

JUN 6 3 44 PM '83

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

WILLIAM KENNEDY,
Petitioner,
v.
KLAMATH COUNTY, OREGON; E. A.
BIGBY and LINDA RAJNUS, dba
Juniper Hills Airport; and
STATE OF OREGON, Department
of Transportation, Aeronautics
Division,
Respondents.

LUBA NO. 83-011
FINAL OPINION
AND ORDER

Appeal from Klamath County.

E. R. Bashaw, Medford, and Wm. M. Ganong, Klamath Falls,
filed a petition for review and argued the cause for petitioner.

Steven A. Zamsky, Klamath Falls, filed a brief and argued
the cause for Respondents Bigby and Rajnus.

Dale K. Hormann, Salem, filed a brief and argued the cause
for Respondent State of Oregon.

Cox, Board Member; Bagg, Board Member; participated in the
decision.

Reversed 6/06/83

You are entitled to judicial review of this Order.
Judicial review is governed by the provisions of Oregon Laws
1979, ch 772, sec 6(a), as amended by Oregon Laws 1981, ch 748.

1 COX, Board Member.

2 NATURE OF PROCEEDING

3 Petitioner has appealed a Klamath County land use decision
4 which became final on December 30, 1982. The order grants a
5 conditional use permit for operation of a "personal use
6 airport" on exclusive farm use (EFU) land. Generally,
7 petitioner is contending that the use allowed exceeds the
8 definition of personal use airport.

9 ALLEGATIONS OF ERROR

10 Petitioner sets forth eight assignments of error which can
11 be summarized as contending (1) that the conditional use
12 permitted exceeds the meaning of a personal use airport which
13 is authorized on EFU land by ORS 215.213(2)(g); (2) Klamath
14 County failed to take a statewide goal 2, part II exception to
15 statewide goal 3; (3) Klamath County failed to properly apply
16 its comprehensive plan regarding development on Class I-IV
17 soils and violated the county zoning ordinance requiring that
18 conditional use permit findings show the proposed use does not
19 adversely affect neighboring uses; and (4) the order violates
20 statewide goal 5 because the site area has been determined to
21 be a wildlife habitat but no evaluation was made of the
22 economic, social, environmental and energy consequences of the
23 proposed conflicting use.

24 FACTS

25 Respondent Bigby and Rajnus, doing business as Juniper
26 Hills Airport, applied for a conditional use permit to operate

1 a "personal use airport" on agricultural land in the Poe Valley
2 of Klamath County. The requested conditional use permit would
3 have allowed the applicants to conduct commercial activities
4 including aircraft sales and rentals; aircraft maintenance;
5 flight instruction and parking for up to 20 airplanes belonging
6 to other than the owners of the airport. The Oregon State
7 Department of Transportation, Aeronautics Division, gave
8 preliminary indication it would grant certain exceptions to the
9 activities commonly allowed on personal use airports through
10 waiver action pursuant to ORS 215.213(2)(g). The waiver action
11 would seemingly allow the conduct of some of the above
12 mentioned commercial activities at the site if the county
13 granted a permit for such activity. The exact activities to
14 have been allowed by the waivers are not clear from the record.

15 The airport site occupies land consisting predominantly of
16 SCS Class II, III and IV soils which have been previously put
17 to agricultural use. It is part of a larger farm owned by
18 George Rajnus and identified as exclusive farm use (EFU) land.
19 The Poe Valley is a major agricultural area of Klamath County;
20 it consists of irrigated crop land producing grain, potatoes
21 and hay; has pasture land for cattle, several large dairy
22 operations, and numerous residences. There are three existing
23 airports within the area of the subject property, those being
24 Kingsley Field, Klamath Falls, 13 miles away; Malin Airport, 9
25 miles away; and Tule Lake Airport, 10 miles away. The county,
26 in adopting the hearings officers order with amendments, found

1 the use requested by applicants

2 "is for a commercial recreational business to provide
3 a living for E. A. Bigby; it is only secondarily
4 related to agriculture. This fact is confirmed by the
5 testimony of Mr. Bigby that the purpose of the request
6 herein is so that he can work at his trade in the
7 aviation field and thereby make a living. * * * The
8 testimony shows that the use of this air strip for
9 agricultural purposes would be minimal compared to the
10 requested commercial uses of aircraft sales and
11 rentals, aircraft maintenance, flight instruction,
12 parking for non-owner aircraft. There has been no
13 showing by the applicants that the commercial
14 operation requested are necessary for agricultural
15 purposes. The only need shown for such a commercial
16 operation is to provide financial support for Mr.
17 Bigby. Any agricultural needs of the owners can be
18 met by the use of the air strip as approved
19 hereinabove." Record 98.

12 Juniper Hills Airport had been in business for about one
13 year before the application herein contested was submitted.
14 during that time the applicants had advertised and conducted on
15 site the above mentioned commercial activities. Some area
16 farmers objected to the airport and the nature of the flight
17 activity because of its effect on livestock. The hearings
18 officer made findings, which apparently were adopted by the
19 Klamath County Board of Commissioners (Record 10), that the
20 airfield had already

21 "had adverse affects on the living and working
22 environment of Poe Valley. * * * It is apparent from
23 the record that a certain percentage of pilots do
24 engage in low flying and harrassment, and further, it
is at best difficult to identify such planes so as to
report their activity and insure that it would be
stopped." (Record 99).

25 After review of the hearings officer's decision the County
26 Commission modified or removed, restrictions which had been

1 placed upon flight volume, record keeping, maintenance of
2 planes belonging to other than airport owners, maximum number
3 of planes to be parked at the site and flight training. The
4 Board of Commissioners thereby permitted maintenance and repair
5 activity on an unlimited number of non-airport owner aircraft;
6 the parking on site of as many as 15 non-airport owner aircraft
7 at any one time and; the offering of flight instruction. The
8 board specifically stated, however, that the airport should not
9 charge for such flight instruction. The hearings officer's
10 limit of 300 takeoffs and landings per year was removed and the
11 commissioners imposed no new limit. Finally the applicant was
12 allowed to offer the airport services to single engine aircraft
13 of up to 3,500 pounds gross weight.

14 DECISION

15 Petitioner's assignments of error relating to ORS
16 215.213(2)(g).

17 ORS 215.213(2)(g) states:

18 "The following nonfarm uses may be established,
19 subject to the approval of the governing body or its
20 designate in any area zoned for exclusive farm use:

20 " * * *

21 "(g) Personal-use airport for airplanes and helicopter
22 pads, including associated hangar, maintenance
23 and service facilities. A personal-use airport
24 as used in this section means an airstrip
25 restricted, except for aircraft emergencies, to
26 use by the owner, and, on an infrequent and
occasional basis, by invited guests, and by
commercial aviation activities in connection with
agricultural operations. No aircraft may be
based on a personal-use airport other than those
owned or controlled by the owner

1 of the airstrip. Exceptions to the activities
2 permitted under this definition may be granted
3 through waiver action by the Aeronautics Division
4 in specific instances. A personal-use airport
5 lawfully existing as of September 13, 1975, shall
6 continue to be permitted subject to any
7 applicable regulations of the Aeronautics
8 Division."

9 Under this assignment of error, petitioner argues:

- 10 1. The personal use airport contemplated by ORS
11 215.213(2)(g) does not include carrying on a business
12 of repairing, maintaining and basing aircraft not
13 belonging to the owner of the airstrip.
- 14 2. The combined permission to park up to 15 non-airport
15 owner aircraft at a time, allowing the owner to
16 maintain and repair planes other than his own, and
17 permission to offer flight instruction exceeds the
18 meaning of occasional and infrequent use by guests as
19 used in the personal-use airport statute.
- 20 3. The uses permitted by Klamath County do not constitute
21 "commercial aviation activities in connection with
22 agricultural operations" when the only connection with
23 agricultural activities consists of an indirect
24 association between aircraft owners and the ownership
25 of a farm or ranch. The airstrip is not available for
26 commercial agricultural activities such as spraying,

dusting and seeding.

4. The authority of the Aeronautics Division to grant the exceptions or waiver contemplated in ORS 215.213(2)(g) without further guidelines is either invalid or it requires that the agency exercise its authority in accordance with the statewide planning goals and for the purpose of carrying out the policy in its statutory framework.

Taking these arguments in no specific order, we first address petitioner's concerns regarding the role played by the State of Oregon, Department of Transportation, Aeronautics Division when it granted, through waiver action, exceptions to the activities permitted under the definition of personal use airport. The responsibility to apply land use goals and make decisions in accordance with comprehensive plans has been placed upon the county's shoulders by statute and through authority delegated to the Land Conservation and Development Commission. The ultimate responsibility for approval of activities on EFU land rests with the county (ORS 215.213).

ORS 215.213(2)(g) envisions a dual procedure for allowing personal use airports within an EFU zone. Such airports must meet the definition found in ORS 215.213(2)(g) and their placement must meet land use requirements. In general the Aeronautics Division makes the first decision and the county

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1 the second. The existence of an exceptions provision in
2 215.213(2)(g) does not alter this basic division of
3 responsibility.

4 The exception provision grants the Aeronautics Division the
5 authority to waive certain restrictions placed upon personal
6 use airports. Under OAR 738-20-025(4), upon receiving an
7 application for site approval for a personal use airport, the
8 Aeronautics Division makes an initial investigation. If the
9 proposed airport is compatible with the State Aviation System
10 Plan and the Aeronautics Division is satisfied that aeronautic
11 safety standards for the site as well as adjoining property,
12 will be met, the Division will issue a provisional site
13 approval. The provisional site approval is then forwarded to
14 the appropriate local planning or zoning body for review and
15 comment. The local zoning or planning body makes the
16 determination of statewide planning goal and statute
17 applicability. In other words, even though the Aeronautics
18 Division has decided to grant an exception to a "personal use
19 airport" requirement, it continues to remain the county's
20 responsibility to determine whether to allow the airport with
21 the exceptions on EFU property. The governing body has the
22 option to approve the personal use airport, with the granted
23 exceptions, or approve the airport with conditions which may be
24 more restrictive than the standards imposed by the Aeronautics
25 Division. In no case, however, may the approval of the county
26 governing body allow activities which are not allowed by ORS

1 215.213(2)(g), or are less restrictive than those granted by
2 the Aeronautics Division. Therefore, the duty and obligation
3 to apply the land use statutes and goals rests with the
4 county. The State Department of Transportation Aeronautics
5 Division has so interpreted its mandate. (Brief of State of
6 Oregon, Department of Transportation, Aeronautics Division,
7 pages 3 and 4).

8 With the foregoing in mind, we then look to the decision of
9 the Klamath County Board of Commissioners to grant the proposed
10 use. Under Section 2(g) of ORS 215.213 the approval of a
11 personal use airport in any area zoned for exclusive farm use
12 is subject to the approval of the governing body or its
13 designate. This Board has held, consistent with the Court of
14 Appeals, that the conditional use permit ordinance is an
15 appropriate standard to apply in evaluating such non-farm use
16 requests. Klamath County's conditional use ordinance is found
17 in article 44 of its development code. Generally, the
18 standards to be applied in granting a conditional use permit in
19 Klamath County deal with whether the use is conditionally
20 permitted in the zone in which it is proposed; the location,
21 size, design and operating characteristics of the proposed use
22 are in conformance with the comprehensive plan; the use will be
23 compatible with and will not adversely affect uses on abutting
24 properties and surrounding neighborhoods with consideration
25 being given to harmony; and providing a convenient and
26 functional living, working and shopping, etc. nature in its

1 location and setting.¹

2 In reviewing the county's findings in this matter, we have
3 difficulty understanding exactly what the county has found.

4 The Board of County Commissioners adopted the hearings
5 officer's findings with alterations. Specifically, the Board
6 of Commissioners concludes on record page 10:

7 "Having considered the record placed before it and the
8 arguments made at its hearings on November 22 and
9 December 2, 1982, the Klamath County Board of
10 Commissioners hereby adopts the findings of fact and
conclusions of law and conditions made by the Hearings
Officer in his order of September 14, 1982 except as
amended above."

11 The "above" amendments for the most part are changes in
12 conditions originally placed upon the permit by the hearings
13 officer.

14 The Board of Commissioners summarized what the hearings
15 officer had done when it stated:

16 "The Klamath County Hearings Officer reviewed the
17 matter at public hearings held on July 1, August 5,
18 August 18, August 20 and September 2, 1982. After
19 accepting the testimony and exhibits offered by
20 proponents and opponents of the request, the matter
was taken under advisement and an order was signed on
September 14, 1982. The order denied the proposed
commercial uses, limiting approval to a personal use
airstrip only." (Emphasis added) Record 2.

21 The Board of Commissioners then went on to conclude that:

22 "a central issue in this proceeding is the meaning of
23 'personal use airport' as that term is used in the
24 Klamath County Land Development Code and in ORS
25 215.213(2)(g). It is the belief of the Board that the
26 law and County Code permit only a private,
non-commercial airport and that the waiver referred to
in the law and the Code refers only to activities that
are non-commercial in nature. Allowing some of the
uses requested by the applicant would be a conversion

1 of a personal use airport into a public airport.
2 Development of such commercial uses would be more
3 appropriately done with an application for a zone
4 change." Record 4.

5 In addition, the Board of Commissioners found some of the
6 conditions imposed by the hearings officer to be "unnecessarily
7 restrictive." It modified or eliminated certain conditions and
8 imposed others believing it had kept the activities at the
9 airport consistent with the intent of ORS 215.213(2)(g) and had
10 also assured compatibility with surrounding agricultural uses.
11 Those permitted activities are, however, of a commercial nature.

12 ORS 215.213(2)(g) allows a personal-use airport to be
13 located on land zoned for exclusive farm use provided that
14 specific characteristics of the airport be maintained. The
15 order of the Board of Commissioners exceeds the scope of the
16 standards or conditions imposed on the conditional use airports
17 by the statute. As mentioned above, the use of the airport has
18 not been limited to use by the airport owner or an occasional
19 invited guest. There has been no finding or condition imposed
20 upon the activities of the Juniper Hills Airport that would
21 restrict the use of the airport to "commercial aviation
22 activities in connection with agricultural operations." Among
23 other things, the fact unlimited maintenance and repair can be
24 conducted on aircraft other than those owned or controlled by
25 the owner of the airstrip, without requiring that those
26 aircraft be used in connection with agricultural operations,
violates the statute. The failure to limit non-airport owner

1 use of the facility to infrequent and occasional guests also
2 violates the statute. The parameter of what uses the
3 Aeronautics Division permitted is not in the record but it is
4 safe to say such unlimited use can not possibly be within the
5 meaning of "personal use airport," when that term is used in
6 making land use decisions. As such, the county has created
7 something other than a "personal use airport" as provided by
8 ORS 215.213(2)(g). We hold the subject airport is for other
9 than "personal use," and, therefore, ORS 215.213(2) has been
10 violated. The operation allowed by the county is not one of
11 the non-farm uses listed in that statute.

12 ASSIGNMENT OF ERROR NO. 2

13 Application of the Statewide Land Use Goals

14 Petitioner claims the contested permit allows activity on
15 EFU land which does not preserve and maintain agricultural
16 land. Therefore, petitioner argues, Statewide Goal 3 has been
17 violated. Since Statewide Goal 3 is violated, the county was
18 required to take a Goal 2, Part II exception but no exception
19 was taken, argues petitioner.

20 Statewide Goal No. 3 states, in pertinent part:

21 "Agriculture lands shall be preserved and maintained
22 for farm use consistent with existing and future needs
23 for agricultural products, forest and open space.
24 These lands shall be inventoried and preserved by
adopting exclusive farm use zones pursuant to ORS
Chapter 215."

25 Farm use is defined in Statewide Goal 3 as:

26 "Farm use is as set forth in ORS 215.203 and includes
the non-farm uses authorized by ORS 215.213."

1 Agricultural land is defined as land predominantly Class I-VI
2 soils and other lands which are suitable for farm use. Lands
3 in other classes which are necessary to permit farm practices
4 to be undertaken on adjacent and nearby lands are to be
5 included as agricultural land in any event under the dictates
6 of Statewide Goal 3.

7 The findings of the Board of Commissioners indicate the
8 soils on the property to be used by the airport consist of
9 predominantly SCS Class II, III and IV soils (Record 7; see
10 also Record 95). The Board of Commissioners also found that
11 the land use proposed was consistent with Statewide Goal 3 and
12 the county comprehensive plan. It held:

13 "Personal-use airports, as here approved, are provided
14 for in agricultural areas and nothing is being done to
change the agricultural nature of the area."

15 As we held in the first assignment of error, the county
16 erroneously found the use to be a "personal use airport." The
17 use, therefore, is not a non-farm use allowed on agricultural
18 land by ORS 215.213(2). Since the proposed use is not an
19 allowable non-farm use, the only means by which the applicants
20 could establish the "airport" on the subject property would be
21 to take a Goal 2, Part II exception.

22 The exception provision of Goal 2, Part II states:

23 "If the exception to the goal is adopted, then the
24 compelling reasons and facts for that conclusion shall
be completely set forth in the plan and shall include:

25 "(a) Why these other uses should be provided for;

1 "(b) What alternative locations within the area could
2 be used for the proposed uses;

3 "(c) What are the long term environmental, economic,
4 social and energy consequences to te locality,
5 the region or the state from not applying the
6 goal or permitting the alternative use;

7 "(d) A finding that the proposed uses will be
8 compatible with other adjacent uses."

9 The Klamath County Board of Commissioners, because it felt an
10 exception was not necessary, did not address all the above
11 required considerations. However, in adopting the hearings
12 officer's findings, the Board of Commissioners found:

13 "The use as requested by applicants is for a
14 commercial recreational business to provide a living
15 for E. A. Bigby; it is only secondarily related to
16 agriculture. * * * The testimony shows that the use of
17 this airstrip for agricultural purposes would be
18 minimal compared to the requested commercial uses of
19 aircraft sales and rentals, aircraft maintenance,
20 flight instruction, parking for non-owner aircraft.
21 There has been no showing by the applicants that the
22 commercial operations requested are necessary for
23 agricultural purposes. The only need shown for such a
24 commercial operation is to provide financial support
25 for Mr. Bigby." Record 98.

26 There is no indication in the Board of Commissioners'
27 findings that it disagreed with the stated purpose for which
28 the "airport" was being established. We know of no situation
29 in which the Land Conservation and Development Commission has
30 granted an exception to Statewide Goal 3 to provide for a
31 commercial use on agriculture land, based on the above found
32 purpose. The desire to establish a means of income for Mr.
33 Bigby does not amount to compelling reasons and fact to support
34 an exception to the goal. In addition several alternative

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1 locations for commercial service of aircraft were established
2 as set forth in the facts portion of this opinion. The
3 findings do not reveal why those alternative locations would
4 not sufficiently meet the demands of area agriculture, let
5 alone area demands for a commercial maintenance and repair
6 operation. Based on the foregoing, we find that Statewide Goal
7 3 has been violated and no sufficient exception has been taken
8 pursuant to Statewide Goal No. 2, Part II.

9 Statewide Goal No. 5

10 Petitioner claims that

11 "conflicting uses for Goal 5 wildlife habitat were
12 identified but no determination of the economic,
13 social, environmental and energy consequences of the
14 conflicting uses was made."

15 Statewide Goal No. 5 requires that open space and natural
16 and scenic resources be protected and conserved. The goal
17 states that programs shall be provided that shall insure open
18 space, protect scenic and historic areas and natural resources
19 for future generations and promote healthy and visually
20 attractive environments in harmony with the natural landscape
21 character. It then requires that the quality and quantity of
22 some 12 categories of resources shall be inventoried. If
23 conflicting uses for such resources have been identified, then
24 the economic, social, environmental and energy consequences of
25 the conflicting uses shall be determined and programs developed
26 to achieve the goal of conserving open space and protecting
natural and scenic resources.

1 We find that Statewide Goal 5 has been violated.
2 Petitioner established that this is an area of wildlife habitat
3 and, in fact, Petitioner Kennedy's ranch, comprising about
4 4,000 acres adjacent to the airstrip, is devoted to a program
5 called "Operation Stronghold" designed for the preservation of
6 bird species native to the area. (Record 158, 225-226, 371).

7 The hearings officer's order contains findings of fact
8 indicating the applicant's activities are not compatible with
9 the wildlife which resides in the surrounding areas. Those
10 findings include statements that the aviation activities "are
11 not compatible with the wildlife which reside in the Poe Valley
12 and in surrounding areas, and they would adversely affect such
13 wildlife." (Record 100) Further, the adopted findings
14 indicate that

15 "the uses requested by the applicants are not
16 compatible with the wildlife in the surrounding area,
17 and further, that the adverse effects on wildlife
18 would occur not only immediately, but over a long
19 period of time as well, and that the long term affects
20 of allowing such an airstrip would be devastating to
21 the wildlife. * * * The stronghold operation at Lost
22 River Ranch was in existence before the applicants'
23 request was made for this conditional use permit."
24 (Record 100).

25 The Board of Commissioners adopted the hearings officer's
26 findings but added there was substantial but conflicting
evidence on the issue and concluded that "adverse effects on
wildlife may be discounted." It then went on to hold "this
conditional use permit calls for a review of the airport at the
end of one year. Any documented evidence of injury to stock,

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1 wildlife or people could lead to the modification or revocation
2 of the permit." (Record 3). The net result of adopting and
3 making the above findings becomes confused when the Board of
4 Commissioners stated:

5 "The airport, with the exception of its one building,
6 is essentially an open-space use. The Board finds
7 that the occasional landing or take-off of small
aircraft would have no appreciable effect on open
space." (Emphasis added) Record 9.

8 In the sentence just prior to the above statement the county
9 found, however, that

10 "A review of the record shows no testimony pertaining
11 to any open space, scenic, or historic areas that
could be affected by this airport." (Record 9)

12 Putting together the findings and conclusions of the Board
13 of Commissioners with those adopted from the hearings officer's
14 order results in confusion as to exactly what the county
15 believes about this property. As we interpret the county's
16 findings, in light of the record, this land is apparently
17 governed by Statewide Goal 5. Therefore, while it was making
18 its decision to grant the "airport" it should have adopted
19 findings that identified the economic, social, environmental
20 and energy consequences of the use and developed programs to
21 achieve the protection of the open space. No such findings
22 exist and, therefore, we conclude that Statewide Goal 5 has
23 been violated.

24 Decision Violates County's Comprehensive Plan

25 Based on this Board's decisions on petitioner's first three
26 assignments of error, we conclude it is unnecessary to address

1 his allegations regarding Klamath County's comprehensive plan.
2 Since the comprehensive plan has not yet been acknowledged, it
3 would serve no purpose to address the plan more than we have
4 already. The Board of County Commissioners failed to properly
5 apply ORS 215.213(2)(g) as well as the statewide goals. To
6 review the comprehensive plan in light of our decisions on
7 those standards would be of little use.

8 Based on the foregoing, the December 30, 1982, decision of
9 the Klamath County Board of Commissioners granting Conditional
10 Use Permit No. 30-82 is reversed.²

FOOTNOTES

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The provisions of the code are

4 "a. The use is conditionally permitted in the zone in
5 which it is proposed to be located;

6 "b. The location, size, design and operating
7 characteristics of the proposed use is [sic] in
8 conformance with the Klamath County Comprehensive
9 Plan;

10 "c. The location, size, design and operating
11 characteristics of the proposed development will
12 be compatible with and will not adversely affect
13 the livability or appropriate development of
14 abutting properties and surrounding
15 neighborhood. Consideration shall be given to
16 harmony and scale, bulk, coverage and density; to
17 availability of civic facilities and utilities;
18 to harmful effects upon desirable neighborhood
19 character; to the generation of traffic and the
20 capacity of surrounding streets; and to any other
21 relevant impact of the development.

22 "d. The location, design and site planning of the
23 proposed development will provide a convenient
24 and functional living, working and shopping or
25 civic environment and will be as attractive as
26 the nature of the use and its location and
27 setting warrant."

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20 The LCDC returned the following statement in its
21 determination:

22 "The Aeronautics Division has expressed concern about
23 the effect of this opinion on its statutory authority
24 under ORS 215.213(2)(g). As we read the opinion, it
25 does not determine the scope of the Division's
26 authority but only holds that in this case the County
27 approved activities that exceed the statutory
28 definition of 'personal use airport'. Since the
29 question primarily involves a matter of statutory
30 construction rather than goal policy, the Commission
31 would not object if LUBA wishes to clarify its opinion

1 with respect to the Aeronautics Division's concerns,
2 providing it does not produce a different result in
the case."

3 We appreciate the comment and add only that the commission
4 (LCDC) is correct in its reading of the opinion. We adopted
the Aeronautics Division own interpretation of its mandate and
5 authority (see assignment no. 1). It is the local government's
responsibility to determine in the context of land use laws
6 whether a set of activities is allowed by ORS 215.213(g) as an
acceptable non-farm use on EFU land. As the Aeronautics
7 Division stated, the local government's definition of a
personal use airport can be more restrictive than the
8 Divisions. We have held that the Klamath County's definition
should have been more restrictive based on the land use
9 implications of that decision.

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CERTIFICATE OF MAILING

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 83-011, on June 6, 1983, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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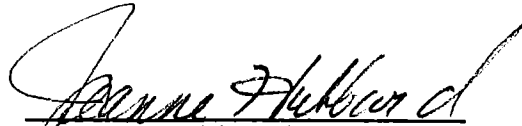
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Dated this 6th day of June, 1983.


Jeanne Hubbard
Secretary to the Board