

# Rural Report

## The Elk Creek Watershed Council proposes to Dissolve

Story by Rusty Savage

It is a common assumption among Oregonians, especially in our rural areas, that our natural resources are abundant and available for public and private use. Oregonians have proved, over the last 50 or 60 years, that our State values and plans to steward the Oregon environment, wildlife and land use to benefit the public and property owners alike and to preserve our way of life and leisure. I know that our watersheds are a vital resource and can have lasting impacts on the regions of our waterways and runoffs. I was not familiar with the Elk Creek Watershed Council until I talked with Lee Russell, the Executive Director. The ECWC has done some extraordinary work along the Elk Creek region, with numerous grants and projects completed, making significant improvements in the salmon and wildlife ecosystems. According to Lee, the ECWC Chairman, James Mast, has begun the process of dissolving the Council, due to lack of interest in holding Council seats and closing out the funds for a state lawsuit. Below is an open letter Lee appealed to the members, with a history of prior accomplishments.

### History of the Elk Creek Watershed Council

Most of you have not been Board members long enough to know what it has taken to build the Elk Creek Watershed Council into what it is today, and what you will be throwing away by simply dissolving the Council and supporting a futile lawsuit. At this time, the Elk Creek Watershed Council is a “fairly well-respected,” and fully-funded member of the roughly fifty-five (55) watershed councils that the State of Oregon considers to be worthy of the funds they receive. But every bit of that “fairly well-respected and fully funded” was fought for with a great amount of energy and sacrifice.

The history of the Elk Creek Watershed Council really should start with the dwindling populations of salmon species, and the federal government’s listing of endangered species. By the early 1990s, environmental lawsuits claimed that the federal government was not enforcing the provisions of the Endangered Species Act that required them to list salmon species that were declining as threatened or endangered with extinction. A federal listing, and the required Recovery Plan, had the potential to severely impact the timber industry, both in Douglas County, and in the State of Oregon. In response, the State of Oregon began funding efforts to restore habitat for salmon, especially coho salmon. In 1993, the Douglas County Commissioners established the Umpqua Basin Fisheries Restoration Initiative (UBFRI) as a sub-committee of the Douglas County Water Resources Advisory Board. The motto of UBFRI

became, “Leave your politics at the door. We’re here to build partnerships that will get things done ‘one the ground’ that will benefit fish and fisheries.” The original UBFRI Board included high-level representatives of local industrial timber landowners, as well as State and Federal resource management agencies. Between 1993 and 1996, UBFRI secured funding to complete stream surveys on many miles of the County’s fish bearing streams, and the Douglas Soil and Water Conservation District and ODFW began implementing “on the ground” projects to benefit anadromous fish in the Umpqua Basin.

By 1996, through the Governor’s Watershed Enhancement Board (GWEB), Oregon began looking at funding the formation of local groups that would bring together a wide range of persons and groups with interests in the watershed to assess conditions in the watershed and to develop plans for restoration. This was embodied in the Oregon Plan for Salmon and Watersheds (1997). The passage of Ballot Measure 66 (1998) allocated lottery funds to watershed restoration in Oregon, and the Governor’s Watershed Restoration Board became the Oregon Watershed Restoration Board (OWEB).

Since UBFRI was essentially doing watershed restoration in the Umpqua Basin, the core group began to make the changes necessary to transition from a County Advisory Committee to a State-recognized watershed council. The Umpqua Basin Watershed

Council (UBWC) received council support funding in early 1998.

The Elk Creek Watershed was recognized in 2002, when the Douglas County Commissioners “established” the Elk Creek Watershed Council as an independent watershed council, and removed the Elk Creek Watershed from the geographical area served by the Umpqua Basin Watershed Council – which later changed its name to the Partnership for the Umpqua Rivers. ;” it was formed to “improve opportunities to address the goals of sustaining natural resource values and watershed protection and enhancement within the Elk Creek Watershed Basin.” [Douglas County Commissioner’s Order – February 6, 2002.] While the goal of the organizers that petitioned the County to separate, and who established the non-profit status of the Elk Creek Watershed Council, may have been to provide a buffer between the agricultural and small timberland owners in the Watershed, they did begin to sponsor and support local restoration projects and Contrary to some of what has been claimed, the Elk Creek Watershed Council was *not* formed to “support the interests and land rights of landowners. The Elk Creek Watershed Council, Inc. was incorporated in September 2002, as a 501 (c)(3) non-profit corporation.

In spite of objections from the Umpqua Basin Watershed Council and OWEB staff, the OWEB Board awarded a grant of \$42,500 to the Elk Creek and Smith River Councils for the 2003 to 2005 biennium.

By December 2004, neither the Elk Creek nor the Smith River Council had requested or spent any of this money, and applications for OWEB funding for 2005 to 2007, were due. I was asked to write the application, but I made it clear that since the Council had not used any of the money, and had only completed one insignificant project, they should not expect much. I agreed to use the Council’s half of the Elk Creek/Smith River grant to try to get the Elk Creek Council recognized as a functioning watershed council by OWEB. The award for 2005 to 2007, was \$23,010, and *half* was for Smith River.

From 2005, to 2009, I declined to get paid until the Council was financially stable because we needed enough cash to be able to pay the contractors, we used to complete projects. But those projects were all that made the Elk Creek Watershed Council fundable in the eyes of OWEB. Every biennium we were in the “needs improvement” category because OWEB didn’t feel that the Council represented a diverse cross section of the interested people in the Watershed, and that the Council did not engage enough with the local community. The fact that we were getting work done on the ground kept OWEB from cutting off our funding altogether at a time when they were trying hard to fund fewer watershed councils in the State. The Elk Creek Council was not funded to the extent of other “established” watershed councils until the 2017 to 2019, biennium. Even in the current biennium, we had to go through a secondary review process to maintain our full funding.

## Open Letter to Elk Creek Watershed Council Members, from the Executive Director

3 February 2024

Board of Directors - Elk Creek Watershed Council  
PO Box 676, Yoncalla, Oregon 97499

Attention: James Mast, Chairman

Dear Chairman Mast and Council Board,  
Presented below are some comments on the discussions of the Board of Directors of the Elk Creek Watershed Council at last week’s meeting, and a proposal that could potentially address some of the issues discussed.

### Introduction:

After last week’s Board meeting, I feel it’s necessary to expand on some of the comments that were made, both for and against the proposal to dissolve the Elk Creek Watershed Council. I’d also like to offer a compromise solution that seems to address most of the negative aspects of a dissolution, and yet still preserves the organizational structure of the Council, most of the Council’s standing and reputation within the watershed community, and its ability

to continue working with those landowners within our watershed that would like assistance managing the natural resources on their properties.

### Forest Accords:

First, I understand that all of you are frustrated with the implementation of the Forest Accords. I have questions about the implications as well. But we’ve been here before. When there was talk about the listing of the coho, or the Spotted Owl, there was panic because it might “destroy the forest industry in Oregon.” There were some changes to the Forest Practices Act, but the timber companies have managed to survive just fine. When Oregon passed Senate Bill 1010, this caused panic because it “would drive the farmers and ranchers into bankruptcy.” I believe there have been only two or three citations issued for violations in the more than 20 years that the Agricultural Management Plan has been in effect. What really happened, was that most producers were able to get technical assistance from the watershed councils or soil and water districts, and the funding to implement projects, that improved both the natural resources on their lands, but also the efficiency and profits of their operations. There already is funding being attached to the Forest Accords plan. This is exactly what the Elk Creek Watershed Council has been providing to landowners in our watershed for nearly 20 years – technical assistance and grant funding to make improvements. Some of you have personally benefitted from some of the projects and services that the Council has offered.

### Consequences:

As Board members, you should be clearly aware of the consequences of the decision you are being asked to make. This decision will effectively destroy the Elk Creek Watershed Council, and this destruction will be irreversible. The decision to dissolve the Council will effectively eliminate opportunities for any landowners in the Elk Creek Watershed to access the benefits of the technical assistance, or the financial support, that has been provided by the Council. The argument that these services would be picked up by the Douglas Soil and Water District is totally unrealistic. It is merely a weak argument that attempts to try and soften the real impacts that a decision to dissolve the Council would have. The Douglas SWCD simply does not have the capacity to take on projects of the scale that have been implemented by the Elk Creek Watershed Council, and the restrictions imposed by their funding grant agreement are very different. It has taken literally

years of hard work and sacrifice to get the Elk Creek Watershed Council to where it is today. The Douglas SWCD isn’t even close to that.

### Economic Development:

In addition to the elimination of the Council’s assistance to local landowners, the benefits that the Council has provided to both the economy of Douglas County, and to our local economy, has been considerable. As local economies throughout the State have tried to adapt to the changes in forest management operations, and the loss of high paying timber-related jobs, they have tried to bring in outside money by supporting small scale businesses or encouraging tourism. The Elk Creek Watershed Council has brought in nearly \$5,000,000 in grants. Nearly all of this money has gone into the local economy; and the money that has been spent for contracts with local contractors has not only provided jobs, but jobs to people in our own watershed.

### Habitat Improvements:

And we probably ought to consider the improvements that we have made for fish and water quality. True, we haven’t single-handedly restored the salmon runs of the past, or been able to prevent the regulatory agencies from demanding more, but we have made a difference. Last week alone, a local landowner was exclaiming about the amount of gravel that was accumulating behind the log structures that we put into the stream on his property. Sure, this is only a small section of the miles of streams in our watershed, but it is one step in the journey to make a difference. It is unfortunate that between Covid, and the failure of the Council’s outreach plans, that the Board wasn’t able to visit some of our projects first hand.

### Problem:

As I see it, there are several main issues that need to be addressed. There are some Boardmembers that feel that the Council has been ineffective, and want to resign, though there are a few that might decide to stay, but don’t want to take on the responsibility of leadership. And then there is the issue of the money.

I’m proposing a compromise that addresses each of these, and which also addresses many of the issues associated with the plan to simply dissolve the Council. And let’s be clear, the plan to dissolve the Council is not as simple as that. The Board has already agreed to pay the \$400/hour attorney a \$3,000 retainer, and a potential cost of up to \$50,000, for work related to the plan to dissolve the Council. It is still unclear if this is for “advice on the process to dis-

solve the Council,” “advice on what the legal ramifications or liability of individual Board members might be,” or “to actually implement the process of dissolution.” At any rate, it is likely to be expensive. I have to assume that the expectation is that there will be enough left over to support the proposed lawsuit against the State and the Department of Forestry.

### Proposed Solution:

First, any Director that feels that their tenure as a Board member of the Elk Creek Watershed Council has been a waste of their time, can simply resign. But they will need to be replaced by new Board members that feel that the work of the Council is worth continuing. This will allow the Council to continue, and it will avoid having to deal with a default on the Council’s current contractual obligations. Those obligations will remain with the Council and its Board. It will also eliminate the need to pay an attorney to legally dissolve the Council. Though as long as you’ve already paid a \$3,000 retainer, it would be worth getting a legal opinion on what individual Board member’s personal liability might be.

Second, since much of this decision really revolves about the council’s assets, I propose to donate some of the Council’s General Fund to the legal fund that is planning to sue the State. As long as the donation is to a registered 501(c)(3), I think it is legal, though I personally don’t feel it is ethical, considering that all this money came from sources that expected it to be used to further the mission of the Council. This also avoids the need to hire an accountant to figure out what financial obligations the Council will be responsible for before it can legally dissolve. The Oregon Secretary of State’s office is responsible for non-profit corporations, and though there is no statute against dissolving, there are legal statutes concerning the responsibility for satisfying the entity’s financial obligations, and the distribution of its assets. This might also be expensive.

I think this alternative provides benefits to everyone. It allows the Elk Creek Watershed Council to continue providing the services to the landowners in the watershed that it has for the past 20 years. It would also save considerable expense that would effectively reduce the final amount that might be available to support the lawsuit that you are proposing.

Sincerely,  
Lee Russell, Executive Director  
Elk Creek Watershed Council

## Veterans Corner

The first 2024 meeting of the Veterans Advisory Committee to the Oregon Department of Veterans’ Affairs (ODVA) will be held virtually Wednesday, March 6. The meeting begins at 9:30 a.m. and will be followed by a town hall meeting at 11 a.m., which is open to the public.

Established in 1945, the Veteran Advisory Committee holds a distinct and fundamental role in advising the director and staff of ODVA. The nine members of the Veteran Advisory Committee are military veterans from all corners of the state, appointed by the governor to serve and act as advocates for veteran issues and veteran concerns across Oregon.

Following every quarterly business meeting, the committee holds a town hall inviting the public to raise questions or concerns about broad veteran issues or to share information with the committee and agency director.

Members of the community are also invited to submit written public comments to the committee by emailing [odva\\_vaac@odva.oregon.gov](mailto:odva_vaac@odva.oregon.gov). The Advisory Committee meets quarterly on the first Wednesday of March, June, September and December.

Continued on Page 14