

# Counsel reviews road ordinance

Blue Mountain Eagle

CANYON CITY – The enforcement potential for Grant County’s road or public access ordinance appeared murky this week, with the release of an analysis by the county counsel.

Ronald S. Yockim, the county’s lawyer, said in an email to the County Court that a county challenge of a Forest Service road closure would likely end up in federal court.

Yockim’s comments came in response to questions from County Commissioner Chris Labhart.

Labhart said he sought an opinion from counsel after hearing so much discussion about the ordinance and whether it is enforceable.

“I wanted to get to the bottom of this,” he said. “It has no enforcement clause, and I was concerned about that.”

Labhart released Yockim’s response June 10, after first

getting the rest of the County Court’s approval.

The county adopted a public access ordinance in May 2013 that requires that roads, trails and other traditional byways on the public lands remain open unless authorized for closure by the sheriff and County Court.

Labhart asked four questions, starting with a query about the validity of the ordinance since it doesn’t address enforcement.

Yockim noted conflicting statutes regarding whether enforcement must be addressed in an ordinance, or is implied by the definition of a violation. He concluded “it is a question that may not be resolved absent a court test or modification by the county to clarify the ordinance.”

On the issue of enforcement powers against public agencies, Yockim called that “a crux issue.”

He suggested the enforcement would be against an in-

dividual, such as the public official making the decision. As a general rule, he noted, public officials have immunity when acting in their official capacity and cannot be sued individually.

His analysis also suggested the Constitution’s Property Clause could limit the authority to apply the ordinance to all roads under public ownership. He called the RS 2477 roads “a limited subset of roads that may fall within the purview of the ordinance.”

Yockim, in his analysis, repeatedly notes the difficulty of addressing all scenarios without specific facts.

Yockim wrote that the ordinance is enforceable “in the same manner as other ordinances,” but “if any action was brought against the agency or its employees one should expect the matter would eventually be transferred to federal court.”

## COPS & COURTS

*Arrests and citations in the Blue Mountain Eagle are taken from the logs of law enforcement agencies. Every effort is made to report the court disposition of arrest cases.*

### Circuit Court

CANYON CITY – The Grant County Circuit Court reported the following fines and judgments:

- Brandon Joseph Elliott, 28, pleaded guilty to delivery of marijuana to a minor, delivery of methamphetamine, possession of methamphetamine, and endangering the welfare of a minor.

On the first count, he was sentenced to supervised probation for 36 months, 30 days in jail with credit for time served, and ordered to complete 120 hours of community service, abstain from intoxicants and locations where drugs are present, submit to random testing and obtain alcohol and substance abuse evaluation. He was sentenced on the other charges to 18 months supervised probation and community service totalling 180 hours, plus alcohol and intoxicants prohibitions. The court ordered fines and fees of \$1,500.

The court dismissed two counts of delivery of meth to a minor, one count of delivery of meth, one count of unlawful manufacture of meth, and one count of endangering the welfare of a minor.

- In a separate judgment, Elliott was sentenced for driving under the influence of intoxicants, a charge from Feb. 24. The sentence includes a one year driver’s license suspension, five days in jail, with credit for time served, 18 months probation, substance abuse evaluation, and fined \$1,000. The court dismissed one count of driving uninsured and one count of operating a vehicle without driving privileges.

### Grant County Sheriff

CANYON CITY – The Grant County Sheriff’s Office reported the following for the week of June 5-11:

- Concealed handgun li-

censes: 12

- Average inmates: 13
- Bookings: 7
- Releases: 8
- Arrests: 0
- Citations: 1
- Fingerprints: 9
- Civil papers: 23
- Warrants processed: 7
- Asst./welfare check: 2
- June 11: Cited Candace Cobb, Mt. Vernon, violation of basic rule, 61/35 zone.

### Dispatch

John Day dispatch worked 144 calls during the week of June 8-14. Along with the various traffic warnings, trespassing, injured animals, noise complaints and juvenile complaints, these calls included:

#### • John Day Police:

June 8: Reports of theft, vicious dog.

June 9: Fume reports on Brent, 4th Streets; arrested Thomas Busby, 43, on county warrant.

June 10: Non-injury accident, Best Western; harassment report on Main Street.

June 11: report of harassment; grass fire reported at Crane Prairie.

June 12: Cited Alyssa Bruce, 26, Bend, 75/55 zone.

June 13: Arrested William J. Collier Jr., 22, Monument on county warrant; cited Alexis Munkers, 24, Bend, for speed on Highway 26.

June 14: Cited Shaun Holland, 18, Mountain Home, Idaho, for speed, Highway 26 at Indian Creek.

#### • Grant County Sheriff:

June 8: Warned two drivers about defective lighting.

June 9: Report of theft in Izee, Bear Valley.

June 10: Respond to grass fire threatening structures, with Mt. Vernon Fire Department and Oregon Department of Forestry.

June 11: Warned driver about defective lighting.

June 12: Livestock complaint, Wiley Creek; report of shots fired, Washington Street; warned driver on Main Street for speeding; cited Mark Witty, 51, using cell phone while driving.

June 12: Report of trespasser held at gunpoint, Lower Yard Road, respond with John Day, Oregon State Police.

June 13: Cited Russell Wayne Moore, Redmond, no insurance, no operator license and failure to maintain lane.

June 14: Respond to domestic assault with assist from Grant County Sheriff’s Office, arrested Darrel Allen Swogger, 48, John Day.

#### • John Day ambulance:

June 13: Respond to Grant County Fairgrounds.

June 14: Respond to Main Street, John Day, to aid woman, 52; respond to Dayton Street for woman, 83, possible stroke; respond to injury accident on Highway 26 at Pine Creek; respond to East 5th Street for woman who had fallen.

#### • Prairie City Ambulance

June 14: Respond to East 5th Street.

#### • Monument Fire:

June 8: Report of barn fire

### Justice Court

CANYON CITY – The Grant County Justice Court reported the following fines and judgments:

- Failure to stop and remain stopped: Salvador Nagera-Rivera, 39, Des Moines, Wash., fined \$220.

- Violation basic rule: James Dean Rathbone, 76, Bend, 69/55 zone, fined \$160; Phyllis Elaine Langsev, 67, Culver, 74/55 zone, fined \$100;

- Careless driving: James M. Knight, 75, Glenwood, Utah, fined \$220.

- Failure to renew registration: Lukas Michael Borsten, 27, Portland, fined \$110.

- Harassment, misdemeanor violation: Krista Qual, Canyon City, fined \$555.25.

## PONDS STOCKED TO THE GILLS



Contributed photo

Brent Smith, Oregon Department of Fish and Wildlife fish biologist, left, and Dan Driscoll of Prairie Springs Fish Farm stock Aldrich Ponds last week as part of the ongoing ODFW program to enhance fishing opportunities in Grant County. Check MyEagleNews.com for the full county stocking schedule.

## Crews extinguish Sunday blaze

### Fire chief warns of dry conditions in area

By Angel Carpenter  
Blue Mountain Eagle

CANYON CITY – John Day Rural Fire Department crews responded to a fire Sunday afternoon in the Marysville area.

The blaze was first reported as a possible barn fire, but John Day Fire Chief Ron Smith said it turned out to be an abandoned trailer home. The structure caught fire after a small burn pile spread and became out of control.

Smith said he called for Mt. Vernon Rural Fire to provide mutual aid, but asked them to stand down once he arrived on scene.

He said the owners had

planned to scrap the trailer, so there was no loss.

Smith wants to warn residents to use caution when burning.

“We’re coming into fire season, and people need to be really alert and conscious,” he said. “It’s that time of year when fuels are starting to dry out – to cure,” he said.

He expects the state will soon announce a regulated burn closure with no outside burning.

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**Blue Mountain Eagle**

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