

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINCOLN**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

REX CAPRI,)
WAKEFIELD FARMS, LLC)

Plaintiffs,)

v.)

DANA W. JENKINS, LINCOLN COUNTY)

Defendants.)

and)

LINCOLN COUNTY COMMUNITY RIGHTS)

Intervenor-Defendant.)

Case # 17CV23360

**DECLARATION OF WAYNE
BELMONT IN SUPPORT
OF DEFENDANTS
DANA JENKINS' AND
LINCOLN COUNTY'S
CROSS MOTION FOR
SUMMARY JUDGMENT**

I, Wayne Belmont, hereby declare:

1. I am counsel for Defendants Lincoln County and Dana Jenkins (hereafter County). I make this Declaration based upon my personal knowledge in support of the County's Cross Motion for Summary Judgment.

1 2. Lincoln County owns parcels of land outside urban growth boundaries
2 acquired for County purposes, some of which was acquired through the property tax
3 foreclosure process in ORS Chapter 312.

4 3. Included in the inventory of county owned property in the present, past and
5 expected in the future, are properties subject to farm and forest practices, zoned Agricultural
6 Conservation and Timber Conservation¹ and for which County has management
7 responsibilities while the properties are in our possession. ORS 275.090. Powers of the
8 County over tax foreclosed lands include, but are not limited to, protection of lands from
9 fire, disease, and insect pests²; to re-forest cut over lands³; and to make all rules and
10 regulations, not inconsistent with law, necessary to protect, administer, operate, lease or
11 acquire lands, among other enumerated powers.⁴ That could include application of
12 pesticides if deemed necessary.

13 4. Attached to this Declaration are true and exact copies of this Court's General
14 Judgments in 15CV19954 (Ballot Title Challenge) and 15CV19955 (Constitutional
15 Challenges), together with the Court's Decisional Letter dated June 18, 2016 in 15CV 19954
16 and the Court's Decisional Letter dated April 13, 2016 in 15CV19955 and Respondent's
17 Brief in Opposition to Petition for Determination of Initiative Measure Compliance with
18 ORS 250.168 in 15CV19955.

¹ Lincoln County Code Chapter 1 establishes farm and forest uses allowed in these respective zones.

² ORS 275.090(1).

³ ORS 275.090(4).

⁴ ORS 275.090(5).

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINCOLN**

1			
2			
3	PETER M. BREGMAN,)	
4)	Case # 15CV19954
5	Petitioner,)	
6)	
7	v.)	
8	MICHELLE BRANAM, in her)	
9	capacity as Lincoln County District)	GENERAL JUDGMENT
10	Attorney,)	
11)	
12	Respondent,)	
13)	
14	and)	
15)	
16	BABARA DAVIS and MARIA SAUSE,)	
17)	
18	Intervenors.)	

On June 15, 2016 this matter came before the Court for a hearing on Petitioner’s Petition to Seek Alternative Ballot Title. Petitioner appeared through his attorney, Jill Gibson. Respondent appeared through County Counsel Wayne Belmont. Intervenors appeared through their attorney, Ann Kneeland.

Intervenors filed the proposed subject initiative measure with Lincoln County on July 6, 2015. Respondent prepared the ballot title required under ORS 250.035. Petitioner requested the Court declare the Respondent’s ballot title nonconforming to the requirements of ORS 205.035(1) and LCC 8.115(3), and offered an alternative ballot title. The Court stayed this proceeding pending the outcome of a companion challenge to the ballot measure.

1 In the companion case, Lincoln County Circuit Court Case # 15 CV19955, the Court
2 denied a separate challenge by Petitioners to the Lincoln County Clerk's determination of
3 constitutional compliance with ORS 250.168.

4 Thereafter, after considering the memoranda prepared by counsel and hearing their
5 arguments, the Court first noted that Petitioner conceded that the summary statement as prepared
6 complies with the 175 word limit. The Court also reviewed the entire ballot title (caption,
7 question and summary), and in accordance with its review authority under ORS 250.195(3)
8 certified to the Lincoln County Clerk the ballot title as contained below.
9

10 Now, therefore, the Court enters the following JUDGMENT:

11 1. The Court certifies to the Lincoln County Clerk the following ballot title:

12
13 **Caption:** Prohibits aerial pesticide spraying and creates rights of local citizens

14
15 **Question:** Should voters enact ordinance prohibiting "corporations" from aerial
16 spraying of pesticides and create rights to natural communities and
17 ecosystems?
18

19
20 **Summary:** Enactment of measure establishes local rights: Right to be Free from
21 Toxic Trespass; Right to Clean Air, Water and Soil; Right to Rural
22 Preservation; Right of Local Community Self-Government. Rights
23 established are self-executing. Measure also provides that governmental
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

systems destructive to the rights of the community are not legitimate, lawful, or constitutional.

Measure makes it unlawful for any “corporation” to “engage in aerial spraying of pesticides,” as defined within measure, or to otherwise violate any enumerated rights. Measure invalidates any permits issued by state or federal entity that violate any enumerated rights. Measure provides that state and federal laws apply only to extent they are not in violation of ordinance.

Measure authorizes direct action by person if county or courts fail to enforce law. Corporations that violate ordinance are not “persons” and are prohibited from asserting state or federal law preemption. Measure establishes strict liability for damages to residents and ecosystems by aerial spraying.


Measure repeals inconsistent provisions of County Code and pre-empts state and federal law inconsistent with rights or prohibitions of measure.

///

///

1 2. The Lincoln County Clerk shall proceed in accordance with law using this certified
2 ballot title for this initiative measure.
3

Signed: 11/26/2016 12:22 PM



Circuit Court Judge Sheryl Bachart

4
5
6
7
8
9 Submitted by:
10 Wayne Belmont, OSB 841662
11 Lincoln County Counsel
12 541-265-4108
13 wbelmont@co.lincoln.or.us
14 Attorney for Respondent Michelle Branam, Lincoln County District Attorney
15
16
17
18
19
20
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF LINCOLN

PETER M. BREGMAN,)	
)	
Petitioner,)	Case No. 15CV19955
)	
v.)	
)	GENERAL JUDGMENT
DANA W. JENKINS, in his capacity as)	
Lincoln County Clerk,)	
)	
Respondent,)	
)	
and)	
)	
BARBARA DAVIS and MARIA SAUSE,)	
)	
Intervenor-Respondents.)	

THIS MATTER CAME before the Court on February 29, 2016 for hearing upon Petitioner's Petition for Determination of Initiative Measure Compliance with Constitutional Provisions Under ORS 250.168. Petitioner appeared personally and through attorney Jill Gibson. Respondent appeared personally and through Assistant County Counsel, Kristin Yuille. Intervenor-Respondents appeared personally and through attorney Ann Kneeland. The Court having heard arguments of counsel and having considered the filings of the parties in advance of the hearing, hereby makes the following findings of fact and conclusions of law:

1 **Findings of Fact**

2 1. Intervenor-Respondents, Barbara Davis and Maria Sause, filed the proposed initiative
3 measure entitled “Freedom from Aerially Sprayed Pesticides Ordinance of Lincoln County” with the
4 Lincoln County Clerk, Dana Jenkins, on July 6, 2015.

5 2. On July 14, 2015 Lincoln County Clerk Dana Jenkins issued a determination that the
6 proposed measure complied with the Single Subject Rule and was “legislative” measure that could be
7 properly submitted to the voters pursuant to ORS 250.168(1) and section 1(2)(d), Article IV of the
8 Oregon Constitution.

9 3. On July 28, 2015 Petitioner filed this Petition challenging the determination of County
10 Clerk Dana Jenkins and seeking to overturn the determination of Respondent.

11 4. On August 13, 2015 Respondent filed an Answer to the Petition and raised affirmative
12 defenses of Failure to State a Cause of Action and Failure to State a Claim for Injunctive Relief.

13 5. On August 26, 2015 this Court granted Intervenor-Respondents’ (Maria Sause’s and
14 Barbara Davis’) Motion to Intervene.

15 **Conclusions of Law**

16 **Single Subject Requirement**

17 1. In applying the test from *OEA v. Phillips*, the Court finds that the proposed initiative
18 embraces only one subject: that Lincoln County residents be free from aerially sprayed pesticides.
19 Further, the statements contained within Section 3 and Section 4 of the proposed initiative enumerate
20 a number of “rights” and “prohibitions” that all relate to the subject of the initiative.

21 2. In addition, this Court finds that the matters contained in the initiative are properly
22 connected with the subject above. Further, none of the other “matters” identified by Petitioner
23

1 amount to “log-rolling” which is the inclusion of two or more “wholly incongruous” subjects in a
2 proposed law.

3 3. Therefore, this Court finds that the proposed measure complies with Article IV,
4 section 1(2)(d) of the Oregon Constitution.

5 Full Text Requirement

6 1. The Court finds that the application of both section 8 and 4(c) of the proposed
7 initiative act to repeal existing law.

8 2. The Court finds that current law does not support a requirement that voters should be
9 apprised of those provisions of existing law that would be repealed if this measure were to be
10 enacted.

11 3. The Court finds that a better approach is set forth in *Bird v. County of Wasco*, 3 Or
12 282, 285 (1871).

13 4. The Court finds that, consistent with *Schnell v. Appling*, if the proponents of the
14 proposed measure set forth the full text of the proposed measure, they have satisfied the full-text
15 requirement of section 1(2)(d), Article IV of the Oregon Constitution notwithstanding the principle
16 that voters should be apprised of existing law that would essentially be rendered void should this
17 measure be enacted.

18 5. Therefore, the Court finds that the proposed “Freedom of Lincoln County from
19 Aerially Sprayed Pesticides” meets the requirements of section 1(2)(d), Article IV of the Oregon
20 Constitution.

21 NOW, THEREFORE, the Court enters the following JUDGMENT:

22 1. Petitioner’s request to overturn Respondent’s determination of compliance is denied;
23
24
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

2. The County Clerk shall proceed, as required by law, to allow the initiative to be circulated; and

~~3. Respondent and Intervenor Respondents shall be awarded their costs and disbursements incurred herein.~~

Signed: 5/4/2016 05:00 PM


Circuit Court Judge Sheryl Bachart

Submitted by:
Ann B. Kneeland, OSB #992977
P.O. Box 10294
Eugene, OR 97440
(541) 514-9720
ann@kneelandlaw.net
Attorney for Intervenor-Respondents



Judge Sheryl Bachart
Circuit Court Judge
Lincoln County Circuit Court
PO Box 100
Newport, OR 97365

CIRCUIT COURT
FILED _____ RECEIVED _____
JUN 21 2016
AT _____ O'CLOCK _____ M
BY _____

phone: (541) 265-4236 ext 8504
fax: (541) 265-7561

June 18, 2016

Ms. Jill Gibson
Gibson Law Firm, LLC
1500 SW Taylor Street
Portland, OR 97205

Mr. Wayne Belmont
Lincoln County Counsel
225 W. Olive Street
Newport, OR 97365

Ms. Ann Kneeland
Attorney at Law
PO Box 10294
Eugene, OR 97440

RE: *Peter Bregman v. Michelle Branam, et al*
Case no. 15CV19954

Dear Ms. Gibson, Mr. Belmont and Ms. Kneeland,

This matter came before the Court on June 15, 2016 for hearing on Petitioner's Petition to Seek Alternative Ballot Title. On July 6, 2015 Intervenor filed a proposed initiative measure with the Lincoln County Clerk entitled "Freedom of Lincoln County from Aerially Sprayed Pesticides." On July 21, 2015 Respondent prepared a ballot title pursuant to ORS 250.035. Thereafter, Petitioner filed this Petition requesting that the Court declare Respondent's ballot title to be nonconforming to the requirements of ORS 205.035(1) and LCC 8.115(3). Petitioner conceded at the hearing that the summary statement as prepared does comply with the 175-word limit.

The Court having considered the memoranda prepared by counsel and the arguments presented hereby certifies to the Lincoln County Clerk the following ballot title :

Caption: Prohibits aerial pesticide spraying and creates rights of local citizens.

Question: Should voters enact ordinance prohibiting “corporations” from aerial spraying of pesticides and create rights to natural communities and ecosystems?

Summary: Enactment of measure establishes local rights: Right to be Free from Toxic Trespass; Right to Clean Air, Water and Soil; Right to Rural Preservation; Right of Local Community Self-Government. Rights established are self-executing. Measure also provides that governmental systems destructive to the rights of the community are not legitimate, lawful or constitutional.

Measure makes it unlawful for any “corporation” to “engage in aerial spraying of pesticides,” as defined within measure, or to otherwise violate any enumerated rights. Measure invalidates any permits issued by state or federal entity that violate any enumerated rights. Measure provides that state and federal laws apply only to extent they are not in violation of ordinance.

Measure authorizes direct action by person if county or courts fail to enforce law. Corporations that violate ordinance are not “persons” and are prohibited from asserting state or federal law preemption. Measure establishes strict liability for damages to residents and ecosystems caused by aerial spraying.

Measure repeals inconsistent provisions of County Code and pre-empts state and federal law inconsistent with rights or prohibitions of measure.

The Court finds that the Caption reasonably identifies the subject of the measure pursuant to ORS 250.035(1) and does not exceed 10 words. The Court also finds that the Question plainly phrases the chief purpose of the measure pursuant to ORS 250.035(1)(b) and meets the 20 word limit. The only modification by the Court is that “corporations” should be in parenthesis to help put voters on notice that this term is defined within the measure. The Court finds the Question in consistent with the Caption and with the purpose of the measure.

The Court has modified the Summary as set forth above. The Summary is required to be “a concise and impartial statement of not more than 175 words summarizing the measure and its major effect.” ORS 250.035(1)(c). Drafting a Summary to comport with these requirements and meet the 175 word limit is challenging, and it is impossible to identify all of the effects of passage of the measure. Therefore, the statute provides that the Summary must *summarize* the measure and its *major effect*. The Summary is intended to put voters on notice of the major effect(s) if the measure is approved recognizing that not all voters will read the measure in its entirety. The Court recognizes that the Summary above does not identify all outcomes if the measure were to pass. However, the Court finds that Summary does convey to the voters in a neutral and easily understandable manner some of the major effects of the measure. Petitioner’s objections to those effects not identified in the Summary the Court fully anticipates will be addressed by those opposed to the Measure and may be the subject of legal challenges to the

Measure should it be passed by voters. However, the objections as identified by the Petitioner are not properly included in the Summary.

Sincerely,

A handwritten signature in black ink that reads "Sheryl Bachart". The signature is written in a cursive style with a large, looped "S" at the beginning.

Sheryl Bachart
Circuit Court Judge



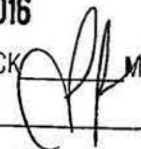
Judge Sheryl Bachart
Circuit Court Judge
Lincoln County Circuit Court
PO Box 100
Newport, OR 97365

phone: (541) 265-4236 ext 8504
fax: (541) 265-7561

April 13, 2016

CIRCUIT COURT
FILED _____ RECEIVED _____

Ms. Jill Gibson
Gibson Law Firm, LLC
1500 SW Taylor Street
Portland, OR 97205

APR 13 2016
AT _____ O' CLOCK
BY _____ 

Ms. Kristin Yuille
Lincoln County Counsel
225 W. Olive Street
Newport, OR 97365

Ms. Ann Kneeland
Attorney at Law
PO Box 10294
Eugene, OR 97440

RE: *Peter Bregman v. Dana Jenkins, et al*
Case No. 15CV19955

Dear Ms. Kneeland, Ms. Yuille and Ms. Gibson:

This matter came before the Court on February 29, 2016 for hearing upon Petitioner's Petition for Determination of Initiative Measure Compliance with Constitutional Provision Under ORS 250.168. Petitioner appeared personally and through attorney Jill Gibson. Respondent appeared personally and through Assistant County Counsel, Kristin Yuille. Intervenor-Respondents appeared personally and through attorney Ann Kneeland. The Court having heard arguments of counsel and having considered filings of the parties in advance of the hearing, makes the following findings of fact and conclusions of law:

Findings of Fact

1. Intervenor/Respondents, Barbara Davis and Maria Sause, filed the proposed initiative measure entitled "Freedom from Aerially Sprayed Pesticides Ordinance of Lincoln County" with the Lincoln County Clerk, Dana Jenkins, on July 6, 2015.
2. On July 14, 2015 Lincoln County Clerk Dana Jenkins issued a determination that the proposed measure complied with the Single Subject Rule and was a "legislative" measure that could be properly submitted to the voters pursuant to ORS 250.168(1) and section 1(2)(d), Article IV of the Oregon Constitution.

3. On July 28, 2015 Petitioner filed this Petition challenging the determination of County Clerk Dana Jenkins and seeking to overturn the determination of Respondent.
4. On August 13, 2015 Respondent filed an Answer to the Petition and raising affirmative defenses of Failure to State a Cause of Action and Failure to State a Claim for Injunctive Relief.
5. On August 26, 2015 this Court granted Intervenors'/Respondents' (Maria Sause's and Barbara Davis') Motion to Intervene.

Conclusions of Law

Single Subject Requirement

Petitioner challenges the determination of Lincoln County Clerk that the proposed initiative violates the single subject requirement as set forth in Article IV, section 1(2)(d) of the Oregon Constitution which provides that: “[a] proposed law ...shall embrace one subject only and matters property connected therewith.” The Oregon Supreme Court has explained in analyzing whether a measure complies with this constitutional provision a court should apply the following test:

A measure must first be scrutinized to determine whether it embraces more than one subject. If it does, it offends the constitutional limitation even if the subjects are “properly connected,” and that is the end of the inquiry. If it does not, the single subject must be identified. When that is done, and if the proposal embraces no other matters, there is no need to inquire into proper connection.

If the proposal embraces one subject only and also other “matters,” then, and only then, it must be determined whether those other matters are properly connected with the subject.

OEA v. Phillips, 302 Or 87, 100 (1986).

In applying this test, the Court finds that the proposed initiative embraces only one subject, that Lincoln County residents be free from aerially sprayed pesticides. The statements contained within Section 3 and Section 4 of the proposed initiative enumerate a number of “rights” and “prohibitions” that all relate to the subject of the initiative. The Court finds that the rights and prohibitions provisions contained within the proposed initiative are properly connected with the subject identified above. None of these other “matters” identified by Petitioner amount to “log-rolling” which is the inclusion of two or more “wholly incongruous” subjects in a proposed law. The Court finds that the matters contained with the initiative are properly connected with the subject and therefore the proposed measure complies with Article IV, section 1(2)(d) of the Oregon Constitution.

Full Text Requirement

Article IV, section 1(2)(d), of the Oregon Constitution provides that a petition for an initiated measure “shall include the full text of the measures so proposed,” or “shall include the full text of the proposed law or amendment to the Constitution.” The proposed initiating measure includes section 8 as a repealer provision, however, also included in section 4(d) is a provision whereby “no permit, license, privilege, charter, or other authority issued by any state or federal entity that would violate the rights of the Ordinance, shall be deemed valid within Lincoln County.” The application of both sections 8 and 4(d) act to repeal existing law. The concern is that without identifying which portions of existing law would be deemed inconsistent or in violation of the ordinance, voters are not fully informed of the effect of this ordinance on existing law. Without any reference whatsoever to any provision of state, federal or agency law, voters have no way of knowing what existing laws they are invalidating if this measure were to be enacted.

Intervenors do not address as a matter of policy the inherent risks to the voters that these provisions contain as written. They maintain that the proposed initiative does not involve an amendment to existing law or the Constitution since it only seeks to repeal certain law only to the extent those provisions are inconsistent with the proposed initiative. Therefore, they conclude that the full text requirement is inapplicable because it repeals, rather than amends existing law. This distinction is one discussed by the Court in *Carey v. Lincoln Loan Co.* 203 Or App 399 (2005):

However, the constitution does not refer to or establish any requirements relating to the text of any provisions to be repealed outright rather than amended, nor does it require an explanation of how the proposed changes would function with existing unamended provisions. The limited case law on the constitutional full text provision does not suggest that it encompasses either of those types of requirements. *Id.* at 405.

In *Schnell v. Appling*, 238 Or 202, 204 (1964) the Court held that,

The text of repealed statutes, like that of statutes referred to in the proposed measure, would be no part of the enacted statute should it pass, and some means would have to be found to for eliminating such surplusage after enactment. No useful purpose would be served by quoting at length either the related statutes referred to in the proposed measure but left unchanged thereby or the statutes to be repealed thereby. Since such matter is no part of the proposed law, it need not be made part of the initiating petition.

The Court went on to expressly hold that “[t]he full text requirement of our constitution means exactly what it says. The petition must carry the exact language of the proposed measure. It need include nothing more.” *Id.* at 205.

Petitioner submitted to this Court several analogous initiating measures that have been the subject of similar challenges throughout this state. While not controlling, it is clear that other courts have struggled with the same effect of this language: Voters are not made expressly aware of those portions of existing law that would be rendered void through enactment of this measure. This concern has at least been noted by the *Carey* court,

The potential legal effect of the amendment on other provisions of the constitution could well provide reasons to support or oppose the proposal, but it was not something that the petition itself had to describe. Indeed, the effect of a constitutional amendment might be sufficiently uncertain that it would be an issue in the debate over the measure. *Carey*, 203 Or App at 406.

The Court finds that a better approach is set forth in *Bird v. County of Wasco*, 3 Or 282 (1871) which stated that,

When the legislature seeks to repeal an existing act or to limit its territorial application, it is not necessary to set forth the entire with the repealing clause, or with the limitations and restrictions affixed thereto. The repeal of a statute can be legally effected by an act properly referring to the one sought to be repealed, and restrictions and limitations can be placed upon an existing law by an act of the legislature properly designating the one sought to be restricted and limited, and at the same time clearly setting forth the restrictions and limitations. *Id.* at 285.

The conclusion of this Court is that while as a matter of a policy voters should be apprised of those provisions of existing law that would be repealed if this measure were to be enacted, the current case law does not support such a requirement. There are a number of challenges to this proposed measure that present themselves as currently drafted, but the inquiry of this Court at this stage is very limited in scope. Therefore, this Court finds that consistent with *Schnell*, if the proponents of the proposed measure set forth the full text of the proposed measure, they have satisfied the full-text requirement of section 1(2)(d), Article IV of the Oregon Constitution notwithstanding the principle that voters should be apprised of existing law that would essentially be rendered void should this measure be enacted.

Therefore, the Court finds that the proposed “Freedom of Lincoln County from Aerially Sprayed Pesticides” meets the requirements of section 1(2)(d), Article IV of the Oregon Constitution. Petitioner’s request overturn Respondent’s determination of compliance is denied

for the reasons set forth in the memorandum opinion. The Court directs Ms. Kneeland to prepare the form of judgment incorporating the findings of fact and conclusions of law as set forth above.

Sincerely,

A handwritten signature in black ink that reads "Sheryl Bachart". The signature is written in a cursive, flowing style.

Sheryl Bachart
Circuit Court Judge

1 county clerk to “determine in writing whether the initiative measure meets the requirements of section
2 1(2)(d), Article IV, and section 10, Article VI of the Oregon Constitution.” The county clerk has only
3 two options: (1) determine “the initiative measure meets the [constitutional] requirements;” or, (2)
4 determine the “measure does not meet the [constitutional] requirements.” ORS 250.168(2) and (3).¹

5 On July 14, 2015, the Lincoln County Clerk informed Intervenor-Respondents in writing that the
6 proposed ballot initiative petition does meet the constitutional requirements of ORE. CONST., Art. IV,
7 §1(2)(d).²

8 On July 28, 2015, Petitioner Peter M. Bregman filed challenges to the County Clerk’s
9 Determination of Initiative Measure Compliance with section 1(2)(d), Article IV of the Oregon
10 Constitution, and the ballot title.

11 On September 7, 2015, Intervenor-Respondents Motion to Intervene was granted by the Court.

12
13 **B. Initiative Petition Is Not Required to Include the Full-Text of the Proposed Law**

14 The Petitioner alleges that the proposed measure violates the first requirement of Art. IV, §1(2)(d)
15 of the Oregon Constitution by including less than the full text of the proposed law. The Petitioner argues
16 that it is a violation of Section 1(2)(d) to repeal existing provisions of law without specifying the
17 repealed provisions by number or setting forth the text of the repealed code sections.

18 Section 6(c) of the proposed measure:

19 All laws adopted by the legislature of the State of Oregon, rules adopted by any State agency,
20 rules adopted by the United States Congress, and rules adopted by any federal or international
21 agency, shall be the law of Lincoln County only to the extent that they do not violate the rights
22 and prohibitions of the Ordinance.

23 Section 8 of the proposed measure:

24 All inconsistent provisions of prior Ordinances adopted by Lincoln County are hereby repealed,
25 but only to the extent necessary to remedy the inconsistency.

26 Under Oregon law, there is no requirement to include the full-text of the proposed law. In *Schnell*
27 *v. Appling*, 238 Or. 202 , 395 P.2d 113 (1964), the Supreme Court found that the full-text requirement of
28 the Oregon Constitution requires only that the initiative carry the exact language of the proposed
29

30
31 ¹ Oregon law does not permit the County Clerk to examine the prospective ballot measure petition for compliance with state or federal law.

² Exhibit I

2 – Respondent’s Brief in Opposition To Petition For Determination Of Initiative Measure Compliance With Constitutional Provision (Case No. 15CV19955)

1 measure, nothing more, and should not include the text of repealed statutes or provisions. The Court
2 recognized that:

3
4 “As a practical matter, the inclusion of text of repealed statutes
5 in the new enactment would create a substantial volume of surplus
6 verbiage, and could produce confusion. The text of repealed statutes,
7 like that of statutes referred to in the proposed measure, would be in
8 no part of the enacted statute should it pass, and some means would
9 have to be found for eliminating the surplusage after enactment.”
10 *Id* at 204.

11 The initiative petition in *Schnell* designated the sections of existing law to be repealed by section
12 number. The issue before the *Schnell* court was a narrow one, and only concerned the question whether
13 statutes to be repealed and statutes that are mentioned, but that would be unchanged by the proposed
14 amendment, must be published at full length. In the present case, the Intervenor-Respondents proposed
15 petition does not identify what existing law is to be repealed, but instead repeals only the laws that
16 conflict with the Ordinance. Although Respondent has concern with this broad language regarding
17 repealing laws inconsistent with the Ordinance and subsequent enforcement, there is no legal
18 requirement to identify the sections of laws that would be repealed. See also *Carey v. Lincoln Loan Co.*,
19 where the Oregon Court of Appeals found that initiatives repealing provisions of existing law are not
20 required to include the full-text of provisions to comply with section 1(2)(d), Article IV.³

21 The case law cited by Petitioner is not applicable to the present case. The case law cited has to do
22 with initiatives that *amend* existing law, and this controversy has to do with *repealing* existing law. The
23 first case cited, *Kerr v. Bradbury*, 193 Or.App. 304, 89 P.3d 1227 (2004), *rev dismissed*, 340 Or. 241
24 *adhered to on recon*, 341 Or. 200 (2006) has to do with an initiative that amended existing law and did
25 not address repealing existing law.⁴ Also, in the cases of the *City of Portland v. Stock*, 2 Or. 69 (1863),
26 and *Bird v. The County of Wasco*, 3 Or. 282 (1871), the Oregon Supreme Court addresses amendments
27 to existing law in both those cases, not repeals to existing law.

28 ³ 203 Or.App.399, 125 P.3d 814 (2005). An initiative petition was challenged because it failed to designate whether it amended or
29 repealed existing law. The Court of Appeals rejected the argument that the full-text provision of the Oregon Constitution applies
30 when existing law is repealed. The Court held that the constitution does not refer to or establish any requirement relating to text of
31 any provision to be repealed outright rather than amended, nor does it require an explanation of how the proposed change would
function with existing unamended provisions. The limited case law on the constitutional full text requirement does not suggest that
it encompasses either of those types of requirements. *Id.*

⁴ In *Kerr*, the Secretary of State certified an initiative petition for circulation, even though the text of the petition sets out only the wording
proposed to be added to existing statutes and does not include the text of the statutes to be amended. Court found that the full-text of the
proposed law refers to the full-text of the law as amended, and must include the text of the statutes.

3 – Respondent’s Brief in Opposition To Petition For Determination Of Initiative Measure Compliance With Constitutional
Provision (Case No. 15CV19955)

1 **C. The Proposed Petition Contains One Subject**

2 Lincoln County Clerk correctly determined the proposed initiative “Freedom of Lincoln County
3 from Aerially Sprayed Pesticides” complied with the single-subject rule of the Oregon Constitution.

4
5 **(1) Single-Subject Requirement**

6 Numerous appellate court cases have interpreted the single-subject requirement of Art. IV,
7 §1(2)(d). The Oregon Supreme Court has said,

8 [T]he central purpose of the single-subject requirement was to prevent the practice of
9 inserting two or more unrelated provisions into a single [measure] – commonly known as
10 ‘log-rolling’ – so that [voters] favoring one provision would be compelled to vote for the
11 [measure] despite their opposition to the other provisions. If log-rolling were not
12 prohibited, several provisions could become law that, standing alone, could not have
13 succeeded on their own merits.

14 *Armatta v. Kitzhaber*, 327 Or 250, 272-73, 959 P.2d 49 (1998), citing *OEA v. Phillips*, 302 Or 87, 100,
15 727 P.2d 602 (1986). The court in *OEA* articulated a method for analyzing Art. IV, §1(2)(d) claims:

16 A measure must first be scrutinized to determine whether it embraces more than one
17 subject. If it does, it offends the constitutional limitation even if the subjects are
18 ‘properly connected,’ and that is the end of the inquiry. If it does not, the single subject
19 must be identified. When that is done, and if the proposal embraces no other matters,
20 there is no need to inquire into proper connection. * * *

21 If the proposal embraces one subject only and also other ‘matters,’ then, and only
22 then, it must be determined whether those other matters are properly connected with the
23 subject.

24 *OEA*, 302 at 100.

25 **(2) The Matters Contained in the Petition are Properly Related**

26 A close examination of the proposed measure reveals that the “matters” referenced by the
27 proposed initiative are confined to the purpose of accomplishing the goal of protection from aerial
28 sprayed pesticides. The essence of the proposed ordinance, “Freedom of Lincoln County from Aerially
29 Sprayed Pesticides,” is found in Sections 3 a) to 3(f), which basically describes freedom from aerially
30 sprayed pesticides by prohibiting their use. Section 4 of the ordinance sets out the ban of the pesticides
31 by use of aerial means. Section 5 and 6 provides a means for enforcing those rights, including limitation
on corporate rights. These sections are properly connected and flow logically from a single subject, and
meet the single-subject requirement of Art. IV, §1(2)(d).

 The test to determine whether a proposed measure embraces but one subject and matters properly
connected in Article IV, Section 1(2)(d) is virtually identical to that for legislative matters in Article IV,

1 Section 20 (other than the methodology which references the “title” of a bill). *Oregon Education*
2 *Association v. Phillips* 302 Or 87, 96, 100, 727 P.2d 602 (1986). That case advises that the purpose of
3 the measure is not to be confused with its subject and if a proposal embraces one subject and also other
4 “matters,” then it must be determined whether the “matters” are properly connected to the subject. *Id.* at
5 100. Justice Linde, in his concurring opinion, sheds more light on the meaning of “matters” defining
6 them as “provisions ancillary to accomplishing the one substantive policy that is the subject of the
7 measure.” *Id.* at 103.

8 The court’s decision in *Lowe v. Keisling*, 130 Or App 1, 882 P.2d 91 (1994), illustrates the
9 application of these principals. In *Lowe*, a proposed initiative did not violate the rule requiring a single
10 subject and matters properly connected therewith, even though it purported to address a wide range of
11 components. The court concluded that the subject of the proposed ballot measure was “dealing with and
12 defining limitations on how state and local governments in Oregon can treat homosexuals and the
13 subject of homosexuality.” *Id.* at 10. As a result, the wide range of matters that prohibited government
14 from (1) creating classifications based on homosexuality, (2) granting spousal benefits or marital status
15 to homosexuals, (3) spending public funds to promote or express approval of homosexuality, (4)
16 advising or teaching students or employees that homosexuality is a classification similar to race,
17 religion, gender, age or national origin and (5) granting minors access to library books addressing
18 homosexuality, were all viewed by the court as “a means of implementing the measure’s general policy
19 of prohibiting government from approving homosexuality.” *Id.*

20 The proposed measure is the prohibition of aerial sprayed pesticides,” the numerous items
21 contained within the proposed measure may be considered “matters.”

22 The Petitioner alleges that the inclusion of other matters such as, hunting, fishing and foraging are
23 considered more than one subject and therefore, violate the single subject rule.⁵ For example, section
24 3(c) of the proposed ballot measure: “Right to Rural Preservation. All people of Lincoln County
25 possess a right to an unspoiled rural quality of life free of aerially sprayed pesticides. The right to an
26 unspoiled rural quality of life free of aerially sprayed pesticides includes, but is not limited to, outdoor
27 recreational activities such as hunting, fishing, and foraging.” This “matter” is a means of implementing
28 the measure’s general policy and is certainly connected with the overall subject of prohibition of aerially
29 sprayed pesticides.

30
31

⁵ Petitioner’s Memorandum, pg. 8, lines 2 to 5.

Page 5 – Respondent’s Brief in Opposition To Petition For Determination Of Initiative Measure Compliance With Constitutional Provision (Case No. 15CV19955)



Dana W. Jenkins
LINCOLN COUNTY CLERK
225 W. Olive Street-Room 201
Newport, Oregon 97365

County of Lincoln
"Customer Service is #1"
www.co.lincoln.or.us/clerk/
(541) 265-4131

July 14, 2015

Barbara B. Davis
PO Box 2170
Waldport, OR 97394

Maria Sause
15 NW Brook Street
Newport, OR 97365

Re: Initiative Petition/Determination of Compliance with Requirements

Dear Ms. Davis and Ms. Sause,

I have reviewed your proposed initiative petition for compliance with the following requirements for a local initiative petition:

1. Does the proposed local initiative measure comply with the Single Subject Rule?
2. Is the proposed local initiative a "legislative" measure that can properly be submitted to the voters under the people's initiative power?

My determinations are as follows:

1. The proposed measure complies with the Single Subject Rule.
2. The proposed measure is a "legislative" measure that can properly be submitted to the voters.

Since I have determined that your proposed initiative does comply with questions 1 and 2 above, it can go forward and I will send it to the District Attorney for preparation of a ballot title.

Sincerely,

Dana W. Jenkins
Lincoln County Clerk

Measure 21-177 Arguments

Argument in Favor

My name is Roy Keene. I've practiced forestry, cruised, and brokered timber in the coast Range for 40 years. I am arguing in favor of Measure 21-177.

At the current scale of forest pesticide and fertilizer use in the Coast Range, contamination to public waters, wildlife, fisheries, and human communities from continual aerial spraying becomes statistically unavoidable.

The promoters of aerial spraying present it as an all-or-nothing scenario: Tree farms will perish, they say. Unbiased foresters admit, however, that there are many ways to regrow trees without aerial spraying. Backpack herbicide sprayers can be used with greater precision and far less toxin per acre, inflicting less collateral damage to public forest resources.

Some successful private tree farmers decry poisons completely, relying instead on quickly replanting sturdy, well-placed seedlings after clear cutting, then scalping soil or covering around the young trees where needed. Others use selection harvest techniques, like thinning or smaller clear cuts, that maintain residual forest cover to protect young trees from undesirable vegetative blooms.

Forest workers can release conifers from competition by slashing competitive vegetation as the Siuslaw National Forest routinely does. Federal forests remain a testimony as to how coastal conifer forests can be harvested, replanted, and thrive without chemicals.

Although there are many non-chemical ways to practice forestry, big corporations use their clout to enforce the myth that regrowing trees requires chemicals. They downplay the toxicity of these chemicals. The under-reported damage from heavy forest chemical use to coastal domestic water sources alone can be enormous. Unfortunately, the public costs of massive aerial spraying is not required to be measured or calculated.

Timber corporations and the global real estate investment trusts managing Lincoln County's fertile forestlands aren't held accountable for contamination from aerial pesticide spraying to public forest resources and human communities. If they were, they would find less dangerous ways to treat their tree crops.

Endorsing this measure:

Julie Reynolds-Otrugman
Nyla Jebosek
Angela Wiltshire
Elizabeth Strauss
Susan Pilling
Elena Ghetie

(This information furnished by Roy Keene.)

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

Argument in Favor

Statement in favor of Ballot Measure 21-177 by Carol Van Strum, founder of CITIZENS AGAINST TOXIC SPRAYS, author of A BITTER FOG

There is no evidence whatsoever that aerial herbicide spraying benefits a healthy forest. Its only purpose is to kill non-commercial plants that colonize the naked soil of clear-cuts, in order to plant monocultures of commercial conifers to offset further clear-cutting. The only "benefit" of aerial spraying is to the profit margins of timber and chemical companies.

There is ample evidence, however, that aerial spraying results in drift to non-target properties, contamination of water sources, and long-term, damaging health effects on wildlife, humans, fish, game animals, and forest diversity. This measure would prohibit the sacrifice of forest, animal, and human health to swell timber and chemical industry profits.

In 1979, when EPA banned forest use of herbicides linked to involuntary human abortions, industry predicted the loss of 22,000 timber jobs, but no ban-related job losses were ever documented. In 1984, federal courts found safety tests on the poisons used in forestry to be inadequate, falsified, or non-existent, banning aerial herbicide spraying on all national forest lands in Lincoln County; more than three decades later, foresters report the forests to be healthier than ever. The people of Lincoln County deserve the same protection against such poisons that the courts have accorded to the national forest.

Endorsing Measure 21-177:

Dawn Marie Aadland
John Hayes
Kenneth Houghton, MID-WILLAMETTE VALLEY COMMUNITY ACTION AGENCY
Angelina Van Aelstyn
Peter Vince
Amy Anderson
Janet Nevitt
Michael Guerriero
Christine Hennessy, AVALON MIST MASSAGE
Jarrod Granum
Amy Pattison, ALLFOUNDARTISTRY
Susan M. Pattison
Edward Van Aelstyn
Maxine Centala, CONCERNED CITIZENS FOR CLEAN AIR
Alice M Haga, Avenue 20 Group
Rhonda Jantzen
Jason González, OREGON WILD
Amy Larsen
Steve Larsen
Glenda J. Robledo
Patty A. Lynch
Linda Tough
Douglas Haga
Susan J. Swift
Michele Jantzen
J.Sargent-Horton
Judith Tottemark
Jason Nehmer
Johnni Prince
David Cowden
Billie Jo Smith

(This information furnished by Carol Van Strum, founder, Citizens Against Toxic Sprays.)

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

Measure 21-177 Arguments

Argument in Favor

Voters of Lincoln County,

The movement to ban aerial spraying of herbicides on the forests of this, our home on the Oregon Coast, has been going on for >30 years. Over this long time period there has never been any doubt in our minds that exposure to these toxic industrial chemicals was harmful. In the early '80's the Medical Staff of Pacific Communities Hospital voted unanimously to stop aerial spraying based on the limited but damning evidence of the time. Carol Van Strum published her landmark book, "A Bitter Fog" in 1983.

Since then, studies showing the deleterious effects of the compounds contained in "Agent Orange" allowed those substances to be banned on Federal Forests. More recently, studies on the commonly used herbicide "Roundup" have showed it to be harmful when there is acute exposure, especially affecting those with chronic respiratory and cardiovascular disease (1). An article recently in the journal Lancet (2) raised concern about low level chronic exposure of children causing cognitive and mental effects. I think that there is concern enough for us to believe that these industrial chemicals should not be allowed to be applied in a manner (aerial spraying) that affects the general population. Even if only a small percentage of people are affected, the major consequences to this minority is not worth the risk. Especially true since there are studies which have showed that brush cutting by hand with judicious local chemical application is just as effective as aerial spraying, and is CHEAPER.

We think that we as the community of Lincoln County have the right to vote to ban the aerial application of these toxic substances to protect us humans as well as the woodland creatures who live with us.

Jerry J Robbins MD

- (1) Myers et al Environ Health 2016, 2/17: 15
- (2) Grandjean and Landrigan Lancet Neuro 2014: 13(3) 330

Endorsements:

Christy Horton, MD
Dr. Lee Vogelmann DO
David Long, MD

(This information furnished by Jerry J Robbins MD.)

Argument in Favor

If you owned and managed a business that was injuring your neighbors' health, would you be morally obligated to change your business practices? Aerial pesticide spraying is difficult to control and has often proven to have unintended consequences on people, wildlife, and water supplies. When there are economically reasonable and healthier alternatives for forest management, why choose to use the most hazardous? It is because aerial spraying is cost-effective for timber businesses. Yet, for the good of people and the environment, Siuslaw National Forest and Oregon Department of Transportation have limited or curtailed the use of herbicides and pesticides in public forests and on highway 101 south of Newport to Yachats.

Viable alternatives exist. According to scientific research by USDA Forest Service (PNW-RP-500 September 1999), hand cutting forest brush is more effective. The measure does not limit applications by hand backpack spraying. Manual release eliminates the possibility of overspray and keeps pesticide residues out of our downstream water supplies. Ultimately, aerial spraying is about short-term profit for the timber businesses without regard to the long-term expenses of degraded health and waterways to us, the residents of our communities.

The forest communities of Triangle Lake, Rockaway Beach, Gold Beach, and others have suffered from pesticide drift resulting from aerial pesticide spraying. Presently, there are recently clear-cut forests above the water supplies of Newport and Yachats that are threatened with the prospect of aerial pesticide spraying.

Forest practices and pesticide regulations in our state must change as there is clear evidence of their harmful effects. For many years, attempts at revising our state's forestry regulations have failed, largely due to corporate influence. With ballot measure 21-177, Lincoln County communities are stepping up with a reasonable ban on aerial pesticide spraying to help assure our rights to peace, safety, and happiness as enumerated in the Oregon state constitution.

Please vote yes on 21-177.

Joanne Kittel, Chair, View the Future, Yachats

(This information furnished by Joanne Kittel, View the Future.)

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

Measure 21-177 Arguments

Argument in Favor

Clean Water Newport Supports Measure 21-177

Clean Water Newport Strongly Supports Measure 21-177.

We don't think that helicopters and planes should be allowed to spray us with pesticides harmful to our health and our environment.

It's that simple.

In Lincoln County, we're blessed by abundant water. But citizens are unaware of threats to private and city water systems. Clear cutting on the steep slopes of the Coast Range are followed by pre-planting aerial pesticide spray and bi-annual repeat spraying for several years after replanting. This creates mud/debris sliding off hillsides and chemical spray adhering to the soil. This downhill flow moves into the rivers from which city water intakes are sourced.

We support Citizens for a healthy County's ballot measure 21-177 that asks residents of Lincoln County to stand up for their right for safety, clean water and protection of our fish. Moreover, this impacts the success of sport and commercial fishing and tourism, major components of our economy.

We have the right to prevent the contamination from aerial sprayed biocides that expose all life down stream - we are ALL down stream.

Please vote YES on measure 21-177 to stand up for our rights and those without voices in this great cause.

Dr. Susan Andersen, ND chair of Clean Water Newport

Endorsements:

Twylah Olson, MA

Dr. Jai Tomlin, DC

Paul Schones, DC

Dr. KE Edmiston ND

Sky Schroeder, OC Eye Care

Yves Nakahame

Debra Kauffman Fant, BSN, RN

LaVona Beck, RN

Barbara B. Davis, RN

Anne T. Howell, RN

Margaret J. Speer, RN

Cory Rice, BSN, RN

Chanteal Khalsa, RN

Karen Morrison, RN

Lance Steinmetz, RN

Joan Taves, RN

Brittany Bragg, RRT

Beth Passmore, BSN, RN, CEN

Frank F. Romano, RN, MA

Malia Phillips, BSN, RN

Siri Wha Guru Khalsa,

(This information furnished by Dr. Susan Andersen, ND, Chair, Clean Water Newport.)

Argument in Favor

My name is Barbara Davis. I have been a registered nurse for almost thirty years. While I have cared for people of all ages, it is the children that I remember the most. During the five years that I worked in a pediatric hospital, I could not help but wonder why the two and three-year-old children that I cared for were being diagnosed with cancer.

Through research on childhood cancers I discovered that studies of pesticide use and children have found associations between in utero exposure and birth defects and childhood cancers. The journal Pediatric Research, in 2014 found there was a direct connection between living within 1 mile of a pesticide application during pregnancy and autism risk. Dr. David Bellinger, an environmental health expert and professor of neurology at Harvard Medical School states "A large percentage of US children could be suffering the effects of exposure due to pesticides." (The Nation, March 2014).

Opponents of Measure 21-177 to ban aerial spraying of pesticide spraying in Lincoln County claim that the measure "stops us from using the 'best science' to protect the public health," but no science has ever found that adding 2,4-D, atrazine, Roundup, dioxins or other poisons to our children's bloodstreams in any way protects public health.

As noted by Joseph Allen, a public health researcher at Harvard University: "Adults and children in the U.S. carry more industrial chemicals in their bodies than their European counterparts simply due to the difference in chemical policies. In the U.S. our chemical policy largely follows the approach of our legal system - 'innocent until proven guilty.' This is appropriate for criminal justice policy but has disastrous consequences for health when used for chemical policy." (Reuters Health, October 2016).

For the sake of our children and grandchildren, please vote YES on 21-177.

Endorsers of Measure 21-177:

Oregon Nurses Association

Renee Stringham, MD

Stephen Hale, MD

Scott Grupas, DO

Dean Shrock, PhD

Joie Harrington, RN

(This information furnished by Barbara B Davis.)

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

Measure 21-177 Arguments

Argument in Favor

Oregon Coast Alliance supports Measure 21-177 to ban aerial pesticide spraying in Lincoln County. Ending aerial pesticide application is vital to maintaining ecosystem and forest health. Thousands of Lincoln County residents depend on watersheds owned by private timber companies for their water supply. They are at risk of toxic trespass and contaminated water due to aerial spraying. Forest ecosystems are critically important to sustainable communities, and aerial pesticide applications destroy the very forests that Lincoln County residents depend on for water, salmon, recreation, timber, hunting opportunities and other amenities. Lincoln County residents have a right to clean air, water and soil, and corporate industrial timberland management should not be able to override those rights. Oregon Coast Alliance works with coastal residents to protect their watersheds so they continue to provide drinkable water and healthy forests that sustain livable communities. Stopping aerial spraying is an important first step. Please vote yes on Measure 21-177.

Cameron La Follette
March 2017

Endorsing Measure 21-177 are:

Dr. Brittany Huntington, Oregon Dept. of Fish and Wildlife
Nancy Hull
Patty Hodgins
Beth Ann Lawrence
Gretchen A. Armstrong
Cicely Bernard
Creighton Horton
Cameron La Follette, Oregon Coast Alliance
Gerald F. Stanley, Mayor of Yachats
Greg Scott, Yachats City Council Member
Max Glenn, Yachats City Council Member
Barbara Frye, Yachats City Council Member
Jim Tooke, Yachats City Council Member
Andrew Millison
Ron Brean

(This information furnished by Cameron La Follette, Oregon Coast Alliance.)

Argument in Favor

The Coast Range Association Supports Measure 21-177.

We urge citizens in Lincoln County to protect drinking water, human health and wild salmon from the harmful effects of aerial pesticides use. Certain facts are known: aerial spraying inevitably result in drift that contaminates streams. Many commonly used pesticides mimic hormones such as estrogen that may impact fetal development. Even though chemicals that mimic hormones often have an impact at extremely low doses, pesticide safety testing is based on high dose measures of toxicity. Precaution demands that aerial spraying be banned until proven safe. Pesticides have never been proven safe, and there is a great amount of evidence for the danger they pose to human health.

The billionaire investors and global investment funds that outright own or receive the profits from Lincoln County's industrial forests do not live here. The corporate officers overseeing our forests do not live here. Their children do not drink our water or see the helicopters spraying.

Forestry can be a noble enterprise. Caring for the forest, growing high quality timber and supporting local communities are all possible with proper forestry methods. Unfortunately, that's not the forestry practiced today by industrial owners. Instead, forest land is a harmful monoculture of clearcuts, excessive chemical use and managed by the dictates of the corporate accounting department.

It is up to local people who see the truth before their eyes to say NO to Wall Street forestry. We urge Lincoln County citizens to vote yes on Ballot Measure 21-177. Enough is enough is enough!

Chuck Willers, Coast Range Association

Endorsements For Measure 21-177:

Creighton Horton, JD
Cicely Bernard
Gretchen Armstrong
BethAnn Lawrence
Patty Hodgins
Nancy Hull
Angela Lehrman, RN
Leah Sweet, RN
Finessa Lavery, CNA
Abraham Crockitt, CRNA
Kathryn Menefee Alves, FNP
Alysia I. Privra, RPA-C, MPAS
Jennifer Eckerson
Eric Beck
Omar Antonio, Executive Director Centro de Ayuda

(This information furnished by Chuck Willers, Coast Range Association.)

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

Measure 21-177 Arguments

Argument in Favor

A YES vote for Measure 21-177 bans Aerial Pesticide Spraying in Lincoln Co.

Measure 21-177 arises from Residents of Lincoln County who recognize the harm of intense helicopter/plane spraying of pesticides over clear cuts. Residents of our coastal communities and businesses feel strongly about protecting our economy, our health, clean water and healthy forests and wildlife.

For over 30 years aerial spray of toxic pesticides has been banned on our federal forests in Oregon BECAUSE they are highly dangerous and frankly unnecessary, despite what the corporate timber industry would like Lincoln County voters to believe.

So here is the straight talk on why voting YES on Measure 21-177 makes sense:

- Stops the spraying of toxic pesticides by helicopter and air-plane in the county. It DOES NOT affect spraying from ground-based back packs or tractors, by timber, farmers, fishermen, or individuals.
- Protects our growing tourism economy, our fishing industry and the long term health of forests.
- Stops the heaviest use of nasty chemicals - Agent Orange equivalent pesticides - which the corporate timber industry admits it is spraying today on our forests and watersheds.
- Protects our right to clean air and water, our right not to be sprayed with toxic chemicals, and the health of our forests and streams in which we hunt, hike and fish.
- Gives the people of Lincoln County the right to choose - not the state or corporate interests, even if our government and courts fail to protect our rights to a healthy environment, healthy economy, and the legitimacy of the people's right to make law

Voting YES on Measure 21-177 does what should've been done 30 years ago, which is put an end to the worst kind of pesticide spraying so we can protect our health, our economy, and our forests and watersheds for today and the future.

Debra Fant, BSN, Citizens for a Healthy County

Endorser of Ballot Measure 21-177:

Surfrider Foundation Newport, OR Chapter

(This information furnished by Maria Sause, Citizens for a Healthy County.)

Argument in Favor

Thou shalt not kill.

There is in the election coming up a measure of great importance. It is known as Measure 21-177, which would ban the aerial spraying of pesticides.

The issue is very simple. Pesticides are poisons. These poisons kill all sorts of bioforms, and they are distributed into our air, our earth, and most dangerously, our water. They are sprayed from the air onto forests to kill vegetation that competes with the money product, the trees that will be cut down for lumber, for pulp – for money. There really isn't much money for the county, not much for jobs. Most goes to a few fatcats – mostly distant.

We know people who have cancer; we know people who have died of cancer. I am a survivor; close friends of mine did not survive. Each of us probably knows a half dozen people who have recently died of cancer, some very close to us. We also know cancer is caused by environmental poisoning. For lots of documentation, see Carol Van Strum's fine book, *Bitter Fog*.

We also know that the political parties, both of them, are bought by money powers. It is only WE, THE PEOPLE who can stand up for Life -- and stand against poison.

Politics from now on is going to be very simple – from the planet to the county: it's Life vs. Money. The media and the politicians have been bought – because they could be. Do not let Money buy you. Stand up for Life. If we don't, Life will die.

Vote for 21-177 – in memory of Mark Lambert, Jessica Knight, Roger Hart, Lorel Meyers, Annie Robinson Adamson, Andrew Rodman and the dear friends of yours who have been killed by cancer.

Edward Van Aelstyn
Nye District #1

(This information furnished by Edward Van Aelstyn.)

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

Measure 21-177 Arguments

Argument in Favor

Oregon Wild Supports Ballot Measure 21-177

Oregon Wild supports policies and practices that protect and enhance thriving ecosystems that contribute to human and environmental health, and while we fight to advance such policies on the broadest scale possible, usually at a State or Federal level, we endorse people's right to protect themselves from dangerous industrial practices on a local level as well.

That is why we are announcing our support for the hard work and good ideas of community groups working to ban aerial spraying in Lincoln county. I spend much of my time in coastal communities, helping concerned citizens demand reforms to the outdated logging laws that allow the forests above their homes and towns to be clearcut with little to no regard for the impacts that will have on their drinking water. I help them spread their stories of helicopter spray drifting onto their homes, properties and bodies, sometimes making them sick, possibly causing deadly conditions in their pets, always making them afraid to drink their own water.

Of all of the major problems in need of reform in Oregon's logging laws; clearcutting, steep slopes logging, no tree buffers on 70% of streams, log exports, tax structures, etc, it is aerial spraying that draws the most ire from the people I meet in rural Oregon. Whether you are concerned about yourself, your pets, your family, your livestock, your property rights, or the health of the surrounding environment, the people I meet every day in rural Oregon agree . . . It is time to ban aerial spraying of herbicides.

Jason Gonzales, Forest and Watershed Campaign Organizer

Endorsers FOR Measure 21-177:

Janis Wilkinson, PA-C
Karen Fischer, MD
Kara Joll, RN
Monica Parker, RN
Laura Black, BS, RN
Irwin Langeberg, BSN, RN
Wendy Schmolzi, BSN, RN
Stella Larson, RN
Luke Jonole, BSN, RN
Cassandra Anderson, RN
Valarie Ondricka, RN
Darcy Adams, RN
Chesley Parker, RN
Michael Morgan, RN

(This information furnished by Jason Gonzales, Oregon Wild.)

Argument in Favor

In 1984, the Federal government banned the aerial spraying of herbicides on ALL National Forrest lands. Unfortunately, privately owned lands were overlooked. It is now 2017 and we finally have a chance at changing this reckless practice in Lincoln County. Why should you vote yes on measure 21-177 to ban aerial spraying of pesticides and herbicides in Lincoln County?

The main problem with aerial application is the chemicals aren't always going to land in the desired areas. Some of it will end up in places that aren't targeted simply due to wind patterns; some of it will be affecting the wildlife present in the sprayed areas; some of it will end up directly in the rivers and streams, not to mention the run-off when the rains pick up late fall - depositing even more undesired chemicals into our water table.

Spraying chemicals from an airplane is not an exact science. While I am sure the pilots are very good at what they do, Mother Nature is very unpredictable. The wind and rain have a tremendous effect on where the chemicals ultimately land. This could be done much more effectively and efficiently by switching to a ground application.

The wildlife in the sprayed areas is completely disregarded. There is no warning or a chance to be startled and run away. It comes from above, blanketing everything.

The spray that reaches our streams and rivers through direct (unintentional) application or runoff is a hazard to all fish and living beings. This runoff will make its way into our water table and you may unknowingly be ingesting it through water or other natural resources (fish, deer, elk, etc.)

Please be mindful when casting your ballot and **VOTE YES ON MEASURE 21-177 to BAN THE AERIAL SPRAYING OF PESTICIDES AND HERBICIDES IN LINCOLN COUNTY.** Together we can make a difference *locally*; improving the quality of life for Lincoln County's visitors and inhabitants.

Thank you

Michael Bojarski
Lincoln County Resident

(This information furnished by Michael Bojarski.)

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

The printing of this argument does not constitute an endorsement by the County of Lincoln, nor does the county warrant the accuracy or truth of any statement made in the argument.

