

Letters to the Editor

Personal property rights are ignored

The following letter refers to two recent lawsuits in Columbia County. The first reference is to the State of Oregon vs. Donald Bergerson; the second reference is to State of Oregon vs. Kenneth Smejkal. The charge in each case was "Failure to obtain a State Removal Permit" for gravel.

To The Editor:

The jury awarded in favor of the State of Oregon after a 3 day trial on the case of rock removal in excess of 50 cubic yards which was allowed the landowner and the protection of his properties located on the upper Nehalem River and no water flow was effected.

The landowner was within his legal quota of 50 yards without a gravel removal permit, but the key word on this issue or case was the DISTURBANCE of all other rock in the area of TAKING. Clearing of the work site of debris and grasses for site visibility was counted, together with the removal plus a tolerance for road compaction, etc, to obtain the total yards above the landowners quota of 50 yards. Landowners TAKE was established as 35 yards but the DISTURBANCE FACTOR of rock was the determination factor and key prosecution word.

No equipment or vehicles crossed the stream. All work was on dry land owned by the landowner. The taxpayer pays taxes on all lands that the river flows through; the state only owns the water and it's water resources.

This case was not based on stream management of this free flowing stream but on how many yards of rock was taken, including the counting of the DISTURBANCE of rock and vegetation on the landowner's ownership.

The real proof reflects that governmental people are only strengthening their regulatory force upon private taxpaying ownerships without offsets or compensation. The national constitution of private property rights are being ignored in favor of the public users.

Only the stronger taxpayers have the energy to stand up to and fight for private property rights and for all other taxpayers of our state.

Cost figures for a 3 day trial is expensive and especially annoying while waiting for the case to come to trial. The taxpayer is not only out his defendant costs but also his share of taxpaying dollars into our state's funds.

Economically, this case was based on 50 yards of rock (which the landowner holds in deed) and never denied. If this rock was purchased from outside suppliers at the current rate of approximately \$10.00 per yard it would equal a \$500.00 valuation. This is small potatoes

compared to 3 days court time. These same jurisdictional people could have been working on other heavy duty cases such as drugs, rape, murders or thieves.

In reality, it reflects a movement to take our property rights an inch at a time and stressing all other landowners to follow the governmental pattern policies using their gospel words as guidelines.

FACT: Another very similar case (within a 1/2 mile along the same river) using the same judiciary, building and attorneys, within one year, was awarded [to the defendant with] a completely opposite jury decision. (One a plus and one a minus-guilty).

Judiciary instructions were given not to inter-mix the original (1st) court trial testimonies, in any way shape or form, to this case. Is this an infraction to our freedom of thought and speech under our federal constitution?

Ralph E. Bergerson
Vernonia

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To The Editor:

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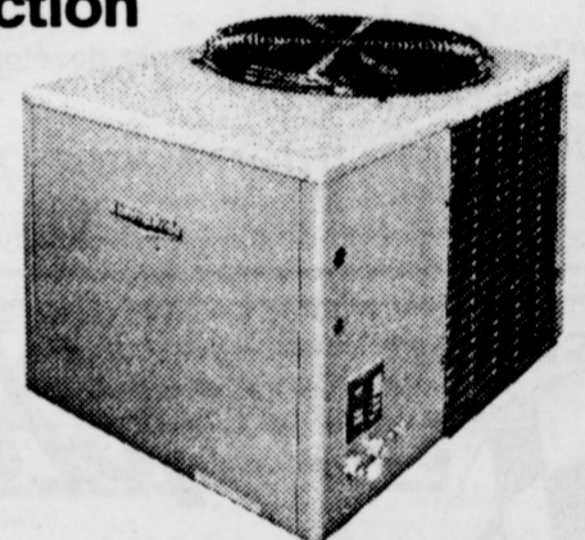
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