

Written Public Comments

Item	Name	Topic	Date Received
Item 19	Greg Holmes, 1000 Friends of Oregon	Resolution 310 – Siting of agri-tourism, entertainment activities and associated activities on agricultural lands.	06/12/2023
Item 20	Kathryn Jernstedt, Friends of Yamhill County	Resolution 310 – Siting of agri-tourism, entertainment activities and associated activities on agricultural lands.	06/12/2023
Item 21	Kathryn Jernstedt, Jernstedt Century Farm	Resolution 310 – Siting of agri-tourism, entertainment activities and associated activities on agricultural lands.	06/12/2023
Item 22	Linda de Boer	Resolution 310 – Siting of agri-tourism, entertainment activities and associated activities on agricultural lands.	06/10/2023
Item 23	Mike Totey, Oregon Hunters Association	Resolution 275 – Cougar Management Plan	06/12/2023



June 12, 2023

Luisa Santamaria, Chair, and Members
Oregon Board of Agriculture
635 Capitol St. NE
Salem, OR 97301

Re: Oregon Board of Agriculture Resolution 310
Siting of Agri-tourism, Entertainment Activities and associated activities on
Agricultural Lands

Dear Chair Santamaria and Board Members:

Thank you for the opportunity to provide comments in support of retaining and possibly strengthening the current language in Board of Agriculture Resolution 310, Siting of Agri-tourism, Entertainment Activities and associated activities on Agricultural Lands. 1000 Friends of Oregon is a nonprofit, membership organization that has worked with Oregonians for nearly 50 years to support livable urban and rural communities; protect family farms, forests and natural areas; and provide transportation and housing choices. We commented on the current version of this resolution when it was adopted in 2020.

We support appropriate agri-tourism that is incidental to and subordinate of agricultural operations and that does not cause conflicts with or increase costs of operation for adjacent agricultural operations. Consistent with the current language of the resolution, we believe that the state has work to do to define what agri-tourism is and what it is not, and that once those definitions are in place, clear pathways need to be established for permitting appropriate activities on farmland and for steering other activities to more appropriate locations. Until such time as that happens it is not appropriate to relax current regulations or policy positions.

The Problem and the Consequences of the Current Situation:

Those of you who were on the board in December of 2020 may recall that I presented you with the findings of a study 1000 Friends of Oregon did called [Death by 1000 Cuts](#). The report documents how when Exclusive Farm Use (EFU) zoning was first created there were only a handful of uses allowed, mostly related to farming or to supporting rural communities. Over the years the legislature has added many more allowed uses, to the point where there are now more than 60 uses that are currently allowed in EFU zones. Some of these uses are clearly related to farming and processing farm products (such as farmstands and crop processing facilities). Some are never related to farming in any way (such as model aircraft facilities, firework stands, and dog kennels). Many, however, are in a gray zone where they may be

related to farming in some instances or at some scales, but not at others (including home occupations, events on farmland, and bed and breakfasts.)

The report also outlines in detail the impacts that uses not related to farming have on not only on the land where the activity takes place, but also neighboring properties and the agricultural economy as a whole. These impacts include trespass and vandalism, dangerously crowded roads, and complaints about common farming practices including spraying and creating dust. They also include competition for land with non-agricultural uses, which drives up the cost of access to land for all farmers in the region.

Unfortunately, many of the uses in the gray areas noted above are being approved in the name of agri-tourism. Counties across the state are interpreting the lack of clarity in these provisions differently, so in some cases the approved activities may be related to and supportive of local agriculture, and some they are not and are creating conflict.

The Current Resolution:

The current resolution correctly points out that the term “agri-tourism” is not sufficiently defined in Oregon’s current regulatory scheme. It states that tourism and entertainment events that are appropriate on farmland must be directly related and be subordinate to the agricultural operation on the site. These relationships should be a minimum in order to have an activity called “agri-tourism.” If activities are not directly related and subordinate to the agricultural operation, then they are not “agri-,” but are simply commercial enterprises that are operating on agricultural land. As noted above, such operations often cause conflicts for, and raise the costs of, farming for adjacent and nearby farmers. Those activities are more appropriately located on land already zoned for rural commercial uses or in nearby towns and cities.

The current resolution also notes that certain provisions in current land use regulation are not well defined, and that many of these are being used to approve activities on farmland in the name of agri-tourism. These provisions include “winery,” “commercial use in conjunction with farm use,” “private parks” and “mass gatherings.” We would add “home occupations” to that list. Because these provisions are poorly defined and have blurry sideboards, and because some counties are approving activities that applicants could not qualify for through normal processes by approving them through these less well-defined processes, there exists a lot of conflict and litigation in the name of figuring out what is appropriate and what is not. That is not benefitting anyone.

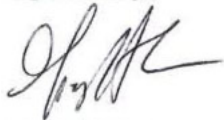
There are better ways to create this certainty—and the current language of the resolution offers one of those pathways. At its essence, the current resolution does nothing more than encourage defining terms up front, clarifying the process for approving the things that should be allowed, and then applying those standards consistently across the state. Such an approach would provide certainty for property owners and agricultural operators, and would eliminate much of the current conflict.

Solutions:

The fact that several commenters on this resolution at your last meeting objected to the provision that agri-tourism activities be in conjunction with and subordinate to the agricultural operation only serves to illustrate the problem at hand: that the definition of what is and what is not agri-tourism needs to be clarified. Many activities that are more appropriate for commercial zones or on the main streets of our cities and small towns are currently being allowed on farmland in the name of agri-tourism, and that is clouding the issue.

The appropriate step now is not to lessen the standards. The answer is to better define what agritourism is and what it is not, and then to create a process where the things that are legitimate agritourism can be permitted, and to close down all of the activities that are not agritourism and shut down the back-door ways that those activities are being permitted now. The current language in Resolution 310 would help to accomplish those goals if fully implemented.

Respectfully,

A handwritten signature in black ink, appearing to read 'Greg Holmes', written in a cursive style.

Greg Holmes
Food Systems Program Director
1000 Friends of Oregon



P.O. Box 1083
McMinnville, Oregon 97128

Helping to shape the use of our natural resources to protect the quality of life in Yamhill County

June 12, 2023

Oregon Dept of Agriculture
Jim Johnson, Land Use & Water Planning Coordinator
635 Capitol St NE
Salem, Oregon 97301

Re: Board Resolution 310

Dear Commissioners and Staff,

Friends of Yamhill County (FYC) works to protect natural resources through the implementation of land use planning goals, policies, and laws that maintain and improve the present and future quality of life in Yamhill County for both urban and rural residents.

FYC participated in previous discussions of Resolution 310 and strongly opposes any weakening of the protections of high value farmland for farm uses. In 2020 we proposed using the phrase "incidental and subordinate" rather than simply "subordinate" based on an Oregon Court of Appeals Opinion and Order identifying it as a term of art in the land-use context¹. We continue to see inconsistent application of rule language to non-farm activities like home occupations, transient lodging, wedding venues, restaurants, and event centers. We have seen a destabilizing proliferation of commercial activities, not related to agriculture, under the guise of agri-tourism. Portions of our county are reaching a tipping point that threaten the continued viability of commercial farming.

Agritourism can be valuable in promoting Oregon and educating consumers on how their food is produced. However, scale matters. Lodging, entertainment, and restaurants overshadow working the land. Rural communities could see much needed revitalization if these non-farm businesses located in towns. Water intensive activities, traffic, bonfires, balloon releases, and demands on emergency services have impacted farming families in Yamhill County.

¹ Friends of Yamhill County v. Yamhill County, 301 Or App 726(2020)

Please do not repeal or weaken the current language in Resolution 310. FYC encourages considering language to strengthen protection. Thank you for considering our comments.

Sincerely,

Kathryn Jernstedt

Kathryn Jernstedt, President
Friends of Yamhill County
PO Box 1083
McMinnville, Oregon 97128

BofA FYC 2023

June 12, 2023

Oregon Board of Agriculture
James Johnson
636 Capitol St NE
Salem, Oregon 97301

Re: Resolution 310 (Agritourism)

Dear Commissioners and Staff,

I am writing from the perspective of the Jernstedt Century Farm and the Jernstedt Daughters Farm. We are not in this for short-term profits but seek to preserve and extend the continued practice of farming on our Exclusive Farm Use zoned land and in Oregon as a whole. Our operation is intertwined with activities on adjacent properties and the larger community. My father, Ernest Jernstedt, served on the State Board of Agriculture, appointed in 1958 by Gov. Mark Hatfield and reappointed by Gov. Tom McCall. He credited Oregon's Land Use system with making it possible to hold the farm intact in the face of generational change. I hope that it is still doing that for the 5th and 6th generations that follow me.

There have been innumerable highs and lows in agriculture since my great grandparents set about farming in Yamhill County in the 1880's. Crops fall in and out of favor and profitability. Processing facilities come and go based on market conditions. Families struggle through or give it up and move. Undergirding it all is that agriculture is a business. As such it needs to be adequately capitalized and the business plan needs to be based on the realities of soil, water, and market conditions.

What I have observed is a marked influx of buyers who are drawn to the picturesque image of agriculture without understanding the complexities of it as a business. Or completing their due diligence. Not every soil type or topography works for every crop. We have done dryland farming (mostly) profitably for over 100 years by adjusting crops and expectations accordingly. A specific property may not grow the crop envisioned by a new buyer but that does not mean it does not have high value for the appropriate crop. Non-farm uses are NOT dependent on soil types and land modified for non-farm uses rarely goes back. The price inflation and conditions have an impact even if the venture fails. Compaction can be the work of months but years to repair.

I don't presume to know who thought they could make a go of farming only turning to tourism to stave off financial ruin and who always planned to leverage the tourism aspect. What I do know is that the proliferation of non-farm uses on EFU land is creating conflicts with those who are committed to employing the land for farm use, as envisioned and defined in ORS 215.203(2).

Conflict (accidents, road rage) between passenger vehicles and farm equipment are getting worse and impacted farm operations in our EFU zoned area. Balloon releases, bonfires, amplified music, and fireworks may be prohibited by conditions but there are no resources for enforcement. Our cities and towns could benefit enormously from the investment in dining, lodging, and other entertainment venues inside their Urban Growth Boundaries.

Please do not weaken the protection of agriculture in EFU zones as envisioned in Oregon's 1973 Senate Bill 100. Thank you for the opportunity to comment.

Sincerely,

Kathryn Jernstedt

Kathryn Jernstedt
Jernstedt Century Farm
Jernstedt Daughters Farm LLC
8160 NE Mineral Springs Road
PO Box 911
Carlton, Oregon

Cc: Judy Jernstedt
Karen Jernstedt
Joani Jernstedt
Lisa Jernstedt Webster

BofA JDF

Item 22

June 12, 2023

TO: Oregon Board of Agriculture, for Agri-tourism topic on June 13-15

It has been brought to my attention that the Board is considering changes to the resolutions on agri-tourism. I am writing to encourage the Board to remain cautious and vigilant concerning potential negative effects of agri-tourism on agricultural practices and success.

Legitimate supporting marketing opportunities are available state-wide for a winery or for a farmstand, and hopefully these activities can provide additional income to help sustain some agricultural endeavors. However, there are also those who seek to use these allowances to establish extraordinarily profitable enterprises such as commercial music and celebratory events venues. For several years, the onus was on the citizens of our neighborhood to curtail such commercial activities by one land owner. The venue operators sought to legitimize their events as a "winery" although they did not qualify as such; and then as a "farmstead" although there was little or no produce; and then through a land use change to a "private park." With nebulous definition, agri-tourism could present such scofflaws with further opportunity to abuse the system and to create real problems for agricultural endeavors in the area.

Before the commercial activities mentioned above, our neighborhood had two horse stables and the roads were safe for riding. With all the traffic due to the events, horse riding even on the dead-end road became too dangerous. For many years, there had been cooperative sheep raising with pastures on one side of the dead-end road, and a barn for safe-keeping at night on the other side. The sheep had to be guided across the road each morning and evening. That became impossible because of evening traffic. Drunken driving at the end of events led to unsafe circumstances. Given the connecting Douglas fir forests, fire danger was a real concern, especially after we noticed the cigar bar offered for wedding receptions.

We were annoyed at Washington County's lack of enforcement. They explained that they did not have staff in the evenings or on weekends, and could not go onto private property. This left the neighbors with the task of documenting weddings and events through private means such as internet coverage and a car counter cable which the neighbors bought and installed. Noise complaints could not be processed. The din of bands playing and crowd noise lasted well into the night. Although humans may have been the primary victims of this cacophony, a bordering neighbor found that loud noises caused panic behavior in the pheasants that she raised for gourmet restaurants, and the dairy to the south had concerns about the noise.

So, our neighborhood serves as a cautionary tale that commercial event centers can take advantage of event allowances granted in the name of agriculture. Scofflaws will always exist, and counties are not prepared to deal with them. Even when events and activities are lawful, their sum total could serve as a threat to agricultural practice, so caution should be observed. We should not expand non-farm activity beyond what is healthy for surrounding agriculture. And we should not continue to expect that neighborhoods like ours make sacrifices of time and money to enforce violations of allowances.

For those interested in the further details of this neighborhood's legal proceedings:

Washington County Hearing 10-196-SU/D

Decision upheld by LUBA No. 2011-007

Washington County Hearing 10-242-SU/D

Keith v Washington County remanded to LUBA

Washington County Hearing 12-383-SU/M

All with KHLS - Keep Helvetia Livable and Safe, a community organization

Thank you for your service to our state and for consideration of this letter.
Linda de Boer, Dick Road, Hillsboro, OR



OREGON HUNTERS ASSOCIATION

Protecting Oregon's Wildlife, Habitat and Hunting Heritage

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Oregon State Board of Agriculture
635 Capitol St, NE
Salem, OR 97301-2532

RE: Resolution number: 275 - Resolution title: Cougar Management Plan

The Oregon Hunters Association (OHA) is a sportsmen's conservation organization with over 10,000 members in 26 chapters across Oregon. OHA's mission is to advocate for wildlife, conservation and our hunting heritage. OHA recognizes the need for sound wildlife management through the Oregon Department of Fish and Wildlife (ODFW) and therefore are staunch supporters of the "North American Model of Wildlife Management".

OHA recognizes the value that both public and private lands play in providing habitat for all species of wildlife in Oregon. With that, there's a need for proactive management to support healthy populations of wildlife while also managing conflicts that come with wildlife in certain areas.

Oregon's current cougar management plan includes a number of management measures to promote healthy sustainable populations of both cougar and prey animals. It also provides for proactive management to address depredation from cougar on livestock and other domestic animals.

OHA is in support of the Oregon State Board of Agriculture's resolution to continue to support Oregon's Cougar Management Plan.

Mike Totey
Conservation Director
Oregon Hunters Association