September 25, 2014

Board of Commissioners
250 N. Baxter
Coquille OR 97423

RE: Rebuttal for AP-14-03

Board of Commissioners:

In rebuttal to the issues raised on and before the September 18, 2014, there were several issues raised and I have addressed them in this letter.

Mr. Malone makes certain statements in response to the staff's report that are incorrect. He states that all commercial uses listed in the Coos County Zoning and Land Development Ordinance for Exclusive Farm Use (EFU). There are other types of commercial uses that are listed under the EFU zoning such as farm stands, dog kennels, home occupations, wineries, mining and crushing, golf courses, private parks, playgrounds, hunting and fishing preserves and campgrounds. All of these uses would fall within the definition of a commercial uses and the majority of them are not reliant on farming.

It is true there has been development on the property in the sense that a change was made to the property but as Kyle Cox stated in his oral testimony there is changes to the land made in farming as well. Plowing, dragging, disking even the removal of grass or crops for hay or silage is a change to the land. Mr. Seals stated in his oral testimony that the top soil has been removed. This happens in mining operations which is a listed use under the EFU zoning. After each mud bog event the ground is smoothed back over and grass grows back in place to allow for grazing. The changes to the land for the mud bogs are temporary. Mr. Seals further states that the water tanks were placed for the mud bogs; however, there were at least two people (John Warner and Jason Bodewig) who testified that the water tanks were placed at the top of the hill and were used to water down the dust from the motor cross track. However, the tanks were originally for the purpose of watering livestock (sheep and cows). Furthermore, Mr. Warner testified he placed the water tanks on the hillside. He did not state that they were for mud bogs and it does not make logical sense give the distance from the tanks to the area in which the mud bogs are held. Mr. Warner explained the he placed the water tanks at the top of the hill and with the help of the kids involved with riding dirt bikes they painted the tanks and placed an American Flag as sign of respect for the country and freedoms that we enjoy.

Mr. Malone request that the Board of Commissioners also states that the even if the commercial use of the property is ceased that they find the motocross track is a nuisance; however, Coos County does not have a nuisance ordinance or code and cannot legally make a determination that is not supported by law. If Coos County chooses to find that the track it a nuisance then it will be opening itself up to a lawsuit. Furthermore, if the decision was appealed to the Land Use Board of Appeals Coos County would lose on that issue. Mr. Malone
clients have drug the neighbor dispute through the land use process so the Board of Commissioners needs to be careful to base the decision on the law.

Mr. Malone requests that the Board fine us if compliance is not achieved. If a fine is placed on the property and paid, with a maximum of $1000 according to the current version of the Coos County Zoning and Land Development Ordinance, then there is nothing more that can be done according to the law.

Mr. Malone fails to explain that his clients the Houshours are also operation a commercial business on their property and have been for years. In fact almost all the people that have signed on to this compliant have some type of zoning, building or DEQ violation. I have spent time checking records and here is what I have found:

- **Houshour** – Have commercial uses, built structures and have made changes to the land without any permits.
- **Shawn O’Conner and Mike Meszaros** – constructed a Yurt without zoning or building permits.
- **Ellie Winslow** – constructed buildings on the property without any zoning or building permits.
- **Terry and Shari McWilliam** – remodeled a kitchen and possible inserted an oil/wood stove without any permits.
- **Dan and Kari Seals** – Modified and remodeled there house without permits.

This is only relevant because Mr. Malone provided a letter requesting compliance stating “(c)learly, such disproportionate treatment is unfounded in both equity and law.” If the County has chosen to enforce on my property I request that all of the other clear violation be investigated and treated in the same manner that my family has been treated. This way the neighborhood will be treated equally. This statement can be found on page 19 of the record.

On page 28 of the record Mr. Malone makes that statement there were fees required for the motocross events. This was addressed in the hearing. As a property owner I was unaware by allowing a group to hold an event would be construed as commercial.

Mr. Malone and the Staff Report lists out several contacts but what both of them fail to address is that my Husband and I approached the Planning Department and the Board of Commissioners several times to find a legal path to hold events. Mrs. Houshour gave testimony to the effect that she had been working with the County since 2007 what she doesn’t state is that as property owners we have been working with the County prior to her complaining. In 2010 the Board of Commissioner and County Legal Counsel made the determination the mud bog events would qualify as a small mass gathering. Every time sent a letter to us letting us know that we would be out of compliance we made sure we contacted them and came into compliance. Know the County wants to change its position. Where is that equity in that?
Ms. Houshour makes false accusations against the County as well as my family. She states in her written testimony that the County has never moved forward to decide if these activities should be allowed on EFU lands. In the 2010 Board of Commissioners meetings it was settled that the events would qualify under the small mass gathering rules. There were alterations made to the land at that time to allow the events. Again, the County seems to have changed its position. With the changes in the goal post it is impossible to figure out as a land owner what applications should be filed.

Mr. Malone leads you to believe this could be permitted as a recreational vehicle park as he places emphasis on that portion of the definition on page 28 of the record. Although Recreational Vehicle Park is not specifically listed in EFU private parks are and could be applied for but these were never provided to us as an option. At one time we were issued a temporary use permit showing once again the county has taken the position that this type of activity can be allowed. Again, we have tried to be compliant by communicating with the Planning Department Staff and the Board of Commissioners, granted the staff and the Board have changed but they were representatives of the county.

There are several references about the neighbors being bothered by the use as well as the use of Gaylord. Gaylord covers a large area and the people complaining do not represent the majority of the neighborhood. John and Erica Warner live across the road from the Houshour and are adjacent property owners. They are testified on our behalf and do not share the same complaints. Staff offered to show an ownership map and I would like to request that the show the entire neighborhood to show that he complaints are a minority not a majority. Ms. Magill makes allegations that the county has looked away way to long but again she also fails to see the interactions that we have had with the County to ensure compliance was maintained. The news article in which she submitted is not the same situation. In that case there were over 18 events in one summer and this seems to be a pending case without a decision at this point. The county may be overturned in that case. The picture that Ms. Magill showed with our address shows our frustration as well as our decorative side. It appears that Ms. Magill may have trespassed on our property to take this photo as well as the photo of the dust. She does not leave next to our property and it would be impossible for her to take these pictures from her own property.

Ms. Winslow does not live near our property. Her property is on Hwy 242 yet she is able to provide testimony concerning traffic patterns? I could understand if it was a noise issues. Again, she has some violations of her own she needs to be concerned with.

As for staff’s report on the issue states that we no longer qualify for small mass gathering under ORS 197.015(10)(d) and as the reader I assume that is because of the exchange of money. However, staff further explains if the commercial activity ceases or abated there is no procedure to make a determination of what type of permits will be required under the CCZLDO. However, the ordinance SECTION 3.2.400 Uses Not Listed. It is recognized that in the development
of a Comprehensive Zoning and Land Development Ordinance, not all uses of land and water can be
listed, nor can all future uses be anticipated. A “use” may have been inadvertently omitted from the list
of those specified as permitted or conditional in each of the various districts designated. Ambiguity may
arise concerning the appropriate classification of a particular use within the meaning and intent of this
Ordinance.

It seems that County would have a difficult time deciding how to treat the personal use of our family
property for personal recreational use. Wouldn’t the use be the same as allowed in Chapter 3 for
camping 45 days out of a calendar year or wouldn’t the recreational use of the be accessory to the
dwelling. If the conclusion is that we need to rezone my daughter asked what would the appropriate
zone would be? The property is used for livestock and recreation. We live on the adjoining tax lot.

Sargo McWilliam

Mike McWilliam