

Sid Leiken, Jay Bozievich and Faye Stewart discussed a letter from Senior Assistant County Counsel Stephen Dingle to attorney Marianne Dugan, who represents Rob Handy in his case against the county in regard to a problematic May 3 "emergency meeting."

In an acceptance of the service document Dugan cut-and-pasted a caption from an earlier draft that had included Sorenson's name in case he wanted to be part of the suit, she said. Sorenson told Dugan via his attorney that he did not wish to be part of the case, and Sorenson's name was never on any complaint or summons, Dugan told Dingle in an email.

Dingle and the commissioners discussed the issue, and Bozievich moved that the board go forward with drafting a complaint to the Oregon Bar Association as Dingle alleged that Dugan didn't explain how the error happened or apologize for it. Dingle said an apology was needed for the "angst" and "turmoil" the caption had caused.

The letter to Dugan requested a reply by close of business Aug. 22, but the discussion of what to do about the allegations Dingle was making and a vote to draft a bar complaint was held before that deadline.

"The inadvertent mistake of listing someone as your client and a plaintiff in a lawsuit has caused considerable disruption in the county offices and in the relationship between board members," Bozievich said. "Maybe she can explain it to the bar."

But Dugan, citing several emails between herself and Dingle, emailed the county counsel and pointed out that, "You made two erroneous statements to the commissioners about my communication with you."

She wrote, "You indicated that I did not apologize. I did," and provided Dingle with a copy of the emailed apology. She wrote that Dingle also said that she referenced only attorney-client privilege in declining to answer the question as to how the error occurred. Dugan says she in fact invoked work product privilege; she later voluntarily waived the privilege solely to the facts surrounding the error.

In an Aug. 25 email to Dingle, Dugan pointed out, "As you know, as soon as I learned of the error (the same day I emailed you the erroneous form) I advised you of my error, and sent you a revised acceptance of service form." She continued, "As you know (although you did not include this information in your statements during the meeting), at no time did the complaint or summons or any document filed with the court have Commissioner Sorenson listed."

Dugan also addressed comments Dingle made in his Aug. 15 email and also at the Aug. 22 meeting about attorney-client privilege. "I still do not understand your reference to a concern about attorney-client privilege. If you were suggesting that Mr. Sorenson relayed county confidences to me, that is a far-fetched interpretation of the situation and has no basis in fact."

Commissioner Rob Handy announced on Aug. 28 that he has filed a federal lawsuit against the county, County Administrator Liane Richardson and Commissioners Bozievich, Stewart and Leiken alleging First Amendment retaliation, deprivation of due process and violations of Oregon's public meeting law.

— Camilla Mortensen

DEFAZIO SPEAKS OUT ON THE COAL DEBATE

Congressman Peter DeFazio has weighed in on the coal export debate that is raging in the Northwest. He says, "I'm not a big fan of coal; I wish we didn't burn coal at all." However, he says that the Powder River Basin coal that would be exported via Coos Bay under the current proposal is a cleaner burning coal than what is being currently burned in Korea. "In this isolated instance, my understanding is this is to displace dirtier coal," already burning in existing coal plants, he says, as opposed to proposals along the Columbia that would ship coal to new power plants in Asia.

The information that Korea is the country Coos Bay would be shipping to originally came out via partially

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PARVIN BUTTE FIGHT AND FUNDRAISING

Lost Valley Educational Center in Dexter is having its annual open house Sept. 8, and this year the proceeds will benefit both Lost Valley and the fight to save nearby Parvin Butte. Lost Valley is a learning community that hosts courses, workshops, events, a conference center and the Meadowsong Ecovillage residential community. The Lost Valley Fest starts at 4 pm and will feature music by the Conjugal Vistors, tours and treats. See lostvalley.org for directions.

The Dexter/Lost Valley Community (DLVC) continues in its fight to save scenic Parvin Butte. On Aug. 25 Lane County Hearings Official Gary Darnielle approved the site review permit for Lost Creek Rock Products, a company associated with Greg Demers and Norm and Melvin McDougal. The permit allows the gravel mine that seeks to remove more than 400 feet from the 600-foot butte to continue its mining operation with some conditions. The conditions include: allowing the hauling of rock from 7 am to 6 pm every day except Sunday; if the aggregate being hauled is visibly dusty then watering it; and 60 one-way truck trips are allowed each day.

Originally Lost Creek Rock Products argued that it did not need to get a site review at all, but the hearings official previously ruled site review was needed if mining activity occurs in the 200-foot buffer around the mine. Site review allows neighbors some input on the explosions, dust and truck traffic that accompany a gravel mine.

'Clearly the site review process, as interpreted in this decision, does not provide the protection expected by most of the community,'

- Gary Darnielle, hearings official

The site review permit deals with hauling via Shafter and Rattlesnake roads through the rural community, but Lost Creek has also applied for a bridge permit for hauling the gravel that the DLVC is fighting due to concerns including the effects the bridge could have on the salmon-bearing stream it would cross. Attorney for the DLVC Dan Stotter says of the bridge, "They say they're not going to use it but want to keep it in their back pocket."

An appeal of the site review permit must be filed in 12 days, Stotter says. He says he thinks the mine operators will find the site review conditions "onerous." He says the next step is that the hearings officer has a chance to reconsider, then the Board of Commissioners decides whether to hear the appeal or affirm the decision.

If affirmed the case would then move to the Land Use Board of Appeals (LUBA). Stotter says the case is up against a 120 day time limit and if the Lane County board delays making a decision the case would then go to the Circuit Court, but Stotter calls that sort of delay "unscrupulous" and says, "I think the board will do a fast-track review and affirm and go to LUBA."

Darnielle writes in the conclusion to his site review decision: "Clearly the site review process, as interpreted in this decision, does not provide the protection expected by most of the community," and points out the decision is an expression of "what the hearings official believes is the scope of the law as it applies to the proposed mining operation." Darnielle urges Lost Creek Rock Products to make good on its offer to meet with residents about their concerns as "it is good business to minimize friction with the community within which one does business."

For more info on the Lost Valley Fest email lauren@lostvalley.org or go to the Facebook event page at wkly.ws/1ck

— Camilla Mortensen



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