

Oysterville businessman wins epic battle over county

Pacific County won't appeal court ruling

By NATALIE ST. JOHN
Chinook Observer

OYSTERVILLE, Wash. — Oysterman Dan is back in business again.

After years of fighting Pacific County over land use and licensing issues, Dan Driscoll, 57, of Oysterville, appears to have prevailed. County officials decided not to appeal to the Washington Supreme Court after the Court of Appeals ruled in Driscoll's favor in mid-April. And in late June, he received the license he needs to operate his retail seafood shop in his historic cannery on Willapa Bay.

"I'm thrilled that they didn't appeal," Driscoll said. Driscoll's family has sold oysters and snacks at Oysterville Sea Farms for decades. The county began to pass more formal zoning and land use policies in the 1990s. The cannery ended up in an area where retail business wasn't allowed, but the county "grandfathered" his business since it was already established.

For years, county officials signed off on Driscoll's efforts to offer more products and serve food, beer and wine on the store's deck. Then, in 2011, Driscoll's uncle — and rival — Dick Sheldon, filed a complaint alleging that Driscoll was violating his agreement with the county by selling items like jam and cereal in the seafood market. Through his attorney, Sheldon intimated that county officials might face recalls or legal action if they didn't crack down on Driscoll.

Within weeks, authorities in the county Department of Community Development began a new effort to regulate Driscoll's business. Their first salvo was a list of specific foods Driscoll could and couldn't sell, based on the county's decidedly white-bread opinions of whether the foods were "seafood-related." Crackers were fine, they said, but pasta was most certainly not.

A turning point came in summer 2013, when the county issued a cease-and-desist let-



Oysterman Dan Driscoll, shown here in 2013, has prevailed in a dispute with Pacific County.

'Whether we'll ever be able to recuperate to where we were in 2009, 2010, 2011 remains to be seen. But at least we're not fighting to protect our rights.'

Dan Driscoll
oysterman

ter to Driscoll that effectively brought his formerly booming business to a standstill. Driscoll asked for a review hearing in court, and that kicked off nearly five years of escalating court proceedings. In turn, Pacific County South District Court, Pacific County Superior Court and the state Court of Appeals made rulings; each more favorable to Driscoll than the last.

County Prosecutor Mark McClain, who represents county commissioners in civil matters, was tight-lipped about the case in an email.

"Not sure why Dan getting a food license is news, but OK," McClain wrote. "My clients simply decided despite a clear error of law and misapplication of the rules of appellate procedure, they elected to not seek further review. I really cannot provide more."

Driscoll thinks County Commissioner Lisa Olson's diplomatic efforts helped to bring about the cease-fire.

"It was the first time we made progress talking to each other," Driscoll said. "It's the first time any county commissioner has been willing to talk

to me and work with me."

In early 2013, the Department of Community Development changed the way it issues licenses to food establishments. In the past, the county used an "a la carte" system, where restaurant operators paid a flat fee for the basic license, and additional fees based on which products and services they offered.

In 2013, the county switched to a system where food businesses were required to get a particular level of license, "based upon knowledge of the facility and findings during inspections," accord-

ing to a department newsletter. Driscoll had previously installed a county-approved commercial-grade kitchen. Under the old system, Driscoll was licensed to operate as a market and small-scale restaurant and oyster bar. When county staff assigned the new licenses to existing businesses, Driscoll was given a Level One license. It allowed him to make espresso drinks and sell cold, prepackaged foods. If the old license was equivalent to a moving truck, Driscoll said, the new license was a moped.

"The county specifically told us we could not slice, portion and weigh fish. They also told us we could not chuck oysters on demand," Driscoll said.

Driscoll appealed the decision in early 2014. The county denied the appeal. In correspondence with Driscoll's attorney, Ben Cushman, the county said the problems with Driscoll's business were land use and zoning issues, and therefore, the health department could not make decisions about his food license until those issues were resolved.

Driscoll and Cushman asked for the necessary food license after each court decision, but did not sue the county.

"We didn't want to have two separate legal issues going on," Driscoll explained.

Driscoll is still frustrated over a lot of things — he thinks the county misrepresented his business to the public, leading people to believe that he was not qualified to run a food establishment. He still has an open public records-related lawsuit against the county, and he's still considering filing a tort claim for lost income and damage to his business. He

estimates he's spent as much as \$250,000 on legal fees and lost as much as \$1 million in revenue.

But with the worst of the legal trouble behind him, and customers once again coming to slurp oysters and sip wine on the deck, he's trying to focus on the future.

"We have declared that the county is no longer interfering with us, and we are in recuperation mode. Whether we'll ever be able to recu-

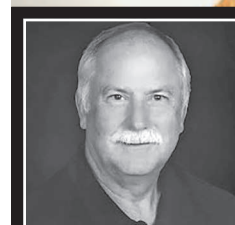
perate to where we were in 2009, 2010, 2011 remains to be seen," Driscoll said. "But at least we're not fighting to protect our rights."

He's researching new recipes, hoping to add clam chowder and cookies to the menu soon.

Driscoll said he wants to express his gratitude to the many friends and family members who have supported him.

"People aren't gonna let this location die," he said.

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Q: I have a Medicare Supplement policy and was told that I could change companies without having to answer questions about my health. Is that right?

A: Each year you have a Special Election Period called the "Oregon Birthday Rule". If you apply within a set time frame around your birthday you may be able to change companies. There are some specific guidelines so call and see if the rule will work for you.



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Q: What causes bad breath?

A: Basically, all food eaten begins to be broken down in your mouth. Bacteria which accumulate with food form a sticky film called plaque which leads to gum disease. This process creates what is known as volatile sulfur compounds resulting in bad breath. Poor brushing habits, a coated tongue, strong odor foods, smoking and heavy alcohol drinking all contribute to bad breath. If this is you, do something about it by calling your dentist to schedule an evaluation.



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A: Microsoft's web site HTTP://SUPPORT.MICROSOFT.COM/FIXIT/ solves many common problems. There you select the area of concern, and an application installs and attempts to automatically fix your computer at no charge. Have a question or need more help? Call us or stop by. We are always glad to help.



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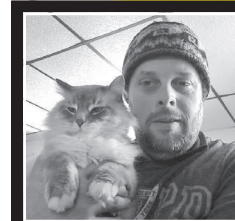
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Q: Should I use heat or cold?

A: If you hurt, especially in a joint, use ice; it reduces inflammation and pain and shortens healing time. You can get a burn from ice just like with heat, so don't leave it on for more than 20 minutes. Most problems get better more quickly with ice. Heat feels good, but may seriously make problems worse. As long as there is pain and/or swelling, continue ice; it can be done as often as once an hour. Would you heat a cut? No, because it would keep bleeding — that is what happens inside where you can't see it.



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Q: Are there local design services that encompass as many services as larger out of town companies offer?

A: Absolutely We offer Portraits indoors and out, landscaping, real estate, scenic, group, and events. We can also do custom framing including assembly, sizing, and matting. We can put together a photo album, after a consultation of the clients choices. Also let us help with re-attenuating your photos, or other media projects. 9 out 10 times you can get more appreciation locally, because of haste and waste.

Trump administration defends expansion of Oregon monument

By MATEUSZ
PERKOWSKI
Capital Press

Attorneys for the Trump administration are siding with environmentalists in defending the legality of the Obama administration's expansion of Oregon's Cascade-Siskiyou National Monument.

Shortly before leaving office in early 2017, former President Barack Obama increased the monument's size by more than 70 percent to about 114,000 acres.

The decision was met with lawsuits by representatives of timber companies and county governments, who claimed a prohibition on commercial logging within the monument violated the Oregon & California Revested Lands Act.

The monument's enlarged boundary includes nearly 40,000 acres of "O&C Lands" that must be managed for timber harvest under that statute,

according to their complaints.

While the legal arguments primarily concern logging, ranchers who operate within the monument also fear they'll be subject to grazing curtailments.

As part of a wide-ranging review of national monument designations, Interior Secretary Ryan Zinke recommended shrinking the Cascade-Siskiyou National Monument without specifying how the boundaries should be adjusted.

Litigation over the expansion was delayed several times to allow the Trump administration to implement Zinke's recommendation but was reactivated earlier this year when the government didn't take action.

Plaintiffs in three complaints against the federal government — the American Forest Resource Council, Association of O&C Counties and Murphy Co. — have filed motions seeking to invalidate the monument's expansion onto those 40,000 acres.



Elizabeth "Lib" Moore

SEASIDE — Mary Elizabeth "Lib" Moore left her beloved family, friends and Peninsula just after midnight on July 2, 2018 just before her 94th birthday.

Lib was born at her grandparents' home in Palestine, Texas around midnight July 20, 1924. She was the first child of Patrick Russell and Katherine O'Connell Russell. Her beloved sister Margaret was born 15 months after Lib. The family lived briefly in Port Arthur, Texas and the rest of the years through college in Beaumont, Texas. Though she grew up during the depression years, she had a happy life with her sister Margie as one of two very cherished children of Pat and Katie Russell.

Even as a little girl, Lib was known for her friendliness. She was always busy with school activities and with friends from school and neighborhood kids. After graduating from St. Anthony High School, she went on to attend two years of college at Incarnate Word College in San Antonio, Texas. She was to start her next two years at the U of Texas in the fall. A chance meeting of a young Army Lieutenant at the drive-in across the street from her college changed her plans. That October she married her soldier, Wm. Tracy Moore Jr., in Beaumont and left with him for his training at Ft. Benning, Georgia. They had their honeymoon in New Orleans on the way to Georgia.

Tracy left to serve in WWII in Belgium and Germany. Lib then lived with her parents. Later, after their daughter, Colleen, was born, Lib and Colleen moved to Westwood, Calif., to live with her in-laws, Peg and Trace Moore, and her sister-in-law, Nancy Moore. After Tracy came home from the war and got out of the hospital, they continued living with Tracy's family until he graduated in 1946 from UCLA.

Lib arrived with Tracy and Colleen on the Peninsula here, for the first time, in July 1946. Coming with them to their beach lot in Ocean Park to tent camp were in-laws, Peg and Trace Moore; sister and brother-in-law, Nancy and Jerry Moore, Nancy's mother, Al and the family dog, Nickie. The visit was supposed to be a short one to enjoy the beach, go clamming and visit the local friends and summer neighbors on their block.

That visit for Lib lasted 72 years. Tracy asked Lib if she would consider not going back to California and instead living here in Ocean Park, if he could find a job. So, they did. Colleen was eventually joined by three more children: Katie, Tracy III and Bridget. Several years later, Tracy and Lib bought Arthur Strand Insurance in Ilwaco where Tracy had been employed. Lib was at home with the kids as they grew up. Finally in 1970 she joined her husband at the insurance office. Lib worked with Tracy until they retired in 1984. After retiring, Lib and Tracy were able to do the traveling they had always hoped to do. They made several trips to Ireland, and England. They saw most of Europe, also China, Indonesia, Greece, Egypt, Turkey and the Holy Land, often traveling with good friends.

Lib was an active member of many Peninsula organizations in her lifetime. The Village Club in Ocean Park that raised money for the Ocean Park Grade School, American Legion Auxiliary, Mentor Study Club, the Ocean Park Cemetery Association and the Altar Society of St. Mary's Catholic Church in Seaview, Wash. Also several cherished groups, as a young wife, the Secret Pal Birthday Club where she and her friends who gathered in each others homes to play bridge when they could (also a time to have a break from being wives and Mom-mies). She spent a lot of her retirement years helping out her daughter and son-in-law Katie and David Williams, who lived locally, at two of their business, Dave's Sport Shop at the Port of Chinook, Wash., and from 1995 to 2014 at Sweet Williams on Bay gift store in Ocean Park, Wash.

The greatest joys of her life were children, grandchildren and her little great-grandchildren. She is already missed by Colleen (Bill Morse) Britt and Geoff; Katie (David Williams) Carolyn and Sam Lord; Tracy (Betty); Bridget; Jessica and Nate Lord, Liza and Jay Tlougen, Julia and Trevor, Olivia and Liam. She has six "greats," Sammy, Robert, Natalie, Ryder, Theo, and Rowley. Her grand and greats have fond memories of what they called "Nana's Beach" one in Nahcotta and one in Klipsan Beach. Her beloved sister, Margaret; her eight nieces and nephews and their families, Pat, Mike, Greg, Katherine and Jim and Martha, Rae and Shelley, also survive her.

Lib brought a lot of warmth from her home state of Texas to Washington when she moved here in 1946. She was known for her big smile and her genuine friendliness. She really loved people, and would often give you a big hug and kiss.

When Mom left the Peninsula with her death 72 years after she arrived, she still believed the decision she made with her husband, Tracy, to make their home here at the beach, was the best decision of their lives.

Recitation of the Rosary will be held Sat., July 14th at 11 a.m. at St. Mary's Catholic Church in Seaview. Funeral service will follow at noon at St. Mary's with a reception following in the church hall. Private committal at Ocean Park Cemetery. Her guestbook is available at www.pentillaschapel.com

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