

# Community

## COUNTY

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The article, "Coordinating with the Federal Government: Assessing County Efforts to Control Decision-making on Public Lands," was published in 2017 in the Public Land and Resources Law Review.

The authors are Michael C. Blumm and James A. Fraser of Lewis and Clark Law School in Portland.

A story this week in The Blue Mountain Eagle newspaper in John Day cited Blumm's and Fraser's article, in reference to Grant County commissioners' discussion about their county employing coordination.

The attorneys' article focuses on Baker County's

*"Counties lack authority to usurp or control federal land planning ..."*

— Attorneys Michael C. Blumm and James A. Fraser

natural resources plan, which county commissioners adopted on July 20, 2016, and the county's claims about coordination.

In a summary of the article, Blumm and Fraser write, referring to Baker County's plan, that "most of its provisions are preempted by federal law and, therefore, unenforceable."

The authors also contend that Baker County's plan, and similar ones in other counties, "mislead their supporters into believing the plans are enforceable."

But Harvey contends that that word — "mislead" — is more appropriate for Blumm's and Fraser's article.

Harvey said the county's natural resources plan is not intended to assert that the county can dictate to federal agencies how they manage public land.

He argues that a reasonable and thorough reading of the 48-page plan would show that although the county considers the management of those public lands critically important to the county's economy and culture, there are defined, and recognized, limits on the county's ability to influence federal agencies' decisions.

"The federal government is in charge of managing the lands," Harvey said. "The (natural resources) plan is a guideline. It doesn't set federal law, but it says how we want those lands to be managed."

Harvey points to several references in Blumm's and Fraser's articles which imply — wrongly, in Harvey's view — that the county has asserted a level of authority which he agrees does not exist.

As an example, he mentions the section of the county plan that says roads accessing authorized uses of public land, such as grazing allotments, "shall remain open."

Blumm and Fraser write that "These provisions suggest that the county has complete authority to regulate travel routes across public lands."

But Harvey said the county has not, and does not, claim to have such sweeping authority.

That section of the plan, he said, refers not to all roads, but only to roads that either access uses on public land, such as grazing, that the federal agencies have already approved, or that lead to private property.

The attorneys' article also cites a section of the county plan dealing with logging on public land. That section states that "the county's forest resources must be governed in the best interest of local citizens while promoting the health of the forests."

The attorneys write that

"These provisions suggest that local needs are superior to the needs of other public land users, when in fact, all Americans hold an equal claim of ownership to federal land."

Harvey doesn't dispute that public lands belong to all Americans.

But he said the section of the plan cited in the article isn't intended to argue that federal agencies must, for instance, cut trees on public land solely because that's beneficial to the local economy and because the county insists it's necessary.

The point of that statement, Harvey said, is to acknowledge that although county residents have no special legal rights regarding the management of public lands within the county's borders, they tend to be more directly affected by management decisions simply because those lands are, quite literally in some cases, in their backyards.

"We don't have supremacy over the land, but we care for it to protect a resource for everyone," Harvey said.

The attorneys do quote passages from the county's natural resources plan with more specific and direct language regarding the relationship between the county and federal agencies.

For instance, the section titled "Watersheds" states that "Baker County shall direct the US Forest Service, Bureau of Land Management ... to manage the watershed, including municipal watersheds, to meet the multiple needs of residents and promote healthy forests."

The attorneys contend that this brand of "mandatory language" — the county directing to federal agencies how they must manage watersheds — implies to residents that coordination gives county commissioners "greater power over federal land planning and management decisions."

"These suggestions," they wrote, "are erroneous interpretations of the county's role in federal law."

Harvey concedes that the county's plan expresses, in direct terms, the county's priorities for managing public land within its borders.

But he reiterates his point that, however the authors or readers interpret passages in the plan, he doesn't believe that the plan, or the coordination law, gives the county anything resembling veto power over federal agencies.

If that were the case, Harvey said, then he would likely advocate for the county to file legal challenges over every decision federal agencies make that doesn't fully satisfy every goal listed in the county's plan.

But that hasn't happened, and the reason, he said, is that he and his fellow commissioners, Mark Bennett and Bruce Nichols, understand the limits the county has on managing public land.

*"The federal government is in charge of managing the lands. The (county's natural resources plan) is a guideline. It doesn't set federal law, but it says how we want those lands to be managed."*

— Bill Harvey, chairman, Baker County Board of Commissioners

"We're not going to get everything we want, 100 percent," Harvey said. "But I'm certainly not going to settle for 10 percent."

Although some of what Harvey argues are misleading parts in Blumm's and Fraser's article might be attributed to semantics — hence the attorneys' writing that aspects of the county plan "appear to" or "suggest" that the county is claiming authority the attorneys say it lacks — there are examples where the two positions are diametrically opposed.

An example is the notion that federal law requires agencies to engage in "government-to-government" dialogue over managing public lands.

Harvey contends coordination does require such dialogue. And Doni Bruland, the chair of the Baker County Natural Resources Advisory Committee, used the same term in a 2015 letter to the editor published in the Herald.

But the attorneys write that coordination provisions in two federal laws, one guiding the Forest Service and the other the BLM, "do not require the federal government to engage in government-to-government consultation or negotiations with counties in making public land management decisions."

Which is not to say there are no areas of agreement between the attorneys and Harvey.

Harvey said the ultimate purpose of coordination is to ensure that federal officials consider the county's goals before deciding how to manage public land. The process works only if it is collaborative rather than antagonistic, he believes.

"We work together with the Forest Service to try to accomplish what we want to accomplish," Harvey said. "That's what Congress intended."

Blumm and Fraser make a similar point in the penultimate page of their paper.

"Although counties lack authority to usurp or control federal land planning, county governments can play a valuable role if they work collaboratively with federal land managers to help make informed decisions," they write. "If county plans operate as starting points from which county governments work towards cooperative land management solutions, the plans may become useful components of federal public land planning."

## Baker competing for grant to build all-abilities playground

Starting Feb. 20, Baker City will be competing for a grant to help build an all-abilities playground at Geiser-Pollman Park.

The Moda Assist program, in conjunction with the Portland Trail Blazers, will donate \$20 for every assist the Blazers have this season. So far, with 25 games left in the regular season, the Blazers have 1,302 assists — \$26,040.

The recipient will be determined by online voting between Feb. 20 and March 20. Baker City is competing against two other communities — Prineville and Independence.

Previous grant recipients include La Grande's Birnie Park.

To vote, go to <https://www.nba.com/blazers/assist>. You can vote one time per day.

## LOCAL BRIEFING

### Kaeli Flanagan on Whitworth honor roll

SPOKANE, Wash. — Kaeli Flanagan of Baker City was named to the Whitworth University Provost's Honor Roll for the fall semester 2018. To qualify, students must maintain a grade-point average of at least 3.75.

### Gracie Hardy receives academic honor

FREDERICKSBURG, Va. — Gracie Hardy of Baker City was named to the dean's list for the fall 2018 semester at the University of Mary Washington. To be eligible, students must earn a grade-point average of at least 3.5.

### Quintela a finalist for BLM award

John Quintela of Baker City was one of five finalists for the Bureau of Land Management Oregon/Washington statewide "Above and Beyond" award for 2018.

John is a fish biologist for the BLM's Vale District, working in the Baker Field Office. In his free time he coaches YMCA basketball and soccer, AAU basketball, Little League softball and was an organizer of the Baker City chapter of the Eastern Oregon Soccer League.

He was nominated from among more than 1,000 BLM employees living and working in Oregon and Washington.

### Pesticide applicator training set Tuesday

The Oregon State University Extension Service has scheduled a free pre-exam training session for people preparing to take a private pesticide applicator license or laws and safety exam. The session will take place Tuesday, Feb. 19, from 9:45 a.m. to noon and from 1 p.m. to 3 p.m. at the Extension Office, 2600 East St.

Oregon pesticide applicator CORE/general recertification credits will be available — up to four credits, two for the morning session and two for the afternoon session.

People interested in attending should RSVP by calling the Extension Office at 541-523-6418.

### Baker County Democrats meet Thursday

The Baker County Democrats will have their monthly meeting on Thursday, Feb. 21, at the Rogers Fellowship Hall, Fourth Street and Washington Avenue. Social time starts at 5:30 p.m., with the meeting at 6 p.m. All are welcome.

### Social media classes rescheduled

Two seminars focusing on helping businesses use social media and digital media originally scheduled for Feb. 13 and Feb. 20 have been rescheduled for Feb. 20 and Feb. 27 due to wintry weather this week.

The classes will be at the Blue Mountain Community College Baker City campus, 3275 Baker St.

The courses, through the Small Business Development Center, will be led by Michael Mettler, founder and director of possibilities at MCM Strategic + Communications at Walla Walla, Washington.

- Feb. 20, 1 p.m. to 3 p.m. — "Next Level Digital Advertising: Cost Effective Marketing Strategies In Rural Markets"

- Feb. 27, 1 p.m. to 3 p.m. — "Content is King: Building a Two-Way Conversation Online"

Each seminar costs \$59, payable to the Small Business Development Center. More information is available by calling Andrea Fowler at 541-278-5833 or at the Small Business Development Center's Facebook page.

## What's new at the Baker County Library

Baker County Library Director Perry Stokes recently received a request in the suggestion box at the library, 2400 Resort St., to have a list of some of the newly arrived books and other materials published in the Herald.

This is the second installment in the weekly feature. The titles below were supplied by John Brockman, tech services librarian.

### FICTION

- "Nine Perfect Strangers," Liane Moriarty
- "The Chef," James Patterson
- "Hitting the Books," Jenn McKinlay
- "Mrs. Lee & Mrs. Gray," Dorothy Love
- "Black Leopard, Red Wolf," Marlon James

### NONFICTION

- "Five for Freedom," Eugene Meyer
- "My Father & Atticus Finch," Joseph Madison Beck
- "The Illustrated Guide to Rocks and Minerals," John Farndon
- "The Budget-Savvy Wedding Planning & Organizer," Jessica Bishop
- "The Deepest Well," Nadine Burke Harris

### DVDS

- "Bohemian Rhapsody" (musical/biography)
- "First Man" (drama)
- "Hunter Killer" (action)
- "Nobody's Fool" (comedy)
- "The Nutcracker and the Four Realms" (family)

Library hours:

- Monday through Thursday, 9 a.m.-7 p.m.
- Friday, 9 a.m.-6 p.m.
- Saturday, 10 a.m.-4 p.m.
- Sunday, noon-4 p.m.

Friends of the Baker Heritage Museum's  
10th Annual Fundraiser

## "A Night at Old Auburn"



Sponsored By:

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Saturday, February 23th  
6 pm—10 pm

Tickets \$30.00  
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[www.BakerHeritageMuseum.com](http://www.BakerHeritageMuseum.com)

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Rocky Mountain Elk Foundation  
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March 2, 2019

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For membership and dinner ticket information, call Luke Harriman 1-208-602-0439 or go to [RMEF.com](http://RMEF.com)