

# Keep Our Water Safe Committee

Brian and Laurel Hines • 10371 Lake Drive SE • Salem, Oregon 97306

Phone: 503-371-8892 • Email: brianhines1@gmail.com

RECEIVED

April 21, 2009

APR 21 2009 A/R

MARION COUNTY

BOARD OF COMMISSIONERS

Via Hand Delivery

Marion County Board of Commissioners

Courthouse Square

555 Court Street NE

Salem, OR 97301

FRIENDS

of



MARION  
COUNTY

**Re: Request for Hearing – M05-17**

Dear Commissioners:

The Keep Our Water Safe Committee (KOWS) represents the interests of over forty families in our neighborhood. On behalf of KOWS, Friends of Marion County, and the individual neighbors listed below, we request that you allow for due process and conduct a public hearing before taking final action on the Laack vested rights recommendation from Ann Gasser dated April 13, 2009 (Case No. M05-17).

The vested rights recommendation issued by the Hearings Officer does not address the Court of Appeals decision concerning vested rights in *Cyrus v. Board of Commissioners of Deschutes County*, \_\_ Or App \_\_ (Slip. Op. February 18, 2009). According to Cyrus, there can be no vesting when there is no final land use permit. The implications of the decision in this case need to be carefully considered before a decision is rendered on this application.

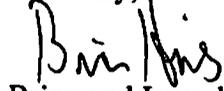
Furthermore, the Hearing's Officer did not include key facts pertaining to the statutory vesting factors in the report, and other evidence was decided under the wrong legal standard. The Hearing's Officer correctly noted that under one option, "applicants need to provide more evidence on just who has been responsible for what expenditures and who will be ultimately responsible for the costs of development." See M-05-017/VRD Recommendation at 14.

On remand, the decision maker must obtain information that will allow it to determine which expenditures were made by Mr. Laack. The Hearings Officer also did not determine whether the Rainones can obtain a vested right or set forth the applicable law to allow the Board to make this determination. Laack is the only owner who can legally vest the proposed use. At bare minimum, the Board must remand the matter to obtain claimant-specific expenditure information -- as noted above, an option raised by the Hearings Officer.

By holding a hearing, the Board will provide the public with due process and an opportunity to refine these issues before the board makes its final decision. If the board were to decide this application based on incomplete information it could very likely cost more time and money down the line by requiring this matter to be remanded for further proceedings.

For these reasons, the Keep Our Water Safe Committee and individual neighbors urge the Board of Commissioners to hold a public hearing prior to making its decision on this application. Given our schedules and that of our legal counsel, we ask that the Board of Commissioners hold the public hearing after May 13<sup>th</sup>. (Note: the individuals below were contacted by us and affirmed that they supported holding a public hearing, plus having their names listed as signers to this letter.)

Sincerely,



Brian and Laurel Hines  
Keep Our Water Safe Committee  
on behalf of...  
Roger Kaye  
Friends of Marion County



and...

Tim and Jan Jaskoski  
Don and Deana Dean  
Evan and Laurie Lehman  
Penny and Hugh Telleria  
Jerry and Tracy Jones  
Luce La Fleur and Dave McGourty  
Mike and Tamra Roberson  
Dr. Judy and James Auerbach  
George and Rosalee Sullivan  
Jennifer and Roy Bennett  
Frank Haynes  
Gary and Lilly Thompson  
Larry and Jean Rabb  
Dot and Larry Walsh  
Lucy Morgan  
Ed Cavin  
John and Edyth Churchill  
Bev and Bill Luke  
Kim and Dana Kirkpatrick-Kutsch  
Keith and Robyn Clutts  
Hank and Shirley Shoudy  
Wayne and Pat White  
Tom and Judy Bass  
Kathleen Freeburg  
Julie and Jason Freeburg  
Joe and Betty Fellingner

Laine Larson  
Jim Hedlund  
Lloyd and Patricia Sparks  
Martin and Luana Parker  
Pam and Bernard Parker  
Peter and Amy Urban  
Jill Thiesen  
Don Shoemaker  
Ricardo and Susan Rodriguez