

W. H. e.
SUPPLEMENTAL MATERIAL

June 11, 2006

Via Hand Delivery And Fax: 541-682-3947

Land Management Division
Attn: Lane Co. Board of Commissioners
& Steve Hopkins
125 East 8th Avenue
Eugene, OR 97401

RE: Margaret and Bernard Bernheim Measure 37 Claim
Dept. File No. PA 05-6581

Dear Commissioners,

Thank you for this opportunity to comment.

We live at 83135 Rodgers Road in Creswell. I am writing this letter on behalf of myself, Tammy Ellis, and my husband, Ben Ellis, and our family to explain the basis of our serious opposition to the Measure 37 claim application submitted under the name of Margaret (Peggy) and Bernard (Bunk) Bernheim.

This claim has not, in actuality, been filed by the Bernheims, but is an attempt only to gain the division rights that they may possibly be able to acquire in order for the actual owners of the property (McDougals and others) to implement their plans for an irresponsibly designed development.

We have been told by Mr. Bernheim himself that he sold the property to the McDougals. We have also been told the same thing by several other neighbors, and acquaintances, namely, that the McDougal's purchased the property, in partnership with Mr. Greg Demers, and specifically that a very large scale development was intended by the new owners.

In our view, this application is a complete fraud and is not based on the intentions of the Bernheims at all. Instead, it is simply an avenue for big money developers to try to bully the county into giving them the rights to do a division on property they are not entitled to. Please uphold the County's land use planning regulations.

Late spring of 2004, we asked Bunk if we could buy a feeder calf from him, although we had noticed that we hadn't seen any of his Charolais for a while. Bunk said he had sold the herd to Bowers, his place was up for sale and he was moving to be closer to their children.

In Fall of 2004, my husband came home from the Bernheim's home one night and said Peggy had told him the McDougal's were trying to buy their property but they didn't really want to sell to them and she didn't want them coming in and "raping" her land. She seemed very upset about the whole deal.

Later in the fall of 2004, the Bernheim's started moving all of their belongings to their new place over east and we would see them coming or going sometimes once a week. A few times Ben went up to help Bunk move a couple things or help with some plumbing issues. Then we didn't see them for a time.

Early in the beginning of the year 2005, a neighbor had told us that Bunk had in fact sold his property. We were in the process of considering selling our home and a couple of realtors had come by and were interested and before we considered finding another home to buy we wanted to talk to Bunk about renting his house since it was vacant. We called him and asked and he said that he didn't have any say in it because he had already sold the place and it was in somebody else's hands now. We didn't press for any information and left it at that.

In early spring of 2005, a red Ford 1 ton flat bed loaded with a cattle trailer broke down in front of our house with a bent front axle. I went out to ask the guy if he needed any help. He told me he had another guy coming to help unload the trailer full of cattle on the property that his boss had just bought. I asked him if it was the Bernheim property and he pointed up the road to it and said ". . . . That right there", pointing directly at the former Bernheim property. I asked him who he worked for and he said Fern Hollow Farms. I understand Fern Hollow Farms to be owned by Greg Demers (attached Oregon Business Registry).

A man driving a white extended cab flat bed Dodge pickup truck came to help him transfer and dump the cattle. We still see this same man frequently. He goes up to the former Bernheim ranch and to the property occupied by Vern Story that has feed and hay storage barns on Enterprise Road (Tax Lot 100).

When we saw Bunk Bernheim next, in the spring of 2005, we told him there was a lot of "urban legends" going around about the property. He said we could probably find out more than he knew about the place if we went down to the barbershop. We laughed and then he told us that he had sold the property to the McDougal's. He said he really regretted it too because after he agreed to sell it to them Luke Jackson had called him up and made an offer and he would much rather have sold it to him, because he was planning on living on the place.

We sympathized with him and asked him if he could go back on the deal with the McDougals and he said that he couldn't because he was too far into it.

Bunk said he was on his way to have another meeting with them at Emerald Valley because they were wanting to divide the property and to use his name to do it under the Measure 37. Bunk said the McDougals were going to apply to the county for lots down to 2 acres in size, knowing they would never get that, and then see what they could get. He said specifically, "They are just using me is all it is. The more lots they can get out of it the more they say they'll pay me."

We asked him what they would do about roads and he said they had a whole road system development plan. Bunk was pretty disgusted with the whole thing and told us it was a shame and that he was glad he wouldn't be around to see it happen.

On a separate visit, we talked to Bunk and asked him how things were going and he said he was still having to come back and forth for meetings with them. He and I talked about how people were crazy to go around developing all of this farmland. He said he could see people putting houses on some of the hillsides and wooded areas of his property but not the farm land. He said he looked around at all of the areas it's being allowed and people were really going to regret wasting all of the rich fertile land.

One day in the summer of 2005, the couple that lives on Bunk's property, in a mobile home along the private road to Bunk's house, stopped and talked to Ben and the man, Brownie, told Ben that everything had changed since Bunk had sold the place and he was really needing to find a place to live, maybe in town. He said nothing was the same since Bunk was gone and he didn't want to be around there any more.

Since the spring of 2005, we noticed No Trespassing signs put up by Frontier Resources that have the phone number blacked out (photos attached), a continuous occupation of cattle on the ranch, late night vaccinations at the lower Enterprise Road barns, fencing repairs, and constant traffic of ranch related vehicles coming and going from the ranches residence and the Enterprise Road barns. We understand Greg Demers and Ed King own Frontier Resources (attached Oregon Business Registry).

We have received and reviewed the notice of hearing from the county, the application, and the staff notes regarding this claim and we have also been working with the community to gather and research information.

During our research, we have found a Notice of Option to Buy deed with signatures dated May 25 and 26, 2005 and recorded with the Lane County Deeds and Records on May 26, 2005 between the McDougal Bros. Investments and the Bernheims (copy attached) to purchase property encompassing at least the property listed in the application.

This option agreement was not submitted in the claim application and it is incredibly important because it substantiates that the property was in fact sold prior to this application. Due to the fact that the property is no longer actually in possession of the Bernheims and the title is in question, we are asking the Commissioners to please deny this claim in its entirety.

If the county were to grant a waiver, our property values would fall significantly. The properties included in this application are centrally located in our rural community. I understand this is not by chance. The development planned and allowed around these properties has been in direct consideration of the fact that specifically these lands remain in their current zoning status. Obviously, the high market value we all now enjoy associated with the location of our homes is because of current land use planning management regulations. Community property values would be devastated by a waiver and these proposed changes to the zoning structure of this centrally located area of land. Please understand that there is no development of this precedence anywhere in the directly surrounding or local area.

Development on the scale proposed would have incredible impacts. The environmental importance and incredible impact associated with all of these variables that we as individuals and a community are all dependant on would be absolutely destroyed by this type of a development. Many local wells are poor and water supply is limited. You are going to hear and read several statements of water quantity and quality issues for almost all nearby residences. People are already struggling to maintain a basic water supply. But we and our neighbors have adjusted to living without much water because the rest of the living conditions are otherwise so ideal, finding a different location to live is not a viable alternative.

Ironically, though we have limited drinking water, we also have too much surface water runoff. Seasonal ponding and flooding is already a problem. Logging and developing this land in this absurdly irresponsible fashion would have a direct impact on the watershed that is already unable to be managed. The property in this application is all sloped, with Enterprise Road directly at the bottom of lot 100 and being the west boundary. Within three home sites to the west of Enterprise Road and lot 100, our home being the

second, geographically the land changes from a moderate grade to slight to non-existent grade. (On our property, we lasered a 3% grade from the beginning east portion and then traveling west approximately half the frontage distance of our property, 200 feet.)

The Willamette River is the point of contact for all shed waters. Every rainy season we, along with several of the homes to the west of us, have flooding in varying degrees. We have standing water on our hay field until June!

The county came thru 3 years ago and replaced all of the culverts and widened the ditches in an effort to combat this problem and I spoke with Jeff, one of the county road crew supervisors. I asked him why he thought this was such a problem. Jeff explained to me that he thought it would always be a problem because *there is simply nowhere for the water to go* and there is no public land from Cloverdale Road to the river to be able to trench the water and there have been no personal property owners willing to grant the county access for such a project. So, how could we increase that problem?

Widening the roads and creating new ones to facilitate a high increase in traffic, is something very important to me personally as I have three, soon to be four, small children. We are closely located to the road directly at the bottom of a hill. People already drive down the hill at speeds of easily over 55 miles an hour.

Widening the road would force everyone to change fencing and landscaping and put cars even closer to my front porch, which isn't too far away as it is. Currently our road has a lot of foot traffic from people able to enjoy nice, safe walks and runs and a lot of people that bike. We just had a bike race take place a couple of weeks ago that included Rodgers, Bear Creek, Danstrom and North Bradford Roads.

I have grown up, and my children have grown up, being able to enjoy the abundance of wildlife we have been so fortunate to have not only in our backyards, but surrounding us. In a days time, we can take a walk or a short drive and see all of the farm animals and also fox, pheasants, quail, deer, woodpeckers, turkeys, snakes, lizards I've never found names for, an uncountable number of different birds, and if you are lucky every now and then a herd of elk. I've grown up with the coyotes singing me to sleep and have given my children a knowledge of life and energy and seasons and respect for all things thru watching these animals.

Obviously none of these concerns are being considered by the new owners of this property. It's just a simple matter of more money for them. When is enough actually enough?

My family has always had a tremendous amount of respect for Bunk and Peggy Bernheim. They were always wonderful neighbors. Bunk impresses upon people a rare and gentle kindness. I've always admired the fact that he was a model steward of his land. His cattle were always well-attended to and were something to truly be proud of, by anybody's standards.

Mr. Bernheim made his living from the business of farming and logging his properties. I always considered him to have, not only a working knowledge of farming, but a very educated position and perspective on a number of aspects of agriculture. I feel the Bernheims purchased their properties and were able to use them exactly for the purposes they intended - farming and forestry.

The Bernheims did not seek to change any of the zoning regulations on their properties listed in this application, nor did they apply for a Measure 37 claim at any time prior to the sale of their property.

The operative word in the claim request, used fluently in the letter from Donald Joe Willis, is "restrictions." The Bernheims were able to farm and log their land and use it as responsibly and prudently as they chose. In doing so they were able to do quite well for themselves financially. They did not suffer any financial hardships that are a requirement for being compensated for due to zoning regulations.

I would encourage and appreciate questioning of the Bernheims themselves. I truly believe if you talked to them in person, they would tell you that while they owned and operated the property, they in fact agreed with the farm zoning of their properties, at all times!

I would even be willing to bet the money sought after in this claim that it's the McDougals and/or Demers and King who are behind this demand for the county to pay or waive land use regulations. The current request is totally inconsistent with the Bernheims' personal intention and vision for their property. But because of their prior sale of the property, it appears the Bernheims are being forced to participate in this process against their will. If you asked the Bernheim's if they wanted this claim they would answer you honestly and say, "No."

Which is what I am again encouraging you to please do - say, "No" and deny this claim. The voters who approved Measure 37, with good intentions, did so for long time land owners, not for land speculators and developers who have only recently appeared on the

scene. We fear you are being misled and this claim has been presented to you under false pretences.

Thank you for your consideration and patience in this matter.

Sincerely,

The Ellis Family
Ben, Tammy, Samantha, Morgan, Brazen, and Baby
83135 Rodgers Road
Creswell, OR 97426