

Oregon Department of Land Conservation and Development Commission
RE: Proposed amendment for Goal 5
July 20, 2016

Oregon Department of Land Conservation and Development Commission Members:
You are considering establishing a committee to consider modifying the Goal 5 requirements. I know it is early in the process, but I suggest you disregard all recommendations as presented. Keep your present regulations and enforce them.

Commissioner Greg Macpherson should excuse himself from the Goal 5 discussion and voting

Commissioner Greg Macpherson should be requested to step aside on Goal 5 discussion since he is a Stoel Rives lawyer, and that firm represents irrigation districts. I have not met Commissioner Macpherson so this is not personal. The considered recommendations read as if they were prepared by Stoel Rives and previous experience with irrigation districts have shown that their lawyers prepare specifically worded documents and laws to present to political committees and commissions for automatic approval without allowing open public discussion. Regardless of who presented these suggestions to you, they are obviously irrigation district's work. Commissioner Macpherson should NOT be allowed to participate as he will support his law firm in any voting or discussing of Goal 5 with your committee. You should strive for neutral positions, not prejudiced ones in evaluating the need or non-need of these revisions.

Who am I?

As one of the proponents of the Pilot Butte Canal Historic District (Cooley Road-Yeoman Road segment) (PBCHD), I have worked with the Goal 5 requirements as well as the National Register requirements. What has been ramrodded to your committee will NOT improve the Goal 5 and National Register listings procedures but make them considerably worse. ***I RECOMMEND YOU DO NOT USE ANY OF THE SUGGESTIONS IN THIS PRESENTATION BUT KEEP YOUR CURRENT RULES.*** Concerns about the present system at city and county level in Goal 5 regulations exist, but the submitted suggestions do not even touch these present roadblocks. The negatives of these suggestions are considerably more detrimental than leaving the standards alone. ***THE ENTIRE PRESENTATION IS TO MAKE YOU GRANT THE IRRIGATION DISTRICT THE RIGHT TO BREAK AND DE-LIST THE NATIONAL REGISTER PBCHD TO DESTROY IT.*** I am not a lunatic and will discuss this in these next few pages.

Do not use any of the suggestions in this presentation but leave the rules as they currently exist.

The City of Bend has already eliminated protection for National Register sites from their codes, and allowed several homes to be destroyed by developers. Central Oregon local governments often destroy historic sites for profit. ***Your present "Procedures and Requirements for complying with Goal 5" are good ones.*** Apply then to governmental agencies and politicians as well as the common citizen. Do not grant those who are desirous of abusing the system additional special privileges. ***OREGON GOAL #1 IS CITIZEN INVOLVEMENT AND ALL OF THESE RECOMMENDATIONS ARE DESIGNED TO BLOCK PUBLIC INFORMATION AND OPEN HEARINGS.*** Your proponents know it is extremely difficult to comply with Goal 1 of the State of Oregon if you intend to take people's private property, destroy yards, sprinkler systems, and damage homes without re-imbusement so they choose to change the laws for their

convenience rather than conform to existing procedures. I should hope your committee will see this for what it is. **Leave your present procedures in place, and enforce them.** There is no reason for you to waste time discussing rule changes that are designed to disregard existing laws, goals, land use zoning regulations, and easements. Especially do not waste your time when recommendations are proposed for the proponents personal financial gain alone and totally block any public notification or hearings. Their goal is to simply to steal property, value, and views from innocent taxpaying citizens.

Why add a new “ownership” category?

Recommendations include a new category of “owners of interest”, but that is vague, confusing, unnecessary, and obviously not good for historic preservation in Oregon. **THIS NEW CATEGORY OF OWNERSHIP IS ONLY FOR DESTRUCTION PURPOSES—IN ORDER TO MAKE ACTUAL HISTORIC CONSERVATION OF ANY SITE OR HISTORIC DISTRICT NEARLY IMPOSSIBLE IN OREGON**, since any utility could block or remove any listing without landowner knowledge or participation. Utilities desire the rights of ownership without any of the associated costs, restrictions and liability, simply so they can block all Goal 5 and National Register listings of very historic canals and other sites. Additionally it would allow any utility to remove historical listings, even those already on the National Register without any public notification or hearing. It does not require all owners to agree, but only one utility is sufficient to revoke a listing on the National Register. All these actions are totally against the National Register procedures. A UTILITY is not a landowner of everyone’s property, and is not permitted to have any discussion at federal level, but you have been requested to give them MORE power and voting rights than the actual landowner. Once you grant non-landowners this “ownership”, then the utilities will remove protective National Register listing from the PBCHD and other historic sites around Oregon and destroy them without any resident landowners involved. There is no public notification required. Simply waiting 120 days will do nothing if Joe Public has received no notice of the change. From experience the irrigation districts will not notify anyone for they prefer blindsiding residents (this change of code is an excellent example of this procedure in action). Those who submitted these recommendations desire **TO REMOVE THE NATIONAL REGISTER PROTECTION FOR THE PBCHD AND OTHER NATIONAL REGISTER SITES AROUND OREGON AND DESTROY THEM.** These rules are intentionally vague so that they may apply to any utility or any other governmental agency that desires to steal private property for any reason. **ALL THE PRIVATE PROPERTY RIGHTS THAT HAVE BEEN PUT IN PLACE IN OREGON WOULD BE THROWN OUT WITH IMPLEMENTATION OF THESE RECOMMENDATIONS.** Under current National Register requirements over 51% of the owners must agree to changes in listings. Why should Oregon only allow ONE “owner” to have total control over all Historic designation? If that one owner really isn’t interested in history, but rather motivated by personal profit alone, you will see every historic site destroyed.

The actual definition of ownership on the National Register is the deeded landowner, the one who pays the taxes on the land, who is required to approve or decline a National Register listing. UTILITIES are NOT landowners, and therefore are not considered as part of the actual process. Historic utility easements remain intact with listing on the National Register. That is the problem to the irrigation districts because they do not intend to comply with the historic easements. They wish to take more land than the original easement allows and use it for non-easement granted reasons. There is no reason why

the state of Oregon should have a different definition of term of “ownership” except that the utilities and politicians wish to outvote the actual landowners. The goal is destruction of private property without payment to the actual landowners. Irrigation districts wish profit from hydropower which has been identified by the Land Use Board of Appeals (LUBA) as a for-profit venture, and Oregon law forbids the use of eminent domain. **This would be a taking under current laws.** They want you to authorize and grant permission for these takings. DON'T DO IT!! Only endorse the actual **“listed on the deed and paying the taxes” as the definition of ownership.** Oregon should have the same definition as the Federal government-- no collusion or favoritisms allowed. The requirements for National Register listing are consistent throughout all the states. **OREGON SHOULD CONTINUE TO EVALUATE HISTORIC SITES AND HISTORIC DISTRICTS ON THE FEDERAL REGULATIONS FOR CONSISTENCY, AND FOR THE PROTECTION OF THE TRULY HISTORIC SITES WITHIN THIS STATE.**

Why remover the “historic areas”?

Historic areas and historic districts are properly defined in the National Register recommendations. **This again is another method of allowing destruction of Oregon history.** For example, Bend Historic District is listed on the National Register, and the city of Bend has allowed destruction of several houses within that district based on developer requests. Remove the “historic areas” from protection, and you have allowed total destruction of the district without the present owners being notified or having any say in the decision. **One entity (your commission) will be affecting rights of all citizens of the state without their knowledge or ability to comment on the action.** The utilities will know this, and therefore will take any action they want in the previous historic district including placing 9 foot diameter pipes above ground in back yards (the desired goal of the irrigation districts in Central Oregon). Your actions will have closed out public comment while eliminating private property rights.

Why require additional approval for relisting of current National Register sites before they receive the protection due them?

Utilities wish to destroy. If they can “require” that additional steps are necessary, and they now have this new “ownership” category then they can singlehandedly block anything, and can remove all historic protection for any site or district and proceed to destroy it. Joe Citizen would be unaware the new stipulation even exists since he was never notified of its consideration. Combine this with the title of “ownership” and the “one vote” accomplishes everything that they are want to implement.

Why was any of this recommended?

THESE RECOMMENDATIONS WERE ALL FOR THE PURPOSE OF DESTROYING PRESENT NATIONAL REGISTER LISTINGS. I strongly feel these were prepared by Stoel Rives, for they have hidden a few “carrots” in these pages that you might consider reviewing to get your commission to act as “useful idiots” and approve all changes without any vote of the public, knowledge by the citizens or public discussions so that you will not realize the damage you are approving. The utilities, sly as a fox, would be able to destroy any property anywhere at any time without complying with any current easements, laws, codes, regulations, or restrictions and without even notifying the landowner. And these new rules, approved by only your commission, would apply to all of Oregon and all utilities. Don't do it!!

REMEMBER: This is a thinly veiled means to break the National Register listing on the Pilot Butte Canal Historic District and other historic sites in order to totally destroy them to obtain profit for the irrigation districts and other “special interests”. You may think these recommendations sound innocent, but they all have very nefarious goals. Do not allow it. Simply say NO—and leave your rules as they are. They are better now than they would be after these modifications. Those proposing these changes wish you to be “useful idiots” and grant unsupervised powers and permission ignoring all laws and stifling all citizen knowledge and comments to the non-profit quasi-municipal utilities for their personal financial gain .

I do not personally know any of you but have confidence that you will all consider you responsibilities to the residents and landholders of Oregon and see through these recommendations. I purposely did not get into discussions on “conservation”, “hydropower”, or the financial realities of the irrigation districts for they are very complex issues and really are not beneficial for Oregon or part of your discussion. Hydropower actually harms water distribution allocations. Your discussion should center on land laws and procedures. If you would like information on those other subjects, or would like a tour of the actual PBCHD you may contact me. I would happily give any or all of you a personal tour at our mutual convenience. I especially invite your Bend member, Ms. Catherin Morrow, to contact me for I would enjoy meeting with her. Please know that not all canals are identical, and once an item has been listed on the National Register it deserves protection. These recommendations will harm rather than help historic designantion. Irrigation districts try to confuse you into thinking all canals are identical, but does an 8 lane freeway in downtown Portland look just like a residential road in Joseph? Yes, they are both parts of the Oregon State road system, but they are very different in construction, looks, geology and use. I hope your commission will realize that history is also a part of “Goal 5” and revising the State rules so they will be the laughing stock of the National Register does not meet your responsibilities.

Thank you,

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