authorization for a horse camp. Attached to this request is a Recreational Park Plan showing the store (p. 15).
b) In 2008 there was a proposal to remodel a bait shop. Staff was unable to substantiate the pre-existence of the building and no permits were issued per case ZON2008-01234 (p. 122).

Cabins found on tax lot 2000:

a) In 1976 the health department conducted and onsite inspection which resulted in the documentation of violations within the facility. They found only 2 cottages #2 and #4 were available for inspection. Unit #11 was RV under a ramada and "T-2", a travel trailer was being used as tourist accommodations (pgs. 96 & 97).
b) In 1977 Dick Florey, county sanitarian, created an interoffice memo noting needed repairs to a septic system which serves the restaurant/store/bar and 2-two bedroom mobile. Also noted in this memo are cabins and trailers (p. 90).
c) A 1978 letter from the health department documents a failing septic system which was accompanied by a map which shows 4 cabins (p. 80).
d) In 1989 a private party proposed to the County Planning intent to renovate the facility. The document submitted to the County indicates 4 sleeper cabins with baths and 2 housekeeping cabins with kitchens (p. 47).
e) Same party as above submitted photos of the existing 4 cabins with bath only and a housekeeping cabin which is a travel trailer attached to a stick built structure (p. 52).
f) In 1992 the manager of the recreational facility discussed with the County Planning authorization for a horse camp. Attached to this request is a Recreational Park Plan showing 4 cabins (p. 15).
g) In 1998 County Planning attached to an inquiry about dividing the property a map showing 6 cabins, two where indicated to be housekeeping cabins (p. 7).
h) On November 3, 2006 Tidemark shows case number ZON2006-02391 allowed the remodel of 4 cabins siding and roof.

Workshop found on tax lot 2000:

a) In 1992 the manager of the recreational facility discussed with the County Planning authorization for a horse camp. Attached to this request is a Recreational Park Plan the workshop (p 15).

Residential Structures found on tax lot 2000:

a) In 1977 Dick Florey, county sanitarian, created an interoffice memo noting needed repairs to a septic system which serves the 2-two bedroom mobile homes (p. 90).
b) In 1978 an inspection by the health department found a failing system serving an "unknown number of mobile homes" (p. 78).

c) In 1978 DEQ forwards draft proposal to Dave Couch of DEQ Medford Branch Office for review. One -2bedroom mobile is noted (p. 76).
d) Also in 1978 a repair permit for one (1) mobile home and dump station is shown (p. 73).
e) In 1989 a private party proposed to the County Planning intent to renovate the facility. The documents submitted to the County indicate 3 permanent mobile homes (p. 45).
f) Same party as above submitted photos of the existing 3 permanent mobile homes (p. 51).
g) In 1989 A title report notes mobile homes on tax lot 2000 (p12 of tl 600).
h) In 1989 and 1990 three mobile home setup permits were issued (p. 1).
i) In 1990 an authorization notice approved a system to serve two 2 bedroom dwellings (p. 21).
j) Also in 1990 a notation on an authorization notice note confirmation of 3 mobiles on site (p. 25).

Full Hook-ups found on tax lot 600:

a) In 1976 the health department conducted and onsite inspection which resulted in the documentation of violations within the facility. Unit 11 was found to be an older recreational trailer used as a tourist accommodation (p. 97).
b) In 1976 the health department conducted and onsite inspection which resulted in the documentation of violations within the facility. Sites verified to have violations are 10, 40, 41, 48, 50, 51, 52, 56, 57, 58, 59, and 61. This is a total of 12 (pgs. 100 & 101).
c) A "while you were out" memo to Chuck Henke, sanitarian, from Brett Thomas, health department, message reads, "Hyatt Lake – 54 without sewer 21 with sewer. Does exceed allowable number, but there is no way to know which are out of service." This memo was written by Connie Foland between August 1978 and January 1983 during a time period when she would have worked for the Sanitation department. E-mail from Kathy Cote dated 4/22/2009 to staff: "Connie Foland worked for our department from 1978 to 1997 in various positions. Based on the duties of this position it is possible that the message concerning the septic issues would be during the time frame of August 1978 to January 1983" (p. 115).
d) In 1978 an inspection by the health department found a failing system serving a recreational dump station (p. 76).
e) In 1986 Planning Staff authorized a PSI for the park, noted forest zoning require a conditional use permit for campgrounds as a recreational use (p. 67).
f) In 1989 a private party proposed to the County Planning intent to renovate the facility. The document submitted to the County indicates "approximately 65 spaces, over half of these have septic as well as water and electricity" (p. 47).

g) Same party as above submitted a site plan shown at the area in which the RV and tent sites were located (p. 54).
h) In 1992 Planning Staff noted "21 RV are existence" (p. 39).
i) Also in 1992 a hand written note states "Need letter explaining where the extra RV space is located, because we count 21, not 22. A sketch of the RV spaces would be nice" (p. 114).
j) On April 16, 1992 Dale Bohanan, County Building Official, conducted an onsite inspection. The inspection resulted in a memo where he makes a notation related to deficiencies with the waste water risers. The notation reads: "Illegal waste risers for each of the 21 spaces" (pgs. 129 & 130).
k) In 2007 through case ZON2007-00470 staff recognized space numbers 30 through 51 as sites with full hook-up sites with map used for review (pgs 118 & 121).
l) This document is a summary created by Gary Steven of the Jackson County Health Department. The summary is of the historical use at Hyatt Lake (p 131).

Electrical/Water Service:
a) In 1976 the health department conducted and onsite inspection which resulted in the documentation of violations within the facility. Sites verified to have electrical violations are 10, 19, 22 and 45 totaling 4. Water violations were found at 9, 10, 12, 13, 15, 17, 18, 20, 23, 23a, 24, 40, 41, 43, 45, 47, 49, 50, 53, 54, 55, 61, 63, 65 and 66 totaling 25 (Pgs. 98 & 99).

Summary of Central File Information: Evidence provided from the Central File indicates the restaurant is a lawful pre-existing use. The Planning Division has recognized the use through the authorization of numerous liquor license, a wood stove permit, septic authorizations, land use actions and authorization for a remodel. "No violations" are noted on the liquor license forms. The restaurant/lodge located on tax lot 2000 is noted in a land use application for a horse camp in 1992. Photos dated 1989 also document the existence of the restaurant/lodge. Little information is available in the central file with regards to the bait shop. However attached to the memo documenting a discussion with the planning manager is a Recreational Park Plan showing the bait shop/store. Central file information is inconclusive as to the existence of the bait shop/store.

In 1976 the health department verified cottages #2 and #4 and two (2) travel trailers being used as visitor accommodations. Four cabins are noted in 1978 and four cabins and 2 house keeper cabins are noted in 1989 when a private party inquired renovating the site. The applicant attached photos of the cabins and of the housekeeper units. Again in 1998 a map attached to an inquiry note 6 cabins with 2 being housekeeper. Evidence in the central file indicates the cabins are still in existence and the housekeeper cabins may have existed at least until 1998 (zoning authorized the remodel of 4 cabins on November 3, 2006). As with the bait shop/store there is very little information in the Central file related to the workshop on tax

lot 2000. Central file information is inconclusive as to the existence of the workshop. However at the conclusion of this section Staff will compile all information available and draw a final conclusion.

Regarding the residential dwelling, Central File information indicates in 1990 three (3) mobile home setup permits were issued. Numerous authorization notices were authorized with mention of the three dwellings. While this information points to three pre-existing dwellings, additional information in this report will indicate one of the dwellings has been removed.

Central File information indicates the existence of 21 to 22 campsites. This information is documented from 1976 to approximately 1983. Supporting documentation range from health department documents to hand written notes in the file. In 1989 a private party proposing a renovation noted in a letter to the County "approximately 65 spaces, over half of these have septic as well as water and electricity." In 1992 three separate documents note 21 to 22 sites once again.

Analysis of the Health Department licensing records show that the facility decreased in capacity from 65 sites and 5 cabins to 35 sites and 5 cabins around 1995 and definitively from 2004 to the present. Permitting by the Health Department of 35 total spaces since at least 2004 indicates that the use which lawfully existed on September 1, 1973, as illustrated on the Health Department Map of 1977, was discontinued.

Staff in 2007, determined that 22 sites were served by sewer, water and electricity. Staff concludes there is no substantial evidence in the central file to decisively assert an exact number of sites served with full hook-ups. As stated previously, Staff will compile all information available and draw a final conclusion at the end of this section.

Permits Issued: March 13, 2007 Staff noted in a Zoning Information Sheet (ZIS) that 22 sites at Hyatt Prairie Resort were provided with sewer, water, and electrical. Since this date the Planning Division has authorized permits for 22 set-up permits for park model RV's, 16 cabana permits and 13 garages without plumbing.

CONCLUSION: On March 2, 1973 the Jackson County Health Department issued a Travelers Accommodations and Recreation Park license for 65 camp spaces and 5 cabin rentals. Due to the extent of the expansion from 1971 to 1973, the Health Department showed concern with certification of facility and requested a park plan. Specifically the requests states: "You must present an accurate plan of all rental facilities. Include all regular spaces by type (water & sewer, water only, etc). Indicate separate picnic area if provided". The map resulting from this request is the 'up-dated' map received by the Health Department on February 4, 1977, the map referenced in this review. The map was verified by the Health Department to be true and accurate. The map and documentation associated with the map verifies on February 4, 1977

the following amenities existed at this facility: Hyatt Lake Lodge; gas pumps; a fish cleaning station; a dump station; 5 cabins w/toilets; 2 travel trailers used as tourist accommodations; 4 mobile homes; 3 pit toilets; a shower and laundry facility; 22 sewer, water and electric sites; 22 water and electric sites; 7 electric sites only; 27 dry sites. Based on Article VI, of the 1973 JCLDO (as amended through September 1978) any substantial alteration to the facility would have required a Conditional Use Permit. The map received by the Health Department on February 4, 1977, represents the best available information to ascertain the use which lawfully existed on the site on September 1, 1973, the date that land use effectively regulated the use on the subject property.

Evidence does not support that the facility was lawfully expanded from that which is shown on the 1977 map, as permits would have been required for any expansion and there is no evidence of any approved land use permits or sanitary sewer permits. The licensing record shows the facility has actually decreased in capacity from 65 sites and 5 cabins to 35 sites and 5 cabins around 1995 and definitively since 2004.

Staff finds that the evidence supports 21 sites with full hookups and 13 sites with water and electric as pre-existing, lawful, non-conforming uses that existed and continue to exist at this facility on tax lot 600 and 1 additional site with full hookups to exist on tax lot 2000. The 22 full service sites represent those which existed on the 1977 Health Department map. No additional full service sites were approved through the Planning Department. No evidence indicates what level of services the remaining 13 sites have. Therefore, staff has made the determination that the remaining 13 sites may have had water and electric based upon analysis of historic information but not sewer since the number of full service sites is limited to the aforementioned 22. The remaining 13 sites can thus be recognized as lawfully non-conforming sites with water and electric service.

The historical licensing by the Health Department of the 5 cabins contradicts historical documents. Cabin #5 shown on the 1977 map in the west corner ceases to exist based on historical and current plot plans and is therefore considered abandoned as the use has ceased to exist for more than two years. The applicant's plot plan shows a 5th cabin east of the 4 cabins, but the location of this cabin is inconsistent with historical documentation. In fact the location of the 5th cabin on the applicant's site plan is in the location a mobile home (dwelling) shown on numerous maps. Additionally, the "5th" cabin is an unpermitted park model RV (COD2009-00126). There were two (2) travel trailers (T-1, T-2) in the facility that were utilized as traveler accommodation, but those have also been abandoned and would not be considered permanent. Staff finds the 4 cabins equipped with bathroom facilities but no kitchen facilities exist as pre-existing, lawful non-conforming uses that existed and continue to exist at this facility.

With regards to the restaurant/lodge there is ample evidence suggesting the restaurant/lodge is pre-existing, lawful, non-conforming. Evidence that the restaurant/lodge exists is in the Central File as well as on numerous maps included in the record. Staff authorized a fire stove insert May 22, 2001 and the re-siding and re-roofing of the structure on November 3, 2006.

While historical documentation shows three dwellings once existed in this facility, the current information shows only two (2) manufactured dwellings presently exist. This is evidenced by the applicant's plot plan, which shows two (2) manufactured structure dwellings. Three dwellings no longer exist in this facility. The date the dwelling was removed is unclear, but as mentioned above, it has been replaced by a park model RV, which is unlawful and not considered a permanent structure. According to Section 11.4 of the 2004 LDO, a single family dwelling may be re-established after a period of interrupted use for up to four years. Since the structure was removed from the facility, the applicant will need to produce a trip permit to verify when the structure was removed. It will be from this date the four year time clock will start. For the purpose of this review Staff finds 2 pre-existing, lawful, non-conforming dwellings exist and continue to exist at this facility unless additional information provided at a later date suggests that the third dwelling was removed less than 4 years prior to the date of information submittal.

Due the nature of the use with regards to the gas pumps, the fixed and floating dock station; the fish cleaning station, the bait shop/store, a dump station, the laundry and shower building and maintenance building there is little evidence to review except the historical plot plans. Staff has reviewed the plot plans and found at times the structures were shown and at times the structures were omitted. Staff's experience with customer created plot plans is that the plot plan is not always accurate. While not consistently shown on every site plan Staff is confident in concluding the gas pumps, the fish cleaning station, the bait shop/store, a dump station, the laundry and shower building and maintenance building are pre-existing, lawful non-conforming structures that existed and continue to exist at this facility.

Table 3 summarizes the uses requested by the applicant/agent as lawful nonconforming uses and the uses that staff has determined to be recognized as lawful nonconforming uses.

Table 3. Verification of Lawful Pre-Existing Nonconforming Uses

	Requested by Applicant/Agent	Verified by County	Tax Lot
Restaurant/Café	1	1	2000
Fuel Pumps	1	1	2000
Fish Cleaning Station	1	1	2000
Bait Shop	1	1	2000
Dump Station	1	1	2000
Cabins with full utilities but without kitchen facility	5	4	2000
Workshop/Maintenance Building	1	1	2000
Fixed and Floating Dock Station	1	1	2000
Pit Toilets	2	2	2000
Single-Family Dwellings	3	2	2000
Recreational Facility:			
full hookup sites (sewer, water, electric)	35	22	600*
water & electric sites	22	13	600
electric sites	8	0	-----
no hookup sites (dry)	18	0	-----
Shower/Laundry Building	1	1	600
Playground	1	0	-----
Horse Amenities	1	0	-----
Cabanas	16	16	600
Garages	13	13	600

*21 of the 22 sites are found to be on tax lot 600 and 1 is found to be on tax lot 2000.

There is no evidence to suggest the playground exists at this time, nor is there any evidence of horse amenities. The horse stalls/amenities were approved August 19, 1992, but there is no evidence to suggest the approval was ever acted upon. Current code language only allows for permanent structures when approved through Chapter 4 of the 2004 Land Development Ordinance. This application is not a request for a horse facility, but verification that such a facility exists. Staff finds no evidence of a horse facility or a playground.

Lastly, sixteen cabanas and 13 garages without plumbing are found to be non-conforming structures at this facility per Exhibit D of this report.

While the analysis up to this point determined which specific structures/amenities can be verified as lawfully existing, the overall nonconforming use of the site still remains undefined. The applicant/agent makes the argument that the overall use of the site more closely resembles that of a "Recreational Vehicle Park" as defined in Oregon Revised Statute (ORS)

197.493 as opposed to a "Private Park or Campground" as defined in Oregon Administrative Rule 660-006-0025. The two definitions are as follows:

> ***ORS 197.493(2)**. "Recreational vehicle park".*
> *(a) Means a place where two or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under common ownership and having as its primary purpose:*
> *(A) The renting of space and related facilities for a charge or fee; or*
> *(B) The provision of space for free in connection with securing the patronage of a person.*
> *(b) Does not mean:*
> *(A) An area designated only for picnicking or overnight camping; or*
> *(B) A manufactured dwelling park or mobile home park. [2005 c.619 §11]*
>
> **OAR 660-006-0025(3)(e)(A).** *Private parks and campgrounds. Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites. Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.*

The Jackson County LDO defines the two terms as one in Chapter 13. The applicant/agent asserts that when a definitional conflict arises, the State of Oregon definition prevails. While typically this assertion would be correct, when reviewing the specific language of the definitions found at the state level, the intent of the definitions is unclear. For instance, if *Private parks and campgrounds* allow recreational vehicles to occupy campsites as per the definition above, then are all *Private parks and campgrounds* where recreational vehicles (RVs) are located within 500 feet of one another then also considered *Recreational Vehicle Parks*?

The State of Oregon Land Use Board of Appeals (LUBA) has provided some clarity regarding this issue. In *Cotter v. Clackamas County*, 36 Or LUBA 172 (1999) and *Donnelly v. Curry County*, 33 Or LUBA 624 (1997), LUBA appears to make a delineation between campgrounds,

which are designed to accommodate RVs in a manner that is appropriate for a forest environment and more intensely developed RV Parks.

Consistent with that interpretation, the existing nonconforming use found in this proposal does more closely resemble a RV Park rather than a campground because of the extent of the amenities provided on the site (e.g. restaurant/café; fuel pumps; fish cleaning station; bait shop; dump station; 4 cabins with full utilities but without kitchen facilities; workshop/maintenance building; fixed and floating dock system; etc…). However, considering that this use has existed on the site prior to any land use laws governing the use and considering that utility hookups to sites in campgrounds were not prohibited by the state until 1998, it is still somewhat unclear as to the correct way to define the overall use of the site.

This matter is of particular importance because of the limitations of stay specified in the applicable rules/regulations. While stays for RVs in campgrounds are restricted to a total of 30 days during any consecutive 6 month period, the stays for RVs in a RV Park are not limited as shown below.

> ***ORS 197.493. Placement and occupancy of recreational vehicle.** (1) A state agency or local government may not prohibit the placement or occupancy of a recreational vehicle, or impose any limit on the length of occupancy of a recreational vehicle, solely on the grounds that the occupancy is in a recreational vehicle, if the recreational vehicle is:*
> *(a) Located in a manufactured dwelling park, mobile home park or recreational vehicle park;*
> *(b) Occupied as a residential dwelling; and*
> *(c) Lawfully connected to water and electrical supply systems and a sewage disposal system.*
> *(2) Subsection (1) of this section does not limit the authority of a state agency or local government to impose other special conditions on the placement or occupancy of a recreational vehicle. [2005 c.619 §12]*

The applicant/agent has also submitted testimony from past visitors of the subject property who indicate that their stay has not been limited historically. This testimony establishes the fact that even though it is not clear as to which definition the pre-existing nonconforming use on the subject property fits into (campground v. RV Park), stays in the park have not been limited historically.

Therefore, based upon the information provided by the applicant regarding historic visitors' stays on the property and the inconclusive legal and legislative framework provided on this topic, staff concludes that the 35 pre-existing nonconforming sites being recognized are recognized as having no limit to the stays associated in the definition of Private parks and campgrounds found in OAR 660-006-0025(3)(e)(A). This topic is however addressed again later in this report in regards to the proposed alteration/expansion of the nonconforming use.

Staff finds all pre-existing, lawful, non-conforming uses identified in the conclusion are subject to and will continue to be subject to Chapter 11.

B. Section 11.2 (Nonconforming Uses), Section 11.3 (Nonconforming Structures), and Section 11.4 (Nonconforming Dwellings), Section 3.1.4 (Type 3 Land Use Permits), Section 4.3.4 (General Review Criteria for Type 2-4 Permits)

> ***Section 11.2.1 Alterations***
> *An alteration of a nonconforming use may include a change in the use that may or may not require a change in any structure or physical improvements associated with it. An application for an alteration of a nonconforming use must show either that the use has nonconforming status, as provided in Section 11.8, or that the County previously issued a determination of nonconforming status for the use and the use was not subsequently discontinued as provided in Section 11.2.2. A nonconforming use, once modified to a conforming or less intensive nonconforming use, may not thereafter be changed back to any less conforming use.*
>
> *A) **Change in Use***
> *Applications to change a nonconforming use to a conforming use are processed in accordance with the applicable provisions of the zoning district. (See Chapter 6.) Applications to change a nonconforming use to another, no more intensive nonconforming use are processed as a Type 2 review. The application must show that the proposed new use will have no greater adverse impact on the surrounding neighborhood.*
>
> *B) **Expansion or Enlargement***
>
> *1) A nonconforming use, other than a single-family dwelling (see Section 11.4), aggregate, mining, or rural industrial use operation (see subsection (C) below), may not be expanded or enlarged except as provided under (2) below. For purposes of this Section, to "expand" or "enlarge" means:*
>
> *a) To replace a structure, in which a nonconforming use is located, with a larger structure;*
>
> *b) To alter the use in a way that results in more traffic, employees, or physical enlargement of an existing structure housing a nonconforming use; or*
>
> *c) An increase in the amount of property being used by the nonconforming use.*
>
> *2) Limited expansion of a nonconforming use may be approved, through a Type 3 review, provided such expansion includes improvements to the existing use to a degree that the existing use, including the proposed*

expansion, complies with or is more in conformance with the development standards of Chapter 9, and will have no greater adverse impacts on the surrounding neighborhood.

E) ***Relocation***
No nonconforming use may be moved in whole or in part to any other portion of the lot or parcel on which it is located unless such reconfiguration will have no greater adverse impact on the surrounding neighborhood. A nonconforming use may not be relocated to another lot or parcel, unless the use will be in conformance with the use regulations of the zoning district into which it is moved.

Section 11.3 NONCONFORMING STRUCTURES
Structures may be nonconforming because they do not comply with the locational or dimensional requirements of this Ordinance, or because their intended use and purpose is not consistent with the zoning district in which they are located. Such structures are considered to be nonconforming by design. Nonconforming structures are subject to the following standards:

Section 11.3.1 Alterations to Structures
Nonconforming structures may be altered in conformance with the development standards of this Ordinance. Any alteration to a nonconforming structure that proposes reconstruction not in compliance with the standards of this Ordinance, requires a Type 2 review to ensure no greater adverse impact to the surrounding neighborhood.

A) ***Enlargement or Modification***
A nonconforming structure may be remodeled, replaced, or enlarged, or otherwise altered, provided such work is in compliance with health and safety requirements of this Ordinance and other applicable law. Proposed enlargements or modifications of a nonconforming structure that do not comply with applicable standards of this Ordinance may be allowed under a Type 2 review when the structure would be rendered no more nonconforming and the applicant demonstrates that there will be no greater adverse impact to the surrounding neighborhood.

B) ***Relocation***
Nonconforming structures may be moved when the relocation will cause the structure to be more in compliance with applicable standards.

Section 11.3.2 Damage or Destruction
If a nonconforming structure is damaged by fire, other casualty, or natural disaster, the structure may be repaired or reconstructed to its original square footage without compliance with the provisions of this Ordinance when such work commences under an approved permit within one (1) year of the damage. If, for any reason, permitted repair work is not completed and the permit expires, repair or reconstruction of a damaged nonconforming structure thereafter is subject to the requirements of Section 11.3.1.

Section 11.4 NONCONFORMING DWELLINGS

Section 11.4.1 Exemption for Single Family Dwellings
Notwithstanding any other provisions of this Chapter, a single family dwelling that is nonconforming due to its location or use (e.g., density) may be replaced, remodeled or relocated subject to the following:

A lawfully established single-family dwelling may be re-established after a period of interrupted use for up to four (4) years without further compliance with the requirements of this Ordinance, provided however, that access, floodplain, health, sanitation, and applicable fire safety requirements are met. In cases where a nonconforming dwelling replacement was authorized until a date certain in writing by the County prior to adoption of this Ordinance, the time period specified by the County remains valid.

Section 3.1.4 (B) (1) *of the LDO states that the County may issue Type 3 and 4 Permits only upon finding that the proposed use is in conformance with any applicable development approval criteria or standards of the Comprehensive Plan, and all applicable standards of this Ordinance, and that all of the following criteria have been met:*

a) *The proposed use will cause no significant adverse impact on existing or approved adjacent uses in terms of scale, site design, and operating characteristics (e.g., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts). In cases where there is a finding of overriding public interest, this criterion may be deemed met when significant incompatibility resulting from the use will be mitigated or offset to the maximum extent practicable.*

b) *Adequate public facilities (e.g., transportation) are available or can be made available to serve the proposed use;*

c) *The proposed use is not a conflicting use certified in an adopted Goal 5 ESEE applicable to the parcel, or if an identified conflicting use, one that can be mitigated to substantially reduce or eliminate impacts;*

d) *The applicant has identified and can demonstrate due diligence in pursuing all Federal, State, and local permits required for development of the property; and*

e) *On land outside urban growth boundaries and urban unincorporated communities, the proposed use will either provide primarily for the needs of rural residents and therefore requires a rural setting in order to function properly, or else the nature of the use (e.g., an aggregate operation) requires a rural setting, even though the use may not provide primarily for the needs of rural residents. Schools however are not subject to this criterion.*

4.3.4 General Review Criteria for Type 2-4 Permits
The use shall be approved only when the following findings can be made:

A) *The use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;*

B) *The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel. Further, it must be demonstrated that the use will comply with the fire safety requirements in Section 8.7.*

FINDING: In addition to the request to verify the nonconforming use, the application also contains a request to consider an alteration of the pre-existing, lawful nonconforming use including the following:

- Reconstruction of the bait shop and 5 cabins;
- Upgrade of the workshop/maintenance building
- Modification of recreational facility sites to 35 sites with full hookups, 0 sites with water and electrical hookups, 22 sites with electrical hookups, and 8 sites with no utilities
- Upgrade shower/laundry building
- Construction of a new reservation and administrations office
- Construction of 2 garages and 1 cabana; and
- Expansion of a deck on the restaurant/café

The alteration proposal consists of two types of alterations. Reconstruction of the bait shop and 4 cabins, upgrade of the workshop/maintenance building, upgrade of the shower/laundry building, and the expansion of a deck on the restaurant/café all fall into the category of alteration of an existing nonconforming structure, which is governed by Section 11.3 of the LDO. The remainder of the requested alteration including the modification of recreational facility sites to 35 sites with full hookups, 0 sites with water and electrical hookups, 22 sites with electrical hookups, and 8 sites with no utilities, the construction of a new reservation and administrations office, and the construction of 2 garages and 1 cabana, falls into the category of an alteration/expansion of an existing nonconforming use, which is governed by Section 11.2 of the LDO.

Section 11.3.1 specifies that a Type 2 review is required to alter pre-existing nonconforming structures. However, since this application also includes the review of an alteration or expansion of a pre-existing nonconforming use, a Type 3 review is required per Section 11.2.1.

Table 4 below illustrates the items proposed for alteration and the applicable section of the LDO.

Table 4. Alteration of Lawful Pre-Existing Nonconforming Use

	Verified by County	Requested Alteration	Applicable Section for Alteration
Restaurant/Café	1	Expand Deck	11.3.1
Bait Shop	1	Reconstruct	11.3.1
Cabins with full utilities but without kitchen facility	4	Reconstruct 4 Cabins	11.3.1
Workshop/Maintenance Building	1	Upgrade	11.3.1
Recreational Facility:			
full hookup sites (sewer, water, electric)	22	35	11.2.1
water & electric sites	13	0	11.2.1
electric sites	0	22	11.2.1
no hookup sites (dry)	0	8	11.2.1
Cabanas	16	Construct 1 Additional Cabana	11.2.1
Garages	13	Construct 2 Additional Garages	11.2.1
Reservation and Administration Office	N/A	Construct New Building	11.2.1

Regarding the alteration of the pre-existing nonconforming structures, the applicant's agent has submitted finding and conclusions which indicate that the nonconforming structures proposed for alteration will be in compliance with the standards of the LDO and will not have any greater adverse impact to the surrounding neighborhood. Staff concurs with the submitted findings and therefore can support the reconstruction of the bait shop and 4 cabins without kitchen facilities, the upgrade of the workshop/maintenance building, the upgrade of the shower/laundry building, and the expansion of a deck on the restaurant/café finding that the alteration of the existing nonconforming structures will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands and will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel. The specific details of the structures will be subject to review by the Planning Division to ensure compliance with the authorization provided in this report.

In order to approve the remainder of the proposal— the alteration/expansion of a pre-existing nonconforming use— it must be found that the alteration includes improvements to the existing use to a degree that the entire use complies with or is more in conformance with the development standards of Chapter 9 and will have no greater adverse impacts on the

surrounding neighbourhood in accordance with Section 11.2 of the LDO. The proposal also needs to comply with all of the criteria found in Section 3.1.4(B)(1) and Section 4.3.4.

As illustrated in Table 4, the requested alteration/expansion includes the modification of the recreational facility sites from the recognized 22 full hookup sites (sewer, water, electric) and 13 water and electric sites to 35 sites with full hookups, 22 sites with electrical hookups, and 8 sites with no utilities. The proposed alteration/expansion also includes the construction of a new reservation and administrations office, and the construction of 2 garages and 1 cabana.

Regarding the request to alter/expand the recreational sites, the 8 proposed dry sites (e.g. sites with no utilities) are allowed in a Forest District with the approval of a Conditional Use Permit per Table 4.3-1 in the LDO subject to the criteria found in Section 4.3.10(A). Therefore, these sites are not non-conforming uses per state law and the LDO. These sites are addressed in subsection "C" of this report as new conforming uses subject to Section 4.3.10(A).

Besides the dry sites addressed above, the remaining alteration/expansion is a complicated request. The request is complicated by the fact that separate sewer, water or electric service hookups to individual sites are prohibited in the forest zone (OAR 660-006-0025(3)). The applicant has applied for an expansion under Land Development Ordinance (LDO) Section 11.2.1. While this section does allow for a "limited expansion" of a non-conforming use if it is found that the use meets the appropriate approval criteria, it does not trump state law, as indicated in LDO Section 1.5.1, as follows:

> *"This Ordinance is not intended to abrogate any other law, ordinance, regulation or permit requirement. Where conditions, standards, or requirement imposed by any provisions of this ordinance are more restrictive than comparable standards imposed by other law, ordinance or regulation, the provisions of this Ordinance will govern. Wherever the provisions of any other statute, ordinance or regulation impose other standards that are more restrictive than those set forth in this Ordinance, then the provisions of such statute, ordinance or regulation will govern."*

APPLICABILITY OF GOAL 11

In regards to providing sewer to the additional 13 sites, it appears that the property is currently served by a sewer system. The OAR 660-011-0060 defines a "sewer system" as follows:

> *(f) "Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:*

> *(A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;*
> *(B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215.303.*

This matter was heard in *Oregon Shores Conservation Coalition and Vonderlin and Vonderlin v. Coos County* (LUBA No. 2007-118). In this case the proposal was to establish a 179-space Recreational Vehicle Park, a convenience store, a care taker's residence, a recreation center, and other accessory buildings on a 42.84 acre parcel in the Qualified-Recreation zoning district, and to place Park Model RV's in the spaces. In this case, LUBA determined that the community wastewater treatment system proposed qualified as a "sewer system" as defined in OAR 660-011-0060(1)(f), and is prohibited by OAR 660-011-0060(2) without an exception.

To make this determination LUBA relied on an argument that the proposal more closely resembled a Planned Unit Development than a recreational use RV Park. They based this decision on the level of intensity of development on the property and the fact that the structures (Park Model RVs) can remain setup and occupied for an unlimited period of time make the proposal resemble residential occupancy rather than "temporary" or "seasonal" use.

The distinction between the Coos County case and the current proposal is that in the Coos County case, the proposal was to establish a new RV Park. In this proposal, the request is to expand an already existing campground/RV Park and to place additional Park Model RVs in the 13 spaces proposed to be hooked up to sewer (35 total Park Model RVs). It should be noted that Park Model RV's require setup permits, similar to that of mobile homes. Another difference is that in this case the applicant is proposing and/or already has accessory structures (cabanas, garages) for many of the units and a reservation and administration office. These accessory structures add to the residential character of the subject property.

Adopting the line of reasoning established in the Coos County case, this proposal qualifies as an "Extension of a Sewer System" as defined by OAR 660-011-0060 as follows:

> *(b) "Extension of a Sewer System" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer system in order to provide service to a use, regardless of whether the use is inside the service boundaries of the public or private service provider. The sewer service authorized in section (8) of this rule is not an extension of a sewer;*

The proposal is therefore subject to OAR 660-011-0060(2) below:

> *(2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:*
> *(a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;*

> *(b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;*
> *(c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.*

Thus since this subject property is not within a UGB, does not qualify as a public health hazard, and is not located within a Rural Residential land use designation, OAR 660-011-0060(3), (4), and (8) are not applicable. Hence, OAR 660-011-0060(9) applies as follows and a Goal 11 Exception would be considered necessary in order to expand the sewer system to the additional 13 sites.

> *(9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:*
> > *(a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and, there is no practicable alternative to the sewer system in order to avoid the imminent public health hazard, or*
> > *(b) The extension of an existing sewer system will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14.*

APPLICABILITY OF GOAL 4

As discussed previously, OAR 660-006-0025(3) establishes the uses authorized in Forest Zones. This section specifically prohibits sewer, water, and electric service hookups to individual sites. Additionally, it prohibits intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Since this proposal is expanding uses not allowed in a Forest Zone, a Goal 4 Exception could be deemed to be necessary in accordance with OAR 660 Division 4.

APPLICABILITY OF GOAL 14

In *1000 Friends of Oregon v. LCDC (Curry County), 301 Or 447, 724, P2d 268 (1986)*, the Supreme Court indicated that certain factors could be considered in determining whether a use is urban or rural. These factors are: 1) The size of the area in relationship to the

developed use (density); 2) its proximity to an acknowledged UGB and whether the proposed use is likely to become a magnet for attracting people from outside the rural area; and 3) the types and levels of services which must be provided to it.

Allowing sewer to the additional 13 sites has the potential to trigger two out of the three identified factors. The request at hand is to allow for the hookup of 35 sites on the subject property to sewer, water, and electric service and 22 additional sites to electric (57 total serviced sites). The subject property consists of 30.18 acres of property owned outright by the applicant and 20 additional acres which is leased from the BLM. This makes for a total of 50.18 acres. The density of the proposal is therefore 1.13 units per acre considering all of the 57 units or 0.7 units per acre when only considering the proposed full-service sites. This type of density most closely resembles the density allowed in the UR-1 designation, which is an urban zoning designation. Regarding the services proposed, the Coos County case indicated "the water and sewer systems that are proposed to serve the proposed development are the functional equivalent of community water and sewer systems that commonly serve residential subdivisions and planned unit developments and, for all practical purposes, are urban services".

The Coos County case used this reasoning when concluding that the proposed RV Park was an urban use of the property and was prohibited by Goal 14 without an exception to the Goal based on the density and level of services proposed and the proximity of the proposed development to the City of Bandon UGB. Even though this case lacks one of the three factors used in making the determination that a Goal 14 Exception is necessary, the evidence of the two factors still suggests that this use may be considered to be more urban than rural in form and function.

LIMITED EXPANSION

Additionally, Section 11.2.1 which states *"Limited expansion of a nonconforming use may be approved through a Type 3 review, provided such expansion includes improvements to the existing use, including the proposed expansion, complies with or is more in conformance with the development standards of Chapter 9, and will have not greater adverse impacts on the surrounding neighborhood*, further complicates the requested alteration/expansion.

The term "Limited Expansion" is not defined in the LDO; however, one can safely assume that the term is meant to place limits on potential expansion of a non-conforming use. A definition that is found in the LDO which could be used to interpret "limited expansion" is that of "substantial modification". The definition from (Section 13.3(261)) is as follows:

> *"**SUBSTANTIAL MODIFICATION**: A change or alteration that significantly alters the impact or character of a structure, development or activity.*

The applicant proposes to expand the nonconforming recreational facility spaces by approximately 61%—from 35 total sites to 57 total sites (35 full service hookups and 22 electric sites). Additionally proposed is the addition of 2 garages, 1 cabana, and new

reservation and administrations office building. This also includes the addition of a substantial amount of site area designated to accommodate wastewater treatment.

CONCLUSION: To approve the proposed alteration/expansion, staff would need to find that the proposed alteration/expansion:

1. Is considered a "limited expansion".
2. Would not trigger the requirement for Goal Exceptions to Goals 4, 11, and 14;
3. Will have no greater adverse impacts on the surrounding neighborhood; will cause no significant adverse impact on existing or approved adjacent uses in terms of scale, site design, and operating characteristics; that adequate public facilities are available or can be made available to serve the proposed use; will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

LIMITED EXPANSION
Chapter 11 of the LDO and ORS 215.130 provides direction on allowing an alteration of a pre-existing nonconforming use. As indicated previously in this report the term "limited expansion" is not defined exclusively in the LDO; however a term considered to be an antonym of "limited expansion" is found in the LDO.

As proposed, the modification of the 13 recognized sites with water and electric hookups to include sewer, the addition of 22 sites served by electric, and the construction of 2 garages 1 cabana, and a new reservation and administrations office building, in its entirety, closely relates to the antonym of "limited expansion", which is "substantial modification". Therefore, it cannot be construed to be considered a "limited expansion".

NEED FOR GOAL EXCEPTIONS
As discussed previously in this report, the *Oregon Shores Conservation Coalition and Vonderlin and Vonderlin v. Coos County* (LUBA No. 2007-118) and In *1000 Friends of Oregon v. LCDC (Curry County), 301 Or 447, 724, P2d 268 (1986)* cases established the need for Goal 11 and 14 exceptions in similar situations primarily by making the argument that the uses more closely resembled a Planned Unit Development than a recreational use RV Park. They based this decision on the level of intensity of development on the property and the fact that the structures (Park Model RVs) can remain where they are for an unlimited period of time and be occupied for an unlimited period of time make the proposal resemble residential occupancy rather than "temporary" or "seasonal" use. This is also the case here since staff found previously in this report that regardless of what you call this pre-existing nonconforming use (campground or RV Park), the length of stay on individual should not be restricted based of the convoluted nature of the legal and legislative framework regarding this topic and the historical use of the site.

Thus it appears that the only way to allow the 13 sites, which have been recognized as having water and electric service, to hookup to sewer without triggering the need for a Goal 11 and/or

14 Exception would be to impose a limit on the length of stay on the individual sites. Limiting the length of stay on the sites would result in a more "temporary" use.

The need for a Goal 4 Exception is more difficult to navigate. This goal potentially applies to the proposal for the 13 sites, recognized as having water and electric service, to hookup to sewer as well as the proposal for the 22 additional sites requested to have electric hookups. State and local law appears to provide for the alteration or limited expansion of a pre-existing nonconforming use within parameters. However, does this mean that state law restricting hookups to individual sites can then be abrogated? While there does not seem to be substantive legal history regarding this topic, a reasonable approach would be to assume that if the proposed alteration/expansion meets the definitions and prescriptions found within the applicable nonconforming use sections of state and local law, then exceptions to goals does not apply.

IMPACTS
In order to determine the level of impact associated with the proposed alteration/expansion, the proposed elements must be viewed separately.

First, addressing the alteration/expansion of the 13 recognized sites with water and electric hookups to include sewer. This portion of the proposal by itself appears to fall within the definition of "limited expansion". As indicated previously, substantial evidence suggests that these 13 sites can be recognized as lawfully having water and electric connections. Expansion of sewer to these sites would require additional wastewater treatment area and would require an extension of the sewer lines to these additional sites. Nevertheless, the sites already have lawful connections to water and electric utilities and the additional sewer utility will not create a significant impact or significantly increase the cost of forest practices because lawful pre-existing infrastructure already exists to the sites and the sewer infrastructure can utilize the already disturbed area to service the additional sites.

However, as illustrated previously in this report, there has been a history of sewage violations on this property. In order to allow for the expansion of the sewer system to service the additional 13 sites in a way that will have no greater adverse impacts on the surrounding neighbourhood, a condition of approval must be included to require an annual inspection of the sewage system by the Department of Environmental Quality for compliance with regulations and to minimize the potential future impacts associated with water quality.

With the aforementioned condition of approval and the imposition of a restriction as to the length of stay on the sites, this portion of the proposed alteration/expansion can be approved without triggering the requirements of Goal Exceptions because this portion of the proposal fits into the parameters of state and local law for an alteration/expansion of a nonconforming use.

Second, addressing the addition of 22 sites to be served by electric hookups, as mentioned previously in this report, the expansion from 35 total sites to 57 total sites represents a 61% increase in the number of nonconforming sites. An addition of 61% does not seem to fit within the definition of "limited expansion" and thus cannot be supported through the nonconforming use section of the LDO. Since this portion of the proposal cannot be addressed through the nonconforming use section of the LDO or state law, and considering that the use is prohibited

in a Forest District, an Exception to Goal 4 would be required in order to allow these additional sites with electric service. Moreover, providing 22 additional sites with electric service would require a substantial expansion of the electrical infrastructure. Since no utilities currently exist to these sites, the expansion of electric service would be to sites with no lawful utilities. Providing utilities to these sites would theoretically require additional lands to be disturbed, which could force a significant change in, or significantly increase the cost of, accepted forest practices on this property due to the future need to remove this infrastructure in order to successfully plant and harvest timber. On the other hand, allowing the 22 sites as dry sites (with no utilities) appears to mitigate the impacts to forest practices. This mitigated approach appears to be a preferred alternative to the originally proposal and is addressed in subsection "C" of this report.

Last, the construction of 2 garages 1 cabana, and a new reservation and administrations and office building. These types of structures are considered "accessory structures" per the LDO. It could be argued that the construction of the 2 garages and 1 cabana further convolutes the nature of the pre-existing nonconforming use and the proposed alteration/expansion of the use. Put simply, garages and cabanas are typically associated with domestic types of uses as opposed to more transient types of uses. Allowing permanent structures, which require building permits such as the garages and cabanas do, adds to the perception that the use of the site more closely resembles that of a Planned Unit Development. Additionally, the question of what these structures are accessory to, lingers. In order to avoid exacerbating the confusion over this matter, it seems much easier to simply not allow these structures on this site. Furthermore, these structures in addition to the administrations and office building would all theoretically require additional lands to be disturbed, which could force a significant change in, or significantly increase the cost of, accepted forest practices on this property due to the future need to remove the structures and related improvements (such as footings, pad, etc…) to harvest timber.

Therefore, altogether, staff concludes that the alteration of the 13 recognized sites with water and electric hookups to include sewer can be supported because 1) the proposal fits within the definition of "limited expansion" and the nonconforming use provisions in the LDO and state law; 2) the proposal will have no greater adverse impacts on the surrounding neighborhood; 3) the proposal will cause no significant adverse impact on existing or approved adjacent uses in terms of scale, site design, and operating characteristics; 4) adequate public facilities are available or can be made available to serve the proposed use; 5) the proposal will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and 6) the proposal will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel. Additionally, because of the imposition of a condition limiting the length of stay on these sites, it can be found that the proposal does not trigger the requirement for a Goal 11 Exception.

On the contrary, staff concludes that the remainder of the proposed alteration/expansion including the addition of 22 sites served by electric, the construction of 2 garages 1 cabana, and construction of a new reservation and administrations office building cannot be supported because 1) the proposal does not fit within the definition of "limited expansion" and the nonconforming use provisions in the LDO and state law; 2) the proposal will force a significant

change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and 3) the permanent structures are consistent with the transient type of use found on this site.

C. Section 4.3.10 Parks/Public/Quasi-Public Use Regulations

A) ***Campgrounds*** *[OAR 660-006-0025(4)(e) and (5)]*

1) Campgrounds in private parks shall only be those allowed by this subsection. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three (3) miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.

2) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

3) A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

4) Campsites may be occupied by a tent, travel trailer, or recreational vehicle. Separate sewer, water, or electric service hook-ups shall not be provided to individual camp sites.

5) Campgrounds authorized by this Section shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

6) Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6)-month period.

FINDING/CONCLUSION: As addressed in subsection "B" of this report, the 8 proposed dry sites (no utilities) included within this proposal as an expansion of a pre-existing nonconforming are more appropriately addressed through Section 4.3.10 of the LDO as a new use because dry sites are allowed in a Forest District. In addition, the 22 sites proposed with electric service, cannot be supported as discussed previously; however these sites theoretically can be allowed as dry sites in addition to the 8 originally proposed. With that, staff has reviewed 30 total dry sites (8 originally proposed + 22 originally proposed with electric hookups) under Section 4.3.10 of the LDO as a new use. From a practical standpoint, this approach is further validated because all 30 of these sites are located on Tax Lot 2000 and all 35 of the sites recognized or allowed to have sewer hook-ups are located on Tax Lot 600.

Allowing 30 dry sites meets the criteria found in Section 4.3.10 as follows: The campground has been and will continue to be (as ensured by conditions of approval) designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites and imposition of conditions limiting light polution; the campsites may be occupied by a tent, travel trailer, or recreational vehicle and separate sewer, water, or electric service hook-ups shall not be provided to individual camp sites; the campsites will not include intensively developed recreational uses; and on the 30 dry sites, the overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six (6)-month period.

D. Section 7.1.1 (J) *ASC 90-9 Scenic Resources*

1) *Description*
This area applies to lands identified by the Jackson County Planning Commission and Board of Commissioners as important scenic resources that significantly contribute to the landscape character of the County. They include distinctive scenic areas, views, sites, stream and roadway corridors. The intent of the ASC is to allow permitted natural resource based uses and provide guidelines for discretionary land uses.

2) *Exemptions*
The following uses within ASC 90-9 will be permitted without review by Jackson County, unless otherwise provided by other regulations:

a) Conservation and maintenance of scenic resources;
b) Fish and wildlife habitat management;
c) Historic resource protection measures;
d) Natural areas protection measures;
e) Passive recreation activities;
f) Other land uses or activities permitted in the underlying zone, subject to state and federal regulations; or
g) Forest practices on commercial forest land within the scope of OAR Chapter 729, Division 24, are not subject to the Area of Special Concern, although the regulations continued herein may be used as guidelines for such practices.

3) *Special Findings Required*

a) Within the scenic resource areas of special concern, any land use action subject to review by the Department will include findings demonstrating that the proposal will have no significant impact on identified scenic views, sites, stream and roadway corridors either by nature of its design, mitigation measures proposed, or conditions of approval; and
b) Land use activities that have no significant visual impact will not attract undue attention, and must visually harmonize with

existing scenic resources. This can be accomplished through project designs that repeat the form, line, colors, or textures typical of the subject landscape, and designing the land use activity to blend into the existing landscape.

FINDING/CONCLUSION: Staff concurs with the analysis and conclusions of law provided by the applicant/agent in regards to Section 7.1.1(J). Staff concludes that the alteration/expansion as approved will have no greater impact to the area regarding scenic and aesthetic qualities.

III. **CONCLUSION:**
Staff has reviewed the application against the approval criteria, the applicable standards for the zoning district, the applicable standards contained in LDO, and the comments received from affected agencies and property owners as noticed.

A. Based on the above review, staff has verified the following as preexisting lawful nonconforming uses on the subject property:

1. 21 recreation sites with full hookups (sewer, water, and electric) on tax lot 600; 13 recreation sites with water and electric on tax lot 600; 1 recreation site with full hookups (sewer, water, and electric) on tax lot 2000; 4 cabins with full hookups but no kitchen facilities; Restaurant/Lodge; 2 manufactured dwellings presently exist (unless additional information provided at a later date suggests that the third dwelling was removed less than 4 years prior to the date of information submittal); 1 set of gas pumps; Fixed and floating dock station; Fish cleaning station; Bait shop/store; Dump station; Laundry and shower building; Maintenance building; 16 cabanas; and 13 garages without plumbing.

B. Based on the above review, staff has approved the following:

1. An alteration/limited expansion of the 13 preexisting nonconforming recreation sites served with water and electric on tax lot 600 to include sewer hookups.
2. The in-kind reconstruction of the bait shop and 4 cabins without kitchen facilities.
3. The upgrade of the workshop/maintenance building and the shower/laundry building.
4. The expansion of a deck on the restaurant/café.
5. A new campground including 30 dry sites (no hook-ups).

C. Based on the above review, staff has denied the following:

1. Verification of a playground, 5th cabin, 3rd manufactured dwelling, and a horse camp as preexisting lawful nonconforming uses on the subject property.
2. An alteration/limited expansion of the preexisting nonconforming recreation sites to include the construction of 30 additional sites with electric hookups, 2 additional garages, 1 additional cabana, and a new reservation and administrations office building.

IV. **DECISION:**
File ZON2008-02203, an application for a Type 3 land use decision to allow the verification and alteration/expansion of a nonconforming use on property described as Township 39 South, Range 3 East, Section 16, Tax Lot 600, and Township 39 South, Range 3 East, Tax Lot 2000 within the Forest Resource zoning district, is hereby approved subject to the following conditions:

1. Any future alteration/expansion including relocation of structures, dwellings, and recreational facility sites not included in this review needs to be reviewed through the appropriate process specified in the Land Development Ordinance.
2. **Prior to submittal of Building Permits**, the applicant must submit a revised site plan to reflect the verified and approved uses on the site including removal of the following: electrical hook-ups to the 30 additional sites, 2 additional garages, 1 additional cabana, and the reservation and administrations office building.
3. Evidence that the existing fuel pumps meet State of Oregon Department of Environmental Quality standards shall be submitted to the Planning Division **prior to final of building permits** on the subject property.
4. An inspection of the sewage disposal system by the Department of Environmental Quality will be required to ensure initial compliance with regulations. The sewage system on the subject property shall be inspected by the Department of Environmental. Evidence of the DEQ inspection shall be submitted to the Planning Division **prior to submittal of Building Permits**.
5. An annual inspection of the sewage disposal system by the Department of Environmental Quality will be required to ensure ongoing compliance with regulations and to minimize the potential future impacts associated with water quality. The sewage system on the subject property shall be inspected annually by the Department of Environmental. Evidence of the DEQ inspection shall be submitted to the Planning Division **prior to July 1st each year**.
6. **Prior to submittal of Building Permits**, a floor plan and elevation of the proposed reconstruction of the bait shop shall be submitted to the Planning Division to ensure compliance with the alteration/expansion granted through this review.

7. **Prior to submittal of Building Permits**, a floor plan and elevation of the proposed reconstruction of the 4 cabins shall be submitted to the Planning Division to ensure compliance with the alteration/expansion granted through this review.
8. **Prior to submittal of Building Permits**, a floor plan and elevation of the proposed workshop/maintenance building shall be submitted to the Planning Division to ensure compliance with the alteration/expansion granted through this review.
9. **Prior to submittal of Building Permits**, a floor plan and elevation of the proposed upgrade of the shower/laundry building shall be submitted to the Planning Division to ensure compliance with the alteration/expansion granted through this review.
10. **Prior to submittal of Building Permits**, a floor plan and elevation of the proposed expansion of a deck on the restaurant/café shall be submitted to the Planning Division to ensure compliance with the alteration/expansion granted through this review.
11. The 30 dry campsites approved through this review may be occupied by a tent, travel trailer, or recreational vehicle. Separate sewer, water, or electric service hook-ups shall not be provided to the individual camp sites. Overnight temporary use on the 30 dry sites shall not exceed a total of 30 days during any consecutive six (6)-month period.
12. Overnight temporary use on the 13 sites approved as an alteration to a nonconforming use to include septic hookups shall not exceed a total of 45 consecutive days and not to exceed 90 total days per calendar year. Each occupant of the 13 sites shall be provided a space rental contract that includes an addendum explaining that the maximum occupancy of the site shall not exceed 45 consecutive days and not to exceed 90 total days per calendar year by any single individual or group of individuals. Each addendum must be signed by the occupant of the site. Copies of said addendums shall be furnished to the Planning Division when requested.
13. A tenancy report which provides a daily list of tenants of each of the 13 sites approved as an alteration to a nonconforming use to include septic hookups shall be provided to the Planning Division **prior to July 1st each year**.
14. Mail shall not be accepted on behalf of occupants of the 13 sites approved as an alteration to a nonconforming use for a period greater than 45 consecutive days and mail service will not be provided to any of the individual sites on the subject property.
15. All new lighting proposed on the subject property shall be properly hooded to minimize light bleeding onto the surrounding properties. **Prior to submittal of Building Permits** for any lighting on the subject property, the applicant shall submit detailed plans of the lighting to the Planning Division for review of compliance with this condition.
16. Two (2) pre-existing, lawful, non-conforming dwellings exist and continue to exist at this facility unless additional information provided at a later date suggests that the third dwelling was removed less than 4 years prior to the date of information submittal. Future review may require a separate application if it is found that discretionary review is necessary to

make the determination.

17. Staff finds all pre-existing, lawful, non-conforming uses identified are subject to and will continue to be subject to Chapter 11.

18. Fire Safety Inspection: **Prior to issuance of any building permits on the subject property**, the Jackson County Fire Safety Inspector must inspect the property to verify that the Wildfire Safety Standards of Section 8.7.1 are in place. A Fire Safety Inspection must be requested and paid for in person at the Planning Department when all requirements have been met. An information sheet with a complete checklist of all requirements is available from the Planning Department.

    The following is a summary of the requirements that must be in place prior to the inspection request:

    A) A plot plan indicating the proposed structure(s) must be on record in the Planning Department.

    B) The proposed structure(s) must be staked out on the site.

    C) Address signs must be installed at the driveway entrance (visible from both directions) and at all forks in the drive, with directional arrows as needed.

    D) Driveway access to within 50 feet of all buildings must be constructed to support a gross vehicle weight of 50,000 pounds to accommodate heavy fire-fighting equipment. The driveway must terminate in an approved turnaround arrangement that meets the same load carrying capacity.

    E) A 100-foot fuelbreak must be developed and maintained around all new construction. If the 100-foot fuelbreak extends onto an adjoining parcel(s), then either a fuelbreak easement(s) must be recorded and submitted or a fuelbreak reduction application must be approved by the County.

    If Planning Services staff is not able to make the inspection, then the applicant needs to hire an engineer or land surveyor to make a determination that the standards have been met.

19. Fire Safety (At Time of Permits): **At the time of application for building permits**, evidence must be provided to Planning demonstrating the proposed improvement will meet the following Fire Safety Standards as required by JCLDO Section 8.7.1:

    A) Roof Coverings: All structures shall have Class A or B roofing according to Section 1504 of the State of Oregon Structural Specialty Code. This prohibits wood roofing of any type, including pressure treated wood shingle or shakes.

    B) Chimneys: All chimneys for new dwellings, or other significant outbuildings, shall have a spark arrester.

20. Deed Declaration: **Prior to issuance of permits**, a deed declaration which acknowledges and accepts farm and forest activities on adjacent lands and requires owner control of dogs shall be recorded. The metes and bounds description (can be found on the deed or contract) for the subject property must be attached to the covenant. The covenant must be signed in the presence of a notary public and taken to the County Clerk's Office for recording. After the covenant has been recorded, a copy must be returned to Planning Services for notation in this file.

21. **Expiration:** Pursuant to LDO Section 4.1.3, this approval is valid for four (4) years from the date of the final decision, and will expire unless development has been initiated, as defined in LDO Section 13.3. This approval may be extended for an additional period not to exceed two years upon request, pursuant to the provisions of Section 2.6.8.

This decision is limited to the County's review of applicable zoning rules and land use law, as outlined in the Jackson County Comprehensive Plan, the Jackson County Land Development Ordinance, and the Oregon Administrative Rules and Oregon Revised Statutes relating to land use. Other County, State and Federal agencies may have regulatory review authority for development projects. The decision rendered herein neither implies nor guarantees compliance with the requirements of any other regulatory agency. It is the property owner's responsibility to ensure that the development complies with the requirements of any other regulatory agency or provisions of law prior to initiating development.

Notice of this decision is being sent to property owners in the vicinity of this property. They or the property owner have the right to appeal the decision within 12 days of the date this decision is mailed. This decision will be final on the 13th day, provided an appeal hearing has not been requested.

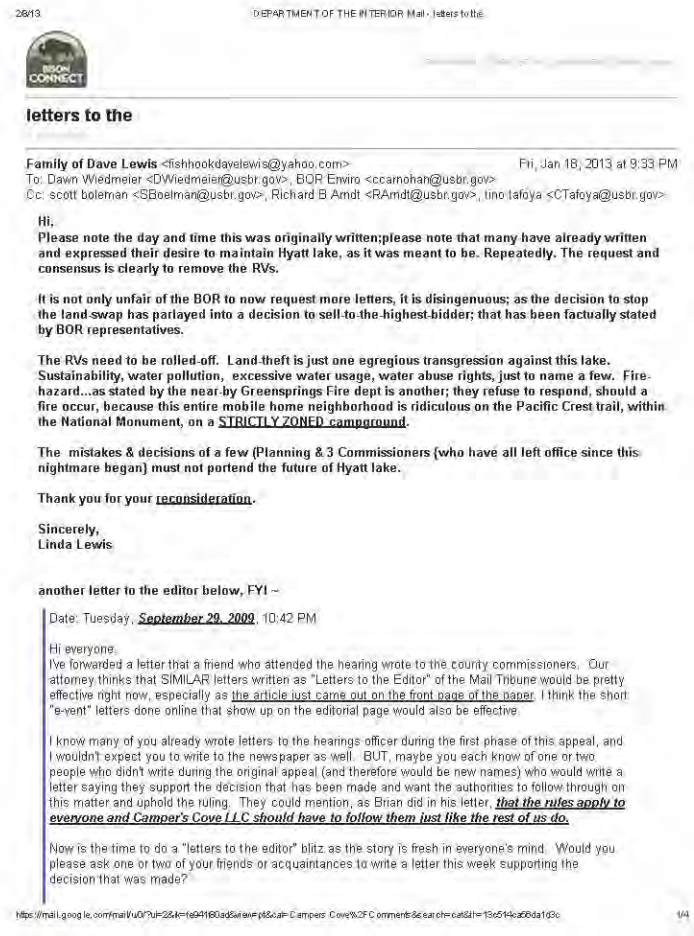
JACKSON COUNTY PLANNING DIVISION

_____ _____

By: Tracie Nickel, Senior Planner Date

_____ _____

By: Josh LeBombard, Senior Planner Date



2/8/13 DEPARTMENT OF THE INTERIOR Mail - letters to the

letters to the

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Jan 18, 2013 at 9:33 PM
To: Dawn Wiedmeier <DWiedmeier@usbr.gov>, BOR Enviro <ccarnohan@usbr.gov>
Cc: scott boleman <SBoelman@usbr.gov>, Richard B Arndt <RArndt@usbr.gov>, tino tafoya <CTafoya@usbr.gov>

Hi,
Please note the day and time this was originally written;please note that many have already written and expressed their desire to maintain Hyatt lake, as it was meant to be. Repeatedly. The request and consensus is clearly to remove the RVs.

It is not only unfair of the BOR to now request more letters, it is disingenuous; as the decision to stop the land-swap has parlayed into a decision to sell-to-the-highest-bidder; that has been factually stated by BOR representatives.

The RVs need to be rolled-off. Land-theft is just one egregious transgression against this lake. Sustainability, water pollution, excessive water usage, water abuse rights, just to name a few. Fire-hazard...as stated by the near-by Greensprings Fire dept is another; they refuse to respond, should a fire occur, because this entire mobile home neighborhood is ridiculous on the Pacific Crest trail, within the National Monument, on a STRICTLY ZONED campground.

The mistakes & decisions of a few (Planning & 3 Commissioners (who have all left office since this nightmare began) must not portend the future of Hyatt lake.

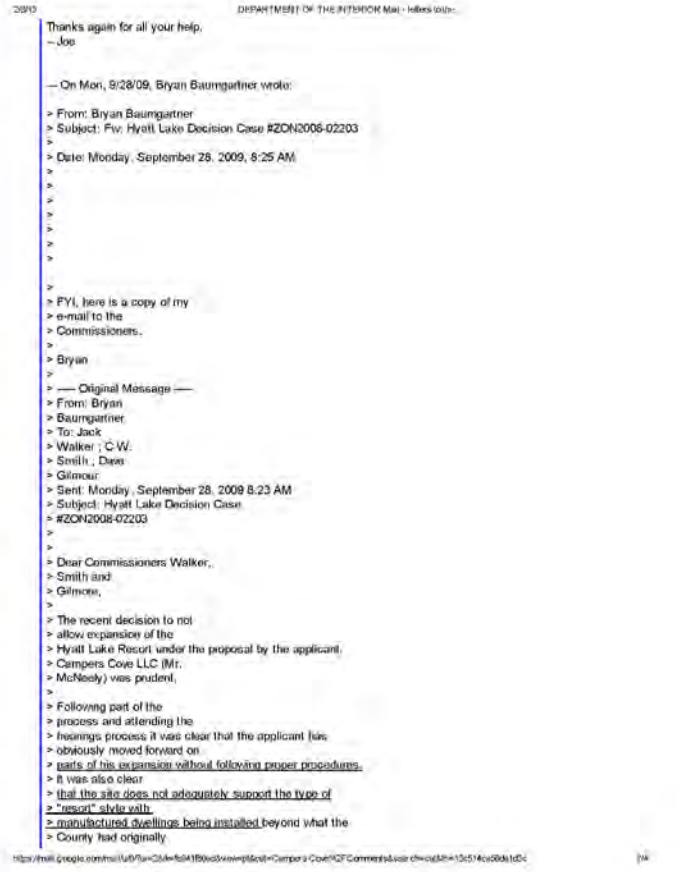
Thank you for your reconsideration.

Sincerely,
Linda Lewis

another letter to the editor below, FYI --

> Date: Tuesday, ***September 29, 2009***, 10:42 PM
>
> Hi everyone,
> I've forwarded a letter that a friend who attended the hearing wrote to the county commissioners. Our attorney thinks that SIMILAR letters written as "Letters to the Editor" of the Mail Tribune would be pretty effective right now, especially as the article just came out on the front page of the paper. I think the short "e-vent" letters done online that show up on the editorial page would also be effective.
>
> I know many of you already wrote letters to the hearings officer during the first phase of this appeal, and I wouldn't expect you to write to the newspaper as well. BUT, maybe you each know of one or two people who didn't write during the original appeal (and therefore would be new names) who would write a letter saying they support the decision that has been made and want the authorities to follow through on this matter and uphold the ruling. They could mention, as Brian did in his letter, ***that the rules apply to everyone and Camper's Cove LLC should have to follow them just like the rest of us do.***
>
> Now is the time to do a "letters to the editor" blitz as the story is fresh in everyone's mind. Would you please ask one or two of your friends or acquaintances to write a letter this week supporting the decision that was made?

https://mail.google.com/mail/u/0/?ui=2&ik=fe941f80ad&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c514ca66da1d3c 1/4



2/8/13 DEPARTMENT OF THE INTERIOR Mail - letters to the

> Thanks again for all your help.
> --Joe
>
> --- On Mon, 9/28/09, Bryan Baumgartner wrote:
>
> > From: Bryan Baumgartner
> > Subject: Fw: Hyatt Lake Decision Case #ZON2008-02203
> >
> > Date: Monday, September 28, 2009, 8:25 AM
> >
> >
> >
> >
> >
> >
> >
> >
> > FYI, here is a copy of my
> > e-mail to the
> > Commissioners.
> >
> > Bryan
> >
> > ---- Original Message ----
> > From: Bryan
> > Baumgartner
> > To: Jack
> > Walker ; C W.
> > Smith ; Dave
> > Gilmour
> > Sent: Monday, September 28, 2009 8:23 AM
> > Subject: Hyatt Lake Decision Case
> > #ZON2008-02203
> >
> >
> > Dear Commissioners Walker,
> > Smith and
> > Gilmore,
> >
> > The recent decision to not
> > allow expansion of the
> > Hyatt Lake Resort under the proposal by the applicant,
> > Campers Cove LLC (Mr.
> > McNeely) was prudent,
> >
> > Following part of the
> > process and attending the
> > hearings process it was clear that the applicant has
> > obviously moved forward on
> > parts of his expansion without following proper procedures.
> > It was also clear
> > that the site does not adequately support the type of
> > "resort" style with
> > manufactured dwellings being installed beyond what the
> > County had originally

https://mail.google.com/mail/u/0/?ui=2&ik=fe941f80ad&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c514ca66da1d3c 2/4

During the preparation of responses to comments on the Draft Environmental Assessment, it was noted that considerable confusion exists between actions proposed for Camper's Cove Resort and those taken related to Hyatt Resort. Comments submitted toward a Jackson County hearing in 2009 regarding Hyatt Resort will not be considered in this Environmental Assessment. The comments on the following pages through page 55 are of this nature.

The "Land Swap" referenced applied to discussions regarding lands potentially needed for Reclamation's Hyatt Dam Safety of Dams Project (SOD). Reclamation has since revised design concepts for SOD. Private lands will not be required to effect dam safety improvements.

With regard to the 100-foot setback, the United States delineated the 3.53-acre parcel to include a 100-foot fuelbreak from all existing structures. The setback distance is consistent with Jackson County requirements.

> approved. The applicant want further to install decks
> and parking garages
> to these dwellings. Any additional units installed beyond
> permit requirements
> should be required to be moved out!
>
> It was also interesting
> that there were questions
> brought forward during the hearing concerning the moving of
> a manufactured home
> from the Campers Cove site to the Hyatt Lake Resort
> and questioning if the
> permitting process occurred. In the hearing decisions
> report page 17
> the County Staff denied a "play ground, 5th
> cabin, 3rd manufactured
> dwelling and a horse camp" as well as "the
> construction of 30 additional sites
> with electric hookups, 2 additional garages, 1 additional
> cabana and a new
> reservation and administration office building." All
> of the denied uses have
> already been installed by the applicant and must be removed
> as a condition of
> the staff report.
>
> As a County resident that
> has conducted
> improvements I had to follow the permit process and hold to
> the zoning and
> building requirements and what the Campers Cove LLC did is
> completely
> unacceptable. As my elected officials I request you
> maintain briefings on the
> above subject matters and see to it that the applicant is
> held accountable for
> his actions and must return the site back to its proper
> zoned condition! All
> penalties and fines should be levied which may help recover
> some of the many
> personnel hours that have been expended due to a lack of
> poor judgment
> and apparent circumvention of our County Zoning rules
> by the
> applicant.
>
> Regards,
>
> Bryan
> Baumgartner
> 6345 Foothill
> Road
> Central Point, OR
> 97502
>

Hyatt Lake Resort Decision / Hearing Officer Rubenstein

Family of Dave Lewis <fishhookdavelew@yahoo.com> Fri, Jan 18, 2013 at 6:13 PM
To: BLM Ericka Keeanohan@usbr.gov>
Cc: "Simpson"@usbr.gov>

This was sent months ago ~ the decision has been made; no landswap, but sale to the highest bidder.
FYI & thank you,
Linda Lewis

o: CHoyt@usbr.gov SBoehme@usbr.gov, DWedmore@usbr.gov, RArnold@usbr.gov

Hearing Officer's Decision Enclosed.

-Ii
This is the Hearing Officer's Ruling. It is quite clear that Jackson County did not apply the laws equally and do the right thing. It is clearly evident.

Please do not allow the LUOR to acquiesce. These units are sold, advertised and used under the guise of RVs. They should be subject to the public land according laws, policies, blah blah, and not illegally / unlawfully changing encroachment should not be rewarded.

The fees / concern should not be if they will comply. They have already shown that they have no ability to comply.

19 RVs were purposely and intentionally placed on Federal lands. This is far more than was been "leased" by and to the profit of a few. The survey pins were maliciously and purposefully moved. This area is maintained as a rustic, public campground.

The decisions that are now being made by a small group of individuals, will have lasting effects for years to come. Mr. Rubenstein was wise in his understanding of the current laws and future of the Hyatt lake campground area.

Also, this should not be an issue that simply, as Rik Arent stated, " wants to be done with," this should carefully be addressed according to the strictest laws of the Federal Government, State Government and concern for all tax-payers, not just developers who have clearly and purposefully broken the law.

Take good care,
Linda

Ruling enclosed:

Enclosed is the decision by hearings officer, Donald Rubenstein, Jackson County. It is 50 pages and might help better explain the situation.

HO Opinion.PDF
244K

BEFORE THE HEARINGS OFFICER FOR JACKSON COUNTY, OREGON

In the matter of an Appeal from the Tentative Decision approving an application for verification expansion of a nonconforming use on Tax Lot 600, Township 39 South, Range 3 East, Section 16 and Tax Lot 2000, Township 39 South, Range 3 East in Jackson County	Case No. ZON2008-02203 **DECISION AND FINAL ORDER**
Applicant: Campers Cove Resort LLC	
Appellant: Southern Oregon Citizens for Responsible Land Use Planning	
Appellant: CSA Planning, Ltd for Campers Campers Cove Resort LLC	

THE APPLICATION IS APPROVED IN PART.

THE APPLICANT'S APPEAL IS DENIED.

THE OPPONENT'S APPEAL IS GRANTED.

NATURE OF APPLICATION

On December 23, 2008, Campers Cover LLC (the "Applicant") filed an application through its agent CSA Planning, Ltd seeking verification of a variety of nonconforming uses and the expansion of some of those uses (the "Application") on Tax Lot 600, Township 39 South, Range 3 East, Section 16 and Tax Lot 2000, Township 39 South, Range 3 East (the "Property"). On May 19, 2009, following review and analysis, the Jackson County Planning Division Staff (the "Staff") issued a Notice of Tentative Decision granting the Application in part with conditions (the "Staff Report"). On June 1, 2009, Southern Oregon Citizens for Responsible Land Use Planning (the "Opponent"), filed a timely appeal seeking a hearing on the decision in the Staff Report (the "Opponent's Appeal"). One June 1, 2009, CSA Planning, Ltd filed a timely appeal on behalf of the Applicant seeking the approval of the uses that were denied in the Staff Report and relief from some of the conditions of approval (the "Applicant's Appeal").

The Staff provided proper notice to the public for the hearing, and the Hearings Officer conducted a hearing on June 29, 2009, following which the Hearing was closed. The record was held open for three distinct periods and purposes as follows: Until 4:00 p.m. on July 13, 2009, for all participant to submit any relevant evidence and argument related to the criteria (the "First Open Record Period"), then until 4:00 p.m. on July 27, 2009, for all participants to submit evidence and argument that was limited to rebuttal of submittals made during the First Open Record Period (the "Second Open Record Period"), and until 4:00 p.m. on August 10, 2009, exclusively for the Applicant and limited to rebuttal argument regarding all matters in the proceeding (the "Final Open Record Period").

The matter is now properly before the Hearings Officer for decision.

MATTERS OF EVIDENCE

The Hearings Officer allowed submittals to be made via email for the convenience of the participants and required that hard copies be received by 4:00 p.m. on the day following the last day of any given open record period. Both the Applicant and the Opponent missed the email deadline on some submittals, and the Hearings Officer concludes that it was not for want of their effort to file timely submittals.

The Applicant, for example, submitted a voluminous set of documents for the First Open Record Period. It was emailed at 3:55 p.m. from his agent on the final day (Record 1154). It was clocked in by the County at 4:05 p.m., presumably because of the length of time it took to transmit and be received. Because of its size, the County's email system quarantined it, making it unavailable until it could be released by the County's technicians. A similar delay apparently was caused by the County's system to receipt of the Opponent's submittal in the Second Open Record Period. Record1453.

The participants used best efforts to meet the deadlines that had been established, but these efforts were frustrated by technical limitations beyond their control. Accordingly, the submittals are held to have been made in a timely manner. To hold otherwise would work a significant injustice on them.

During the Hearing, the Hearings Officer requested that the participants provide hard copies of all statutes, LUBA and court decisions and other authorities. The Applicant submitted many pages of such

authorities following the close of the Final Open Record Period. These submittals are not evidence and do not violate the limitation on submittals.

The Opponent maintains that some of the submittals made by the Applicant during the Second Open Record Period are beyond the established scope of rebuttal evidence and asked the Hearings Officer to reopen the Record for 7 days to allow response. The Hearings Officer denied the request, but the Opponent nonetheless submitted a response brief and evidence. The Hearings Officer determines that the evidentiary submittal of the Applicant are within the limitation and do not constitute impermissible new evidence. The brief submitted by the Opponent in this regard appears at Record 1464-1483 is disallowed and excluded from the Record.

COUNTY JURISDICTION OVER FEDERALLY OWNED LAND

The Applicant resists the County's regulatory jurisdiction with respect to the Leased Land because they are owned by the United States. He cites ORS 197.390 and 395. They provide as follows:

> "197.390 Activities on federal land; list; permit required; enjoining violations. (1) The Land Conservation and Development Commission shall study and compile a list of all activities affecting land use planning which occur on federal land and which the state may regulate or control in any degree.
>
> (2) No activity listed by the commission pursuant to subsection (1) of this section which the state may regulate or control which occurs upon federal land shall be undertaken without a permit issued under ORS 197.395.
>
> (3) Any person or agency acting in violation of subsection (2) of this section may be enjoined in civil proceedings brought in the name of the State of Oregon. [1975 c.480 §2; 1981 c.748 §33]
>
> 197.395 Application for permit; review and issuance; conditions; restrictions; review. (1) Any person or public agency desiring to initiate an activity which the state may regulate or control and which occurs upon federal land shall apply to the local government in which the activity will take place for a permit. The application shall contain an explanation of the activity to be initiated, the plans for the activity and any other information required by the local government as prescribed by rule of the Land Conservation and Development Commission.
>
> (2) If the local government finds after review of the application that the proposed activity complies with goals and the comprehensive plans of the local government affected by the activity, it shall approve the application and issue a permit for the activity to the person or public agency applying for the permit. If the governing body does not approve or disapprove the permit within 60 days of receipt of the application, the application shall be considered approved.

> (3) The local government may prescribe and include in the permit any conditions or restrictions that it considers necessary to assure that the activity complies with the goals and the comprehensive plans of the local governments affected by the activity.
>
> (4) Actions pursuant to this section are subject to review under ORS 197.830 to 197.845."

He argues that since the Land Conservation and Development Commission ("LCDC") has never promulgated the prescribed list, no local jurisdiction can regulate activities on federally owned lands. He also argues that since the Application was filed more than 60 days prior to the issuance of the Staff decision and the County has yet to issue a final decision with respect to the Leased Land, the activities applied for there must be deemed approved according to ORS 197.395(2).

The County Counsel addressed this argument in a memo submitted following the Hearing, and the Applicant does not challenge the County's right to such participation. Essentially, the County Counsel argues that the County's jurisdiction over private activities on federal lands is not dependent on the cited provisions. Rather, that jurisdiction is found in ORS 197.005, 197.175(2) and 215.020. He maintains that the provisions of ORS 197.390 and 197.395 merely "provide a process for such regulation" once the list is promulgated. Record 1146. He further argues that "ORS 197.390 and 197.395 have never come into effect, as they are not self-effectuating." *Ibid*. He specifically asserts that the 60 day limitation of ORS 197.395(2) is as yet without effect as well in the absence of the list.

LDO 1.4 holds similar language. In pertinent part it provides,

> "The provisions of this Ordinance apply to all land, buildings, structures, and uses thereof within the unincorporated area of Jackson County to the extent allowed by Federal, State and local laws, including land owned by local, state, or federal agencies (see Section 6.3.6(B)). Except for Federal activities on federally-owned land, any activity the State regulates or controls and which occurs upon federally-owned land must apply for a local land use permit when such permit would be required to initiate similar private activities on private land. If a decision is not rendered within 60 days of receipt of the application for State-regulated activities on federally-owned land, the application will be considered approved. *[ORS 197.395]*"

With respect to the effectiveness of this provision, the County Counsel argues that it, too, is dependent on DLCD's promulgation of the list. Hence it is no barrier to the County's jurisdiction over the Leased Land. The County Counsel's position prevails, in part on other grounds.

The Applicant's position is that in the absence of the LCDC list, the state has no authority to regulate land use activities on federal lands. Nonetheless, he is taken to be arguing that this constraint notwithstanding, an applicant must apply for approval under ORS 197.395. If he is correct, the act of applying would trigger the 60 day decision deadline for the local authority take final action on the application based on the very regulations that he argues are inapplicable. The argument is internally inconsistent. Either the County can require compliance with its land use laws in which case the Applicant is required to submit an application, or it cannot, in which case an application is a nullity. Here the Application was submitted from which an inference can be drawn that the Applicant believed – at least at the time – that the County's regulations govern the activities.

The Applicant is arguing that without the list the state and its subdivisions simply have no regulatory jurisdiction over activities on federal lands, specifically arguing that ORS 197.390 requires that the list precede any jurisdiction (Record 1491). The statute has no such requirement. It simply requires LCDC "to study and compile a list of all activities affecting land use planning which occur on federal land and which the state may [that is, has the authority to] regulate or control in any degree." It is a ministerial activity that merely gathers in one place the activities on federal land to which regulations already apply. It is, presumably, for the convenience of regulators and to assure consistency in the application of land use laws on federal lands. There is nothing to suggest that it is a precedent to jurisdiction.

Further, if this provision is read in the manner urged by the Applicant, the necessary conclusion is that the Oregon Revised Statutes themselves fail to confer any land use regulatory authority over federal land. That would have to come from the compilation of a list by a state agency. This would be a strained interpretation of ORS 197.390, and it would defy a fundamental principal of governmental capacity: It is the Legislature and not regulatory commissions that actually create jurisdiction.

The Applicant denies that the County Counsel's cited statutes "grant authority to regulate land use activates on federal land in light of the specific subsections of Chapter 197 entitled 'Activities on Federal Land'" since "[t]hese statutes contain particular provisions for state action in determining what authority the state has to regulate activities on federal land and then provides how the county would regulate such

activities." Record 1485. The Applicant is attributing a jurisdiction-creating capacity to the promulgation of the list which that act cannot have.

The Applicant argues that BLM administers the Leased Land under the Federal Land Policy and Management Act (43 USC 1701 *et seq.*) (the "FLPMA"). Thereunder, the Secretary of Interior must comply with state pollution laws and must develop land use plans that are consistent with state and local plans to the maximum extent Secretary finds consistent with federal law. That statute also authorizes state officials to "furnish advice" to the Secretary regarding development and revision of land use plans, guidelines, rules and regulations for public lands. He concludes, "If Congress intended to delegate to the State of Oregon the authority to adopt land use plans to regulate federal land and prohibit certain uses (as opposed to giving advice and consultation) this section would not have been adopted as part of the FLPMA." Record 1487. The Applicant misconstrues the FLMPA.

43 USC 1712(c)(9) reads.

> "In the development and revision of land use plans, the Secretary shall...(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended [16 U.S.C. 4601-4 et seq.], and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the *maximum extent he finds consistent* with Federal law and the purposes of this Act." Emphasis added.

The Applicant mischaracterizes this provision by relegating a state or local governmental entity's role merely to furnishing advice. The language authorizes the furnishing of such advice for a specific purpose, viz., complying with the mandate to "coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located." Local officials are authorized to provide this information, and it *must* be used to coordinate federal activities with local regulations. The Secretary is under an additional directive from the FLPMA: "Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act."

The Record has no evidence to suggest that the County's land use requirements are objectionable to the federal government. To the contrary, the Bureau of Reclamation, an agency under the authority of the Secretary of Interior, submitted a letter which acknowledges the County's regulatory jurisdiction over the Leased Land.

> "The Bureau of Reclamation requests that any approval of construction, rehabilitation, modification, expansion, reconstruction or any form of development associated with the subject Application for Land Use Permit, where said lands lie within the area owned by the United States and administered by the Bureau of Reclamation as part of its Rogue River Basin Project be contingent on the applicant obtaining any required permits or other written approval from all federal, state and local agencies.
>
> "The lands in question are indentified as Tax Lot 2000, Map 39 E...and are operated by Campers Cove LLC. The lease between Campers Cove LLC and [the Bureau of] Reclamation states that 'any new construction or reconstruction of the facilities on these federal lands shall require the prior approval of the United States and the issuance of a new lease at the option of the United States.' To date Campers Cove, LLC has not requested or received written approval of [*sic*] otherwise to undertake any of the activities requested to the Jackson County Development Services." 901.[1]

The Applicant's reliance on *California Coastal Commission v. Granite Rock Company*, 480 US 572 (1987) ignores the specific Congressional mandate to the Secretary to coordinate land use activities with state and

[1] It is worth noting that many of the uses and structural alterations for which the Applicant seeks approval have already been put in place, apparently in violation the federal lease.

local regulations within certain limits. It appears in this case that under that mandate and the discretion granted the Secretary under the FLPMA, the United States has subjected itself to such regulations.

Until LCDC promulgates the required list, the County cannot know which activities on federal land are subject to the 60 day limit, and the standard limits for a final decision apply.

APPLICABLE CRITERIA

The criteria which apply to this appeal are set forth in the 2004 Jackson County Land Development Ordinance, as amended ("LDO") Sections 3.1.4(B), 4.5.4, 4.3.10(A), 7.1.1(J), 11.2, 11.3, 11.4 and 11.8 (the "Applicable Criteria").

DISCUSSION AND FINDINGS OF FACT

Hyatt Lake Resort (the "Resort") occupies portions of the Property. Tax Lot 2000, Township 39 South, Range 3 East (the "Leased Land") is owned by the United States and administered by the Bureau of Land Management ("BLM") as a part of the Cascade-Siskiyou National Monument. It is leased to the Applicant. Tax Lot 600, Township 39 South, Range 3 East, Section 16 is a 30.18 acres parcel owned by the Applicant (the "Private Land"). The Property is zoned Forest Resource the purpose of which is "to conserve forest lands and implement the Oregon Administrative Rules, [*sic*] and Statewide Planning Goal 4...." LDO 5.2.2. An undisclosed portion of the Private Land supports a portion of the Resort.

Hyatt Lake Resort – The Setting

The Resort is in the Cascade-Siskiyou National Monument which is managed by the BLM for forest recreation uses. It is located on the west side of the Cascade Mountains, approximately 21 miles from Ashland and 48 miles from Klamath Falls. The area is used extensively for many forms of recreation year round including hiking, camping, fishing, boating, hunting, wildlife observation, scenic enjoyment, snowmobiling and cross country skiing.

There are many lakes, streams, campgrounds and established trails. The Pacific Crest Trail transects this area and passes within less than ½ mile of the Resort. There are at least two rustic mountain resorts, Lake of the Woods and Greensprings Inn in the area. Additionally, the Resort is in close proximity

to the Upper Klamath River, Soda Butte National Monument and Mountain Lakes and Sky Lakes Wilderness Areas.

There is an unknown but apparently modest number of private residences in close proximity to the Resort, as there are in other areas surrounding Hyatt Lake. Some of the residences are occupied year round, while others are used for weekends and vacations. The Resort is also adjacent to BLM's Hyatt Lake Campground which provides walk-in and drive-in campsites as well as developed recreational facilities for swimming, sports, beach activities and the like. It also provides a playground.

Hyatt Lake Resort is one of only two so-called luxury resorts in the area. The other, Campers Cove, was purchased by the Applicant several years ago and has been fully developed with park models (see below) that replaced the RV spaces that had been there for many years. The Record does not disclose whether any permits were sought or issued for that development. Campers Cove is within a ¼ mile of the Resort and substantially identical in character, but smaller.

Hyatt Lake Resort – Uses

The Resort has been in existence since at least the mid-1950s, and over time it was developed with tent sites, pull through RV sites, a few rental cabins, a dock, a fish cleaning station, a few mobile homes, a sewage treatment system and RV dump facility, a maintenance shop and other facilities related to a rustic lakeside mountain resort. Much of the development was in place prior to the enactment of zoning regulations by Jackson County.

The Applicant provided documentary and anecdotal evidence to show what the development was at various times in the past, by way of verifying the nature and extent of the nonconforming use. To some extent this effort was unsuccessful. However, certain aspects about the historic use of the Resort are undisputed: It had, *inter alia*, a sewer system of some capacity, a variety of cabins, tent sites and pull through RV sites, a restaurant, and other physical improvements. It is also undisputed that it was not used in the winter because of the extreme weather. There is some evidence that a caretaker stayed in residence during some winters historically. There were 4 or 5 cabins without kitchens that were rented in some winters, but there was no overnight winter recreational use of the Resort beyond that.

In about 2006 the Applicant purchased the Resort and instituted a modernization and improvement program. The restaurant and some of the cabins were upgraded as were other structures. Some structures were removed. Roadways were also improved. As a part of this program the Applicant also converted the pull through RV spaces to sites for park model RVs ("park models"). Park models, also apparently called "park trailers", are pre-manufactured structures of not more than 400 square feet that are designed to be placed on wheels and pulled to a set up location by a tractor rig, substantially identical to those vehicles that pull freight trailers on highways. (See photos at Record 227-229, 1127 and 1128.) They are manufactured in conformance with the Division 918-525 of the Oregon Structural Code, that is, the "Building Code". Section 918-525-0005(22) defines a park model as a Park Trailer "or "Recreational Park Trailer" as follows:

> "a recreational vehicle built on a single chassis, mounted on wheels, which may be connected to utilities necessary for operation of installed fixtures and appliances, and with a gross trailer area not exceeding 400 square feet when in the set-up mode. Such a vehicle shall be referred to and identified by the manufacturer or converter as a recreational vehicle."

In all, 35 such sites (the "Sites") were developed at the Resort. Twenty-two now are fully serviced of which 21 are on the Private Land and one is on the Leased Land.[2] The 13 additional such sites for which the Application seeks approval are considered an expansion of a nonconforming use, currently having electricity and water but no sewer connection. These 13 are on the Private Land. Since the Application seeks approval for all of the Sites, they are considered in this Decision as a whole regardless of their physical location. The area occupied by the Sites is in the same general location as that occupied by the historic RV sites, but it is a larger area.

In 2007 or 2008, the Applicant secured Type I ministerial permits to install 22 park models with stairs and decks. Later the Applicant secured permits for the construction of cabanas and garages. The Staff's decision to issue this number of permits was based on its determination that historically the Resort only provided 22 full hookup RV sites on a sufficiently continuous basis to justify that many full hookup sites for park models. At a later time, the Applicant sought a permit to install a 23rd park model and was

[2] The Application seeks the designation of all 35 sites as lawfully established nonconforming uses.

denied by the Staff. The Application eventually ensued. In time the Applicant brought 27 park models to the Resort and installed them, either partially or fully. Five installations are not supported by permits.[3]

The Applicant installed many decks and roofed outdoor entertaining and living structures ("cabanas") closely adjacent to the park models. Numerous garages were installed as well. Most of these improvements were issued ministerial permits as accessory structures to the park models, but were installed without permits. The Applicant submitted a plot plan that shows 17 cabanas and 15 garages at build out. Record 873. That plan does not depict the large decks that have been added to most of the units. The park model permits authorize park models to be set up with "deck and stairs". Record 88. The "deck and stairs" are small extensions at the entry to each park model and are either a portion of the park model itself or a module supplied with the park model. (See photos at Record 116-117 and, especially, 1129 and floor plans of park model units at Record 185-186.) However, based on the set up permits, the Applicant built extensive decks through the park model development that bear no relationship to a "deck and stairs". They are large decks that in some cases all but surround a park model and greatly expand the footprint of the structure. (See photos at Record 1119, and 1121-26.) The Staff's summary of all permits issued for the new development at the Resort does not include any reference to these decks, and if they were not contemplated by the "deck and stairs" authorized by the set up permits. No citations for violations have been issued by the County as a result, however.

Uncontroverted testimony establishes that "a large majority" of these installations is actually configured with two park models attached to one another to form structures that are wider than 30 feet and far in excess of the 400 square foot limit that govern park model structures. (See photos at Record 1121, 1123-26.) Additionally, many of them have second stories and dormers and lofts, and all of the units have hot tubs. They are advertised as capable of sleeping between 2 and 6 people. Evidence establishes that units are used to sleep as many as 8. Record 1099 and 1105.[4]

[3] Set up involves placing the park model on post and pier type foundations, skirting them and connecting them to electrical, water and sewer services.
[4] The Park Model Site Plan for the Resort does not disclose these configurations. It merely identifies the spaces with a symbol for a single park model.

The park models have bedrooms, kitchens, dishwashers, bathrooms with conventional showers, flush toilets, hot tubs and other amenities usually associated with dwellings. Each has what is described as 120 gallon propane tanks in close proximity to the unit, often next to the large decks that are adjacent if unattached to the park models. Park models are assessed as personal property and are affixed to the realty and immobile.

A site plan of the entire Resort appears at Record 182 (the "Site Plan"), and a detailed site plan of the park model layout is at Record 813 (the "Park Model Site Plan"). The Park Model Site Plan shows a dense development of 35 units, of which 27 have already been installed and connected to full services and, further, of which only 22 have permits from the County. Some of the park models are as close as 7 feet from one another (Park Model Site Plan, Units 51 and 52), and they are as close as 6 or 7 feet from garages. *Ibid*, Units 37, 38 and 51.

The park models are shown as occupying a small portion of the Private Land. However, the Applicant did not provide information regarding how large and area of the Private Land is actually occupied by the Park Model Site Plan. The Hearings Officer has scaled this area based on two exhibits. One results in a developed area of park models of 3.77 acres and the other results in 3.9 acres. The difference is not material, and average of 3.84 acres is used to determine density. If all 35 sites are developed as sought by the Application, the park model development has a density of 10.9 units per acre. The Park Model Site Plan shows that the density of the park model development is generally consistent throughout. Therefore, if only the 22 permitted units are considered, the density stays the same. The Staff calculated density based on the entirety of the Private Land – 30.18 acres. Record 47. However, LUBA has ruled that such a manner of calculating density is not proper: "When assessing 'density' for purposes of determining whether a land use is 'urban' or 'rural' in character, we have held that the local government must assess density with regard to the lands actually being developed." *Donnelly v. Curry*, 33 Or LUBA 624, 632 (1997). Citation omitted.

The park models are sold by the Applicant to owners pursuant to a Purchase Agreement and a Memorandum of Understanding (Record 951-963). The park models themselves are manufactured by

Nor'Wester Industries which is owned by an officer of the Applicant and his brother. The space upon which the park models are installed is leased to the owners through a Lease Agreement. (Record 969-975). The lease provides for an initial term of 25 years with extensions up to a total lease term of 99 years. The Applicant has the right to be the owner's agent in any sale of a park model unless an owner chooses to sell it privately, in which case the Applicant has a right of first refusal. The legal relationship between the owner and the Applicant makes clear that the park models are very unlikely to be moved once set up. If they are not permanent installations, they are at the very least semi-permanent.

Owners are forbidden by the lease from either assigning or subletting the park model that occupies a leased space. Rather, owners are required to place the unit in the Applicant's rental pool and enter into the Applicant's Rental Pool Agreement which controls any rental activity for the park model. Record 964-968. Under that agreement, the Applicant becomes the sole rental agent and is compensated for expenses as well as receiving 30% of all rental income. The Applicant also has the authority to set rents, negotiate leases, authorize repairs (within limits without prior owner authorization) and hire, supervise and terminate agents and attorneys necessary for the management of the unit all at the owner's expense. Together with other rights assigned by the Rental Pool Agreement to the Applicant, the Applicant has what amounts to plenary authority over all aspects of the rental, management, repair and marketing of each.

The Applicant has an advertising and promotional program for the Resort and the park model units which are presented to the public through both print and internet advertising specifically as "cabins" (Record 993-993, 1141 and 1142), and use during the winter season is specifically promoted by references to snowmobiling and other winter recreational activities. Some of the promotional materials feature the park models with snow on the roofs and the ground. Additionally, the Applicant testified that he purchased a snowcat within the last year or two which he hires out to Resort guests and others for winter touring with a licensed guide.[5]

[5] The Applicant also testified that he uses the snowcat to plow the road between the Resort and State Highway 66 to enable his guests and employees to reach the Resort. It has the added benefit of easing travel for other users of that road, although testimony raised doubt as to the effectiveness of that activity. Several people stated that despite the Applicant's efforts, the neighbors have had to contract with others to plow because of the limitations of the Applicant's equipment.

The Nor'Wester park models themselves are marketed separately as cabins and cottages by the manufacturer. At the Hearing the Opponent, reading from a written statement that was submitted for the Record, quoted from www.norwesterindustries.com as follows: "these homes are not designed to be pulled down the highway behind your pickup truck. Rather, Nor'Wester park models are **destination vacation homes.** Emphasis original." Record 943.[6] Except for the legal agreements between the Applicant and purchases, all of the relevant evidence describes these units as cabins or cottages.

There are additional structures and facilities on the Leased Land including a restaurant, fuel pumps, a fish cleaning station, a bait shop, a dump station, 4 cabins with full utilities, a workshop/maintenance building, a boat dock, 2 outhouses, 3 single family dwellings, 22 campsites with water and electrical hookups, 8 campsites with electrical hookups only, 18 campsites with no utilities, and a shower/laundry facility. The Applicant has made improvements to the bait shop, the restaurant and other structures without permits and without approval from the United States as required by his lease. Additionally, and also without permits, the Applicant brought a mobile home onto the Leased Land and set it up as an office and administrative building for the Resort. It was red tagged by the County Code Enforcement Officer and ordered decommissioned. The County issued a permit for it to be temporarily stored on the property, but testimony was provided by the Opponent tending to indicate that it is still in use as an office and administrative center.

The Application

The Application was submitted on December 24, 2008. On January 22, 2009, the Staff deemed the Application incomplete and requested the submittal of specific information including, *inter alia*, a current site plan (only a site plan from 1997 had been included), a site plan of the proposed development, an explanation of the "pre-existing operating characteristics and proposed operating characteristics of the entire facility including details on the length of stay of occupants," and a letter of consent from the BLM with respect to the Leased Land. Record 832-833. On February 12, 2009, the Applicant informed Staff that it would not submit any further information in support of the Application, and on February 13, 2009,

[6] The Hearings Officer attempted to access this website in order to confirm the quote, but it has been taken down. Hits are redirected to awfleetowners.com, which is not expressly associated with Nor'Wester Industries.

the Staff accepted the Application as complete pursuant to ORS 215.427(2)(b). It is worth noting that a letter of consent from BLM has never been submitted, calling into question the Applicant's underlying authority to undertake any changes at all on the Leased Land.

The Application seeks verification of certain uses at the Resort as lawfully established nonconforming uses under LDO 11.8 and authorization for the alteration of some of the lawfully established nonconforming use to allow essentially the development that is already in place. Specifically, verification is sought for the Historic Improvements less the 8 primitive campsites and 1 cabin, together with 35 full hookup RV sites, 16 cabanas and 13 garages on the Private Land.

Alteration of these uses is sought to allow an additional 13 of the 35 full hookup RV sites to be used for the installation of park models,[7] reconstruction of the bait shop (which was completed previously without permits), the reconstruction of 5 cabins, upgrading of the workshop/maintenance and shower/laundry facilities, 22 campsites with electrical hookups, the construction of a new reservation and administration building, the construction of 2 additional garages and 1 additional cabana, and the expansion of the deck on the restaurant.[8] Additionally, the portion of the Private Land devoted to park models is proposed to be – has already been – expanded by 15-20%. Record 118.

The Opponent disagrees with this characterization of the alteration being proposed and argues that the alteration being sought is actually threefold:

> 1. "The transformation of a seasonal campground into a year round facility with permanent winterized structures.
> 2. The transformation of tent and trailer sites with hookups into permanent residential dwellings with associate[d] landscaping, decks, hot tubs and garages.
> 3. The addition of a sewer system to 13 new sites." Record 943-944.

The Applicant justifies 35 full hookup RV sites based on its understanding of the historic use of the Resort. That use included 22 full hookup sites that appear to have been consistently maintained, plus 13 other RV sites that had electrical and water hookups and from time to time and in one configuration or

[7] The Record is clear that 5 of these 13 have already been installed without permits. The Applicant testified that he has had to refund purchasers' funds for 2 of those, that another is in litigation and that the purchaser of a third may take him to litigation. The remaining unpermitted park model is unsold.
[8] The Applicant originally sought authority for 8 campsites with no hookups, but this portion of the Application was withdrawn during the Hearing.

another, sewer hookups as well. Overall, however, the Applicant disfavors counting the number of spaces and establishing which ones or how many had full hookups, expressly preferring to focus on the use itself as a fully serviced RV park consisting of 35 spaces. This approach tends to discount if not nullify the provisions of LDO 11.8 and ORS 215.130 which require that the extent of a nonconforming use be established in addition to its nature.

Following the installation of the initial 22 park models, the Applicant sought ministerial permits to install additional unit, *post hoc*. The Staff denied the request based on its determination that only 22 sites could be historically established as having had full hookups. Park model installations in excess of that number were determined to require a nonconforming use verification and alteration approval under Chapter 11 of the LDO.[9] The Application then followed.

The Staff undertook an extensive analysis of the nature and extent of the historic use of the Resort. Based on this analysis Staff concluded that only 22 RV sites had had full hookups consistent with the verification requirements of LDO 11.8. Those 22 RV sites were verified as lawfully established nonconforming uses.[10] Additionally, the Staff Report found the following uses to be lawfully established nonconforming uses under LDO 11.8: 13 RV sites with only electrical and water hookups, 4 cabins with full hookups and no kitchens, the restaurant/lodge, 2 manufactured dwellings, 1 set of gas pumps, fixed and floating dock station, fish cleaning station, bait shop/store, dump station, laundry and shower building, maintenance building, 16 cabanas and 13 garages without plumbing. Staff's verification of the 16 cabanas and 13 garages as nonconforming uses is curious in light of the fact that they exist pursuant to permits issued by the County in the last 2 or so years. Except with regard to the cabanas and garages, the Hearings Officer concurs in this conclusion and adopts those portions of the Staff Report which support it.

[9] It appears that the Staff did not consider whether the initial development of 22 park model units were consistent with the historic RV park use. The Staff, like the Applicant, seems merely to have concluded that since they are RVs under the Building Code, they could replace the RV use that was historically made at the Resort.
[10] At the Hearing the Applicant argued that since there was some evidence that 13 additional sites had sewer hookups at one time or another, they too could be certified. The Applicant cited *Van Speybrouck v. Tillamook County*, 221 Or App 677, in support of his position. However, *Van Speybrouck* does not stand for that principal, concerning itself only with fluctuations in occupancy of a nonconforming residential use.

Regarding the requested alteration, the Staff Report found that the following uses comply with LDO 11.8:

> "1. An alteration/limited expansion of the 13 preexisting nonconforming recreation sites served with water and electric on tax lot 600 to include sewer hookups.
> 2. The in-kind reconstruction of the bait shop and 4 cabins without kitchen facilities.
> 3. The upgrade of the workshop/maintenance building and the shower/laundry building.
> 4. The expansion of the deck on the restaurant/café.
> 5. A new campground including 39 dry sites (no hookups)." Record 53.

Staff denied the request for "a playground, 5th cabin, 3rd manufactured dwelling, and a horse camp" as well as the "the construction of 30 additional sites with electric hookups, 2 additional garages, 1 additional cabana, and a new reservation and administration office building." Record 54. All of the denied uses have already been installed by the Applicant and must be removed as a condition of the Staff Report.

The approval of the 13 RV sites for full hookups and conversion to park model sites as an expansion of the lawfully established nonconforming use was conditioned in such a manner as to limit occupancy length in an effort to prevent their use as other than temporary accommodations. For reasons that appear *infra* the Hearings Officer does not adopt these conditions, specifically Conditions 12, 13 and 14 at Record 55. Neither does the Hearings Officer support the conversion of these sites to park model sites.

No similar conditions were imposed with respect to the 22 full-hookup RV sites on which park models were previously allowed to be installed presumably because the County implicitly had determined that use to be consistent with their established nonconforming use. However, on appeal the Applicant offered to stipulate to a different condition to limit the occupancy in these units as well, although for a less restricted period of time, also and expressly to avoid their characterization as residential. That proposal is to limit occupancy for any "person" to 45 continuous days and for any group of individuals to not more than 225 days in a calendar year (the "Occupancy Limitation").

The appeals followed the tentative approval of the Application. The Applicant's Appeal seeks the approval of the 30 additional sites, the additional garages and cabanas and the office/administrative

building. The Opponent's Appeal is directed at the Staff approval itself. Noting that the Resort is in remote forest lands, it asserts grounds related to density, to the expansion of the sewer system, to the conversion of the facility from seasonal to permanent occupancy, to the conversion of the use from temporary pull through RVs to what it considers to be permanent structures and to adverse impacts, especially sewer and fire.[11]

THE NONCONFORMING USE ANALYSIS

At the outset it is important to understand that this is not a question of whether the Resort is more attractive or is designed for an economically more successful clientele or whether there is greater opportunity to enjoy the natural features and recreational opportunities on the Property or on the surrounding BLM lands. It is an inquiry into what use was being made of the property when it became nonconforming – that is, upon the adoption in June of 1998 of OAR 660-006-0025(4)(e) (the "Forest Rule") after which it no longer could have been issued a land use permit as a new use. This inquiry must include an understanding of the extent or intensity of the use and its nature prior to the Forest Rule. Further, it requires an understanding of the impacts that that use imposed on whatever can be considered its neighborhood at that time or, as in this case, before the new use was instituted.

Here the analysis is burdened and confused by several facts: the County did not object to the Applicant's installation of the first 22 park models and allowed the construction of extensive decks and garages as accessory structures without having considered all of the criteria central to the verification and expansion of a nonconforming use. This action tends to give all of the park models and associated improvements an air of legitimacy, and it allowed the owner to proceed without fully understanding the legal context of his development activities. The owner finds himself in an unenviable position having invested large sums of money and effort which are frustrated and jeopardized by this Decision. In the process he has brought improvements to several aspects of life in the area. However, these are not salient elements of the analysis that must be undertaken.

[11] The Opponent's Appeal raises other concerns as well, but given the Hearings Officer's determination on the other grounds, it is not necessary to consider them.

Interpretation of Nonconforming Use Law

Nonconforming use law is to be narrowly interpreted in Oregon according to *Bertea Aviation, Inc. v. Benton County*, 22 Or LUBA 424 (1991), LUBA 91-130. *Bertea* holds as follows:

> "Nonconforming uses are not favored in Oregon law. *Michael v. Clackamas County*, 9 Or LUBA 70, 75 (1983). A nonconforming use is by definition contrary to provisions of a local government's comprehensive plan and land use regulations. ORS 215.130(5) and (9) and BCDC 53.315(1) provide a limited authorization for counties to approve the expansion of nonconforming uses which are contrary to provisions of their plans and land use regulations and, therefore, must be construed narrowly. *Scott v. Josephine County*, ___ Or LUBA ___ (LUBA No. 91-069, September 20, 1991), slip op 8-9; *City of Corvallis v. Benton County*, 16 Or LUBA at 498. Also, the requirement that the alteration of the nonconforming use have "no greater adverse impact" on the surrounding neighborhood is an extremely strict standard in itself." Slip op at 11.

The analysis of nonconforming use issues in this Decision follows the instruction of *Bertea*.

Verification of the Use

The historic RV spaces were used for recreational vehicles. An important characteristic of the RVs is that they are designed for temporary occupancy. They were not mobile homes or other structures that are brought to a site and set up. They are motorized and non-motorized shelter vehicles with limited accommodations for sleeping, cooking, and/or modest amenities. Of critical note, their presence at the Resort was temporary or seasonal. The evidence is consistent that it was RVs that utilized the spaces at the Resort historically.[12]

Such is the nature of RVs, both under LDO 13.3(39), which describes them as "vehicle-type units primarily designed as *temporary* living quarters for recreational, camping or travel use" and under the definition of an RV in ORS 197.492(2) which refers to ORS 446.003 for the definition of a recreational vehicle. ORS 446.003(33) defines a recreational vehicle as "a vehicle with or without motive power that is designed for human occupancy and to be used *temporarily* for recreational, seasonal or emergency purposes." Emphasis added.

[12] There may have been large motor coaches in spaces, but there is no evidence to either suggest or establish that. If they were, they, too, were temporary or seasonal.

As noted above, the Building Code requires that manufacturers and converters call park models "recreational vehicles". OAR 918-525-0005(22). However, there is more to park models than what they are called. The reliance by Staff and the Applicant on the fact that park models are referred to as recreational vehicles in the Building Code misses the central emphasis of a nonconforming use analysis. The same must be said of their reliance on the characterization of the Resort as an RV park, as it was historically called. The actual name of the unit or the facility is not material. The analysis properly turns on its use.

The requirement that nonconforming use verifications be based on use as opposed to names or capacities is well established. It does not matter whether a facility was called by a certain planning name in the past or that it had a certain capacity. The analysis must determine the actual and continuous use. From that point, verification and any alteration of the use may proceed. The confirmation of a lawfully established nonconforming use is not an entitlement to all of the uses that were a part of the planning category that it fit into when it became nonconforming. It can only continue whatever use it actually continuously made of the activity or property so classified. See *Marquam Farms Corporation v. Multnomah County*, 35 Or LUBA 392 (1999).[13]

The Opponent relies in part on the so-called Ocean Shores cases. *Baxter v. Indian Point*, LUBA No. 2008-219 (2009), ("*Indian Point II*") is the latest of the cases and generally emphatically restates LUBA's first opinion, *Ocean Shores Conservation Coalition v. Coos County*, 55 Or LUBA 545, ("*Indian Point I*") *aff'd* without opinion 219 Or App (2008). The Ocean Shores development involved a new "park trailer" development in a rural recreation zone.[14] At Ocean Shores as at the Resort, the park trailers

[13] The parties dispute several aspects of *Marquam*. However, they do not dispute its main holding as stated here.
[14] "Park models" and "park trailers are extremely similar under the Building Code which defines the later as follows: OAR 918-650-0005 Building Code

> "(x) 'Park Trailer' means a vehicle built on a single chassis, mounted on wheels, designed to provide seasonal or temporary living quarters which may be connected to utilities for operation of installed fixtures and appliances, of such a construction as to permit set-up by persons without special skills using only hand tools which may include lifting, pulling and supporting devices and a gross trailer area not exceeding 400 square feet when in the set-up mode."

Park models and park trailers are essentially indistinguishable.

permanently occupied spaces. Ocean Shores was larger than the Resort, and the density as finally approved by Coos County was 6 units per acre, a bit more than half of the density at the Resort. *Indian Point II*, slip op at 4.

The Applicant challenges the applicability of the Ocean Shores cases because they concern an application for new development, not an expansion of a nonconforming use. It is not clear that the difference is relevant since those cases rely on characteristics of the use itself and do not turn whether that use is new. The fact that the Ocean Shores decisions concern altogether new uses actually works against the Applicant, though. A local jurisdiction has some discretion in interpreting and applying its code, but *Bernos* makes it clear that that flexibility is dramatically constrained when it comes to nonconforming use provisions. Those, it holds, "must be construed narrowly". *Bernos*, slip op at 11. Rather than being inapposite, the use analysis for new development in the Ocean Shores cases set the absolute minimum standard of review of such uses. Those cases are relevant to this consideration, and their holdings are apposite.

The proposed Ocean Shores development is to the park model development at the Resort. The units at Ocean Shores, however, were found to be designed and intended for continuous occupancy. The units at the resort are virtually the same in that regard, but for the Occupancy Limitation. As discussed below, the Occupancy Limitation is not a feasible condition of approval.

Indian Point II relied on *Indian Point I* for much of its substance. Citing *Indian Point I*, it held that the OARs constituting the Building Code

> "... were promulgated... for the purpose of establishing minimum safety standards for the design and construction of 'Recreation Parks,' as defined in the rules, of which RV Parks are a particular type along with 'campgrounds', and 'picnic parks.' [Citation omitted.] However, the same section of the OARs contains a provision stating that the regulations of the planning authority having jurisdiction over the property continue to apply. OAR 918-650-0025(1)(a). We do not think that the fact that certain OARs classify a Park Trailer as a type of Recreational Vehicle is dispositive of the Goal 14 question in the present appeal." *Ibid* at 9.

Critical to LUBA's analysis is the issue of how park trailers are used, specifically as distinguished from recreational vehicles. One of LUBA's concerns centers on Coos County's definitions of

"Recreational Vehicle Site" and of "Recreational Vehicle Park". Jackson County has no definition of a recreational vehicle site, but it does define a "Recreational Vehicle Park". The definition of that term in both counties' codes turn on the fact that the facility is for "temporary" occupancy by such vehicles. Specifically, the LDO defines "recreational vehicle park" by referring to "Campground" which LDO 13.3(38) defines as a facility "for temporary overnight use by tents, yurts, recreational vehicles, or other types of shelter suitable and intended for use in a temporary or seasonal manner."

LUBA makes a clear distinction between occupancy of the recreational vehicle and the occupancy of the recreational vehicle park *by* the vehicle. LUBA holds that

> "the definition[...] focus[es] on the mobility of the Recreational Vehicle, not on the mobility of the person occupying the vehicle. When read in context, the definition[] strongly suggest[s] that Recreational Vehicles in the development must be sited on a temporary basis in order to qualify the development as a Recreation Vehicle Park. The context does not support the county's conclusion that nothing in [its ordinance] precludes continuous placement of park trailers in an RV park. When a Recreational Vehicle such as a Park Trailer continuously occupies a space, that space does not qualify as a Recreational Vehicle Site, and consequently, the development is something other than a Recreation Vehicle Park." *Ibid* at 9-10.

Park models are not recreational vehicles for purposes of land use planning, and the Staff erred in finding otherwise.[15] Further, as discussed below, the new park model development at the Resort is not a recreational vehicle park.

LUBA analyzed the continuous placement of the units in Ocean Shores. Referring to its decision in *Indian Point I*, LUBA said, "We did not intend to suggest that as long as the Park Trailers are not used as residences, they can remain sited where they area sited on a continuous basis and still maintain the land as rural land." *Ibid* at 8.

Distinguishing the two, LUBA held "[t]he county relied on its faulty conclusion that personal occupancy limits mean the park is occupied on a 'temporary or seasonal' basis." *Ibid* at 10-11. Quoting again from *Indian Point I*, LUBA states, "We are not prepared to say that what LUBA describes as the semi-permanent nature of park trailer RVs categorically prohibits their use, as envisioned by the OARs, in

[15] In fact, the Staff appears more to have assumed or accepted that they are rather than having reached a specific finding.

rural recreational RV parks so long as their use is *temporary or seasonal and for vacation purposes*." *Ibid* at 9. Emphasis added.

The park models are permanently or semi-permanently placed structures, and an analysis of their intended use with respect to this LUBA holding is necessary.

In Ocean Shores, as here, the county had imposed various conditions in an attempt to prevent the development from being characterized as anything other than a facility for temporary accommodations. One of the conditions limited the time the length of stay for any person to 45 days in any 6 month period. LUBA had ruled in *Indian Point I* that park trailer development was prohibited by Goal 14. Subsequently, the density was reduced to 6 units per acre and the occupancy condition was adopted. They were intended to address LUBA's concerns.

The Applicant testified that based on highly relevant experience in his other park model developments, the units will be occupied in the range of 70 to 74% of each year. Although "seasonal" is not defined, conceptually it is safe to conclude that it is less than somewhere between 256 and 270 days each year. "Temporary" however is defined in the LDO as "30 days or less in any 12-month period." LDO 13.3(265), and the projected occupancy rate far exceeds this limitation.

The Applicant attempted to blunt this problem – and the associated problem of characterizing the park models at the Resort as "residential" – by proposing the Occupancy Limitation as a condition of approval. That condition states

> "Each lessee of an RV Park Model site will be provided a space rental contract that includes an addendum explaining that [the?] maximum occupancy of not more than 45 consecutive days and not more than 225 days in any calendar year by any single individual or group of individuals. Each addendum must be signed by the owner and an acknowledgement that they may be held liable by Jackson County for tenancy which exceeds the permissible durations." Record 1158-59.

Applicant also offers as a related condition that it will provide the Planning Division an annual report that "summarizes the tenancy of the RV Park model units...." Record 1159.

The Opponent argues that this condition is neither feasible nor effective, and the Hearings Officer agrees. Even if this condition were, however, it does not solve the problems posed by converting a

recreational RV park to a community of permanent structures. It does not effect a cure for the transformation of temporary or seasonal use to a community of permanent structures that can be occupied by any individual or group for a total of 225 days each year and occupied by others for the remaining portion of the year.

A very similar condition was rejected by LUBA in *Indian Point I*, but the Occupancy Limitation is not sufficiently similar to that condition to be considered ineffective *per se*. It and the Staff condition have a serious technical flaw. The Opponent describes them as shifting the "the liability for violations from the applicant to the lessee and require[ing] the County to file an action against the latter rather than against the responsible party." Record 1455. However, this misses critical point.

The County's code is directed to land owners, or at the least to those to whom permits have been issued. Park models are personalty, and it is questionable whether the County could enforce its code or this condition against that form of property. More importantly, the proposed condition would create a term in a lease between the Applicant and a park model owner. If that term were violated, enforcement would have to be undertaken by the Applicant as lessor. The County would have literally no standing to limit any park model unit from violating proposed Occupancy Limitation.

Even if the County could enforce the limitation, there are other problems with the proposed condition. First, the Applicant does not explain how this condition would be imposed on the 24 park model owners who have already signed 25 year leases for their units. Further, the County would be hamstrung by the supplemental reporting condition since it would only be able to determine whether the limits on occupancy were violated on an annual basis. There could easily be many violations occurring simultaneously and repeatedly or continuingly throughout several periods of any given year. Annual enforcement would not be effective. Finally, the County would be dependent on information that would be compiled and provided by the Applicant who would have a vested financial interest in minimizing any appearance that the units were being used in violation of the limitation.

Conditions of approval must be feasible and they must be "possible, likely, and reasonably certain to succeed". *K.B. Recycling v. Clackamas County*, 41 Or LUBA 29 (2001). The Opponent correctly points out that the Applicant's proposed condition fails to meet this standard.

The Occupancy Limitation is not a competent condition and does not limit the use of the park model development to either temporary or seasonal use.[9] Such use, additionally, would be inconsistent with the Applicant's advertising and the use inherently contemplated by the legal relationship between the Applicant and the park model owners.

The park model development is not designed or intended for temporary or seasonal use, and the development is not a recreational vehicle park established as the historic use.

While the Staff properly concluded that the Applicant justified a lawfully established nonconforming use of a recreational vehicle park at the Resort, it did not analyze whether the park model development that was allowed on the basis of ministerial permits exclusively is a recreational vehicle park as well. Case law establishes that a park model development such as that at the Resort is not temporary or seasonal and that permanent occupancy of spaces by park models is not consistent with the historic use of the Resort. The absence of a proper analysis of the new development in comparison to the established nonconforming use, results in the conclusion that the authorization of the 22 park models that have already been installed was not proper. Those units constitute at least an alteration of the nonconforming use.

Alteration of Use

The Staff approached the requested addition of 13 park model units as an expansion under LDO 11.2.1(B). Specifically and depending on its mistaken conclusion that the development itself is consistent with the established seasonal and temporary nonconforming use, Staff turned to LDO 11.2.1(B)(1)(b) and (c). These provisions define expansion or enlargement as

[9] It is very hard to imagine how one could craft such a limitation with adequate effect. Clearly, limiting use to not more than 30 days each year is unworkable for both the Applicant and the owners. "Seasonal" is not defined in the LDO so there is no guidance at all in determining what that term actually means. Would a limitation permit occupancy only from April to October as evidence suggest was done by some RV users historically? Would it allow occupancy for one of the calendar seasons but not others? Would it limit the occupancy to a number of days without regard to a calendar season, and how would those days relate to historic seasonal use? The problems in finding the proper limit abound.

"(b) To alter the use in a way that results in more traffic, employees, or physical enlargement of an existing structure housing a nonconforming use.
(c) An increase in the amount of property being used by the nonconforming use."

However, these sections are misapplied.

LDO 11.3 I governs alterations in nonconforming uses. Alteration is defined in LDO 13.3(10) as "[f]or purposes of decisions made regarding nonconformities, 'alteration' means a change in use, structure, or physical improvements of no greater adverse impacts to the surrounding area. [Citation omitted.] See MODIFY." In turn, "modify" is defined at LDO 13.3(159) as "making a limited change in something without altering its primary purpose." Since the park model development alters the primary purpose of the nonconforming use as a temporary or seasonal facility and, as discussed below, since is imposes greater adverse impacts, it must be seen as more than a mere "change in use". This change is beyond the scope of an expansion or enlargement, and the Staff's consideration of the Application under LDO 11.2.1(B)(1)(b) and (c) was improper.

LDO 11.2.1(A) governs changes in a nonconforming use and provides

"Applications to change a nonconforming use to a conforming use are processed in accordance with the applicable provisions of the zoning district. (See Chapter 6.) Applications to change a nonconforming use to another, no more intensive nonconforming use are processed as a Type 2 review. The application must show that the proposed new use will have no greater adverse impact on the surrounding neighborhood."

The Application should have been considered under LDO 11.2.1(A), Change in Use. During the Hearing the Applicant mentioned that the CLE land use publication raises the question of whether the ORS provision regarding change in use of a nonconforming use (which LDO 11.2.1(A) implements) can be applied to allow a complete transformation in use. The Applicant did not weigh in on the question but did offer that the park model development is close to the reasonable extent of what that section allows. The following explores that issue with respect to the Resort.

Whether a new use is permissible under LDO 11.2.1(A) turns on two factors: is it no more intensive than the nonconforming use it is replacing, and does it present adverse impacts on the surrounding neighborhood that are no greater than those associated with the nonconforming use? The park model development at the Resort fails on both scores.

Intensity of use is discussed in *Donnelly* and the Ocean Shores decisions. Initially, *Donnelly* focuses on density and articulates the rule that density must be determined based on the actual land being developed, not the parcel size, as discussed *supra*. Based on that ruling, the density is calculated 10.9 units to the acre. It is likely that the density of the original RV park was close to this given that it occupied roughly the same area. However, the discussion does not end at density. The LDO requires a consideration of "intensity" which is more than the physical footprint of a development.

As fully discussed elsewhere, the park model development differs dramatically in its nature from the RV park nonconforming use. The structures are permanently or semi-permanently installed; they are designed for long term occupancy by owners or others; they have amenities that are commonly associated with dwellings such as extensive wooden decks (Record 1121-1126), detached garages, cabanas, lofts, dormers (Record 1118, 1133, 1137 and 1140), second stories (Record 1119 and 1124-1126), attached and roofed front entry porches (Record117, 118 and 1129), full sized showers, flush toilets and dishwashers (Record 186 -187). The RV park on the other hand was used by vehicles that were brought to the site for limited periods, never permanently installed and without park model amenities.

Based on the reasoning and the holdings of *Indian Point I* and *Indian Point II* the park models are dwellings, not RVs, and their use is residential. On the same authority, they are inherently a more intensive use than that of RVs.

The park model development does not qualify as a "change in use" under LDO 11.2.1(A), and it cannot be permitted under that provision.

Even if it were deemed a no more intensive use, it cannot satisfy the "no greater adverse impact on the surrounding neighborhood" requirement.

Adverse impacts cannot be evaluated in the absence of determining the object of such impacts. LDO 11.2.1(A) speaks in terms of the "surrounding neighborhood". It is the Applicant's view that determining what a neighborhood is should be "made on a case by case basis depending on the facts." Record 1555. The Hearings Office concurs that "neighborhood" may have different meanings in urban, in rural, in resource and in other settings. The Applicant suggests a few LDO provisions for use in this

determination. LDO 13.1.1(D) governs how the "approval criteria and impacts" are to be interpreted and references "the reasonable expectations of other people who own or use property for permitted uses in the area." The definition of "alter/alteration" in LDO 13.3(10) which speaks in terms of " no greater adverse impact to the surrounding areas." ORS 215.130(9) requires consideration of impacts "on the neighborhood", and LDO 11.2.2(B)(2) speaks in terms of "the surrounding neighborhood". "Neighborhood" is not defined.

In the end the Applicant urges "that the neighborhood should be confined to property owners, and property users of property [*sic*] within one mile radius of the location of the [nonconforming use]." Record 1556. He does not offer support for this position other than it "would be consistent" with LDO 13.1.1(D) which limits the assessment to "reasonable expectations of others who own or use property in the area."

The argument is unconvincing for two reasons. First, no geographic or distance-based terms are used in any of the provisions that were cited, including the provisions of LDO Chapter 11. Second, and perhaps more importantly, when the one mile radius is applied using the Private Land – the only portion of the Resort over which the Applicant concedes County regulatory jurisdiction – it all but eliminates private property owners on or near Hyatt Lake, that is, the people who can be expected to be most immediately affected by adverse impacts.

There is no factual, rational or legal basis on which to impose a limit based on distance.

A neighborhood in a resource zone is an odd concept. However, its intent seems clear. The purpose of the adverse impact analysis to protect uses and established areas of use near, adjacent to, surrounding the proposed expansion. A "neighborhood" is easier to picture when one considers the purpose of the protection it offers.

Expansions of nonconforming uses necessarily occur in areas in which they are no longer compatible, that is, in which the nonconforming use has become inappropriate. The adverse impact analysis protects those who have come to, and have some reason to rely on the prevailing new restrictions. Seen in that light, the object of the adverse impacts analysis should be individuals and properties that can reasonably be expected to suffer from an increase in activities that are no longer allowed by zoning.

In this case, that surely includes land owners and recreational users of nearby portions of Hyatt Lake. In the terms of LDO 13.1.1(D), determining the proper object of adverse impacts is also affected by the "reasonable expectations of other people who own or use property for permitted uses in the area."

The "area" applicable to the Resort is a forested expanse owned largely by the United States and managed for recreation. The immediate area is dominated by Hyatt Lake. The area is characterized by public campgrounds and an extensive network of hiking trails, including the Pacific Crest Trail. There are 3 snow parks close by which provide access to many, many miles of cross country skiing and snowmobiling trails. Access to these trails can be taken directly from the Resort itself.

Those who stand to be affected by adverse impacts from an alteration of the established nonconforming use are people who own property, live or vacation in private homes in the area that surrounds the Resort as well as recreational users in that area. This includes the adjacent BLM Hyatt Lake Campground. It is adequate to limit the analysis to those who live and recreate in this area and to the community of owners of property in the forested recreation area generally west of Hyatt Lake extending north of the Resort. There are perhaps 20 private parcels on the west side of Hyatt Lake, proximate to the Resort. Some are developed with single family residents, and testimony established that some of these are occupied on a year round basis. There is no evidence to establish the number of homes.

The boundaries area to be considered with respect to adverse impacts embraces the area from the Resort north to the section line dividing Sections 10 and 3, west to the west boundary of Tax Lot 100 and south to section line dividing Sections 10 and 21, plus the Hyatt Lake Campground to the southeast. This area is calculated to include the area of recreational owners and users which stands most to be affected by any adverse impacts of the proposed expanded use. For purposes of the Decision, it is referred to as the "Affected Area".[17]

[17] The Applicant suggests that the Opponent may not actually have standing in this appeal since there is "nothing in the record to even establish that any of the opponents are properly considered to be a part of the surrounding neighborhood." Record 1682. The Opponent apparently is a loosely knit organization of individuals, including nearby owners of homes, and a 501(c)(3) nonprofit organization, The Friends of the Greensprings, the focus of which is the preservation of this area. Additionally, many of those who testified or provided opposition evidence clearly have used Hyatt Lake historically and continuingly for recreation. There is no question about the Appellant's standing.

The Opponent asserts that numerous impacts of the park model development are adverse including traffic, noise, the possibility of sewage discharge and pollution, overuse of the aquifer and the risk of fire. Largely the assertions are too speculative or there is not sufficient evidence in the Record to assess these impacts adequately. There are, however, three notable exceptions: water, sewer and fire. They are considered in turn.

The Opponent claims that the amount of water required to service the park model development will be significantly larger than what was required for the RV park use. From that the Opponent speculates that the local aquifer will be drawn down sufficiently to jeopardize established use by others. During the Hearing, however, the Applicant testified that all of the water used at the Resort is supplied by a spring, the flow from which is captured and stored in tanks. He further testified that the spring provides more water than is used by the park model and the remainder of the development. This testimony is not controverted. Accordingly, the Applicant has demonstrated that water use at the Resort does not threaten the local aquifer and does not constitute a greater adverse impact of the park model development.

The capacity of the Resort's sewage treatment system and the prospect of pollution are well quantified by the Opponent. That system has a history of modest violations spanning many years, but there are no current violations.

The Applicant stated that the Department of Environmental Quality ("DEQ") requires that sewer systems for new RV parks and campgrounds be designed to accommodate 100 gallons of discharge per day per RV or campsite. He also testified that based on another of his park model developments, each unit discharges an average of 46 gallons of waste per day. He also believes that the amount of sewage discharge from the park model development is actually less than that generated by an RV park. This conclusion is based on the representation that *every* RV comes to a park with its 50 gallon grey water and 60 gallon black water tanks full, and it immediately dumps them at the park. Since park models are not mobile, this never occurs and, he concludes, actual overall use of the sewer system is decreased. This argument cannot be supported for several reasons.

First, it assumes that all RVs entering a park have full tanks. This would require that they have come from unserviced RV parks and have been in use for a sufficient period of time to fill their tanks. There is no evidence to support this assumption. Regarding his reliance on the 100 gallons per day ("gpd") requirement of DEQ, it is not established that that agency considers park models as RVs or campsites given that park models have the discharge-creating amenities – *e.g.*, dishwashers, full showers, hot tubs, *et cetera* – that RVs do not. Finally, there is insufficient evidence from which to conclude that the 46-gallon-per-day usage at another of his park model developments bears sufficient relationship to the Resort to be considered an apt or reliable comparison. The Applicant provided no description and no evidence regarding the nature of the park models installed there including whether they have the same discharge-creating amenities and whether they are installed in double park models configurations capable of sleeping up to 8 people.

The heart of the Opponent's concern is that the sewer system at the Resort is neither designed for nor capable of accommodating the discharge from the park model development. The impact of inadequacy would be the discharge of untreated sewage onto the ground and into the waters of Hyatt Lake. The Department of Fish and Game shares this concern, stating "[i]f [sewage is] not handled properly, nutrients from the sewage system could impact the water quality in the lake." Record 601. The Applicant does not address this issue other than to describe the operation of the system and refer to DEQ regulations. For its part, the Opponent produced substantial evidence that the system does not have the required capacity to serve this development.[18]

The Opponent submitted an extensive letter from E. George Ehlers, a former Environmental Health Specialist for the County and an 8-year manager of the septic system program in Lane County. Mr. Ehlers researched the permit history of the system and determined that it has an authorized maximum daily flow of 1,900 gallons. Record 1460.[19] The letter analyzes the discharge that can reasonably be anticipated from the park models and rejects the Applicant's assertion that they are RVs for sewage treatment purposes.

[18] The Applicant did not confront this evidence, but he sought to exclude it. That effort has been denied under the discussion titled "Matters of Evidence" above.

[19] Mr. Ehlers' letter actually says "600-gallons per day" but the context makes it evident that this is typo. The correct number should be either 1,600 or 1,900, based on the addition of a 3 bedroom mobile home to a system with a 1,500 gallon per day

Citing OAR 340-71-220 Table 2 and assessing the characteristics of the park models as depicted on the floor plans and as advertised by the Applicant, he concludes that the actual discharge from each unit will be between 200 and 300 gpd, a figure associated in Table 2 with mobile home parks (250 gpd) and Luxury camps (100 gpd per person). As Mr. Ehlers puts it, "In the world of septic systems, we are less concerned with the nomenclature and more concerned with the reality of wastewater quantities." Record 1462. At 22 park models, that would add 3,300 gpd to the amount of discharge that could be expected from a similar number of RVs.[20]

The letter describes the permitting requirements when a dwelling is connected to an existing system. People are disallowed to "place into service, reconnect to, change the use of, or increase the projected daily sewage flow into an existing onsite system without first obtaining an Authorization Notice [or] construction-installation permit...." OAR 340-71-205(1). An Authorization Notice may be issued "when projected daily sewage flow would increase by not more than 300 gallons above the design capacity and not more than 50 percent of the design capacity for the system." OAR 340-71-205(5). If the flow increase limits are exceeded, a construction-installation permit must be acquired. The Applicant provided no evidence that any permit for the installation of the park models was either sought or issued.

Mr. Ehlers points to an exception to the requirement of an Authorization Notice in OAR 340-71-205(2)(a) when a "recreation vehicle" is replaced with a recreation vehicle in a lawful recreation vehicle park, "if the onsite wastewater system has adequate capacity for safe treatment of wastewater generated within the park." He speculates that this exception was used for the park model development. Describing the exception, Mr. Ehlers states that "[t]he implication is that the replacement dwelling will generate similar wastewater flows as the existing dwelling." Based on the park model amenities (which he identifies as "shower, [dish]washer, sinks and flush toilets) and advertising for the Resort ("units sleep up to six adults"), he concludes that the new development "will generate significantly higher flow than prior to

capacity. Giving the Applicant the benefit of the doubt, the Hearings Officer concludes that Mr. Ehlers intended to state the maximum capacity as 1,900 gpd.

[20] This number is reached by assuming (since there is no evidence) that the existing sewer system meets the 100 gpd rate required for RVs. Mr. Ehlers' conclusion is that the demand of each park model exceeds this capacity by 150 gpd, and that figure is multiplied by 22 units.

the changes." *Ibid.* He specifically states that "[i]f each proposed dwelling unit [park model] is estimated to add even 100 GPD over the pre-existing 100 GPD design flow for each unit, then the combined increase will far exceed the 300 GPD threshold... for an Authorization Notice. *It appears that a Construction Installation Permit would need to be a required condition of approval.* *Ibid.* Emphasis added.

Mr. Ehlers' final point concerns the type of system that is required for a discharge rate that exceeds 2,500 gpd which the Resort's system does, based on his analysis. Such systems are required by OAR 340-71-130(15)(b) to secure a Water Pollution Control Facilities permit. He also states that the facility required to serve the Resort would be properly characterized as a Community System since it should be considered "[a]n onsite system that serves more than one lot or parcel, more than one condominium, or more than one unit of a planned unit development (OAR) 340-71-100(31)." Record 1463. LUBA reached the same conclusion regarding the park trailer development at Ocean Shores in *Indian Point II* at 555-556.

The Applicant has described the system as having no failures and as having been "upgraded...in very simple, basic ways to minimize any actual spill. Vents, alarms, diaries and scheduled septic tank pumping systems have gone into effect since our purchase of this resort." Record 1371-1372. Notably, however, the Applicant provided literally no information regarding the actual capacity of the system itself, limiting his testimony and submittals to descriptions of the operation of the system and the absence of violations. The Staff was concerned with this as well and imposed conditions of approval requiring a DEQ inspection of the sewer system within 60 days as well as periodic inspections for the life of the project.

In the final analysis, the Applicant has failed to provide sufficient information from which to assess the adequacy of the sewer system that serves the Resort, and the Hearings Officer is forced to conclude that there is not substantial evidence to support that it is, in fact, adequate for the park model development.[21] Accordingly, based on Mr. Ehlers' information, analysis and conclusions, the Hearings Officer finds that prospect of sewage pollution is an adverse impact which is greater than that posed by the historic RV park nonconforming use.

[21] Despite the history of septic violations associated with the former RV park, Mr. Ehlers' research revealed that only one involved either "failing drainfields or overflowing septic tanks." The majority were limited to much more finite problems that he characterized as "rather superficial" by comparison. Record 1460.

Fire is the potential adverse impact of the greatest concern.[22] The Opponent states that the nature of the development significantly increases the risk of fire, especially a conflagration within and beyond the Resort or a wildfire that is sparked by a fire within the Resort, over that posed by the original RV park. The Applicant denies that the park models will catch fire and asserts that the heavy equipment which it maintains on site would be adequate to knock down a fire that might ignite.

The Applicant has complied with the Wildfire Safety Standards of LDO 8.7.1, but there is substantial doubt that these are designed to mitigate the nature of risk presented by the park model development. As concluded above, this is, in the words of *Indian Point II*, the development closely resembles "a high-density residential subdivision." The Applicant testified that the exterior siding of the park models are not flammable, being constructed of a concrete and fiber material known as Hardie Plank. This is taken as fact. He also points to the fact that the roofs are metal and similarly not combustible.[23] He also points out the park models are considered RVs under the Building Code and are constructed to fire standards for RVs. The Applicant also points to the heavy equipment that he maintains on site and says it is available for firefighting at all times. He projects that his equipment would probably be the first to respond to a fire and would arrive within 5 minutes. He did not state that the equipment is designed or certified to fight structure or wildland fires or that those who would be operating it have appropriate training.[24] There is no indication in evidence from any firefighting agency or organization that they are prepared and/or able adequately to respond to a fire that might erupt in the park models.

The assertion that the siding and roofs of the park models are not flammable is insufficient to overcome the logic of the Opponent's argument. A recap of the park models themselves illustrates the inadequacy.

Apart from the siding and roofs, the park models are essentially completely flammable, at least so far as is demonstrated in the Record. The units are wood framed including the eaves and roofs. All of the door, window and other exterior trim is wood. As shown in the photos at Record 998 and 1010, these units

[22] *Donnelly* expressly recognizes the risk of fire as an adverse impact.
[23] Metal will certainly combust at some temperature, but it is assumed here that those temperatures are not likely to be present in a wooden structure fire. Even if they are, it is beside the point.
[24] One or more of his employees were formerly associated with the local volunteer fire department.

also have wood trim on some exterior features that extends from the foundation to the eaves. In the hot and dry summer temperatures that have been testified to, flames would race up this trim and conduct fire directly to the roof itself.

The decks, cabanas and garages are also constructed of wood and are flammable. While they are technically "detached" from the park models, the separation is very small, apparently not more than an inch or so at the most. This distance does not offer any effective separation for fire. Deck or cabana fires would promptly spread to the park models' wooden trim and jeopardize the entire structure as described above. Fires pose the threat of igniting or exploding the individual 120 gallon propane tanks that serve each unit.

The risk is not simply to an individual park model. The absence of setbacks and other standards that are conventionally applied to high-density residential developments substantially increases the likelihood that once one unit is substantially involved in a fire, nearby decks, cabanas, garages and park models will ignite as well. The Applicant does not address this risk beyond the evidence and testimony described above.

The Opponent submitted a letter from Steve Bridges, a recently retired career employee of the Oregon Department of Forestry who served as the Forest Officer on the Greensprings for 26 years.[25] He lived and worked near Hyatt Lake for 33 years and professes great familiarity with the Resort in its historic and current forms. Mr. Bridges analyzes the risk of fire presented by the park model development, concluding that the risk of ignition has likely diminished by the elimination of campfires and trash burning. However, the "occasional" hazard of an "escaped campfire seems to have been replaced by the potential of catastrophic structure fire due to the high density of cabins with their attached decks." Continuing, he states,

> "The separation of the cabins is so minimal that if one of the cabins becomes fully involved it seems that there is a high probability that the fire would spread to the entire park with little chance for suppression. If such an event were to occur during the summer fire season, this would provide long range spotting into the neighboring forest as well as the adjacent timber stand.

[25] The letter was also mail into the Record during the Hearing.

> "The Fire Safety Codes for Rural dwellings was not designed for the high density of structures that has occurred at this resort. They were designed to protect a single structure [fire] from spreading into the wildland and provide firefighters and residents with a defensible space to protect their homes from forest fire. This density exceeds the setbacks that are required even under a municipal code where the inhabitants have fire hydrants and city fire departments that respond in under five minutes. This resort has no means of suppression for a full structure fires, let alone multiple structures that would surely follow." Record 976.

Mr. Bridges' assessment is compelling and leaves no doubt that the risk of fire from the park model development significantly increases the risk of fire both within and beyond the Resort – that is, into the Affected Area – over what was presented by the RV park.

The park model development is more intensive and presents greater adverse impacts than the lawfully established nonconforming RV park use.

Adverse Impacts: Purposes of the Zoning District

It is important not to limit this analysis exclusively to an evaluation of adverse impacts on other individuals or properties. The Applicant encourages this misstep by providing a limited quoted excerpt from LDO 13.1.1(D). He argues that "Jackson County has qualified the adverse impacts analysis to require that such impacts be evaluated '...in light of ... the reasonable expectations of other people who own or use property in the area.'" Record 1555. The ellipses are critical. The actual language of LDO 13.1.1(D) allows "the County to consider and require mitigating measures that will minimize any potential *incompatibility* or adverse consequences of development in light of *the purposes of the zoning district* and the reasonable expectations of other people who own or use property in the area." Emphasis added.[26]

The Applicant does not discuss an assessment of possible incompatibility with respect to the purposes of the Forest Resource zone. Such a consideration is indispensible in this matter.

LDO 4.3 regulates Forest Resource districts, and Section 4.3.1 identifies the purposes for Forest Resource districts. "The purpose of the Forest Resource (FR) zoning district is to conserve forest lands. This Section implements Statewide Planning Goal 4 (Forest Lands) and OAR 660.006" where the Forest Rule is located.

[26] *Barton* at Slip Op 11 strongly implies that the "no adverse impacts" limitation is to be interpreted literally with respect to nonconforming uses. If that is an actual ruling, LDO 13.1.1(D) is not appropriately applied to LDO Chapter 13 at all and this discussion is actually moot. Since it is not clear that *Donnelly* intended that statement as ruling, this discussion remains.

In *Donnelly* which discusses a 51 unit fully serviced "RV camp" on forest resource land that was proposed to be developed on 1.5 acres of a much larger parcel, LUBA held that "when assessing 'density' for purposes of determining whether a land use is 'urban' or 'rural' in character, we have held that the local government must assess density with regard to the lands actually being developed." *Donnelly* at 623. Citations omitted. "For purposes of determining whether a campground is 'intensively developed' and hence inappropriate 'for a forest environment' under the Goal 4 Rule, the decision must compare the proposed use to other campgrounds on forest land...." *Donnelly* at 633. As discussed elsewhere in this Decision, the Hearings Officer calculates the density of the park model development as 10.9 units per acre. As noted, this density was determined to be urban in character by *Indian Point I* and *II*.

As *Donnelly* holds, the issue of density in a forest resource zone is not strictly speaking whether the proposed development is of an urban intensity. "The question under Goal 4 is not whether a campground on forest lands is appropriately rural (*i.e.* non-urban) in intensity, but whether the campground's intensity of development is "appropriate in a forest environment."

Regarding the question of the intensity of the development under *Donnelly*, a comparison must be made to other facilities. There are two nearby camping and RV facilities in the immediate vicinity of the Resort. Campers Cove is within ¼ mile and is owned, operated and was developed from an old RV park/campground by the Applicant. There is insufficient evidence in the Record to conclusively determine the extent of development there, but it was characterized in testimony by the Applicant as being essentially the same as the development that has been instituted at the Resort. Whatever questions about the legality of the Resort here likely apply equally at Campers Cove, and it cannot be used for comparison.

Adjacent to the Resort is the BLM Hyatt Lake Campground. It is developed with 17 campsites and 7 walk-in tent sites in one unit and 28 campsites in a separate unit. The units are separated by open space, a developed "play area" and an arm of Hyatt Lake. Record 1244. That campground is located on a vastly larger area than is occupied by the park models at the Resort. Given the severity of the winters, it is reasonable to conclude that the campground is closed during the winter, if not longer. BLM rules may limit camping to a specific number *of* days, but that is not in the Record. Suffice it to say, that occupancy

in that campground can be at most seasonal because of the weather. There is no permanent or residential activity there.

There are two mountain cabin resorts that are referenced in the Record, Lake of the Woods Resort and the Greensprings Inn. There is no information regarding the improvements at Lake of the Woods, and it is not used for comparison. The Greensprings Inn is approximately 9 miles distant by road and about 4.5 miles as the crow flies. The only information in the record about its density is a letter that describes that facility as one "where the spacious feeling of the forest setting is beautifully preserved with the cabins sited hundreds of feet from one another." Record 986.

The park model development at the Resort is significantly more densely developed than others to which it might appropriately be compared.

Donnelly also assesses the question of whether the RV park there was not a residential facility and whether the RV's were actually residential dwellings. The same analysis is apt here. LUBA analyzed the issue with reference to the Oregon Residential Landlord and Tenant Act (ORS Chapter 90) ("RLTA"). LUBA found that "[u]nder the RLTA, a residential tenancy is created when the owner of land rents space to an RV owner under an oral or written agreement. ORS 90.100(22) (defining RVs); ORS 90.100(6) (Defining "dwelling unit" to include RVs renting space: ORS 90.100(24) (broadly defining "rental agreement"). Thus, unless some exception applies, any person who rents space to RV units creates a residential tenancy subject to the RLTA." *Donnelly* at 636.

The Applicant's case is based in the assertion that the park models are RVs. The Record clearly establishes that the park models are sold to owners, as are RVs, and then the spaces that they occupy are leased to owners by the Applicant for a minimum term of 25 years. Clearly, the RLTA considers this a tenancy for residential purposes.

Donnelly concludes, "This is significant because a residential tenancy is contrary *on its face* to the Goal 4 prohibition on using campgrounds on forest lands for 'residential purposes.' OAR 660-06-025(4)(e)." *Ibid.* (Emphasis added.)

Indian Point I and *II* hold that park model/park trailer developments at 6 units to the acre are high-density residential uses. *Donnelly* determined that tenancies established by a lease supporting the

occupancy of an RV space are residential tenancies. Park models are permanently affixed residential structures that are much more like dwellings than are RVs so the leases under which they occupy spaces must also be seen as residential leases. The park model development is denser than other nearby recreational facilities which allow overnight use, and it is residential.

Under the *Donnelly* ruling the development is inconsistent with the Forest Rule and Goal 4.

COMPLIANCE WITH STATEWIDE PLANNING GOALS

The parties devoted considerable effort with respect to the issue of whether the park model development is required to apply for exceptions from Goals 4, 11 and 14. The conclusions of this Decision support the Opponent's claim that such exceptions are required. The development has urban density; it is residential and the sewer system that serves it requires a Construction Installation permit and is a Community System, and it is located in a forest zone.

Accordingly, the Applicant must file for exceptions to Goals 4, 11 and 14 for the 22 park model units that have already been installed at the Resort.

COMMERCIAL AND OTHER USES

The Applicant is providing snowcat rides and tours as a part of the Resort operations. This is a commercial use as defined in LDO 13.3(44) for which he has not secured a permit. The Opponent requested that he be required to secure an appropriate permit for a commercial use in a Forest zone. Similarly, the parties agree that the Applicant has built a helipad on the Private Land and has allowed helicopters to land and take off at the Resort. Testimony was offered that the frequency of such occurrences is greatly reduced from past years. The Applicant testified that he does not encourage helicopters but that he has not forbidden them either. Essentially, they are tolerated.

Both are code enforcement matters for the County to address. Neither is proposed for approval by the Application, and the Hearings Officer declines to determine issues that are related to these activities.

STAFF CONDITIONS OF APPROVAL

Numerous conditions of approval imposed in the Staff Report are nullified by the Hearings Officer's determination that certain approvals are void. These are set out in the Order, *infra*.

The Staff approval of modifications to the verified nonconforming uses on the Leased Land was not made subject to any condition protecting the interest asserted by the United States in its lease. (See Record 901.) Accordingly, an additional condition of approval for those alterations is added as follows: All alterations, improvements or other construction permitted hereby on the Leased Land, including the 30 dry sites and those that have been undertaken previously, to the bait shop, the cabins, the workshop/maintenance building, the shower/laundry building and the restaurant building are subject to written approval of the United States prior to the effectiveness of this approval. Such approval must be provided to the Planning Division upon its receipt by the Applicant, and the Applicant may not act those approvals until the County acknowledges such receipt, which acknowledgement shall be provided to the Applicant promptly.

CONCLUSION

Since this development is also improperly considered as an expansion or enlargement of the lawfully established nonconforming use under LDO 11.2.1(B), the proposed 13 additional park model units must be considered a new use. If the Applicant desires to pursue their approval, the Applicant is required to file an application for a new use in accordance with all applicable provisions of the LDO and state laws and regulations and to seek exceptions from the applicable Jackson County Comprehensive Plan and Statewide Planning Goals.

CONCLUSIONS OF LAW

Having reviewed all of the evidence and testimony and weighed it against the applicable criteria, the Hearings Officer makes the following conclusions of law:

1. The Application for approval of the installation of 13 additional park model units and all associated accessory decks, cabanas and garages is not consistent with nonconforming use verification and alteration laws.
2. The verification and approval of alterations to all other improvements in Staff Report section III paragraphs (A) and (B) are confirmed.

3. The denial by Staff with respect to a playground, a 5th cabin, a 3rd manufactured dwelling and horse camp as lawfully established nonconforming uses is affirmed.
4. The denial by staff of the proposed alteration of uses to create 30 additional sites with electrical hookups, 2 additional garages, 1 additional cabana and a new reservation and administration office is affirmed.

ORDER

1. The Staff approval of 13 additional RV sites for the installation of park models and all accessory structures associated with them is reversed.
2. Staff Conditions of Approval numbers 12 and 13 are stricken as no longer applicable
3. That portion of Condition 16 which reads, "unless additional information provided at a later dates suggests that the third dwelling was removed less than 4 years prior to the date of submittal. Future review of may require a separate application if it is found that discretion is necessary to make the determination" since any such review necessarily would involve discretion. An application must be submitted for an additional nonconforming use determination with respect to any additional such dwelling.
4. The requirement of Condition 18 with respect to any improvement the approval of which is voided or reversed by this Decision is stricken.
5. The requirement of Condition 19 with respect to any improvement the approval of which is voided or reversed by this Decision is stricken.
6. The following condition of approval is added. All alterations, improvements or other construction permitted hereby on the Leased Land, including the 30 dry sites and those that have been undertaken previously, to the bait shop, the cabins, the workshop/maintenance building, the shower/laundry building and the restaurant building are subject to written approval of the United States prior to the effectiveness of this approval. Such approval must be provided to the Planning Division upon its receipt by the Applicant, and the Applicant

may not act those approvals until the County acknowledges such receipt, which acknowledgement shall be provided to the Applicant promptly.

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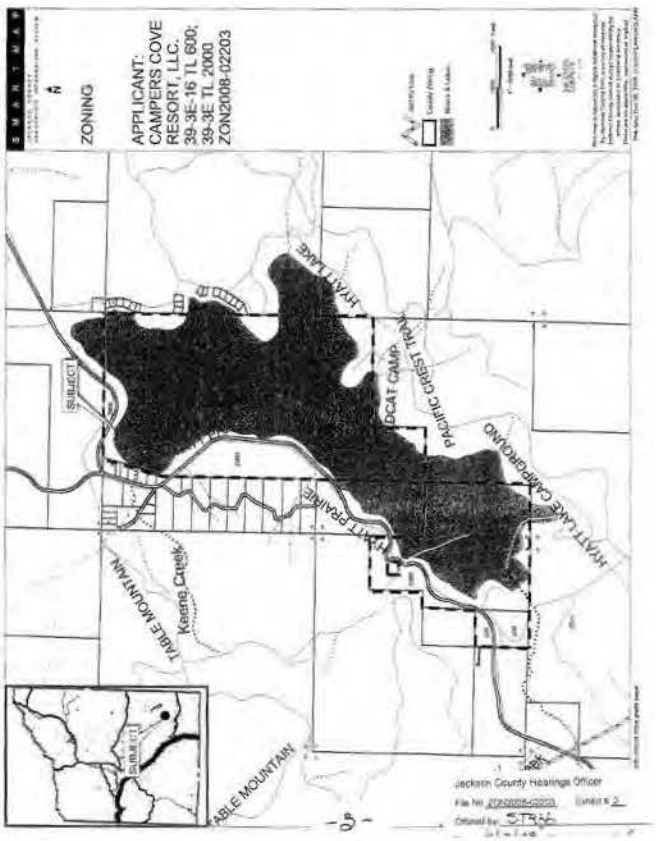
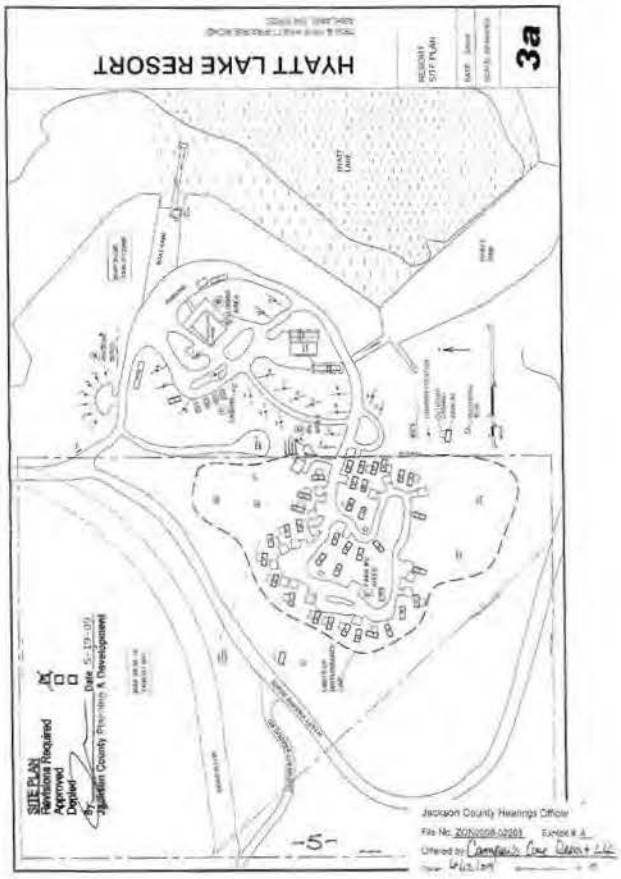
Dated this 25th day of September, 2009.

DONALD RUBESTEEN
Hearings Officer

The Hearings Officer's Order is the final decision of Jackson County on this application. This decision may be appealed to the Oregon Land Use Appeals Board (LUBA) within 21 days of the date it is mailed. This decision is being mailed on September 25, 2009. Please contact LUBA for specific information at 550 Capitol Street NE, Salem, OR 97301-2552 or by phone at (503) 373-1265.





Criteria Non-Conforming Use Determination/Limited Expansion of a Non-conforming Use
[Case File: ZON2008-02203]

Jackson County 2004 Land Development Ordinance

Section 3.1.4(B): for Type 3 Reviews

Section 4.3.4: General Review Criteria

Section 4.3.10(A): Campgrounds

Section 7.1.1 (J): Scenic Resources

Section 11.2: Non-conforming Uses

Section 11.3: Non-conforming Structures

Section 11.4: Non-conforming Dwellings

Section 11.8: Verification of Non-conforming Status

of the Jackson County Land Development Ordinance (LDO)

Transportation and Land Use Coordination Policy 4.3.1-B of the Jackson County Transportation System Plan.

NOTARY PAGE

STATE OF OREGON)
)
COUNTY OF JACKSON)

I, Marisa J. Harris, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of the Decision and Final Order described in the attached notice by mailing a copy thereof by regular mail to each of the following named persons at their respective last known addresses, to wit: (as attached)

Each of said copies of the decision was enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on September 25, 2009

Marisa J. Harris
Signature

Personally appeared before me this 25th day of September, the above named Marisa J. Harris, who acknowledged the foregoing affidavit to be her voluntary act and deed.

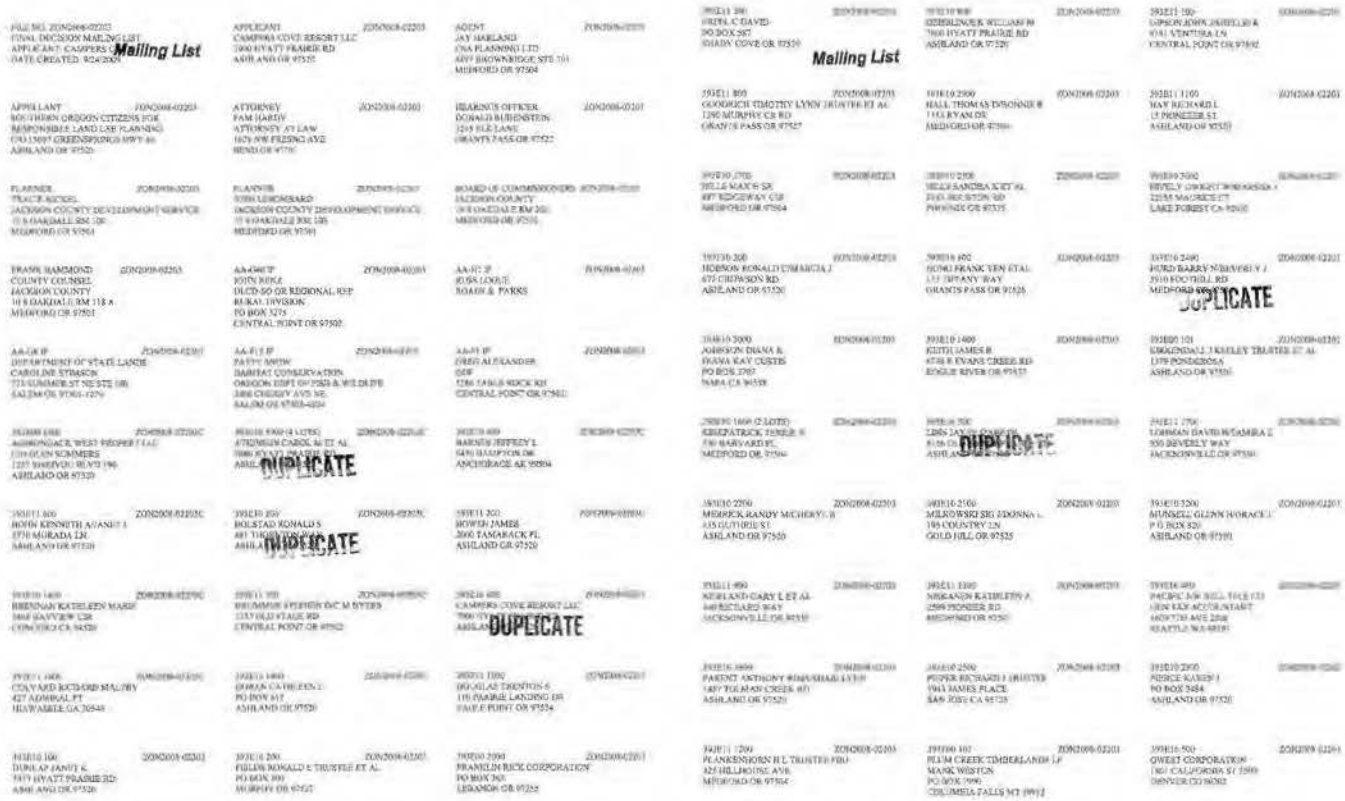
OFFICIAL SEAL
PATRICIA A. GUIDA
NOTARY PUBLIC-OREGON
COMMISSION NO. 403200
MY COMMISSION EXPIRES APR. 17, 2010

Patricia A. Guida
NOTARY PUBLIC for OREGON
My Commission Expires: April 17, 2010

NOTICE OF DECISION AND FINAL ORDER SENT TO: APPLICANT, AGENT, AFFECTED AGENCIES & PROPERTY OWNERS AS DESCRIBED IN 2004 LDO SECTION 2.7.5 (B)(2)(d).

NAME: CAMPER'S COVE RESORT LLC
FILE NO: ZON2008-01593

Jackson County Hearings Officer
File No. ZON2008-02203 Exhibit # 3
Offered by: Staff
-17-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FILE NO. ZON2008-02203
APPLICANT: CAMPERS COVE
DATE CREATED: 9/24/2009
FINAL DECISION IP MAILING LIST

BISON CONNECT

Campers Cove & Hyatt lake developers

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Feb 1, 2013 at 4:01 PM
To: bor <mpaquin@usbr.gov>
Cc: BOR Enviro <ccarnohan@usbr.gov>

Hi,
Campers Cove - Mountain Resort at Hyatt lake, were developed by 6 individuals. Mr. Faas is one of them. The California Dept. of Corporations; said they would never have issued him a license, had they known how he conducted business.

FYI

Accusation:

http://www.corp.ca.gov/ENF/pdf/f/faas_Accusation.pdf

Settlement Agreement:

http://www.corp.ca.gov/ENF/pdf/f/faas_sa.pdf

~ We seek justice because the victim can not ~
www.themurderofdavelewis.webs.com

State of California – Department of Corporations

I
STATEMENT OF FACTS

A. Background Concerning Respondents And Their Principal

Leonard A. Faas Jr. ("Leonard Faas") is an individual who resides and does business at 18841 Sunnyview Circle, Yorba Linda, California. Faas is and was at all relevant times herein an officer, director and person in charge of the businesses of all Respondents. Faas's wife, Patricia Faas, served as the corporate secretary and Faas's sons, Leonard Anthony Faas, III and Cary A. Faas, Sr., were also officers and directors of Respondents. Diana Light, formerly Diana Sanchez, at various times has been listed as the only other officer of Respondents.

Leonard Faas and his family members, Leonard A. Faas, Sr. and Leonard A. Faas III, have formed or filed for other companies in California, including the following: Agajanian-Faas Racers, Inc., All City Financial, B & Y Heavy Movers, Inc., Blackstone Technology Partners, LLC, C.C.D. Enterprises, California Film, Cash 4 Checks, Castblast, Inc., Check Cashing Center, Faas, Inc., K-Lawn Corporation, LAF-GEF Construction Co., R V Tanks, Inc., Recreational Boats, Inc., Safeview DMS, Inc., Sanders's Smog and Repair, Inc., and Walnut Creek Car Wash.

Leonard Faas applied to the Commissioner on behalf of Faas Financial, Inc., doing business as FFI Payday Loans for deferred deposit originator licenses, which is required to offer, originate, make, or arrange for a deferred deposit transaction or if one acts as an agent for a deferred deposit originator or assist a deferred deposit originator in the origin of a deferred deposit transaction.

A deferred deposit transaction is an agreement whereby one person gives funds to another person upon receipt of a personal check and it is agreed that the personal check shall not be deposited until a later date. A deferred deposit transaction is also referred to as a "payday loan" or "cash advance."

As a result of Leonard Faas' representations, the Commissioner issued five (5) deferred deposit transaction originator CDDTL licenses to Faas Financial, Inc., doing business as FFI Payday Loans (File No. 100-1935, 100-1936, 100-3082, 100-3083, and 100-3085). The location for each of these CDDTL licenses the Commissioner seeks to revoke is appended as **Exhibit 1.**

State of California – Department of Corporations

PRESTON DuFAUCHARD
California Corporations Commissioner
WAYNE STRUMPFER
Deputy Commissioner
ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
JOAN E. KERST (CA BAR NO. 1233051)
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Department of Corporations
71 Stevenson Street, Ste. 2100
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Telephone: (415) 972-5847 Facsimile: (415) 972-8550
Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation and Statement of Issues of the CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, v. Faas Financial, Inc.; Faas Financial, Inc., doing business as FFI Payday Loans; Faas Enterprises, Inc.; Faas Enterprises, Inc., doing business as Cash 4 Checks, also doing business as Check Cashing Center, also doing business as FFI Payday Loans and also doing business as FFI Payday Loans.com, Respondents.	)	File Nos.: 603A562, 603A785, 603C636, 603C916, 603C917, 603C918, 100-1935, 100-1936, 100-3082, 100-3083, 100-3085, 100-1435, 100-1436, 100-1437, 100-1438, 100-1439, 100-1440, 100-1442, 100-1443, 100-1444, 100-1445, 100-1447, 100-1452, , 100-3547, 100-3548, and 100-3549 ACCUSATION AND STATEMENT OF ISSUES

Complainant, the California Corporations Commissioner ("Commissioner"), alleges:

INTRODUCTION AND JURISDICTION

The Commissioner of the Department of Corporations ("Department") is mandated to enforce the California Finance Lender Law ("CFL") and the California Deferred Deposit Transaction Law ("CDDTL") found respectively in California Financial Code sections 22000 and 23000 *et seq.* All future references to sections are to the California Financial Code unless indicated otherwise. The Commissioner seeks orders to revoke Respondents' CFL and CDDTL licenses, deny their license applications, void their consumer contracts and require them to forfeit charges and fees.

State of California – Department of Corporations

On or about April 20, 2007, pursuant to section 23005, subdivision (c) Leonard Faas filed three (3) applications (File No. 100-3548, 100-3549, and 100-3083) with the Commissioner for three additional CDDTL licenses for Faas Financial, Inc., doing business as FFI Payday Loans. These three CDDTL applications were respectively for the following business addresses: 41125 Winchester Road, Suite B-03B, Temecula, California; 28282 Old Town Front Street, Temecula California, and, 31610 Railroad Canyon Road, Canyon Lake, California. Although CDDTL licenses were not issued for two of these locations Respondents advertised offering loans at them.

Based upon Leonard Faas' representations in applications filed in 2005 and thereafter, the Commissioner issued to Respondent, Faas Financial, Inc., finance lender licenses under the CFL. Faas Financial, Inc. currently has five (5) licenses under the CFL. (File numbers 603A562, 603A785, 603C636, 603C917, and 603C918). The location for each of these CFL licenses the Commissioner seeks to revoke is appended as **Exhibit 2.** Respondents falsely represent that Faas Financial, Inc. **dba FFI Payday Loans** has a CFL license. On January 19, 2006, Faas Financial, Inc. filed a California Finance Lenders Law short form application to obtain another license (File No. 603C916) pursuant to section 22102 to do business at 545 S. State College Blvd. Anaheim, California. This application has not been approved and the Commissioner seeks to deny it.

In 2004 the Commissioner issued to Respondent Faas Enterprises, Inc., doing business as Cash 4 Checks twelve (12) CDDTL licenses (File Nos. 100-1435, 100-1436, 100-1437, 100-1438, 100-1439, 100-1440, 100-1442, 100-1443, 100-1444, 100-1445, 100-1447 and 100-1452) pursuant to the CDDTL. The location for each of the preceding twelve CDDTL licenses the Commissioner seeks to revoke is appended as **Exhibit 3.**

Faas Enterprises, Inc., engages in the business of deferred deposit transactions using the business names "Check Cashing Center," "FFI Payday Loans" and "FFI Payday Loans.com." These businesses represent themselves to be wholly owned by Faas Enterprises Inc. The Commissioner has not issued any license to Faas Enterprises, Inc. to do business as "Check Cashing Center," as "FFI Payday Loans" or as "FFI Payday Loans.com." Thus, Faas Enterprises, Inc. doing business as "Check Cashing Center," as "FFI Payday Loans," and as "FFI Payday Loans.com" is in violation of section 23005 for engaging in the CDDTL business using these names without a license to do so.

Leonard Faas and his companies are an extension of himself and the Faas family. There is such a unity of ownership, interest, management, and control that there is no distinction between him and his companies. He uses the business names interchangeably to conduct his CDDTL activities and what he claims are CFL activities. Such business activities are in violation of numerous provisions of the Financial Code as described below. As of October 31, 2003, financial statements for Faas Financial, Inc. reflect assets and stockholder equity of $100,000; the financial statements for Faas Enterprises, Inc. reflect assets of $3.3 million and stockholder equity of almost $757,000 and the financial statements for Leonard and Patricia Faas reflect a net worth that exceeds $13 million.

B. Leonard Faas' Representations in Respondents' License Applications

Leonard Faas, on behalf of Respondents Faas Enterprises, Inc. and Faas Financial, Inc. doing business as FFI Payday Loans, when seeking CDDTL licenses signed Declarations, designated as "Exhibit K, " under penalty of perjury that:

> I (we) have obtained and read copies of the California Deferred Deposit Transaction Law (Division 10 of the California Financial Code) and the Rules (Chapter 3, Title, 10, California Code of Regulations) and am familiar with their content; and,
>
> I (we) agree to comply with all the provision[s] of the California Deferred Deposit Transaction Law, including any rules or orders of the Commissioner of Corporations.

Leonard Faas' Declarations (Exhibits K) also states that "by signing this declaration" the applicant hereby agrees (or attests) or declares understanding of the following items listed below:

> 1. **That the applicant hereby attests that the applicant (including officers, directors and principals) has not engaged in conduct that would be cause of denial of a license.** (Emphasis added.)

On December 31, 2004, a letter accompanied the Commissioner's issuance of a CDDTL license to Respondent, which informed Respondent of the following facts:

> [T]here are certain obligations and responsibilities that a licensee must comply with. The following information about a licensee's obligations and responsibilities regarding certain requirements of the California Deferred Deposit Transaction Law is provided for your reference . . . a licensee should review and become familiar with all provisions of the law and rules and regulations.

Leonard Faas filed an application for a license under the CFL in mid 2004 on behalf of Faas Financial, Inc. doing business as All City Financial, a fictitious business name that he abandoned during the application process. On July 26, 2004, Leonard Faas signed the execution section of the CFL application under penalty of perjury stating that he had read the foregoing application, including all Exhibits thereto, or filed therewith and knows the contents thereof, and that the statements therein are correct. Leonard Faas, on behalf of Respondents Faas Financial, Inc. when seeking CFL licenses signed Declarations, designated as "Exhibit L" to Respondents' CFL applications. On behalf or Respondents Leonard Faas signed these Declarations under penalty of perjury stating (emphasis added here):

> 1. **The applicant will comply with all federal and state laws and regulations** (including Division 10, commencing with Section 23000, of the Financial Code), if it offers, arranges, acts as an agent for, or assists a deferred deposit originator in the making of a deferred deposit transaction (Financial Code Section 23037(i).)

Faas, on behalf of Respondent Faas Financial, Inc. completed a declaration designated as "Exhibit L" to Faas Financial Inc.'s CFL application and Leonard Faas signed under penalty of perjury that:

"I, the undersigned, authorized to act on behalf of the applicant, declare that the following statements are true and correct:

> 1. I (we) have obtained and read copies of the California Finance Lenders Law (Division 9 of the California Financial Code) and the Finance Company Rules (Chapter 3, Title, 10, California Code of Regulations) and am familiar with their content; and,
>
> 2. I (we) agree to comply with all the provision[s] of the California Finance Lenders Law and Finance Company Rules."

Faas further declared under penalty of perjury his understanding of the following:

> 5. **That the applicant will file with the Commissioner of Corporations an amendment to this application prior to any material change in the information contained in the application for licensure, including, without limitation, the plan of operation.** (Emphasis added.)

> 6. **That the applicant hereby attests that the applicant (including officers, directors and principals) has not engaged in conduct that would be cause of denial of a license.** (Emphasis added.)

Leonard Faas applied for CFL licenses at other locations with the Commissioner stating under penalty of perjury that Respondent Faas Financial, Inc was not using any fictitious business names. However, Faas Financial, Inc. routinely used an unauthorized fictitious business name. Thus, Faas Financial, Inc. failed to operate in conformity with the CFL application that Leonard Faas filed. Therefore, as the control person for Faas Financial, Inc., Leonard Faas filed a false application with the Commissioner.

On January 26, 2005, a letter accompanied the Commissioner's issuance of a CFL license to Respondent Faas Financial Inc. and directed to the attention of Leonard Faas the following:

> As you know, one of the documents you provided when you filed your application for this license, was a statement that you understood certain obligations and responsibilities as a licensee under the California Finance Lenders Law.

C. Respondents' Deceptive Practices, False Advertising and Unlicensed Activities

Leonard Faas arranged for each one of his Faas Financial, Inc. CFL licensed businesses to be co-located at the same business premises with one of his CDDTL licensed businesses, namely Faas Financial, Inc., doing business as FFI Payday Loans. Thus, Leonard Faas' CFL licenses operate at the same business addresses as his CDDTL licenses.

Leonard Faas obtained multiple CDDTL and CFL licenses by misrepresenting his businesses. Leonard Faas never disclosed in any of his applications filed with the Department that he would be (1) offering what he referred to as "FFI Payday Loans" of up to $600; (2) that a consumer/borrower would be required to execute multiple agreements that were tied together and contingent on each other; or, (3) that he would engage in unlicensed CFL and CDDTL activities under various names.

Leonard Faas advertised "FFI **Payday Loans**" and advertised "loans of up to $600" and "FAST CASH." Some of Leonard Faas' advertisements for FFI Payday Loans are attached as **Exhibit 4**. Leonard Faas' "FFI Payday Loans" chart shows he offered loans from $50 to $660 in $25 increments. Leonard Faas' fee charts for FFI Payday Loans are at **Exhibit 5**. However, under

the CDDTL the maximum deferred deposit transaction/payday loan is $300.

Leonard Faas' businesses routinely engaged in use of multiple agreements to circumvent the $300 cap on payday loans. To arrange for his advertised $600 loan through Faas Financial, Inc. doing business as FFI Payday Loans, Leonard Faas required consumers/borrowers to execute multiple agreements – one agreement with "FFI Payday Loans," for what purports to be a CFL loan and one with "FFI Payday Loans" for what is a CDDTL agreement. Leonard Faas tied the multiple agreements together such that of the total amount, sixty percent (60%) of each transaction would be purportedly a CFL loan and forty percent (40%) would be a deferred deposit transaction/payday loan. Even the fees were tied together. Leonard Faas advertised a combined ten percent (10%) fee for the multiple agreements. By combining the agreements Leonard Faas circumvented the $300 maximum cap on deferred deposit transactions. By offering up to a $600 loan with a ten percent (10%) fee Leonard Faas gained an illegal competitive advantage over other CDDTL licensees. In reality the multiple agreements enabled Leonard Faas to charge in excess of what would be permitted if only one loan under the CFL was given to a borrower pursuant to the CFL provisions that limit fees.

"FFI Payday Loans" charts that set forth the amount of fees also falsely implied that the stated amounts for Respondents' "DD Advance" and Consumer Loan" were "governed by the Department of Corporations."

Faas Enterprises, Inc. is the registrant for the domain name ffipaydayloans.com. A consumer who visits the website for FFI Payday Loans' and clicks on the links to apply for a payday loan has his Internet browser directed to the website for www.cash4checks.net, which is also registered to Leonard Faas. The technical contact for the website of cash4checks.net is listed "Faas, Leonard busterpig@value.net." At all relevant times the web pages containing the consumer agreements and disclosures for ffipayloans.com and cash4checks.net lacked the required CDDTL disclosures in violation of section 23035.

D. The Department Regulatory Examinations Results and Leonard Faas' Response

In 2006 and 2007 the Commissioner's examiners conducted CFL-CDDTL regulatory examinations of CFL licensee Respondent Faas Financial, Inc. and CDDTL licensee Respondent

Faas Financial, Inc., doing business as FFI Payday Loans. The examinations revealed that Faas Financial, Inc. and Faas Financial, Inc. doing business as FFI Payday Loans were engaged in CFL and CDDTL violations. From September 2005 until December 11, 2006, Respondents made a total of at least 29,000 multiple CFL-CDDTL agreements. The amount of funds loaned totaled approximately $7 million. The amount of excess fees charged to consumers is at least $700,000.

On December 11, 2006, the Commissioner's examiners informed Leonard Faas that his multiple agreements were in violation of the CFL and CDDTL. Yet, Leonard Faas continued to engage in the multiple agreements until at least February 2007. The Commissioner's examiners also wrote to Respondent Faas Financial, Inc. in March 2007 stating the Department required refunds to be made to consumers/borrowers of all excess charges for the multiple agreements. Leonard Faas refused to do so claiming that the multiple agreements do not involve payday loans but are two transactions, one a CDDTL advance and the other a CFL loan.

Leonard Faas' claim that one of the multiple agreements is for "CFL loans" issued under the fictitious business name, FFI Payday Loans is false for several reasons. First, all the "CFL loans" are in fact CDDTL loans and have the indicia of payday loans: (1) an advance of a sum of money (2) in exchange for deferring (3) for a short period of time (4) until a specific date (5) the depositing of a customer's personal check for (6) that same amount of money (7) plus a fee (8) pursuant to a written agreement.

Second, one of the obligations of a licensee is to inform the Department if the licensee is using a name other than its legal name pursuant to section 22155. The Commissioner's examiners found that Leonard Faas and Respondents regularly advertised and transacted business as "FFI Payday Loans." (See **Exhibits 4 and 5.**) But at no time has Leonard Faas or FFI Payday Loans ever been licensed to do business in California as a finance lender pursuant to the CFL. The Commissioner never authorized Faas Financial, Inc. to transact CFL business using the name "FFI Payday Loans" or any other fictitious business name. Leonard Faas failed to obtain a CFL license from the Commissioner that would authorize Respondent Faas Financial, Inc. to transact CFL business as "FFI Payday Loans," as required pursuant to section 22155. Leonard Faas on behalf of Respondent Faas Financial, Inc. never even filed an amendment to its CFL application as required

by section 22108 and California Code of Regulations section 1422.

Third, the surety bond of Faas Financial Inc.'s CFL licenses does not cover "FFI Payday Loans." Therefore, Respondent would not have been in compliance with CFL surety requirements.

Fourth, the Commissioner informed Respondent Faas Financial Inc. that it could not use the fictitious business name FFI Payday Loans for CFL activities. If these were true CFL loans as Leonard Faas claims then he has engaged in unlicensed CFL activities in violation of section 22100.

Assuming arguendo as Leonard Faas and Respondents claim, that the CFL loans of FFI Payday Loans were legally made under a Department CFL license then they would be in violation of section 22321 which prohibits Respondents from requiring a borrower in connection with or incidental to the making of any loan to contract for purchase, or agree to purchase, any other thing in connection with the loan. Moreover, if these were bona fide CFL loans they would be in violation of section 22307, subdivision (b), which states that the payment date shall be due not less than 15 days nor more than one month and 15 days from the date the loan is made. Leonard Faas' and Respondents' purported "CFL loan" had a payment date only 14 days after the date of the contract.

Regardless of whether Respondents multiple agreements are governed by the CFL or the CDDTL they violate the Financial Code. The advertising of Respondents, including the yellow page ads and information posted on their websites, violate the CDDTL and are misleading. Respondents failed to include the information required by the Financial Code and/or misrepresented the agreements to consumers/borrowers.

In view of Leonard Faas' false applications filed with the Commissioner, the activities of Respondents that violate the CFL and CDDTL and his unlicensed CFL business, the Commissioner proposes to issue the following orders:

An order revoking the five (5) CFL licenses of Faas Financial, Inc. (File Nos. 603A562, 603A785, 603C636, 603C917 and 603C918) pursuant to section 22714;

An order denying the application of Faas Financial, Inc. (File No. 603C916) pursuant to section 22109;

An order revoking the five (5) CDDTL licenses of Faas Financial, Inc. (File Nos.100-1935, 100-1936, 100-3082, 100-3085, 100-3547) pursuant to section 23052;

An order denying the three (3) applications of Faas Financial, Inc. (File Nos. 100-3548, 100-3549, 100-3083) for CDDTL licenses pursuant to section 23011;

An order revoking the twelve (12) CDDTL licenses of Faas Enterprises, Inc. (File Nos. 100-1435, 100-1436, 100-1437, 100-1438, 100-1439, 100-1440, 100-1442, 100-1443, 100-1444, 100-1445, 100-1447 and 100-1452) pursuant to section 23052;

An order that voids Respondents' deferred deposit transaction contracts pursuant to section 23060 and requires Respondents' forfeiture of all charges and fees on the multiple agreement transactions pursuant to sections 23061 and 23062; and awards costs pursuant to section 23046.

II
FINANCE LENDERS LAW AND DEFERRED DEPOSIT TRANSACTION LAW

Faas and Respondents are required to comply with the California Finance Law ("CFL") and California Deferred Deposit Transaction Law ("CDDTL"). Both the CFL and CDDTL prohibit multiple loans to a borrower or making one transaction contingent upon another. CFL section 22311, in relevant part with emphasis added, states:

> **No person in connection with or incidental to the making of any loan regulated by this division may require the borrower to contract for purchase, or agree to purchase, any other thing in connection with the loan.**

CDDTL section 23037, in relevant part with emphasis added, states:

> In no case shall a licensee do any of the following. . .
>
> **(b) Accept any collateral for a deferred deposit transaction.**
>
> **(c) Make any deferred deposit transaction contingent on the purchase of insurance or any other goods or services. . . .**
>
> **(f) Engage in any unfair, unlawful, or deceptive conduct, or make any statement that is likely to mislead in connection with the business of deferred deposit transactions. . . .**
>
> **(i) Offer, arrange, act as an agent for, or assist a deferred deposit originator in any way in the making of a deferred deposit transaction unless the deferred deposit originator complies with all applicable federal and state laws and regulations, including the provisions of this division.**

Section 23035 sets forth the requirements of the written agreements for deferred deposit transactions, which in relevant part with emphasis added states:

> (a) A licensee may defer the deposit of a customer's personal check for up to 31 days, pursuant to the provisions of this section. **The face amount of the check shall not exceed three hundred dollars ($300). Each deferred deposit transaction shall be made pursuant to a written agreement as described in subdivision (e) that has been signed by the customer and by the licensee or an authorized representative of the licensee. . . .**
>
> (c) Before entering into a deferred deposit transaction, licensees shall distribute to customers a notice that shall include, but not be limited to, the following: . . .
>
> **(3) That the customer cannot be prosecuted in a criminal action in conjunction with a deferred deposit transaction for a returned check or be threatened with prosecution.**
>
> **(4) The department's toll-free telephone number for receiving calls regarding customer complaints and concerns.**
>
> **(5) That the licensee may not accept any collateral in conjunction with a deferred deposit transaction.**
>
> **(6) That the check is being negotiated as part of a deferred deposit transaction made pursuant to Section 23035 of the Financial Code and is not subject to the provisions of Section 1719 of the Civil Code. No customer may be required to pay treble damages if this check does not clear.**
>
> (d) The following notices shall be clearly and conspicuously posted in the unobstructed view of the public by all licensees in each location of a business providing deferred deposit transactions in letters not less than one-half inch in height: . . .
>
> **(2) The schedule of all charges and fees to be charged on those deferred deposit transactions with an example of all charges and fees that would be charged on at least a one-hundred-dollar ($100) and a two-hundred-dollar ($200) deferred deposit transaction, payable in 14 days and 30 days, respectively, giving the corresponding annual percentage rate. The information may be provided in a chart as follows: . . .**
>
> (e) An agreement to enter into a deferred deposit transaction shall be in writing and shall be provided by the licensee to the customer. The written agreement shall authorize the licensee to defer deposit of the personal check, shall be signed by the customer, and shall include all of the following: . . .
>
> **(2) A clear description of the customer's payment obligations as required under the Federal Truth In Lending Act and its regulations.**

(3) The name, address, and telephone number of the licensee. . .

(7) An itemization of the amount financed as required under the Federal Truth In Lending Act and its regulations. . .

(9) That the customer cannot be prosecuted or threatened with prosecution to collect.

(10) That the licensee cannot accept collateral in connection with the transaction.

(11) That the licensee cannot make a deferred deposit transaction contingent on the purchase of another product or service. . .

(b) Under no circumstances shall a deferred deposit transaction agreement include any of the following: . . .

(5) Any unconscionable provision.

Fees a CDDTL licensee may charge are limited by section 23036 that states, in part:

(a) A fee for a deferred deposit transaction shall not exceed 15 percent of the face amount of the check. . . .

(c) A licensee shall not enter into an agreement for a deferred deposit transaction with a customer during the period of time that an earlier written agreement for a deferred deposit transaction for the same customer is in effect. (Emphasis added.) . . .

(f) No amount in excess of the amounts authorized by this section shall be directly or indirectly charged by a licensee pursuant to a deferred deposit transaction. (Emphasis added.)

All CDDTL licensees are required to file a verified annual report with the Commissioner pursuant to section 23026 and California Code of Regulations, title 10, section 2030. Section 22036, in relevant part, states:

> On or before March 15 of each year, beginning March 2006, each licensee shall file an annual report with the commissioner pursuant to procedures that the commissioner shall establish. . . For the previous calendar year, these reports shall include the following:
>
> (a) The total number and dollar amount of deferred deposit transactions made by the licensee.
>
> (b) The total number of individual customers who entered into deferred deposit transactions.
>
> (c) The minimum, maximum, and average amount of deferred deposit transactions.

(d) The average annual percentage rate of deferred deposits.

(e) The average number of days of deferred deposit transactions.

(f) The total number and dollar amount of returned checks.

(g) The total number and dollar amount of checks recovered.

(h) The total number and dollar amount of checks charged off.

Both the CFL and CDDTL mandate specific requirements concerning advertising and fees, charges and rates. CFL sections 22161, 22162, and 22163 require the following, respectively:

> No person shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner, any statement or representation with regard to the business subject to the provisions of this division, including the rates, terms, or conditions for making or negotiating loans, that is false, misleading, or deceptive, or that omits material information that is necessary to make the statements not false, misleading, or deceptive, or in the case of a licensee, that refers to the supervision of the business by the state or any department or official of the state.
>
> No licensee shall place an advertisement disseminated primarily in this state for a loan unless the licensee discloses in the printed text of the advertisement, or in the oral text in the case of a radio or television advertisement, **the license under which the loan would be made or arranged.** (Emphasis added.)
>
> The commissioner may require that rates of charge, if stated by a licensee, be **stated fully and clearly in the manner that the commissioner deems necessary to prevent misunderstanding by prospective borrowers.** (Emphasis added.)

Similarly CDDTL section 23027 prohibits a licensee from engaging in advertising that is false, misleading or deceptive and in relevant part, with emphasis added, states:

> (a) No licensee shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed or broadcast, in any manner, any statement or representation with regard to the business subject to the provisions of this division, including the rates, terms, or conditions for making or negotiating deferred deposit transactions, that is **false, misleading, or deceptive, or that omits material information that is necessary to make the statements not false, misleading, or deceptive.**

(b) No licensee shall place an advertisement disseminated primarily in this state for a deferred deposit transaction unless the licensee discloses in the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, that the **licensee is licensed by the department pursuant to this division.**

(c) The commissioner may require that **rates of charges or fees, if stated by the licensee, be stated fully and clearly** in the manner that the commissioner deems necessary to give adequate information to, or to prevent misunderstanding by, prospective customers.

CFL section 22100 sets forth the absolute requirement for a license and unequivocally states:

> No person shall engage in the business of a finance lender or broker without obtaining a license from the commissioner.

CFL section 22154, subdivision (a), states:

> No licensee shall conduct the business of making loans under this division within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as is authorized in writing by the commissioner upon the commissioner's finding that the character of the other business is such that the granting of the authority would not facilitate evasions of this division or of the rules and regulations made pursuant to this division. An authorization once granted remains in effect until revoked by the commissioner.

CFL section 22327 prohibits the splitting of loans or inducing a borrower to be obligated under more than one contract of loan at the same time with the result of obtaining a higher rate of charge. Section 22327, in relevant part, states:

> No licensee shall knowingly induce any borrower to split up or divide any loan with any other licensee. No licensee shall induce or permit any borrower to be or to become obligated directly or indirectly, or both, under more than one contract of loan at the same time with the same licensee for the purpose or with the result of obtaining a higher rate of charge than would otherwise be permitted by this article . . ."

The CFL limits the amount of administrative fees that may be charged to borrowers. Section 22305, with emphasis added, states:

> In addition to the charges authorized by Section 22303 or 22304, a licensee may contract for and receive an administrative fee, which shall be

> fully earned immediately upon making the loan, with respect to a loan of a bona fide principal amount of not more than two thousand five hundred dollars ($2,500) **at a rate not in excess of 5 percent of the principal amount (exclusive of the administrative fee) or fifty dollars ($50), whichever is less**, and with respect to a loan of a bona fide principal amount in excess of two thousand five hundred dollars ($2,500), at an amount not to exceed seventy-five dollars ($75). **No administrative fee may be contracted for or received in connection with the refinancing of a loan unless at least one year has elapsed since the receipt of a previous administrative fee paid by the borrower.** Only one administrative fee may be contracted for or received until the loan has been repaid in full. For purposes of this section, "bona fide principal amount" shall be determined in accordance with Section 22251.

The CFL limits when a lender can require a borrower to repay the loan in Section 22307, which in relevant part and with emphasis added, states:

> (b) The loan contract shall provide for **payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor more than one month and 15 days from the date the loan is made.**

III
RESPONDENTS' VIOLATIONS

The Commissioner's examiners commenced a regulatory examination of the Respondent's books and records at Respondents' businesses. The regulatory examination disclosed that Respondents had failed to comply with numerous legal requirements imposed on all CFL and CDDTL licensees. Specific violations include, but are not limited to, the following:

1. Respondent Faas Financial, Inc. and Faas Enterprises, Inc. filed false applications and annual reports with the Commissioner by excluding inter alia information about the multiple agreements with borrowers in violation of sections 23005, 23010 and 23026 and California Code of Regulations sections 2020, 2030 and 1422;

2. Respondent Faas Financial, Inc.'s multiple agreements exceeded $300 in violation of sections 23035 and 23037;

3. Respondent Faas Financial, Inc.'s arrangement for multiple agreements to customers were in violation of sections 23036 and 23037.

4. Respondents engaged in unfair, unlawful or deceptive conduct, and arranged for deferred deposit transaction without complying with federal and state laws and regulations in violation of section 23037;

5. The advertising of Respondents Leonard Faas, Faas Financial, Inc., Faas Enterprises, Inc. and their fictitious business names was false and deceptive in violation of sections 22161, 22162, 22163 and 23027;

6. Respondent Faas Financial, Inc.'s CFL activities were conducted within the same place of business as Faas Financial, Inc.'s CDDTL activities without written authorization from the Commissioner in violation of section 22154;

7. Respondent Faas Financial, Inc., induced borrowers to split up or divide their loans between Faas Financial, Inc. as a CDDTL transaction and Faas Financial, Inc. as a purported "CFL loan" in violation of section 22327;

8. Assuming the purported "CFL loan" to be bona fide then Respondent Faas Financial, Inc. received a CFL administrative fee more than once a year in violation of section 22305;

9. Assuming the purported "CFL loan" to be bona fide then Respondent Faas Financial, Inc.'s CFL loan contracts provided for planned payment dates that were 14 days or less in violation of section 22307;

10. Assuming the purported "CFL loan" to be bona fide then Respondent Faas Financial, Inc. required borrowers to purchase payday loans in connection with their CFL loans in violation of section 22311;

11. Assuming the purported "CFL loan" to be bona fide then Leonard Faas and Faas Financial Inc. engaged in unlicensed CFL activities by operating as FFI Paydays Loans in violation of section 22100; and

12. Leonard Faas and Faas Enterprises, Inc. doing business as FFI Payday Loans and/or as FFIPaydayLoans.com engaged in unlicensed activities in violation of section 23050 and in other CDDTL violations.

In June 2007 the Commissioner commenced a further examination of Respondents. The examination and investigation reveals the same or similar violations of the CDDTL and CFL as those found in 2006.

Additionally, the most recent examination and investigation indicates unlicensed activities, false advertising and other CDDTL violations. Respondents, specifically FFI Pay Loans advertise

and offer payday loans at locations that have never been licensed by the Commissioner and advertise that Respondent Faas Financial, Inc. "dba FFI Payday Loans is licensed by the Department of Corporations . . . pursuant to the CFLL", which it has never been.

Leonard Faas and/or Faas Enterprises, Inc.; Faas Enterprises, Inc. doing business as Cash 4 Checks; also doing business as Check Cashing Center, also doing business as FFI Payday Loans also doing business as FFI Payday Loans.com have failed to comply with various disclosure requirements to consumers even though Respondents were advised by the Commissioner's examiners of the CDDTL and CFL requirements.

Without question after December 11, 2006, until at least January 22, 2007 Respondents continually and willfully engaged in multiple agreements that aggregate almost $1.2 million. These multiple agreements were in willful violation of the California Financial Code. Respondents were aware that their businesses operations were not in compliance with CFL and CDDTL legal requirements and received notice from the Commissioner's examiners about their violations advising them to stop them in December 2006, but they failed to do so. After the Commissioner's representatives informed Respondents that refunds were to be made to consumers-borrowers they refused to do so. Thus, Respondents owned and controlled by Leonard Faas failed to comply with the Commissioner's demand to make restitution to consumers/borrowers who were overcharged despite their financial ability to do so.

Respondents' course of business constitutes a scheme to evade the requirements of the CDDTL. Leonard Faas and his companies are incapable of operating businesses in compliance with the CFL and CDDTL as demonstrated by their pattern of violations and refusal to comply with the Commissioner's requirements. The Commissioner would never have licensed Respondents had he been aware of their operations that violate multiple provisions of the CFL and CDDTL.

IV
COMMISSIONER'S AUTHORITY TO REVOKE RESPONDENTS' LICENSES

Both the CFL and CDDTL have provision for revocation of a license after its issuance. CFL section 22714 states, in relevant part:

(a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(1) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

(3) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

CDDTL section 23052 states:

The commissioner may suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(a) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(b) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

Leonard Faas owns, controls and directs Faas Financial, Inc.; Faas Financial, Inc. doing business as FFI Payday Loans; Faas Enterprises, Inc.; Faas Enterprises, Inc. doing business as Cash 4 Checks; Faas Enterprises, Inc. doing business as the Check Cashing Center, Faas Enterprises, Inc. doing business as FFI Payday Loans, and Faas Enterprises, Inc. doing business as FFI Payday Loans.com. There is such a unity of interest, ownership, dominion and control of Respondents by Leonard Faas and the Faas family that the corporate form should be disregarded. Respondents and Leonard Faas as the alter ego of Respondents Faas Financial, Inc.; Faas Financial, Inc., doing business as FFI Payday Loans; Faas Enterprises, Inc.; Faas Enterprises, Inc. doing business as Cash

4 Checks; Faas Enterprises, Inc. doing business as the Check Cashing Center; Faas Enterprises, Inc. doing business as FFI Payday Loans, and Faas Enterprises, Inc. doing business as FFI Payday Loans.com violated numerous provisions of the CFL and CDDTL rules and regulations thereunder. If the Commissioner had known Respondents and Leonard Faas and his alter egos companies were going to engage in a scheme involving multiple violations in an attempt to evade the legal requirements and facilitate fraudulent conduct, the Commissioner would have refused to issue Leonard Faas and his companies any license. In view of the nature and duration of violations by Leonard Faas and his companies, it is in the best interests of the public to revoke Respondents' CFL and CDDTL licenses.

V
COMMISSIONER'S AUTHORITY TO DENY RESPONDENTS' LICENSE APPLICATIONS

Section 22109 sets forth grounds for denial of a CFL license application, stating in part:

(a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) An officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, been convicted of or pleaded nolo contendere to a crime, or committed an act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

Section 23011 states the grounds for denial of a CDDTL license application, in part, stating:

(a) Upon reasonable notice and the opportunity to be heard, the commissioner may deny the application for any of the following reasons:

(1) Any false statement of material fact has been made in the application.

(2) Any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years (A) been convicted of or pleaded nolo contendere to a crime, or (B) committed any act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with this division.

(3) The applicant or any officer, director, or general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

Engaging in CFL and CDDTL violations are grounds under California Financial Code section 22109 and 23011 to deny the license applications that Respondents previously filed with the Commissioner under the CFL and CDDTL.

VI
COMMISSISONER'S AUTHORITY TO VOID RESPONDENT'S DEFERRED DEPOSIT TRANSACTION CONTRACTS

Section 23060 provides for the voiding of deferred deposit transaction contracts and states:

(a) If any amount other than, or in excess of, the charges or fees permitted by this division is willfully charged, contracted for, or received, a deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive the principal amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.

(b) If any provision of this division is willfully violated in the making or collection of a deferred deposit transaction, the deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive any amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.

VII
COMMISSISONER'S AUTHORITY TO REQUIRE FORFEITURE OF ALL CHARGES AND FEES ON THE DEFERRED DEPOSIT TRANSACTIONS

Section 23061 provides for forfeiture of any amount received in connection with a deferred deposit transaction other than amounts permitted by this division. Section 23061, in part, states:

(a) If any amount other than, or in excess of, the charges permitted by this division is charged, contracted for, or received in connection with a deferred deposit transaction, for any reason other than a willful act of the licensee, the licensee shall forfeit all charges and fees on the deferred deposit transaction and may collect or receive only the principal amount of the transaction.

Section 23062 similarly provides for forfeiture when any provision of the CDDTL is violated in the making or collection of a deferred deposit transaction. Section 23062, in part, states:

(a) If any provision of this division is violated in the making or collection of a deferred deposit transaction, for any reason other than a willful act of the licensee, the licensee shall forfeit all charges and fees on the deferred deposit and may collect or receive only the principal amount.

CONCLUSION

Complainant finds, by reason of the foregoing, that:

Respondents have committed various violations of the CFL and CDDTL, including sections 23026, 23027, 23035, 23036, 23037, 23005, 22161, 22162, 22163, or alternatively sections 22100, 22154, 22327, 22305, 22307, 22311 as well as sections 1422, 2020 and 2030 of title 10 of the California Code of Regulations.

Respondents are incapable of operating in compliance with the CFL and CDDTL as demonstrated by their numerous violations. It is in the best interests of the public to revoke Respondents' CFL and CDDTL licenses, deny Respondents' applications for CFL and CDDTL licenses, void Respondents' contracts and require the return of all sums to consumers for their violations.

WHEREFORE IT IS PRAYED that:

a. The five (5) CFL licenses of Faas Financial, Inc. (File Nos. 603A562, 603A785, 603C636, 603C917 and 603C918) be revoked pursuant to section 22714;

b. The application from Faas Financial, Inc. (File No. 603C916) for a CFL license be denied pursuant to section 22109;

///

c. The five (5) deferred deposit transaction licenses of Respondent Faas Financial, Inc. doing business as FFI Payday Loans (File Nos. 100-1935, 100-1936, 100-3082, 100-3085, 100-3547) be revoked pursuant to Financial Code section 23052;

d. The three (3) applications for CDDTL licenses from Faas Financial, Inc. doing business as FFI Payday Loans (File Nos. 100-3548, 100-3549, 100-3083) for CDDTL licenses be denied pursuant to section 23011;

e. The twelve (12) CDDTL licenses of Faas Enterprises, Inc. (File Nos. 100-1435, 100-1436, 100-1437, 100-1438, 100-1439, 100-1440, 100-1442, 100-1443, 100-1444, 100-1445, 100-1447 and 100-1452) be revoked pursuant to section 23052;

f. An Order issue that voids the deferred deposit transactions of Respondent Faas Financial Inc., and Faas Financial, Inc., doing business as FFI Payday Loans, and prohibits Respondents' right to collect or receive the principal amounts provided in the deferred deposit transactions, and any charges or fees in connection with transactions pursuant to Financial Code section 23060;

g. An Order issue pursuant to Financial Code sections 23061 and 23062 that requires Respondents Faas Financial, Inc., and Faas Financial, Inc., doing business as FFI Payday Loans, to forfeit all charges, fees and other amounts received by Respondent on all the deferred deposit transactions; and,

h. An Order awarding examinations costs to the Commissioner pursuant to section 23046.

Dated: June 22, 2007
San Francisco, California

Respectfully submitted,

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Joan E. Kerst
Senior Corporations Counsel
Attorney for Complainant

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into as of May 13, 2008, by and between the Complainant, the California Corporations Commissioner ("Commissioner"), and Respondents, Faas Financial, Inc.; Faas Financial, Inc., doing business as FFI Payday Loans; Faas Enterprises, Inc.; Faas Enterprises, Inc., doing business as Cash 4 Checks, also doing business as Check Cashing Center, also doing business as FFI Payday Loans and also doing business as FFI Payday Loans.com, (hereafter collectively, "the Parties" or "Respondents").

RECITALS

This Agreement is made with reference to the following facts:

A. Leonard A. Faas Jr. ("Leonard Faas") is an individual who is and was at all relevant times herein an officer, director and person in charge of the businesses of all Respondents. Leonard Faas is authorized to enter into this Agreement on behalf of Respondents.

B. Leonard Faas formed Faas Financial, Inc., which does business as FFI Payday Loans at five principal business offices and obtained five licenses pursuant to the California Deferred Deposit Transaction Law ("CDDTL") (File No. 100-1935, 100-1936, 100-3082, 100-3083, and 100-3085). Leonard Faas filed two (2) applications (File No. 100-3548 and 100-3549) with the Commissioner for two additional CDDTL licenses for Faas Financial, Inc., doing business as FFI Payday Loans. These two CDDTL applications were respectively for the following business addresses: 41125 Winchester Road, Suite B-03B, Temecula, California and 28282 Old Town Front Street, Temecula California.

C. Leonard Faas on behalf of Faas Financial, Inc., also obtained from the Commissioner five licenses pursuant to the California Finance Lenders Law ("CFLL") (File numbers 603A562, 603A785, 603C636, 603C917, and 603C918). Leonard Faas filed an additional application to obtain another CFLL license (File No. 603C916)

D. Leonard Faas also formed Faas Enterprises, Inc., which does business as Cash 4 Checks at twelve (12) locations and obtained twelve additional licenses pursuant to the CDDTL (File Nos. 100-1435, 100-1436, 100-1437, 100-1438, 100-1439, 100-1440, 100-1442, 100-1443, 100-1444, 100-1445, 100-1447 and 100-1452). Faas Enterprises, Inc., appeared to be engaged in the business of deferred deposit transactions using the business names "Check Cashing Center," "FFI Payday Loans" and "FFI Payday Loans.com."

E. On June 22, 2007, the Commissioner issued to Respondents an Accusation and Statement of Issues served to Respondents on June 26, 2007. The foregoing document will hereinafter be referred to as "Administrative Actions"). A copy of the Administrative Actions are attached and incorporated herein as Exhibit 1.

F. It is the intention of the parties to resolve this matter without the necessity of an administrative hearing or other litigation.

NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set forth herein, the parties agree as follows:

TERMS AND CONDITIONS

1. Purpose. The purpose of this Agreement is to resolve the Administrative Actions expeditiously, avoid the expense of a hearing, and possible further court proceedings.

2. Waiver of Hearing Rights. Respondents acknowledge their right to a hearing under the CDDTL in connection with the Administrative Actions and hereby waive that right to a hearing, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CDDTL, the California Administrative Procedure Act ("APA"), the Code of Civil Procedure, or any other provision of law, as to the Administrative Actions and by waiving such rights, consent to the agreement becoming final.

3. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it has received or been advised to seek independent legal advice from its attorneys with respect to the advisability of executing this Agreement. Respondents acknowledge that they consulted with attorney John D. Fischer, prior to entering into this Agreement.

4. Admissions. Respondents admit the FACTS stated that appear in the Administrative Actions below the heading, Roman numeral I Statement of Facts solely for the limited purposes of this Agreement and any future proceeding(s) that may be initiated by or brought before the Commissioner against Respondents or any of the persons named I the Administrative Actions.

5. CFLL Revocation. Respondents hereby voluntarily agree and consent to the issuance by the Commissioner of an Order Revoking Respondents' California Lenders Licenses Pursuant to Financial Code Section 22714 for five licenses, file numbers: 603A562, 603A785, 603C636, 603C917, 603C918 (" CFLL Revocations"). The Revocations preclude Respondents from engaging in any CFLL activities including any with existing clients after the revocations. These revocations do not preclude Respondents from engaging in pure collection activities that permit: (1) receipt of cash from customers for existing transactions entered into before May 13, 2008, (2) forwarding any checks received from Respondents' clients to Respondents' bank for deposit relating to transactions entered into before May 13, 2008, (3) responding to regulatory inquiries from the Department of Corporations or other agencies, (4) making refunds described in paragraph nine (9.) below and (5) otherwise responding to customer inquiries concerning existing transactions. The Revocation Order is attached as Exhibit 2 and incorporated herein by reference.

6. CFLL Denial. Respondents hereby voluntarily agree and consent to the issuance by the Commissioner of an Order Denying California Finance Lenders Application Pursuant to Financial Code section 22109 for one application, file number 603C916, ("CFLL Denial"). The Denial precludes Respondents from engaging in any CFLL activities until licensed but does not preclude responding to regulatory inquiries from the Department of Corporations, other agencies and customers or from filing future applications for CDDTL licensure. The Denial Order is attached as Exhibit 3 and incorporated herein by reference.

7. CDDTL Suspension. Respondents hereby agree to the issuance by the Commissioner of an Order Suspending Respondents' California Deferred Deposit Transaction Licenses Pursuant to Financial Code section 23052, file numbers 100-1935, 100-1936, 100-3082, 100-3083, 100-3085 ("CDDTL Suspensions"). The CDDTL Suspensions preclude Respondents' licensed locations file numbers 100-3082, 100-3083, 100-1935, 100-1936, and 100-3085 from engaging in any CDDTL activities during successive one week suspension periods beginning May 18, 2008 and ending July 26, 2008. Each licensed location agrees to refrain from all CDDTL transactions including any with existing clients while suspended. This suspension does not preclude Respondents from engaging in pure collection activities that permit: (1) receipt of cash from customers for existing transactions entered into before their respective suspension period at each location, (2) forwarding any checks received from Respondents' clients to Respondents' bank for deposit relating to transactions entered into before June 1, 2008, (3) responding to regulatory inquiries from the Department of Corporations or other agencies, (4) making refunds described in paragraph nine (9.) below and (5) otherwise responding to customer inquiries concerning existing transactions. The CDDTL Suspension Order is attached as Exhibit 4 and incorporated herein by reference.

8. CDDTL Denials. Respondents hereby voluntarily agree and consent to the issuance by the Commissioner of an Order Denying California Deferred Deposit Transaction Applications Pursuant to Financial Code Section 22011, without prejudice for two applications, file numbers: 100-3548 and 100-3549 ("CDDTL Denials"). The CDDTL Denials preclude Respondents' businesses (file number 100-3548 and 100-3549) from engaging in any CDDTL activities until licensed but does not preclude responding to regulatory inquiries from the Department of Corporations, other agencies, or customer's inquiries or from filing future applications for CDDTL licensure. The Denial Order is attached as Exhibit 5 and incorporated herein by reference.

9. Voiding of Transactions. Respondents hereby agree to void transactions and to forfeit and refund fees or charges in the amount of one hundred twenty-five thousand dollars ($125,000) relating to fees associated with the CDDTL and CFLL transactions described in the Administrative Actions. Respondents agree to offer refunds to approximately 1,400 of their clients during the month of June 2008, which Respondents' clients may accept at any time before November 30, 2008. Respondents agree to provide evidence satisfactory to the Department that the refunds have been offered and paid to Respondents' clients and that any and all amounts remaining unclaimed by clients on November 30, 2008, shall escheat to the State of California.

10. Desist and Refrain Order and Citations. Respondents hereby agree to the Desist and Refrain Order and Citations attached as Exhibit 6 and incorporated by reference without admitting or denying the facts therein. By May 14, 2008, Respondents agree to make payment of $15,000 for the citations and $10,000 to the Department for its cost incurred by the Administrative Actions. If payment for the citations and costs are not received on May 14, 2008, then the licenses described in paragraph seven (7.) above shall be revoked. Respondents' Payment shall be payable to the Department of Corporations and delivered to the attention of the Complainant's counsel who will thereafter acknowledge receipt of the $25,000 payment to Respondents' counsel.

11. Future Actions by the Commissioner. The Commissioner reserves the right to bring any future actions against Respondents or any of their partners, owners, employees or successors of Respondents for any future or unknown violations of the CFLL or CDDTL. This Agreement shall not serve to exculpate Respondents or any of the partners, owners, employees or successors of Respondents from liability for any and all unknown or future violations of the CFLL or CDDTL. If it is found, after the execution of this Agreement that Respondents thereafter violated any of the statutes and/or rules set forth in the CFLL or CDDTL or Agreement, the Commissioner reserves the right to take further action against Respondents, including but not limited to, imposing penalties and requesting restitution of all CFLL and CDDTL transactions originated in breach of this Agreement. Respondents acknowledge and agree that the Revocations, Suspensions and Denial provided for above shall not be the exclusive remedy available to the Commissioner in pursuing future violations but may be sought and employed in addition to any other remedy available pursuant to the CFLL or CDDTL.

12. Failure to Make Consumer Refunds. Respondents acknowledge that during the month of June 2008 they will offer to make refunds to the consumers referred to in paragraph nine (9.) above, and that failure to do so shall be a breach of this Agreement and shall be cause for the Commissioner to revoke or deny, respectively, any Department license or any pending application of Respondents and any company owned or controlled by Leonard Faas, his successors and assigns, by whatever names they might be known. Respondents waive any notice and hearing rights to contest such revocations or denials, which may be afforded under the Financial Code, the APA, the Code of Civil Procedure, or any other legal provisions.

13. Settlement Agreement Coverage. The parties hereby acknowledge and agree that this Agreement is intended to constitute a full, final and complete resolution of the Administrative Actions, including as to the named persons therein. The parties acknowledge and agree that nothing contained in this Agreement shall operate to limit the Commissioner's ability to assist any other agencies with any prosecution, administrative, civil or criminal, brought by any such agency against Respondents based upon any of the activities alleged in this matter or otherwise. This Agreement shall not become effective until signed by Respondents and delivered by all parties. Each of the parties represents, warrants, and agrees that in executing this Agreement it has relied solely on the statements set forth herein and the advice of its own counsel and has placed no reliance on any statement, representation, or promise of any other party, or any other person or entity not expressly set forth herein, or upon the failure of any party or any other person or entity to make any statement, representation or disclosure of anything whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute this Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

14. Full Integration. This Agreement with exhibits is the final written expression and the complete, exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties and supercedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the parties, their respective representatives, and any other person or entity.

15. No Presumption From Drafting. In that the parties have had the opportunity to draft, review and edit the language of this Agreement, no presumption for or against any party arising out of drafting all or any part of this Agreement will be applied in any action relating to, connected, to, or involving this Agreement. Accordingly, the parties waive the benefit of California Civil Code section 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

16. Effective Date. This Agreement shall not become effective until signed by Respondents and delivered by all parties. The Commissioner shall file this Agreement with the Office of Administrative Hearings after execution by the parties.

17. Counterparts. This Agreement may be executed in any number of counter-parts by the Parties and when each Party has signed and delivered at least one such counterpart to the other Party, each counterpart shall be deemed an original and taken together shall constitute one and the same Agreement.

18. Modifications and Qualified Integration. No amendment, change or modification of this Agreement shall be valid or binding to any extent unless it is in writing and signed by all of the parties affected by it.

19. Headings and Governing Laws. The headings to the paragraphs of this Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof. This Agreement shall be construed and enforced in accordance with and governed by California law.

20. Authority For Settlement. Each Respondents covenant that they possess all necessary capacity and authority to sign and enter into this Agreement. Each Party warrants and represents that such Party is fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and without limiting the generality of the foregoing, each Party warrants and represents that it is fully entitled to enter into the covenants, and undertake the obligations set forth herein.

21. Public Record. Respondents acknowledge that this Agreement is a public record.

22. Voluntary Agreement. The Parties each represent and acknowledge that he, she or it is executing this Agreement completely voluntarily and without any duress or undue influence of any kind from any source.

23. Notices. Notice shall be provided to each party at the following addresses:

If to Respondents to: John D. Fischer
Fischer, Fishlatt & Kiss
1901 Avenue of the Stars, Suite 1020
Los Angeles, California 90067

If to the Commissioner to: Steven C. Thompson, Special Administrator
Financial Services Div. Department of Corporations
320 W. 4th Street, Suite 750, Los Angeles, CA 90013-2344

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Agreement on the dates set forth opposite their respective signatures.

Dated: 5/12/08

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division

Dated: _____

By _____
LEONARD FAAS
an individual

FAAS FINANCIAL INC. and FAAS FINANCIAL INC. DOING BUSINESS AS FFI PAYDAY LOANS

Dated: _____

By _____
LEONARD FAAS
Officer and Director

FAAS ENTERPRISES, INC. and FAAS ENTERPRISES, INC. DOING BUSINESS AS CASH 4 CHECKS

Dated: _____

By _____
LEONARD FAAS
Officer and Director

If to the Commissioner to: Steven C. Thompson, Special Administrator
Financial Services Div. Department of Corporations
320 W. 4th Street, Suite 750, Los Angeles, CA 90013-2344

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Agreement on the dates set forth opposite their respective signatures.

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PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division

Dated: 5-13-08

By _____
LEONARD FAAS
an individual

FAAS FINANCIAL INC. and FAAS FINANCIAL INC. DOING BUSINESS AS FFI PAYDAY LOANS

Dated: 5-13-08

By _____
LEONARD FAAS
Officer and Director

FAAS ENTERPRISES, INC. and FAAS ENTERPRISES, INC. DOING BUSINESS AS CASH 4 CHECKS

Dated: 5-13-08

By _____
LEONARD FAAS
Officer and Director

FAAS ENTERPRISES, INC. and FAAS ENTERPRISES, INC. DOING BUSINESS AS CHECK CASHING CENTER

Dated: 5-13-08 By _____
LEONARD FAAS
Officer and Director

FAAS ENTERPRISES, INC. and FAAS ENTERPRISES, INC. DOING BUSINESS AS FFI PAYDAY LOANS

Dated: 5-13-08 By _____
LEONARD FAAS
Officer and Director

FAAS ENTERPRISES, INC. and FAAS ENTERPRISES, INC. DOING BUSINESS AS FFI PAYDAY LOANS.COM

Dated: 5-13-08 By _____
LEONARD FAAS
Officer and Director

Dated: 5-13-08 Approved as to form by Respondents' counsel

By _____
JOHN D. FISCHER, ESQ.
FISCHER, ZISBLATT & KISS

2/6/13 DEPARTMENT OF THE INTERIOR Mail - History of the land - area Dead Indian plateau

BISON CONNECT

History of the land - area Dead Indian plateau

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Feb 1, 2013 at 3:41 PM
To: BOR Enviro <ccarnohan@usbr.gov>
Cc: bor <mpaquin@usbr.gov>

Hi Mr. Carnohan,
Please confirm and have a great weekend.
Go Ravens ~
Linda

Dear Gentleman,
There are 3 emails in total; regarding Howard Prairie, Dead Indian road and surrounding area.
Please confirm upon receipt.

We have two other studies regarding wildlife in the area. The fact that it is monument area, etc.
There is also a 60 page Hearing Officer's Ruling; that states the County has erred and these developments
are not only a fire-hazard, but do not meet State Land Use Goals: 9, 11, & 13/14.

Bureau of Reclamation currently has a parcel which private developers built upon illegally; they knowingly moved the survey pins. This is the current issue at hand.

They placed 19 "RVs " and garages on the property at Campers Cove. They rent the camping spaces they are placed upon for between $200. to $ 400. per month.
The RVs are privately owned (upwards of $180,000 to $240,000. each) or Resort owned; and the option of a resort managed rental-pool and nightly cabin rentals exist ($ 179 to $200 + nightly)

BOR had agreed to a " land-swap" which would allow Campers Cove to have the property and access to additional private- property at
the Mountain Resort at Hyatt lake (proper entrance to the lake); in exchange for a

https://mail.google.com/mail/u/0/?ui=2&ik=fa94f160ad&view=pt&cat=Campers Cove%2FComments&search=cat&th=13d9924d56610a5 1/3

Reclamation has developed this Environmental Assessment of the impacts associated with a sale of land to meet the requirements of Federal regulations and Reclamation Manual Directives and Standards. State and County land goals were duly considered in the permitting of Camper's Cove. Reclamation has taken into consideration the hazards of wildfire by including a 100-foot fuelbreak consistent with Jackson County requirements.

The "Land Swap" referenced applied to discussions regarding lands potentially needed for Reclamation's Hyatt Dam Safety of Dams Project (SOD). Reclamation has since revised design concepts for SOD. Private lands will not be required to effect dam safety improvements.

3/8/15 DEPARTMENT OF THE INTERIOR Mail - History of the land - area Dead Indian plateau

right-of-way access to the lake for BOR.

We objected to this proposed & already agreed upon." land swap."

BOR then recanted and decided it will sell the property at Campers Cove, to the highest bidder. They are now in the process of making that happen.
As well as; creating a new easement at the proper lake entrance, to the already installed RVs at Hyatt lake.

Factually and legally: the 19 RVs should be rolled-off (which the resort has the capacity to do) and the land should be restored & maintained in it's original state.

We believe this "sale" is a disingenuous act to resolve the encroachment issue; there-in acquiescing to the wrongful development
and placement of cabins in a forest-reserve, seasonal-only - limited-use, National Monument area campground, which exists on the Pacific Crest Trail.

Surely, this can be stopped. We are seeking your assistance and would be most thankful for the long-term preservation of Hyatt lake and surrounding area.

Kindest Regards,
Linda

—

Dear Linda;
I hope that there is something in this old archive that can be useful. ..zoning maybe?

https://mail.google.com/mail/u/0/?ik=2d4ebd9415f0&view=pt&q=Campers%20Cove%20Comments&search=inbox&th=152d824cc5881bb5

(1)

NPS Form 10-900
(Rev. 10-90)

United States Department of the Interior
National Park Service

RECEIVED 2280
MAY 13 1997
NATIONAL REGISTER OF HISTORIC PLACES
NATIONAL PARK SERVICE

OMB No. 1024-0018

588

NATIONAL REGISTER OF HISTORIC PLACES REGISTRATION FORM

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in How to Complete the National Register of Historic Places Registration Form (National Register Bulletin 16A). Complete each item by marking "x" in the appropriate box or by entering the information requested. If any item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. Place additional entries and narrative items on continuation sheets (NPS Form 10-900a). Use a typewriter, word processor, or computer, to complete all items.

1. Name of Property

historic name Reginald Parsons Dead Indian Lodge
other names/site number Reginald Parsons Summer Cabin; Dead Indian Tree Farm

2, Location

street & number 21 miles east of Ashland on Hyatt Prairie Rd at milepost 4 not for publication N/A
city or town Ashland vicinity X
state Oregon code OR county Jackson code 029
zip code 97520

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act of 1986, as amended, I hereby certify that this X nomination ___ request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property X meets ___ does not meet the National Register Criteria. I recommend that this property be considered significant ___ nationally ___ statewide X locally. (X See continuation sheet for additional comments.)

James Hamrick April 30, 1997
Signature of certifying official Deputy SHPO Date

Oregon State Historic Preservation Office
State or Federal agency and bureau

In my opinion, the property ___ meets ___ does not meet the National Register criteria. (___ See continuation sheet for additional comments.)

Signature of commenting or other official Date

State or Federal agency and bureau

Additional information provided in your comments concerning Reginald Parsons Dead Indian Lodge are outside the scope of this Environmental Assessment and will not be considered here. The following pages through page 59 are of this nature.

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(8-86)

OMB Approval No. 1024-0018

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

(3)

Section number 3 Page 2

The hunting camp complex includes the cold spring which attracted development of the campsite and the seven detached accessory buildings and structures in descending order of scale: sleeping cabin, and associated woodshed, garage, main woodshed, tool house, pump house and cellar, and outhouse. The focal feature of the camp is the one and a half-story building in the Modern Rustic style constructed of unpainted peeled logs with saddle-notched corner joints, extended crowns, or log ends, and cementitious mortar chinking. It was designed by Robert J. Keeney, an associate of long-time leading Rogue Valley architect Frank C. Clark. While the cold spring and a split-rail fence tracing part of the eastern boundary of the nominated area are important elements of the complex, they are not numbered in the tally of contributing developed features.

The lodge rises from a mortared stone foundation measuring approximately 30 x 37 feet in plan as a cross-gabled rectangular volume with steeply pitched roof. It is oriented to the north, facing onto the head of a driveway entering the property from Hyatt Prairie Road on the west. A single-bay gabled and screened porch is centered on the front elevation. The building is organized internally as a variation of the double-pen plan type in which the forsection contains a living and dining hall with exposed queen post truss roof framing system of peeled log beams, corbels and purlins supporting cedar plank sheathing. The focal point of the common living space is a massive stone fireplace centered on the south wall. Its novel rustic mantelpiece is a Pacific yew log. The rear end-gabled section of the lodge encloses the kitchen, a bedroom and bath. A sleeping loft over the back rooms is accessible by ladder. Interior partitions are finished with vertical pine tongue and groove mill stock. The ground plan is completed by a small gabled back porch offset to the southwest corner as access to the kitchen from the garage and woodshed. In 1988, the roof was recovered entirely with standing seam galvanized sheet metal with brown enamel finish to replace the original deteriorated asbestos shingles. (Ribbed galvanized sheet metal was used occasionally on Adirondack Rustic buildings to cover minor features such as shed dormers.) Window openings in the log walls have a horizontal module typically, and they are fitted with multi-light sliding casements. There are large triangular-arched multi-light fixed casement windows in either side gable of the lodge hall. All windows have exterior Z-braced wood shutters.

Furnishings original to the lodge include a decorative folding steel fireplace screen, pine community dining table, wicker and canvas folding chairs, oil hanging lamps, woven wool rugs, and a variety of mounted animal trophies. Electrical service and plumbing were introduced after the historic period, in the 1960s.

Accessory buildings are of frame and peeled log construction and have steep shingle-clad gable roofs to repell snow load. Typically, the exteriors have horizontal tongue and groove siding and vertical siding in gable ends. Most of the buildings were built at the same time as the lodge,

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(8-86)

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United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

(4)

Section number 3 Page 3

though the largest two may have been constructed at an earlier camp used by Parsons and imported to the new building site. In general, the outbuildings are oriented in conformance with the longitudinal axis of the lodge, running south to north. Set back from the southeast corner of the lodge are an end-gabled sleeping cabin and an ancillary wood shed at a right angle to it. The sleeping cabin is heated by a woodstove at present. Making up a separate group of buildings along the driveway on the west side of the lodge are the garage and a large open pole shed for wood; a tool house, and an excavated pumphouse and cellar of mortared stone. An outhouse stands behind this accessory group, offset to the southeast. The tool shed, which is clad with horizontal drop siding evidently post dates initial development, but, having been constructed in the early 1940s, it is counted a contributing feature along with the others.

The hunting camp meets National Register Criterion A in the area of outdoor recreation as it relates to hunting and fishing in the upper Klamath basin and Criterion C as a rare, complete private hunting camp ensemble of the rustic type remaining from the period before the Second World War in the Dead Indian country. The only other local log building of its date and type was built by the same architect on the adjoining tax lot for the resident managers of Reginald Parsons's Hillcrest Orchard. The latter is no so well preserved.

Finally, the camp is considered significant under Criterion B for its association with Reginald H. Parsons (1873-1955), Seattle financier and founder of the Hillcrest Orchard of southern Oregon. Parsons was born on Long Island, New York, the scion of a distinguished family with New England roots and forebears who were involved in horticulture and landscape planning. He was raised in Colorado and trained in mining engineering in the 1890s but branched into a career in brokerage and investment banking. Shortly after the turn of the century, he moved with his wife, the former Maude Bemis, to Seattle, which was to be his permanent base thereafter. It was in 1908 that he entered the orchard industry which he would do so much to advance in southern Oregon.

Parsons had led an adventurous early life encompassing a railroad reconnaissance expedition and periods of education and business in California. He was a man of the outdoors who, according to family tradition, relished his wilderness retreat but preferred not to hunt deer. The hunting activities were pursued chiefly by his guests. His first trips to Dead Indian country began after his Seattle corporation purchased the Medford-area orchard tract and the Montcrest Ranch in northern California. His first development of a mountain camp retreat was a small rustic cabin of 1926 on a modest acre about a quarter of a mile from the site of the future lodge. Parsons long had sought to acquire property at a favorite spring near what is now the shore of manmade Howard Prairie Lake. He realized his objective in the Depression, in 1937, when he bought 200

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(8-86)

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(5)

Section number 3 Page 4

acres from private holders for $1,000. Parsons took an active interest in development of his retreat and was eager to achieve a unified appearance for it. He continued trips to the lodge until declining health prevented travel in the early post War era. He died in Seattle in 1955 at the age of 81.

This application provides the context for evaluating the camp's place in outdoor recreation in the upper Klamath basin east of Ashland, which was the setting of hunting expeditions since the late settlement period of the 1860s. Wagon roads and the automobile roads which followed in the 20th century improved access to resorts such and Dead Indian Soda Springs and private lakeside fisihing cabins on inholdings of the Rogue River National Forest.

The application makes a good case for the powerful association of Reginald H. Parsons with his field mountain retreat as well as his southern Oregon orchard development, the nucleus of which was listed in the National Register in 1983. His was a wide-ranging career in business, finance, orchards, livestock raising, and philanthropy. His holdings extended from the northern California border, where his Mountcrest Ranch was located, to his home and business center in the state of Washington.

The application supports the significance of the hunting lodge as a well preserved example of a type of Modern Rustic architecture promoted by the National Park Service for federally assisted developments on public lands as the New Deal administration sought to employ workers in the intensive hand craft required to build recreational and administrative facilities that harmonized with the natural setting. In their appropriation of Arts and Crafts ideals, the Modern rustic buildings are distinguishable from the working homestead cabins and early hostels of log construction. The documentation shows that design of the lodge began soon after the land sale in March of 1937. Douglas fir logs were felled on the property, and rock was hauled to the building site. Construction initially was supervised first by William Lindsay, owner of a nearby mill, who was succeeded by Ashland builder Loren "Red" Bushnell. The mason was a man named Warner. The rest of the work force was made up of skilled carpenters and employees of Hillcrest Orchard. The lodge was enclosed by November, six or seven months after construction had started. The document presents welcome information on Robert Keeney, the University of Oregon-trained 1931 graduate in architecture who joined Frank Clark in partnership in 1936 following several years of association and after his professional license was secured. Clark, the senior principal, had been the designer of Reginald Parsons' Hillcrest Orchard complex outlying Medford. Details presented here bring Keeney out from under the shadow of his prominent associate.

The nominated property is owned and maintained by the family-controled Hillcrest Corporation headquartered in Seattle.

(6)

Reginald Parsons Dead Indian Lodge
Name of Property

Jackson County, OR
County and State

4. National Park Service Certification

I, hereby certify that this property is:

_X_ entered in the National Register — Edson H. Beall 6-13-97
___ See continuation sheet.
___ determined eligible for the National Register
___ See continuation sheet.
___ determined not eligible for the National Register
___ removed from the National Register
___ other (explain): _____

Signature of Keeper — Date of Action

5. Classification

Ownership of Property (Check as many boxes as apply) (Check only one box)
_X_ private
___ public-local
___ public-State
___ public-Federal

Category of Property
_X_ building(s)
___ district
___ site
___ structure
___ object

Number of Resources within Property

Contributing	Noncontributing	
7	___	buildings
___	___	sites
1	___	structures
___	___	objects
8	___	Total

Number of contributing resources previously listed in the National Register NA

Name of related multiple property listing (Enter "N/A" if property is not part of a multiple property listing.) NA

6. Function or Use

Historic Functions (Enter categories from instructions)
Cat: Domestic — Sub: Camp
Domestic — Secondary Structures

Current Functions (Enter categories from instructions)
Cat: Domestic — Sub: Camp
Domestic — Secondary Structures

(7)

7. Description

Architectural Classification	Materials	
Modern Rustic	foundation	stone (uncoursed rubble)
	walls	log
		tongue-and-groove
	roof	steel (ribbed); asbestos
	other	

Narrative Description (Describe the historic and current condition of the property on one or more continuation sheets.)

The Dead Indian Lodge, its six outbuildings, and one structure (the pump house/cellar) are shaded by a mixed forest of white and Douglas fir, Ponderosa pine, and aspen on a gently sloping hillside at the edge of an open grassy meadow, where a spring has historically supplied water for the lodge occupants. A split-rail fence runs along a portion of the eastern boundary of the property. The nominated property is situated a few hundred yards west of Howard Prairie Lake in southern Oregon's Cascade Range, about twenty-one miles east of the Rogue River Valley community of Ashland. The lodge, the main feature in this building ensemble, is a one- and one-half-story unpainted peeled log structure designed by Robert J. Keeney, then working for prolific Rogue Valley architect Frank C. Clark, and constructed in 1937 in the Modern Rustic style. Steeply pitched intersecting gable roofs cap the rectangular volume of the building, measuring 30 x 37 1/2 feet. Screened porches project from the front (north) and rear (south) walls. Two large multi-pane fixed casement gothic windows in the gable ends and several multi-pane sliding casement windows on the ground floor, flood light into the lodge's interior spaces. An expansive 14-foot-wide fireplace of uncoursed stone and concrete, whose chimney rises up through the 24-foot-high ceiling at the ridgeline, dominates the main living/dining area that extends across the front half of the lodge. The lodge rests on uncoursed stone and concrete mortar piers and foundation walls.

Five outbuildings, including the sleeping cabin, sleeping cabin woodshed, outhouse, garage, and open peeled-pole woodshed, were presumably built in 1937. Evidence suggests that the sleeping cabin and garage were constructed about a mile away, near a local sawmill, and moved to the lodge site. Only the tool house was built slightly later in the early 1940s. All outbuildings are of either wood-frame or peeled-log construction with gable roofs and stone pier and wall foundations. The only structure, a small stone and concrete excavated pump house/cellar, also dates from 1937. (Please see accompanying site plan map of the property.) The Reginald Parsons Dead Indian Lodge, outbuildings, single structure, and setting have experienced only minor alterations over the years and, thus, have retained their integrity of location (since 1937), design, materials, workmanship, setting, feeling, and association. The main lodge is in excellent condition; ancillary buildings are all in good or excellent condition. The seven buildings, one structure, the spring partially contained by a stone and concrete retaining wall, and the split-rail fence contribute to the significance of the nominated property.

(8)

NPS Form 10-900-a
(8-86)
OMB No. 1024-0018

United States Department of the Interior
National Park Service

**NATIONAL REGISTER OF HISTORIC PLACES
CONTINUATION SHEET**

Section 7 Page 1

Description (continued)

Setting and landscape features. The Dead Indian Lodge building ensemble occupies a small 4.12-acre parcel in the northern portion of an approximately 166-acre tax lot owned by Hillcrest Corporation. The land slopes gently upward to the south (behind the lodge). The lodge and seven accessory buildings stand at an elevation of about 4,580 feet on the northern edge of an aging stand of Ponderosa pine, Douglas fir, and white fir. Other tree species found in the area include sugar pine, incense cedar, and Pacific yew. A 30-foot flag pole stands about 50 feet in front (north) of the lodge. To the north of the lodge, small groves of aspen grow near the edge of an open grassy meadow and around a sizeable spring, contained on one side by an arching stone and concrete wall, and rivulet flowing to the east. Howard Prairie Lake, created by the Bureau of Reclamation in the late 1950s, lies several hundred yards to the east.

Lodge exterior. The Reginald Parsons Dead Indian Lodge, designed and built in 1937, is constructed of unpainted peeled round logs (probably Douglas fir felled on the property) and original concrete chinking. It contains a rectangular volume measuring approximately 30 feet wide and 37 1/2 feet deep (interior dimensions). The lodge's right-angle flush-cut log ends extend about one foot beyond the saddled-notched corner joints. Two screened porches of vertical log construction, measuring 10 1/2 x 13 feet and 8 x 6 1/2 feet, project from the main (north) facade over the central doorway and the south wall over the off-center rear entry. A steeply pitched cross-gable roof over the main volume and porches is clad with ribbed steel panels over original cedar shingles. Log purlins and rafters are exposed under the overhanging eaves at the gable ends and sides of the lodge. A broad rough-cut uncoursed stone and concrete mortar central chimney projects from the roof where the two gable ridges meet. The entire structure rests on uncoursed rough-cut stone and concrete mortar piers and foundation walls. Both front and rear porches and steps are of similar stone and concrete construction. Two large multi-pane fixed casement Gothic windows are positioned in the upper walls of the east and west gable ends. Nine-by-nine and six-by-six sliding casement windows at the ground level flood light into the lodge's interior spaces. Wood storm shutters and doors of vertical board secured by Z-pattern ledges and braces are opened against the wall when the lodge

(9)

NPS Form 10-900-a
(8-86)
OMB No. 1024-0018

United States Department of the Interior
National Park Service

**NATIONAL REGISTER OF HISTORIC PLACES
CONTINUATION SHEET**

Section 7 Page 2

Description (continued)

is occupied.[1]

Lodge interior. The interior of the lodge contains five rooms: a "great hall" living/dining area extending across the front (north) half of the building, a bedroom, bathroom, and kitchen in the rear (south) half of the ground floor, and a sleeping loft above, all accessed from an interior hallway running east and west behind the living/ dining room wall. (Please see accompanying lodge floor plan.) The interior walls throughout most of the lodge are round horizontal peeled logs with concrete chinking. Interior wall partitions dividing the bedroom, bathroom, and kitchen and, as well as the cabinetry in the kitchen, are finished with vertical tongue and groove pine boards. Heavy vertical plank doors with black butt hinges and door handles open into the hallway from all four rooms. Flooring throughout much of the lodge is narrow tongue and groove boards.

The expansive living/dining room, measuring 30 x 20 feet, features a ceiling that reveals long cedar shingles over log purlins and a peeled-log queen post truss configuration under the lodge roof. The floor-to-ceiling height at the gable ridge is about 24 feet. A massive stone and concrete mortar hearth and fireplace, about 14 feet across at the base, and chimney rise up in the center of the room's interior south wall. A large Pacific yew log, cut in the vicinity of the lodge by the building's head carpenter, serves as the rustic fireplace mantelshelf. A hinged tripaneled decorative steel screen with several ranch animals silhouetted at the base (once located at the Parsons Mountcrest Ranch property near Hilt in northern California), stands on the hearth across the fireplace opening.

Many of the room's furnishings are original to the lodge and add substantially to its authentic rustic character. The 8-foot-long dining table, built for the lodge soon after its completion, is constructed of two wide Ponderosa pine boards supported by horizontal cross members and table legs of Pacific yew. Rustic wicker fan chairs and a woven lath cushioned sofa, as well as several wood and folding

[1] Frank C. Clark and Robert J. Keeney, architects, "Hunting Lodge for Mr. Reginald Parsons" (building plans), 1937, Parsons Collection, Hillcrest Orchard, Medford, Oregon (hereafter cited as Parsons Collection).

(10)

NPS Form 10-900-a
(8-86)
OMB No. 1024-0018

United States Department of the Interior
National Park Service

**NATIONAL REGISTER OF HISTORIC PLACES
CONTINUATION SHEET**

Section 7 Page 3

Description (continued)

canvas chairs and small wood tables, are arranged in front of the fireplace and along the room's walls. Two original oil lamps hang from ceiling beams. Several woven wool rugs and striped curtains at the windows are original to the lodge. Two of the seven animal trophy heads (of an elk and wolf) that adorn the walls, along with cougar heads and skins and a wolf skin, were hunted in the Pacific Northwest or Canada and date from the lodge's construction period. (The heads of a buffalo, Dall sheep, a stag deer from Scotland, and two other stag deer are later additions and are not native to the area.)

The rooms occupying the rear half of the lodge, accessed from the interior hallway, have several notable design features that date from the lodge's construction. The kitchen sink sets in the middle of the original unpainted wood counter, 2 feet wide and extending nearly 12 1/2 feet along the side (west) wall, made from a single 1-inch-thick pine plank. Original unpainted pine cabinets extend the length of the wall above and below the counter. The bathroom features a galvanized iron shower stall with a large sprinkler head. In the hall, a peeled limb ladder fixed to the wall ascends to the sleeping loft. Rustic peeled limb posts and rails rise from the edge of the loft.

Sleeping Cabin. The rectangular 14 x 20-foot sleeping cabin that rests on a stone post and pier foundation about 100 feet southeast of the lodge is of wood-frame construction and sheathed with horizontal tongue and groove siding. A steeply pitched east-west-sloping gable roof, clad with original rigid asbestos shingles over cedar shingles, caps the cabin; a shed roof sheathed with asbestos shingles and supported by square posts extends over a 4-foot-deep porch projecting from the main north facade. Overhanging eaves reveal exposed 2 x 4-foot rafters. A continuous band of four large six-light casement windows along the cabin's east and west side walls, open inward and allow for ample cross ventilation. (Wood shutters opening outward cover these windows when the cabin is unoccupied.) The front door has eight fixed panes in the upper portion and a three-light transom above, covered by a storm door when the cabin is unoccupied. The interior of the cabin features tongue and groove flooring and 5-inch-wide vertical tongue and groove wainscotting below the windows. The cabin is furnished with two bunk beds, a small table, chairs and benches, a dresser, and a wood stove.

Description (continued)

Sleeping Cabin Woodshed. Less than 10 feet east of the sleeping cabin stands a 9 x 10-foot woodshed of vertical peeled log construction with horizontal board siding below the eaves and tongue and groove sheathing in the gable ends. The steeply pitched gable roof, with a north-south ridgeline, is sheathed with wide boards overlain with asbestos shingles. The building rests on a stone foundation.

Outhouse. The 3 x 4-foot outhouse, situated on the sloping hillside behind (southwest of) the lodge, is of wood-frame construction with horizontal tongue-and- groove sheathing and vertical corner boards. Its steeply pitched gable roof and small gable roof vent monitor retain their original asbestos shingles over tongue and groove boards. Diamond-shaped vents are in each gable end. The vertical tongue and groove board door, with plain board molding, has a peeled limb door handle. The outhouse has been moved only a few feet from its original location. It sits on a stone pier foundation.

Garage. The garage, whose overall dimensions are 10 1/2 x 21 feet, is a wood-frame building sheathed with 5-inch-wide horizontal tongue-and-groove siding and corner boards. Vertical boards covering siding seams on the east and west side walls denote the addition of a 3-foot extension on the front north end (to accommodate a longer automobile) and an 8-foot extension on the rear of the building. Both additions were probably made shortly after the garage was constructed and moved to the site in 1937. The three-sided south extension, built as a woodshed, has a projecting roof above peeled log tie beams, supported by log knee braces. The entire building is capped with a continuous unbroken steeply pitched gable roof clad with asbestos shingles. Rafters are exposed under overhanging eaves. The building rests on a stone and concrete mortar foundation wall. Wood tripartite double-wide garage doors open at the north end of the building.

Woodshed (behind Garage). The woodshed for the lodge, located a few feet behind (south of) the garage, measures 10 x 12 feet. A steeply pitched gable roof, supported by peeled log purlins and rafters, is sheathed with asbestos shingles over tongue-and-groove boards. Vertical tongue-and-groove boards fill both gable ends. Vertical peeled logs support the roof members on all but the south end. The log sills rest on a stone and wood block pier foundation.

Description (continued)

Tool House. The 8 x 10-foot tool house, erected in the early 1940s, is a wood-frame building sheathed with horizontal channel-drop siding. Flat stone and concrete mortar steps lead to the wood storm and entry doors on the north wall. Single small multi-pane casement windows with plain board surrounds, protected by wood channel drop storm shutters, are positioned on the side and rear walls. A steeply pitched gable roof with exposed rafters and asbestos shingles caps the building. The tool house sits on a stone and concrete mortar foundation.

Pump House/Cellar. This 8 x 10-foot structure is partially below ground, excavated to a depth of about 3 feet, and lined with concrete. The walls and arched roof are of uncoursed rock and concrete. The pump house/cellar is entered through sloping bulkhead door covering a 5-foot-wide stairwell that projects about 5 feet from the north wall of the structure.

Developmental History. The Reginald Parsons Dead Indian Lodge ensemble has received only minor alterations since the buildings were constructed and moved (in the case of the sleeping cabin and garage) in 1937 and in the early 1940s. All six outbuildings and single structure retain their original design features, materials, and location (since 1937), except for the outhouse, which has been moved only a few feet from its 1930s site. The main lodge has experienced only minor evolutionary changes and these have not compromised this rustic-style building ensemble's integrity of location, design, workmanship, setting, feeling, and association.

Minimal changes in or near the lodge are limited to the introduction of electricity, the updating of plumbing fixtures, and the protection of the property against fire, vandalism, and damage from weather. In 1962-1963 electricity from nearby Hyatt Prairie Road wires replaced the gasoline-powered generator in the tool house used to pump water. In the mid-1960s, the lodge was wired for the first time. Soon afterwards an electric stove and refrigerator replaced the wood stove and ice box in the kitchen. An alarm system was installed in the building in the late 1960s. Around 1993, the overhead electrical wires from the road were put underground.

BISON CONNECT

Carnohan, Dan <ccarnohan@usbr.gov>

Hyatt Lake - Portland State University Study

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Fri, Jan 25, 2013 at 1:27 AM
To: Dawn Wiedmeier <DWiedmeier@usbr.gov>
Cc: BOR Enviro <ccarnohan@usbr.gov>, bor <mpaquin@usbr.gov>

Hi,

Hope you are doing well. Enclosed please find the following document; you guessed it, several of these are at Hyatt lake and Dead Indian Plateau.

best & take good care,
Linda ~

RARE, THREATENED AND ENDANGERED
SPECIES OF OREGON

http://orbic.pdx.edu/documents/2010-rte-book.pdf

It was concluded that the Preferred Alternative and No Action Alternative would have no effect on wildlife or plant species. The Removal Alternative would have minor and/or temporary effects on the fisher, nonlisted vegetation, and wetlands, and could exacerbate the spread of invasive plant species.

Campers Cove & Hyatt RVs without permit & illegal helio

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Mon, Feb 4, 2013 at 7:03 PM
To: Dawn Wiedmeier <DWiedmeier@usbr.gov>
Cc: BOR Enviro <ccarnohan@usbr.gov>, bor <mpaquin@usbr.gov>

Hi BOR,
Please see the attached video of the helicopter leaving Mountain Resort at Hyatt lake and Campers Cove campgrounds on Hyatt lake, BOR property.

Please see the attached complaint of "RVs" installed with out permit.

Please see the following link of today's (2/4/13) indictment of the helicopter pilots for the IRON 44 crash Weaverville crash that killed nine souls.

Please be advised that these indicted pilots are also persons-of-interest regarding the helicopters that were repeatedly landing at Hyatt lake and have direct ties to the illegal landing sites, on Hyatt lake properties. Multiple pilots were obviously involved to have the landing-pad located there and some own multiple-RVs. When told to stop landing by Jason Zanni, code enforcement officer, one stated, " try and stop us." They have "buzzed" local residents and the lake. This is another example of the blatant disregard to the law,the average citizen and the sanctity of the waters of Hyatt lake.

In closing, thank you very, very much for having the helicopter landing-pad removed.

FYI ~
Sincerely,
Linda

Employees of Oregon helicopter firm indicted in wake of fatal crash

http://www.katu.com/news/local/Two-indicted--189708521.html

and this paper first broke the story in San Antonio

-

PORTLAND, Ore. (AP) — A federal indictment accuses two men of falsifying the weight and takeoff power of a helicopter that crashed in Northern California more than four years ago, killing nine people.
The 25-page indictment released Monday by the U.S. Attorney's Office in Portland names the former vice president and the maintenance chief of Carson Helicopters Inc., based in Grants Pass.
Steven Metheny of Central Point and Levi Phillips of Grants Pass are charged

with conspiracy, fraud and endangering the safety of an aircraft. The Justice Department says the pair submitted false information to win more than $20 million in contracts for seven helicopters, including the one that crashed.
The crash killed nine men, including seven contract firefighters with Grayback Forestry of Merlin, Ore

---

Helicopter taking off from Hyatt lake.

http://www.youtube.com/user/gshawmadams/videos?query=hyatt+lake

From: Family of Dave Lewis <fishhookdavelewis@yahoo.com>
Subject: Fw: Hyatt RVs without permit & helio
To: "Dave Lew in memoriam" <fishhookdavelewis@yahoo.com>
Date: Monday, February 4, 2013, 6:47 PM

--- On Mon, **5/24/10**,

Subject: Hyatt RVs without permit & helio

Hi,
Enclosed is a complaint that someone filed with the County regarding RVs brought into Mountain Resort at Hyatt Lake, without permission. I did not file this complaint, but the County records show a litany of them; including the illegal landing of the helicopters at Hyatt and then telling the nov-enforcement officer, that it was an Oregon State sanctioned Search & Rescue exercise with the Chinese (which is a lie, it was not). Apparently Burl Brim (and Bob McNeely) then changed their story and said it was only a fly-in for lunch. This complaint was prior to that, but the helicopter is clearly visible and the RVs can be seen as well.

FYI ~

During the preparation of responses to comments on the Draft Environmental Assessment, it was noted that considerable confusion exists between actions proposed for Camper's Cove Resort and those taken related to Hyatt Resort. The removal of the facilities where a helicopter landing apparently took place was associated with Hyatt Resort, not Camper's Cove.

JACKSON COUNTY

CODE VIOLATION REPORT

Development Services

PLEASE COMPLETE THIS SECTION AND THE SECTION INDICATED ON THE REVERSE SIDE

Property Owner: Camper Cove LLC Date: 1/20/2010

Address: 7979 Hyatt Prairie Rd
Ashland Oregon Nearest Cross Street:

Tenant: Registered Agent Jeanne M PLANTE

Location:

Legal Description: 39 (Township) 3E (Range) 16 (Section) 600 (Tax Lot) 30.18 (Acreage) FR (Zone)

Type of Violation (Circle): (Zoning) Sanitation (Building) Solid Waste

Detailed Description of Violation: RV's set up without benefit of permits

THE FOLLOWING SECTION IS TO BE COMPLETED BY CODE COMPLIANCE PERSONNEL

Central File Review Results/Comments:

Map Attached: Yes____ No____ Citation:

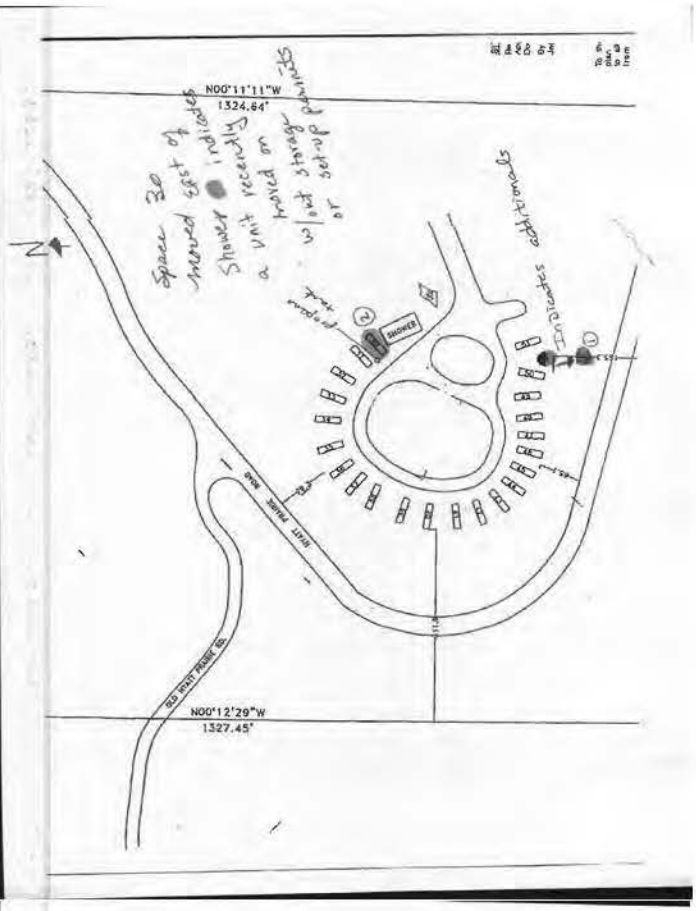
TYPE OF VIOLATION

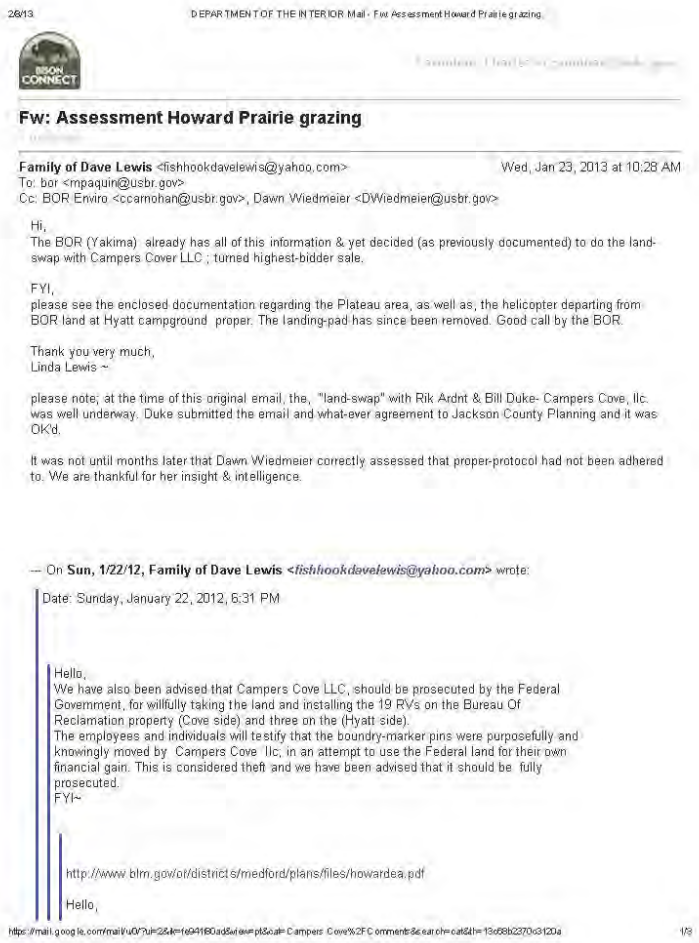
ZONING:
- ☐ Pre-Application Conference
- ☐ Home Occupation
- ☐ C.U.P.
- ☐ Sign
- ☐ Commercial Review
- ☐ Other

SANITATION:
- ☐ Septic
- ☐ Solid Waste
- ☐ Authorization
- ☐ Well
- ☐ Other

BUILDING:
- ☐ Field Review
- ☐ Building
- ☐ Stove
- ☐ Plumbing
- ☐ Electrical

MOBILE HOME:
- ☐ Set-Up
- ☐ X
- ☐ TMH
- ☐ PP&L
- ☐ Other





2/6/13 DEPARTMENT OF THE INTERIOR Mail - Fw Assessment Howard Prairie grazing

BISON CONNECT

Fw: Assessment Howard Prairie grazing

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Wed, Jan 23, 2013 at 10:28 AM
To: bor <mpaquin@usbr.gov>
Cc: BOR Enviro <ccarnohan@usbr.gov>, Dawn Wiedmeier <DWiedmeier@usbr.gov>

Hi,
The BOR (Yakima) already has all of this information & yet decided (as previously documented) to do the land-swap with Campers Cover LLC ; turned highest-bidder sale.

FYI,
please see the enclosed documentation regarding the Plateau area, as well as; the helicopter departing from BOR land at Hyatt campground proper. The landing-pad has since been removed. Good call by the BOR.

Thank you very much,
Linda Lewis ~

please note; at the time of this original email, the, "land-swap" with Rik Ardnt & Bill Duke- Campers Cove, llc. was well underway. Duke submitted the email and what-ever agreement to Jackson County Planning and it was OK'd.

It was not until months later that Dawn Wiedmeier correctly assessed that proper-protocol had not been adhered to. We are thankful for her insight & intelligence.

— On **Sun, 1/22/12, Family of Dave Lewis <fishhookdavelewis@yahoo.com>** wrote:

Date: Sunday, January 22, 2012, 6:31 PM

Hello,
We have also been advised that Campers Cove LLC, should be prosecuted by the Federal Government, for willfully taking the land and installing the 19 RVs on the Bureau Of Reclamation property (Cove side) and three on the (Hyatt side).
The employees and individuals will testify that the boundry-marker pins were purposefully and knowingly moved by Campers Cove llc, in an attempt to use the Federal land for their own financial gain. This is considered theft and we have been advised that it should be fully prosecuted.
FYI~

http://www.blm.gov/or/districts/medford/plans/files/howardea.pdf

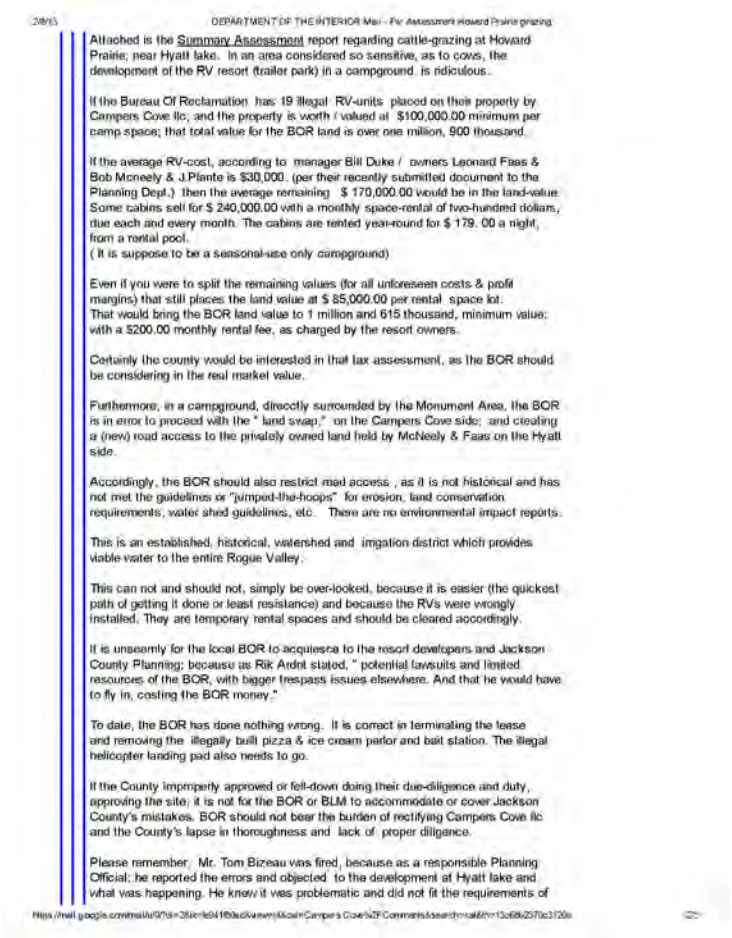
Hello,

https://mail.google.com/mail/u/0/?ui=2&ik=fe94160ad5&view=pt&cat=Campers Cove%2FComments&search=cat&th=13c68b2370c3120a 1/3

The removal of the facilities where a helicopter landing apparently took place was associated with Hyatt Resort, not Camper's Cove.

The "Land Swap" referenced applied to discussions regarding lands potentially needed for Reclamation's Hyatt Dam Safety of Dams Project (SOD). Reclamation has since revised design concepts for SOD. Private lands will not be required to effect the proposed dam safety improvements.

No evidence or substantive documentation of this alleged boundary marker relocation has been presented or discovered during the course of this assessment.



DEPARTMENT OF THE INTERIOR Mail - Re: Assessment Howard Prairie grazing

Attached is the Summary Assessment report regarding cattle-grazing at Howard Prairie; near Hyatt lake. In an area considered so sensitive, as to cows, the development of the RV resort (trailer park) in a campground. is ridiculous.

If the Bureau Of Reclamation has 19 illegal RV-units placed on their property by Campers Cove llc, and the property is worth / valued at $100,000.00 minimum per camp space; that total value for the BOR land is over one million, 900 thousand.

If the average RV-cost, according to manager Bill Duke / owners Leonard Faas & Bob Mcneely & J.Plante is $30,000. (per their recently submitted document to the Planning Dept.) then the average remaining $ 170,000.00 would be in the land-value. Some cabins sell for $ 240,000.00 with a monthly space-rental of two-hundred dollars, due each and every month. The cabins are rented year-round for $ 179. 00 a night, from a rental pool.
(It is suppose to be a seasonal-use only campground)

Even if you were to split the remaining values (for all unforeseen costs & profit margins) that still places the land value at $ 85,000.00 per rental space lot:
That would bring the BOR land value to 1 million and 615 thousand, minimum value; with a $200.00 monthly rental fee, as charged by the resort owners.

Certainly the county would be interested in that tax assessment, as the BOR should be considering in the real market value.

Furthermore, in a campground, directly surrounded by the Monument Area, the BOR is in error to proceed with the " land swap," on the Campers Cove side; and creating a (new) road access to the privately owned land held by McNeely & Faas on the Hyatt side.

Accordingly, the BOR should also restrict road access , as it is not historical and has not met the guidelines or "jumped-the-hoops" for erosion, land conservation requirements, water shed guidelines, etc. There are no environmental impact reports.

This is an established, historical, watershed and irrigation district which provides viable water to the entire Rogue Valley.

This can not and should not, simply be over-looked, because it is easier (the quickest path of getting it done or least resistance) and because the RVs were wrongly installed. They are temporary rental spaces and should be cleared accordingly.

It is unseemly for the local BOR to acquiesce to the resort developers and Jackson County Planning; because as Rik Ardnt stated, " potential lawsuits and limited resources of the BOR, with bigger trespass issues elsewhere. And that he would have to fly in, costing the BOR money."

To date, the BOR has done nothing wrong. It is correct in terminating the lease and removing the illegally built pizza & ice cream parlor and bait station. The illegal helicopter landing pad also needs to go.

If the County improperly approved or fell-down doing their due-diligence and duty, approving the site; it is not for the BOR or BLM to accommodate or cover Jackson County's mistakes. BOR should not bear the burden of rectifying Campers Cove llc and the County's lapse in thoroughness and lack of proper diligence.

Please remember, Mr. Tom Bizeau was fired, because as a responsible Planning Official; he reported the errors and objected to the development at Hyatt lake and what was happening. He knew it was problematic and did not fit the requirements of

https://mail.google.com/mail/u/0/?ik=28ef...Camper's Cove%2FComments&search=all&th=13c68bZ370c3120b

Market value of the 3.53 acres will be determined through the authority of the General Services Administration (GSA). GSA will set a minimum bid which would include the costs incurred by GSA, the costs incurred by Reclamation, and the value of the property as determined by an appraisal conducted by an independent appraisal contractor through GSA.

This Environmental Assessment is for Camper's Cove Resort only. Any past, present, or future actions regarding Hyatt Resort are beyond the scope of this document.

The intent of this Environmental Assessment is not to validate or judge the decisions made by Jackson County. Therefore, comments of this nature will not be considered in this Environmental Assessment.

the area. It was not done correctly; the county chose to ignore this and release the long-time employee rather than, " dot their i and cross their Ts"
They actively and willfully chose to terminate Mr. Bizeau, and he did object to his wrongful termination.

This was not an inadvertent error and omission, this was a willful act of the County to allow this resort; on a non-conforming, special-use, seasonal campground. They also receive full taxes and income from each and every RV, as if it were an established residence.

Lastly, it would it be inappropriate of the Bureau of Reclamation to facilitate a violation of Oregon law and standards.

Thank you for your consideration,
Gregg Miller
Linda Lewis-Miller ~

http://www.blm.gov/or/districts/medford/plans/files/howardea.pdf

http://www.youtube.com/watch?v=KXP3CKOB89c

U-tube as recorded & posted by G.Shawn Adams, employee of Brim Aviation, 6/12/2007.

" I was with the family at Howard Prairie/Hyatt Lake and we saw a friends R-44 take off from where we were having dinner. Shot with my digital camomra in movie mode."

~ We seek justice because the victim can not ~
www.themurderofdavelewis.webs.com

2/8/13 DEPARTMENT OF THE INTERIOR Mail - Campers Cove & Hyatt campgrounds

Campers Cove & Hyatt campgrounds

Family of Dave Lewis <fishhookdavelewis@yahoo.com> Mon, Feb 4, 2013 at 2:19 AM
To: BOR Enviro <ccarnohan@usbr.gov>
Cc: Dawn Wiedmeier <DWiedmeier@usbr.gov>, bor <mpaquin@usbr.gov>

Hi Bureau of Reclamation,

Enclosed are photos of what the Bureau of Reclamation has helped to facilitate on two campgrounds at Hyatt lake. These RVs break every Oregon land use law imaginable.The developers illegally paved a parking lot on Federal land, up to the water's edge,which remains; but thank you for what the BOR has already removed.

Not only have the developers illegally taken the land which 19 RVs "encroach" upon (theft) this mobile home development has violated every document of record. The 3 Commissioners who permitted this, are no longer in office.

A small group of individuals at the County, along with a small number of BOR employees, have attempted to circumvent the laws; because it is complicated by state, federal and county regulations....most have openly-stated they just, " want to be done with it, after three years."

It should not be the labor of the average-man, to stop this illegal development.

Thank you, for your reconsideration of the BOR decision(s) to land-swap and sell to the highest bidder.

take good care,
Linda Lewis

The road-access to the Hyatt proper campground, should not have been acquiesced to by BOR. Two years ago, Tracie Nickles in Planning, told us that would not be permitted or happen; that the road would be closed-off.

Please also remember, this is a seasonal-use only campground. For camping and RVs (the kind you drive) Long time employee of Jackson County, Oregon,Senior Planner Mr. Tom Bizeau, was fired from his job (by the 3 Commissioners now gone) when he attempted to stop this development.

The Bureau of Reclamation has the power & authority to choose to have the 19 RVs rolled off Federal lands and on to the private property; from there, the situation is with the county and the people.

22 attachments

mountain resort crammed cabins july 2011.jpg


100K


mountain resort 2011 july 4 man with dog & music.jpg
86K


mountain resort with mobile covered.jpg
107K


hyatt RVs to install.jpg
33K


hyatt the crew critter sign.jpg
80K

hyatt snow machine melt.jpg
64K

One of Reclamation's goals with this Environmental Assessment, and the purpose and need for the Federal action, is to resolve unauthorized use of Reclamation land adjoining Camper's Cove Resort. Action is needed to comply with 43 CFR § 429. While in compliance with the letter and spirit of the National Environmental Policy Act, Endangered Species Act, and numerous other laws, policies, and standards, Reclamation aims to resolve this issue of encroachment consistent with Jackson County requirements.

hyatt lake birds.jpg
35K

DSCF4442.JPG
592K

cabins in snow.jpg
50K

CAMPERS COVE.jpg
187K

hyatt lake cabins snow 2012.jpg
49K

hyatt lake oregon eagle.jpg
662K

hyatt lake winter dog nat monument.jpg
20K

hyatt nesting snag birds-at-hyatt-lake.jpg
59K

HYATT AIR VIEW.jpg
156K

another cabin rental.jpg
7K

HYATT CABINS FROM BEHIND GROUP.jpg
36K

HYATT SNO CAPPED MTN.jpg
56K

hyatt lake view from water of cove.jpg
127K

resort sign big big.jpg
188K

hyatt finger print.jpg
3K

hyatt boat morage.jpg
21K

Retention Code : ENV-6.00
Folder # :
Control # :

Received in Mailroom
FEB 12 2013
Yakima, Washington

Lewis-Miller Family

P.O. Box 2231

Palmer, Alaska 99645

Re: Land Theft Campers Cove Hyatt Lake,

Hyatt Prairie Road, Ashland Oregon 97520

"Camper's Cove Resort Lands Encroachment Draft Environmental Assessment (DEA)"

Dear Bureau of Reclamation,

We have reviewed the DEA for Campers Cove Resort, Hyatt Lake Oregon, and are asking for Alternative (2) Removal Alternative.

The "preferred disposal alternative," # 3; not only is a very biased remark & title, it is erroneous. As stated in the DEA document, (page 5, paragraph 1) in 2004 Jackson County Oregon Land Development Ordinance [chapter 8.7] [2004] mandates that a 100 foot fuel break for wildfire safety is required.

Therefore, the 2006 application for the cabins to be installed is in violation and should not have been permitted originally. The resort should be held liable to comply, without encumbering or exhausting public resources and funds. Already, hundreds of thousands of dollars of public funds have been spent on this; now private enterprise is being rewarded for land-theft / willful adverse possession and will no-doubt continue, which will cost tax-payers money.

Given the history of Campers Cove LLC's willful disregard of boundaries, it is more likely than not, that violations will continue. This also sets precedence for adverse-possession for every land-holder in the vicinity. Should every land-dweller be granted a 100 foot boundary and / or 3.53 encroachment- land-swap turned highest-bidder sale, surrounding their private property? The logic being, " if I do it for you, I have to do it for everybody." The laws are for one and all, equally.

BOR / BLM has "No Current Project," for the property:

While there may be, " no project plans" now for the 3.53 acre property; allowing those cabins to remain on Federal land, limits any and all possible future use for future generations to come. This is a high-recreational, natural setting area which should be used for the greater-good. The original settlers, traversing with their covered-wagons, could not have conceived of a town such as Ashland, just as we

Page 6 of this Environmental Assessment describes the 100-foot fuelbreak from all existing structures. The setback distance is consistent with Jackson County requirements.

Reclamation has developed an environmental assessment of the impacts associated with a sale of land to meet the requirements of Federal regulations and Reclamation Manual Directives and Standards. State and County land goals were duly considered in the permitting of Camper's Cove. Reclamation has taken into consideration the hazards of wildfire as required by Jackson County Land Development Ordinance.

cannot now fathom how this area might develop in the future. BOR sets a dangerous (literally and figuratively) precedent allowing such a mobile-home development; out of convenience for a few (the same individuals & owners who are not abiding by the laws nor conforming to them.)

These are RVs and should be rolled to the private-property, as it is only, " a few feet," in question. This would then eliminate ANY involvement of the Bureau of Reclamation or Department of the Interior. The only reason the BOR is currently involved, is because of the land-theft by the C.C.llc; the business owners have created these expenses and should be accountable for them. They have the wherewithal to move the RVs and restore the land to a natural-like condition. Their wheels should be readily available, as required by law.

This 3.53 acre property is not zoned for RVs; and any change in configuration requires all standards to be brought to 2013 Oregon State and County Land Use Law requirements (including DEQ).

Money & Flagrant Land Use Violations:

It is difficult to understand how alternative # 3, such a flagrant abuse of land use laws, would be the preferred option. The argument that one will cost BOR money and the other "get" BOR money is disingenuous. The BOR was willing to " land-swap" with Campers Cove, LLC (C.C. llc) having no financial benefit nor monetary gain. In actuality, not until it was brought to BOR's attention the value of the land, and the extreme impropriety with which the land-swap had been agreed to, did BOR re-evaluate & conform to Federal law & procedure. Mr. Donald Rubenstein ruled that both Mountain Resort at Hyatt Lake and Campers Cove Resort are in violations of Oregon Land Use Laws # 9, 11 and 13-14. Quite simply, these RVs do not and will not, ever, conform to the legal zoning in this campground area. This is a National Monument, Pacific Crest trail, limited-seasonal use only, no permanent dwellings allowed campground.

A new 100 foot barrier for fuel-break will more likely than not provide a dangerous and deadly forest fire possibility, erosion into water-sources and leave a negative, heavy-human footprint. The probability that this "encroachment disposal alternative," will do nothing more than increase the likely hood of motorized traffic; ie, 4-wheelers, motorcycles, XR-dirt bikes, snow-mobiles, off-road vehicles, horse and animal traffic, etc. is evident. This will increase erosion, fire-hazard, spark and ignition potential of dry-grass forested lands; not to mention over-use of public water resources.

The issues at hand with Jackson County, Oregon and their old-Mississippi-style injustice is just that, and will be addressed accordingly; it is not and should not be the stance of the Federal Government to acquiesce to the "errors" of the County Planners (as Mr. Rubenstein ruled) or the purposeful land-theft by developers.

The United States is not subject to Section 3.4.2 of the Land Development Ordinance of Jackson County. Once sold and held as part of a private estate, State of Oregon and Jackson County codes and ordinances would apply to the parcel. Page 5 of the Draft Environmental Assessment states: "Under the Disposal Alternative, the encroached-upon Reclamation lands and an additional 100-foot fuel break for wildfire safety is consistent with the Jackson County, Oregon 2004 Land Development Ordinance [Chapter 8.7 Jackson Co. 2004]). This land sale would encompass 3.53 acres adjoining the 2-acre Camper's Cove Resort. With the sale, the 3.53 acres would become private property."

One Million Dollar Property Currently on the Market:

Campers Cove, LLC is so confident and assured of this " already done deal," with the United States Department of the Interior, Bureau of Reclamation, Columbia-Cascades Area Office; 1917 Marsh Road, Yakima, Washington 98901-2058

That they have listed their real estate, private business and the entire Campers Cove campground for sale, Multiple Listing Service # 2934239.

The asking price is $ 990,000.00 and has been on the market for well over a year, which includes the Bureau of Reclamation land. Which begs the question, why then are we writing letters and shuffling the deck, since the decision has been made?

The property-owners are not even sincere enough to neither need nor want to stay at the Hyatt Lake, Oregon campgrounds, they are already getting-rid-of and selling the property; they do not , "need the ability to rebuild," they are already selling and wanting more profit. The individual cabin owners are on leased land, they do not and will not own the camp-spots, therefore, they leased-land within the boundaries of Campers Cove. Any contractor would be held accountable to remedy their shoddy workmanship of placing the RVs on the wrong property; it is not the Federal Governments responsibility to remedy the egregious error to increase the profit of the sale or property value.

To wit:

On page # 12; Cumulative and Indirect Impacts:

It is disingenuous that the owners ability to re-build on the existing two acres of private land, "would have negative economic impact on a local level ." This area was permitted at the local level to conform within the 2 acre parcel to be developed for cabin installation that was the original permitted area, thereby there should be no economic impact or necessity for federal land acquisition.

One acre of the 3.53 is wet-lands, which will be impacted.

There should be no need to acquire BOR federal lands; this would negatively impact Section 404 of the Oregon Clean Water Act and Oregon Law [ORS 196.795-990]

In reference to your comment regarding the potential sale of Camper's Cove by Realtor as evidence of decision: Listing of property does not constitute any guarantee of property boundary or legal land title. No Federal decision had been made prior to the preparation of this Environmental Assessment.

No evidence of Camper's Cove contributing to water quality degradation was identified. Oregon Department of Environmental Quality (DEQ) received one complaint pertaining to Camper's Cove on April 30, 2009. DEQ performed an inspection identifying a system inadequacy which did not impact wetlands, Hyatt Lake, or any other water of the United States. The problem was corrected and the case closed on November 6, 2009.

There is a greater likelihood of potential impacts to wetlands and water quality associated with Alternative 2 than with the Preferred Alternative. See page 11 of this Environmental Assessment.

The parking area and floating dock across from Camper's Cove has been in existence for many years and is open to the public. These facilities are beyond the scope of this Environmental Assessment.

Septic, Water and Scarcity:

Please see enclosed documents. Mr. Chuck Costanza, DEQ, said there was never any septic.

The hand-drawn septic representation, by Bill Thompson; shows where resort developers lied to the inspectors to show that a septic had been installed. They falsely laid pipe & gravel to make it appear legitimate (or some such nonsense) as if it had been legally, correctly and appropriately done, which it had not. The paved-parking-lot down to the water's edge is abhorrent; the negative impact upon magnificent wildlife and spectacular nesting-birds would take volumes to discuss.

Hyatt lake area is tinder-dry during much of the year. The limited water-use, water availability and limited water-supply is best left to those with expertise. Common sense tells us, that permanent mobile home RVs (each with hot-tubs, showers, dish washers, garages with vehicles, and year-round habitation) use much more water than summer-time campers or drive-thru RVs during limited seasonal use.

So far, the only evidence that option # 3 would be "preferred," would be that as it becomes private-property, it would no longer become the purview of the responsibilities of the environmental impact laws. Thus, scape-goating or loop-holing and side-stepping the law, instead of maintaining legal integrity.

Page 9 of this Environmental Assessment reflects full analyses of Cultural Resources and Indian Trust Assets and Indian Sacred Sites. The finding of a No Effect determination regarding Cultural Resources and no identified Indian Trust Assets and Indian Sacred Sites is substantiated.

Indian Trust Assets & Indian Sacred Sites (ITAs) and Cultural Resources

In accordance with Section 106 of National Historic Preservation Act [36 CFR 800]

Historically since 1979 through the Historic Preservation Office, artifacts are in question regarding the Confederate Tribes of Grand Ronde Community; Siletz and Klamath Tribes.

Legal complications may still cloud the title of this property and prevent a full legal sale, as mineral rights, in-stream flows and water-rights and hunting and fishing grounds may be in question; these have yet to be properly investigated or decisions ruled upon, and that these rights still may be disputed, thereby causing future financial and legal distress and liabilities for all parties involved.

Respectfully Yours,

Linda Lewis Miller

Gregg Miller

Devan Miller & Lewis family

Homes.com

7900 Hyatt Prairie Rd, Ashland OR, 97520

$990,000 | 0 ba - Status: Active

$990,000

*est. payment: **$4,561**

Beds:
Baths: 0
Sq. Ft:
Price per sq.ft:

MLS #: 2934239
Lot Size:
Year Built:
Type: Commercial

Agent: Alicia Lively
Broker: Windermere Van Vleet & Associates

Features & Amenities of 7900 Hyatt Prairie Rd

Spectacular Camper's Cove Resort. Beautifully wooded getaway located in Southern Oregon directly across from Hyatt Lake. Camper's Cove is a income producing property that features 25 leased spaces with cabin like RV's in place, restaurant, bar, store and a skidsteer for snow removal. Sale also includes 3 of the RV units! The setting is breathtaking! Visitors enjoy biking, camping, boating, fishing for bass and trout, miles of hiking trails including the Pacific Crest Trail. In addition, income is also produced from renting the cabin like units for a majority of the owners. Campers Cove is 6 miles to Howard Prairie Lake and 20 miles from Ashland.

Building Features
Roof (Metal)

Explore the Area Near Ashland, OR

Cabin Sales

Since the cabins are individually owned, Campers Cove does not participate in cabin sales. Sales are handled by the owners or their realty agents according to their own needs and requirements. The Campers Cove staff will be happy to help prospective buyers to the extent possible, for example, by showing the cabin during their visit.

Prospective buyers are encouraged to rent cabins that they might be interested in purchasing. Renting will provide them with a direct view of the cabin features. Please call the reservation desk to make your reservation now. Unfortunately, Campers Cove cannot release financial information about individual units but will release information to the cabin owners or their agents who can then, in turn, pass the information onto prospective buyers.

Please be aware that the Real Estate agents are working towards the best interest of their clients who are under contract to them. Campers Cove respects their contract.

Cabins that are currently for sale are listed with the appropriate contact. If you are interested in viewing a cabin, please call the listed contact who will provide information and schedule an appointment.

Cabin 2 **ReMax**, Broker Kimi Henderson, 541-301-8332. Offered at $99,900.

Cabin 4 Furnished two person cabin with hot-tub, $98,000.

Cabin 8 Furnished 4 person cabin with hot-tub, $159,000. By Owner, 541-862-2258, 541-294-0618

Cabin 9 Furnished 4 person cabin with hot tub, $98,000

Cabin 10 Furnished 4 person cabin with hot-tub. Asking $98,000 By Owner, 541-664-5150

Cabin 13 Furnished six person cabin with hot-tub, $168,000.

Cabin 17 Furnished two person cabin with hot-tub. Asking $65,000. Offered by Century 21, Grant Pendlin, 541-660-0582

Cabin 19 Furnished six person cabin with hot-tub, Asking $215,000.

Cabin 20 Furnished four person cabin with hot tub. Asking $95,000, By Owner, 541-482-3331.

Cabin 22 Furnished four person cabin with hot-tub. Asking $65,000.

Cabin 23 **ReMax**, Broker Kimi Henderson, 541-301-8332. Offered at $120,000.

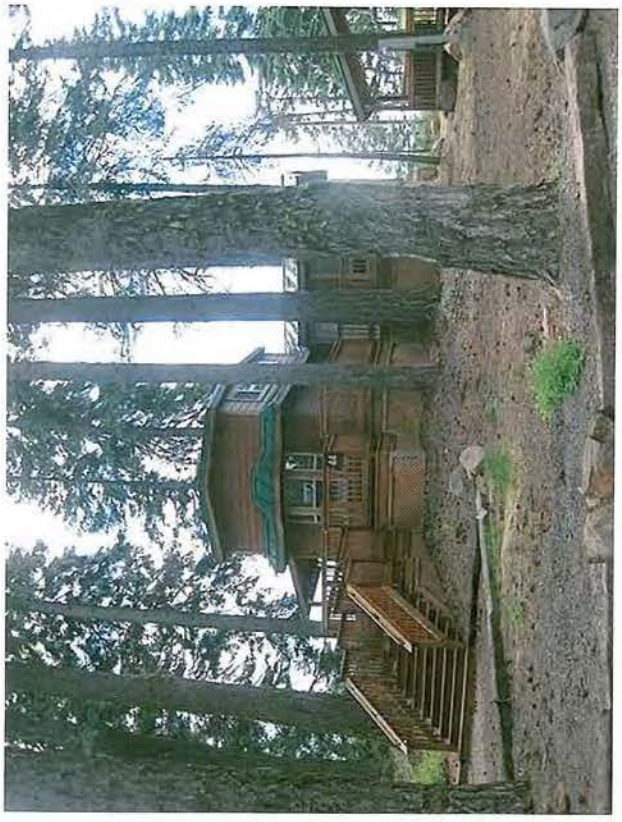
Cabin 44 **ReMax**, Broker Kimi Henderson, 541-301-8332. Offered at $199,000.

Cabin Map:

"PARK MODEL RVs"
in Campers Cove Campground

- Seasonal-use only
- restricted / no mobile homes allowed
- Pacific Crest Trail
- National Monument

"RVs" installed 2006 illegally- in a campground



United States Department of the Interior

BUREAU OF RECLAMATION
Pacific Northwest Region
1150 N. Curtis Road, Suite 100
Boise, Idaho 83706-1234

IN REPLY REFER TO:
PN-3900
LND-8.00

AUG 3 0 2010

TAKE PRIDE IN AMERICA

RECEIVED
SEP 2 0 2010
JACKSON COUNTY PLANNING

Mr. Bill Duke
Operations Manager
Mountain Resort at Hyatt Lake
7900 Hyatt Prairie Road
Ashland, OR 97520

Subject: Concurrence of Replacing Bait Shop at Hyatt Lake Concession – Rogue River Project – Jackson County, Oregon

Dear Mr. Duke:

The Bureau of Reclamation has reviewed your request to replace the old bait shop with a building on skids located at the same site as the original shop. In our review of your request, Reclamation conducted a site visit to determine if the use of the site would conflict with our use of project lands and would be consistent with the terms of the lease contract. As a result of our inspection and discussions with you, Mr. Leonard Fass, and Mr. Don McNeely we concur with your request, and approve of replacing the old bait shop with the new building.

Reclamation looks forward to working with you on those issues discussed at our August 19, 2010, meeting in Medford, Oregon. The cooperative posture of Camper's Cove Resort, LLC, reflected during this discussion is appreciated and marks what we hope to be a renewed beginning to work through the outstanding issues of this particular concession. Your point of contact for future discussion and review of use is Mr. Jon Lyons, Manager, Bend Field Office. Mr. Lyons can be reached at 541-389-6541, extension 226.

Sincerely,

Rik Arndt
Program Manager
Land Resources

cc: Mr. Leonard Fass
Fass Enterprises, Inc.
P.O. Box 606
Yorba Linda, CA 92885-0606

Oregon
Theodore R. Kulongoski, Governor

Department of Environmental Quality
Western Region Grants Pass Office
302 SE "H" Street
Grants Pass, OR 97526
(541) 471-2850
FAX (541) 479-2764
(TTRS 1-800-735-2900

September 8, 2009

Robert McNealy
7900 Hyatt Prairie Rd.
Ashland, OR 97520

RE: Warning Letter with Opportunity to Correct
Camper's Cove RV Park
WL-WRG-2009-18254
Jackson County

Dear Mr. McNealy:

On July 14, 2009 I visited your property known as the Camper's Cove RV park and restaurant at 7900 Hyatt Prairie Rd in response to complaints received from this office concerning possible surfacing sewage at the facility. During my visit I observed several flies hovering over a non secure, non tight-fitting lid over your distribution box. A wooden slatted, box like covering, was allowing flies and other insects to contact the sewage in the box. I pointed this out to you and your maintenance person, Mr. Tony Mineo. You indicated you would establish a tight fitting lid over the box and advise me when the work was completed. To date I have not been informed of any corrective action on your part. I called your facility last week and talked to an attendant who said she would have a maintenance staff let me know if the problem had been corrected, but I haven't heard from anyone, hence this letter.

Based upon the investigation, the Department has concluded that Robert McNealy and Campers Cove LLC is responsible for the following violation of Oregon environmental law:

VIOLATION:

Operating an Onsite Sewage (septic) system that exposes the general population to a public health hazard by allowing sewage to become a breeding area for flies and other vectors of disease is a violation of Oregon Administrative Rule (OAR) 340-071-0110 and 0130 (2), (3), & (13). The violation described above is a Class I violation as per OAR 340-012-0060 (1) (d).

The above violation is a Class I violation of Oregon Environmental Law. Class I violations are the most serious violations; Class III violations are the least serious.

Oregon
Theodore Kulongoski, Governor

Department of Environmental Quality
Western Region Grants Pass Office
302 SE "H" Street
Grants Pass, OR 97526
(541) 471-2850
FAX (541) 479-2764

May 7, 2009

WHALESHEAD BEACH RESORT
19921 WHALESHEAD RD.
BROOKINGS, OR 97415

Re: Alleged Pollution Complaint
Camper's Cove Resort
7979 Hyatt Prairie Rd.
Ashland, Oregon

The Grants Pass office of the Oregon Department of Environmental Quality recently received a pollution complaint. The complaint alleges that, at the above mentioned address, there is surfacing sewage in the middle section of the RV park.

Our field staff has yet to investigate the facts of this complaint. This letter is so that you will have advance notice that it these facts are as alleged, you would be in violation of Oregon Law.

We ask your cooperation. If there is a violation, our intent is to obtain voluntary compliance.

If you feel that this complaint is invalid or if you have any questions, please call me at (541) 471-2850 ext. 224.

Sincerely,

Charles D. Costanzo, REHS
Onsite Wastewater Specialist

CDC: te

cc Todd Miller
Robt McNealy
Franklin Rock Corp

What about requiring abandonment of dump station due to non responsibility of the system.?

Sizing of the dump station sewage flow? How decided.

To Brad Prior
Date 9/1 Time 11:45
WHILE YOU WERE OUT
M Gary Stevens
of Health Dept.
Phone —

TELEPHONED	✓	PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message need slides back from Steve Bodinghimer's going away presentation. elp

To Chuck Henke
Date 9/1 Time 8:45
WHILE YOU WERE OUT
M R. Brett Thomas
of /
Phone /

TELEPHONED	✓	PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL	4		

Message Hyatt Lake —
54 without sewer,
21 with sewer.
Does exceed allowable number, but there is no way to [illegible] who are out of bounds

Connie

Send Copy of Cert. of Sat. Comp. for Hyatte Lake Resort to Brett Thomas C/o J.C. Heath Dept. Environmental Health

Thanks Chuck

JACKSON COUNTY

Use Category: MH without Awning
Type of Work: New Construction
Case Status: Issued

APPLICATION NO: [illegible] MASTER NO: ZON2011-00975 PROJECT NO: PRJ2012-00619
ZONING: RECEIVED DATE: 08/31/2012
PROCESS: ISSUED DATE: 08/31/2012
SITE ADDRESS: 7979 HYATT PRAIRIE RD # 51 EXPIRATION DATE: 02/28/2013
PRIMARY PARCEL NUMBER: 39-3E-16-040 FINALED DATE:
DIRECTIONS TO PROPERTY: AT HYATT LAKE RESORT

People Associated With This Case

Primary Owner
CAMPERS COVE RESORT LLC
7900 HYATT PRAIRIE RD
ASHLAND, OR 97520

Contractor
AMERICAN BUILDING COMPANY INC
1588 UPLAND PLACE
MEDFORD, OR 97504

Case Description

release park model, decks, and stairs to private property
space #31

MOBILE HOME DETAILS: explicitly not permitted Tows + RV park model = home used.
Manufacturer: Serial No.:
Year: 2006 X No.:
Size: 12X35 Value: $2,000

PARCEL TAGS:

Parcel No.	Description	Updated	Updated By
39-3E-16-600	FLOODPLAIN	05/15/2012	SVS
This parcel or a portion of this parcel is in the mapped floodplain. A Floodplain Development Permit may be required.			
	Code Enforcement Soft Hold	07/31/2012	TRM

solid waste

ATTACHED DOCUMENTS:

Document: [illegible].PDF
Path / Root: RA/ATTACHED_DOCUMENTS/PDF
Description: PLOT PLAN DATED 8-31-12

ACTIVITY DETAILS:

Description	Date	Done By	Disposition
	Date Received		
Application Received	08/31/2012	CPF	

June 2009

Planning/Zoning Review Notes: ok pr zon2011-00975	08/31/2012	09/06/2012	08/31/2012	CPF	REVD
Declaration of Value	Date Received 08/31/2012		Date Reviewed 08/31/2012	CPF	DONE
Sewer/Septic Review Notes: ok per stamped plot plan	Requested 08/31/2012	Date Due 09/06/2012	Date Reviewed 08/31/2012	CPF	REVD
SDC Verified Notes: n/a	Requested 08/31/2012	Date Due 09/06/2012	Date Approved 08/31/2012	CPF	REVD
School Excise Verified Notes: n/a	Requested 08/31/2012	Date Due 09/06/2012	Date Approved 08/31/2012	CPF	REVD
Road Approach Notes: existing	Requested 08/31/2012	Date Due 09/06/2012	Date Approved 08/31/2012	CPF	REVD
Issue Building Permit			Date Issued 08/31/2012	CPF	DONE
Override - Parcel Holds			Override Date: 08/31/2012	CPF	
Override - Parcel Holds			Override Date: 08/31/2012	CPF	
Final Permit			Date Finaled		

C:\Windows\TEMP\Case_Summary [261F805B-1F66-44DA-B435-D8CBA1C5008C].rpt

Linda Lewis
12801 Dead Indian Memorial Road
Ashland, Oregon 97520
PO Box 2231 PALMER, ALASKA
907-746-3038

Jackson County Planning
Jackson County Commissioners
10 South Oakdale
Medford, Oregon 97501

Re: Development-Proposed Expansion
Mountain Resort at Hyatt Lake
Campers Cove/7900 & 7979 Hyatt Prairie Road
Property of Jeanne Plante
Robert Wayne McNeely, et.al

To Whom It May Concern:

My brother, David Edwin Lewis, formerly worked on the cabins and property sites (in question) developed by Robert W. McNeely and his wife Jeanne Plante. David Lewis was found murdered and heinously burned on September 4th, 2008. Prior to his death; David Lewis and Robert W. McNeely had a "verbal altercation," and David's death shortly ensued. Jeanne Plante and "Bob" McNeely were subsequently interrogated and questioned by the Jackson County Sheriff's department, a team of highly professional Detectives and the FBI. The McNeelys can substantiate and verify my commentary to be factual and true. The murder has not been solved and there are no charges to date.

The investigation is currently an open-and-ongoing homicide case, with the Jackson County Sheriff's department: case # 08-16617. The detectives and investigators in David's homicide case, have informed us that, "no one has been cleared in this case."

While everyone is, "presumed innocent until proven guilty" it is important for the Jackson County Commissioners and Jackson County Planners, to be aware of these facts. In the interest of public protection and public good; the credibility of individuals and their history is commentary and opinion worthy of consideration. Robert McNeely and Jeanne Plante have various and miscellaneous lawsuits in which they have been involved. These can be researched on JUSTIA, or through the Jackson County Courthouse computer records in Medford , or with a subscription to OJIN which records State wide criminal and civil records in Oregon. There are multiple cases involving the McNeely/Plante's Whalesbead Resort (similar to their development now at Hyatt lake) in Curry County, which can be obtained through the Court Clerk in Gold Beach. These would include, but are not limited to: Encroachment Issues (94-cv-078), Personal Injury and Negligence (92cv104): "McNeely[sic] " in concealing the deep ruts by loose gravel causing a deceptive appearance to the path." And a lawsuit of a very serious nature: Battery and Intentional Infliction of Emotional Distress (90cv033): (3.) "Defendant Robert McNeely intentionally touched Plaintiff on her intimate parts." "The acts of Robert McNeely as alleged were committed in the course and scope of the partnership business." Additionally, there are recorded Federal Tax liens and violations. The lawsuit involving the McNeely/Plante's: 94-cv-078, " defendants trespassed upon Plaintiff's property, cut-down and carried away trees and timber owned by the plaintiff's." (Removed merchantable timber without permission). Defendants' actions were contrary to the provisions of ORS.105.810. McNeely/Plante without lawful authority has willfully entered upon Plaintiff's property described herein and committed continuing acts of trespass, thereby causing injury to Plaintiffs and disturbing their use, occupancy and enjoyment of their property. Said acts of trespass include, but are not

limited to construction and paving of roadways and residential driveways, placement of water and utility lines, placement of residential structures, planting of grass, trees and shrubs, and other miscellaneous acts which interfere with Plaintiff's use and enjoyment of Plaintiff's property."

There was also work done on the McNeely/Plante's Whalehead RV Resort which was in Violation of the Oregon State Building Codes, Instrument # 99-6131. Nine units were sighted for non-inspection in 2003; this is registered with the Curry County Clerk (Map 40-14-3, tax lot 1700) 8/20/2003; regarding Whalehead RV Resort. There are also National courthouse record searches available for Washington State, which show the lawsuits the McNeely/Plante's have been involved in.

Our hope and concern is that the Jackson County Commissioners and Jackson County Planners will proceed with the utmost due diligence, process and investigation, and strict regard for the laws of Oregon, as well as, that of the developer's historic non-compliance issues and disrespectful, repeated, disregard for adherences to code and that of the law. This also includes blatant disregard for other's personal property and boundaries.

The impact of the Jackson County Commissioner's and Planning Division's land use decision, may be precedent-setting and can open-the-door and give cause to rampant development on lands which were clearly not designated for those purposes. Because McNeely/ Plante's request is for an Alteration of a Non-Conforming Use, on a very small piece of land, an extremely careful and through process (and thought) should be given. Especially regarding the proposed alterations and expansions (and misinformation and erroneous claims of what was pre-existing at Campers Cove), and with steadfast regard for the over-all goodwill, health and wholesomeness of the community and the development of the Hyatt Lake area.

Hyatt Lake was Dave Lewis' favorite fishing lake for over 25 years. David Lewis would want his love of the lake, his previously expressed and documented concerns of the McNeely / Plante's development plans, and his voice to be heard.

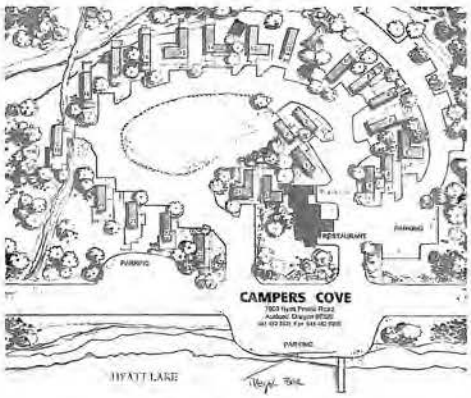
Thank-you for your time and consideration regarding this matter of importance. Please do not hesitate to contact me.

Kindest Regards,

Linda Lewis

He death-threatened Dave Lewis (witnesses)
Dave Lewis ' healthy body was burned, with his cabin and all earthly possessions beyond recognition. 9/4/08, Dead Indian Memorial Road. Jackson County homicide case record # 08-16617.
He continued to take RV deposits, after NorWester had closed (public record).
He is making payment s on the Lindsey Ranch, Dead Indian Road, while declaring Bankruptcy in Chehalis, Washington.
He over-built 9 RVs at his Whalehead Resort, Brookings, Oregon, without permission (public record.)
He "hid" RVs from the Bankruptcy proceedings'. They were hidden at Zandecki's and Whalehead (which were later confiscated).
NorWester manager, Lu Hamilton gave sworn testimony; He removed valuables and durable goods, from the premises at NorWester, knowing Bankruptcy was in the process and imminent.
He has a minimum $ 96,000. Lien from the Government on the Whalehead property.
He lobbied to have cabins called "RVs" for the express reason of circumventing the laws and placing "Park model RVs" in campgrounds. After the 400 sq. foot "RVs" are in place, they add-on, making most exceed the allowable limit. The requirement is "they may not exceed 450 square feet." He adds cement walkways, hot-tubs, decks, lofts, garages and shrubs.
He claimed 105 people were laid-off from NorWester, (public record). Records indicate there were far less; just wondering, is the State of Washington, Wage and Hour, aware of this claim of 105 "laid-off."
He blamed NorWester bankruptcy on the Jackson County Hearing Officer's decision, but his BK was well-underway, even prior to the hearing, let-alone the decision. This should have been inconsequential to the separate business, at Hyatt Lake; unless they are linked. In which case, Bankruptcy creditors have assets to pursue. As well as those individuals who bought RVs which may not be installed.
He is making payments for a private ranch, to Bill Lindsey, for the Dead Indian Road, Lindsey Ranch purchase (witnesses).
He blocked roads and public access to Hyatt Lake (public record).
He said one thing in his KMED radio interview, and contradicted these in his television interview (public record).
He set illegal fireworks off, over the lake (public witness).
He built an illegal helicopter landing pad at Hyatt Lake. (public record).
In March 2010, he allowed Burl Brim to land illegally on the illegal Hyatt landing pad, with Chinese pilots; they claimed it was a Search and Rescue, State of Oregon, allowed exercise. (Public record). It most certainly is not.
He continued building at Hyatt Lake, after being red-tagged and flagged to stop (public record).
He sold RVs to innocent, unsuspecting people, without permission from Jackson County to install them.(public record).
His restaurant twice failed Health Inspections, for violations including eggs & oysters. (public record).
He wrongfully represented what existed at Hyatt Lake campground to Jackson County officials (public record).
He doesn't understand why people would want a $ 500,000. True-RV and not his "RV." (public record)

There were false and misleading applications to Jackson County Planning Division (public records). Lie.
He was sued in Curry County for abusive behavior toward employees (public record).
He was sued in Curry County for not providing a safe-environment for patrons. (Public record).
He built on Hyatt BLM property, without consent, permission, application or adherence to the laws (public record). Dave Lewis told him he was wrongfully doing this (witnesses).
He screamed at Dave Lewis to get-out-of-Hyatt lake, a public lake, on Labor Day weekend 2008 (witnesses).
He threatened bodily-harm to an employee, "I am going to snap-your-neck." (Sworn employee statement & witnesses, public record).
He remodeled a restaurant and other facilities, without government approval. (Public record).
Additionally, he illegally used Federal Property to access private lands. The Federal lease terminates 9/1/2012 (we will be there)
Donald Rubenstein gave a carefully, legally researched 53 page ruling. (public record).
Jackson County employees compiled over 900 pages of research. (public record).
He screamed at and threw papers at County employees in their office (witnesses) .
27 Units were installed, 5 without any permission. Greed,arrogance,disregard for the laws of the land. (public record).
Arnie Link gave sworn-testimony that NorWester made the last rental payment ($8,286.60) in May of 2009, defaulted on his lease, and left Mr. Link unable to re-rent the premises because they forced their situation into a summary-lien-procedure. Leaving Mr. Link with a land-lord's lien ($ 16,573.20) and months of rent he would be unable to collect. He also had to clean-out McNeely's trash on 24,000 square feet of his building. (public record).
He took $ 20,000. Money for RV # 12590 and did not provide it. He took $ 24,943.32 money for RV # 1010 and did not provide it. He took $ 16, 010. Money for RV # 12640 and did not provide it. He took $ 14, 285.82 for RV # 12650 and did not provide it. He took $ 15,664.38 for RV # 12580 and did not provide it. (Public record).
He built a mobile-home-park at Hyatt Lake. It is illegal to have mobile home parks are not allowed.
"According to the Bureau's records, there should be a restaurant, about five cabins, two mobile homes and a workshop on the federal land"



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29°F
Partly Cloudy
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Phone: 541-482-3331
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Ashland, OR 97520

Store Times
Open 7 Days a week 9:00am - 5:00pm