

Forces of Destruction

Measure 37 is only the latest assault on land use laws

Thanks to *Eugene Weekly* and reporter Alan Pittman, voters have a well-researched and graphically captivating picture of the statewide land abuse fiasco purchased – on the cheap – by a handful of developers, corporations and speculators (“Looming Sprawl,” 1/25). Left unsaid is that Measure 37 has opened a gaping and potentially lethal wound in a land use program already suffering the death of a thousand cuts – institutional corruption in which parasites like Greg Demers and the two McDougal brothers have been thriving for decades.



The story begging to be written would discover how the county's predisposition to development, its cozy relationship with developers' attorneys and agents and its lack of enforcement, coupled with negligence at the state and federal levels, have routinely facilitated the conversion of farms and forests to sprawling subdivisions. As a preface to that narrative, the 515-acre Bernheim property near Creswell exemplifies the *modus operandi* of three wastrels who for many years have been grasping farm and forest land all over the county. They profit first by clearcutting, next by subdividing the remainder into the smallest lots possible and then by moving on to the next farm or forest.

Little wonder that land use practitioners consider enforcement programs a longstanding joke and that developers are having a field day.

Demers and the McDougals contend that Bernard Bernheim, the Measure 37 claimant, owns the Creswell property even though they have an “option to purchase” that is perpetual; even though Demers is running cattle on it and has posted “No Trespassing” signs on the perimeter in the name of his company, Frontier Resources; and even though the McDougals have clearcut most of the trees. For this “option” Bernheim was paid more than \$3 million, told neighbors that he'd sold the property and then reportedly purchased a McMansion on a Bend area ranchette.

Before the ink had dried on the option agreement, the McDougals dismantled a bridge crossing a Class I fish-bearing stream and – without a permit – rebuilt it to serve their logging operation. According to a neighbor who videotaped the project, the bridge was completely reconstructed, including new concrete piers, and during the work creosote-soaked timbers fell into the creek.

In response to numerous complaints, the county's compliance program manager declined to visit the site, consulting with the McDougals' legal counsel instead. The DEQ referred complaints to the Division of State Lands (DSL). A DSL field representative from Salem who looked at the bridge, talked with neighbors and issued a stop-work order was pulled off the case, and DSL did not inform the county of its stop-work action. In his place the agent's supervisor took counsel from the McDougals' lawyer, and the agency concluded that it would take no action. For their part, the Army Corps of Engineers and the Environmental Protection Agency said they were understaffed and could not investigate.

While complaints fell on deaf ears and neighbors grew more frustrated, three months passed, during which the McDougals had completed the bridge – work never stopped – and built new logging roads without a permit. The McDougals insist they've just replaced a few boards on the original bridge, the county issued a permit months after the bridge reconstruction was completed and the neighbor's video evidence remains unviewed.

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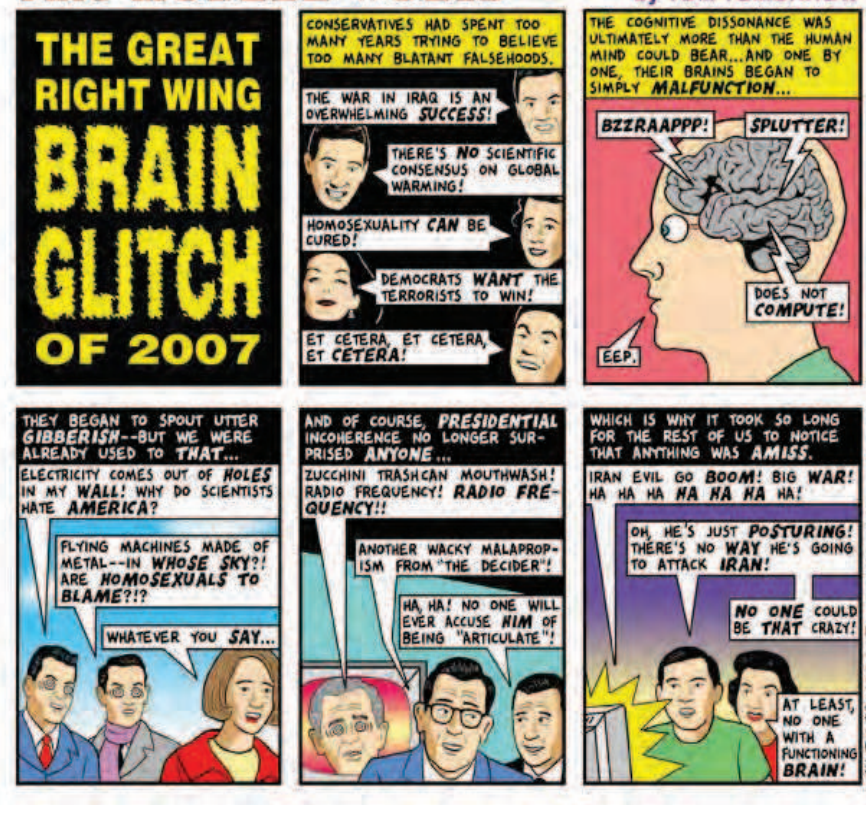
To be sure, M37 is the nightmare Gov. Tom McCall anticipated when he implemented his land use planning program almost 35 years ago and thrice defended it against similar threats. From M37 Oregonians have learned the hard way what McCall knew all too well: Without zoning and enforcement protections, farms and forests are no more than feeding grounds for greed grown wholesale.

Yet Measure 37 merely took advantage of an already weakened system. Largely out of the public eye, LandWatch Lane County and the Goal One Coalition for years have been challenging the everyday applications to rezone productive farms and forests to marginal lands; to build in riparian zones and floodplains; and to illegally adjust property lines for template dwellings on resource lands. The more we expose these forces of darkness to the light of common day, the closer we come to driving a stake through their hearts. The media are a powerful and, I think, essential ally in that mission, and I eagerly await the *Weekly's* next installment.

Robert Emmons is president of LandWatch Lane County, a nonprofit organization dedicated to protecting Lane County's farms, forests and open space from urban sprawl. For more information, visit <http://landwatch.net>

THIS MODERN WORLD

by TOM TOMORROW



LETTERS TO THE EDITOR

AFFORDABLE EDUCATION

In a Dec. 29, 2006 editorial, *The Oregonian* urges Oregon legislators to listen to Kirby Dyess, vice chair of the Oregon State Board of Higher Education, as he explains how investment in higher education brought prosperity to Ireland (“The Celtic Tiger”). Entitled “A First Step for a Future ‘Northwest Tiger,’” the editorial advocates increased investment in Oregon’s colleges and universities. Wise advice — but it doesn’t go far enough.

During the past six years, community college tuition has nearly doubled. In 1999-2001, the average cost to attend an Oregon community college was \$1,700. By 2005-2007, that cost was up to \$3,000. In practical terms, if a college student worked at a minimum wage job to pay for school, by 2002 he would have to work for 55 hours a week, leaving virtually no time to study. We need to bring tuition costs down so workers can afford education.

When I was a member of the Oregon State Senate Education Committee, we contemplated starting a commission to figure out what a quality education in Oregon would cost. Later, the legislature created the Oregon Quality Education Commission. The commission has concluded that we have a gap in excess of \$1 billion between the cost of a quality education and the amount that Oregon currently provides.

In 2002, Commission Chair Kenneth Thrasher asked, “Have the reasonable goals of a quality education become a broken promise?” In 2007 it’s time to restore that promise. I hope that this year the Oregon Legislature will significantly increase investment in public education at all levels.

Pete Sorenson
Lane County Commissioner

DUCK, INTERRUPTED

I appreciated Alan Pittman’s Feb. 15 article about Councilor Zelenka and myself. Although there were a few things a conservative person like me might consider mischaracterizations and minor inaccuracies, on balance it was a fair treatment.

There was only one part that was inaccurate and that I thought needed correction. While it is true that I am proud of what I have earned in my life, one of the things I have NOT earned is a degree. I did attend the UO from 1983 to 1988, paying my own way, and did major in political science. But, eager to begin a career, I took a job with a few hours left to complete on my degree and to date have not yet done so.

I hope Alan will forgive me if I was unclear. I just don’t want to take credit for things I have not yet earned.

Mike Clark
City Councilor, Ward 5

FIRE. GREEN. NOW.

Thanks to the *Weekly* for the insightful interview (“Andrea Ortiz Represents,” 2/1) with City Councilor Andrea Ortiz, an exemplary public official.

While annexation-related issues infuse most discussions about good government in the River Road neighborhood, it is unfortunate that County Commissioner Bobby Green has essentially abandoned the fundamental right of his constituents to representative government that county — and city — residents deserve from an elected public official.

Green’s once promising career has degenerated into one of heeding the well-endowed special interests that have benefited from his questionable voting pattern. Green’s voting record rarely reflects the public’s best interests.

Councilor Ortiz, holding down a day job

