A case study in collaboration: The Community Alternative to the proposed BLM Nedsbar Timber Sale

BY PRISCILLA WEAVER

Now that the Bureau of Land Management's (BLM's) planning for the Nedsbar sale has been extended into 2016, it seems a good time for an update on the Applegate community's alternative proposal and how we got to this point. The Community Alternative is, in my humble opinion, a remarkable document and here's why.

In mid-2014 the BLM proposed a timber sale affecting thousands of acres in the Applegate Valley. Many people were unhappy with the BLM's scope, rationale, and methodologies. As is often the case in our community, meetings were called, including meetings with the BLM itself; not much was accomplished; the grumbling continued. Before long a group coalesced to try to fashion an alternative better suited for the dry, steep terrain in our valleys than the BLM's plans. I was part of that group of drafters.

We were, and remain, a motley crew, ranging from some of the noisiest local anti-logging activists to at least one of us who was—perhaps with justification—thought to be way too "establishment" to be serious about saving our forests from bad logging. Every time we met, it seemed, we faced tension and an undercurrent of suspicion. Because I was a neophyte in the byzantine worlds of logging, fights against logging, the inefficiency of overlapping government agencies and their inconsistent regulations and practices, I brought a healthy dose of skepticism to the table. It seemed inconceivable that our fractious little band could possibly agree on anything besides our favorite meeting snack. What I did know was that the BLM's proposal was not good for our forests and that lots of other smart people of good will thought so too—even though our notions of a better alternative started out wildly inconsistent and seemingly irreconcilable.

Our relationship with BLM personnel was equally challenging. Although our meetings were sometimes productive and cooperative, at other times the BLM seemed more like an adversary than a public servant dedicated to stewardship of the public's lands.

Earlier this year marked the end of this story's first chapter: we submitted an alternative to the BLM that reflected hours of meetings and drafting, and orders of magnitude more hours of feet-on-the-ground analysis of every single unit the BLM proposed to cut.

In drafting the Community Alternative, we knew the community wanted us to focus first and foremost on the conditions right here and how best to protect our forests and our homes from catastrophic wildfires, and to propose a timber cut appropriate to our region's unique forest conditions. Beyond that, our proposed alternative had to resonate with a broad cross-section of people, or few would endorse it and the BLM would not take it seriously.

By the time we finished, we had exhausted ourselves with discussions, negotiations and compromises over broad concepts and scientific technicalities, and, to no one's surprise, with just plain nitpicking. More than once I came home fearing we would not find enough common ground to call our work a "community" product.

But we did reach consensus, and I am humbled at the overwhelming support from the Applegate community: over 300 people have signed on to the Community Alternative, an unprecedented response in our valleys. The BLM's reactions speak well for our community's ability to come together for the good of all. John Gerritsma, acting associate district manager of the BLM's Medford District, said, "The amount of detail and documentation of rationale for your alternative is nothing short of amazing. I am not aware of any other effort to this degree in our area by a community group!" One of his colleagues noted that extending the new schedule will allow for more collaboration between the BLM and the community in finalizing the Nedsbar sale. We welcome the BLM's invitation to continue collaboration, and we will do so to achieve a result that benefits our community.

All of us who signed the Community Alternative know that our work will not be complete until the BLM accepts its substance and then conducts the sale consistent with its parameters. But we have taken a critical first step, and we remain committed to seeing the Community Alternative through to its acceptance and implementation.

Thank you to all of you who have supported the Community Alternative for the Nedsbar Timber Sale. If you have not yet signed on, please join this important initiative here: http://www.tinyurl.com/nedsbar-community-alternative.

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OPINION

Oregon's Right to Farm laws

BY LAIRD FUNK

If you want to farm, Oregon is one of the best places to be. We have great climate, wonderful soils, and usually enough water to get a crop to harvest. However, perhaps the best reason to farm here is Oregon's Right to Farm or Agricultural Trespass laws. According to these laws, Oregon farmers can't be subjected "to any private action or claim for relief based on nuisance or trespass" (ORS 30.936). That right is "absolute" protection against all comers, with two exceptions.

Compare that to many other states where thousands of farmers are at the mercy of an ever-increasing number of close neighbors. Neighbors who have no idea what a farmer is or does and just don't want to be bothered. Neighbors who find themselves distressed when awakened by whatever noise has to happen at 3 am. Neighbors who have no idea that cows can bellow all night. Neighbors who have some philosophical objection to a certain crop. Neighbors who don't like following a slow tractor on the road. Neighbors who are afraid of whatever was just sprayed, even if they don't know what it was. Even neighbors who think farmers should not have rights at all. Looking at those poor farmers, who wouldn't want to move to Oregon to farm?

Oregon law protects farmers from being sued for "nuisance or trespass, which includes but is not limited to actions or claims based on noise, vibration, odors, smoke, dust, mist from irrigation, use of pesticides and use of crop production substances" (ORS 30.932). New neighbors hate your wind machine? Too bad for them! Get an angry phone call because you have to bale hay till midnight? Too bad for the caller! Sprinkler drift gets spots on your neighbor's windows? Too bad for the windows! The manure gun odor ruin your neighbor's dinner party? Bad time for a party! Plowing dust covers the new subdivision next door? Darn that wind! I could go on, but I think you get my drift (no pun intended).

But what about those two exceptions I mentioned earlier? There are two instances when Oregon's protective Right to Farm laws are no protection at all. They are listed in ORS 30.936, apparently in the order that the drafters ranked the severity of the possible damages. The second, apparently lesser exception in ORS 30.936 (2)(b) is "death, or serious injury as defined in ORS 161.015 (8) (General definitions)." "Serious physical injury" is further defined as "physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ." Wow! That clearly is a bad thing! What in the world could be worse than death or serious injury?

Well, according to ORS 30.936(2)(a), it's "Damage to commercial agricultural products." So apparently causing death or serious injury is bad, but damaging a neighbor's crop is worse! (These farmer-drafters of legislation were hard-core folks.)

While the relative importance of the two exceptions may not be exactly as I describe, damaging another's crop is clearly serious business, and rightly so.

Why shouldn't a farmer pay the neighbor if his baler throws sparks and burns up a barley field? Why shouldn't a farmer collect damages if a neighbor's pesticide drift ruins an organic certification or shrivels a grape crop? Why shouldn't non-GMO farmers get compensation if a GMO crop destroys the value of a non-GMO crop by crossbreeding? Why shouldn't a dairy breeder be compensated when a bull comes to visit like the one Ken Kesey owned and wrote about—a bull's bull that ignored all fences and inappropriately thrilled dozens of Holstein cows?

Why shouldn't farmers growing a very high-value crop, such as seedless marijuana for medical or other markets, be compensated for the ruination of a crop by the drift of pollen from an inappropriately sited hemp field? Why shouldn't a grower of a $250-per-acre crop compensate the seedless grower whose $2,000- to $3,000-per-plant crop is ruined? And shouldn't compensation be increased if that damage was deliberate?

Oregon's Right to Farm law protects Oregon farmers from other farmers as well as from non-farmers.

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Burn reminder

Before burning outdoors any time of year, check with your fire district to make sure that day is an official burn day and not a ***NO*** burn day.

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