

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a
REQUEST FOR A
CONDITIONAL USE PERMIT

for

E. A. BIGBY and
LINDA RAJNUS

NO. 13-82

ORDER

THIS MATTER came before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on the 6th of May, 1982, at 1:30 p.m. in the Conference Room of the Klamath County Library. Klamath County Planning Department appeared through its staff, and the applicant appeared through E. A. Bigby and Linda Rajnus, and numerous opponents appeared individually as well as William Kennedy, dba Lost River Ranch, appearing by and through his attorney, William M. Ganong.

Prior to the hearing of the application on its merits, attorney William Ganong, on behalf of William Kennedy, dba Lost River Ranch, moved that the applicant's application be quashed for the reason that the Hearings Officer does not have jurisdiction to grant Land Use Change as requested by the applicants.

As the basis of the Motion by William Kennedy, it was stated that ORS 215.203 requires that the County place all agricultural land in an exclusive farm use zone. ORS 215.213 allows certain non-farm uses including personal use airports. However, the definition of a personal use airport does not allow for the use of the airport for a public airport but only as a private airport.

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1 The Klamath County Development Code, Section 51.019,
2 in providing for a conditional use of a public airport within
3 an AU-5 zone, therefore violates ORS 215.203 and 215.213.

4 Mr. Kennedy therefore reasoned that since the Develop-
5 ment Code was not in compliance with State law in regards to
6 uses permitted within an exclusive farm use zone, this conditional
7 use permit could not be granted and in order for the applicant
8 to establish a public and personal use airport on his property,
9 a Comprehensive Land Use map change as well as possibly a
10 zone change would be required.

11 Since the Klamath County Development Code does not
12 allow Hearings Officers to hear such matters, the Hearings Officer
13 was without the jurisdiction to rule upon the application.

14 The applicant, E. A. Bigby, advised that he was solely
15 relying on information as presented in the face of Section 51.019
16 on the Klamath County Development Code. He was not aware of
17 its conflict with State law.

18 Therefore, there being no evidence presented for argu-
19 ment to the contrary, the applicant has failed to meet his burden
20 that this Hearings Officer has jurisdiction to rule upon the
21 matter and further,

22 Based upon a review of the Statutes and the argument as
23 presented by William M. Ganong on behalf of William Kennedy, dba
24 Lost River Ranch, it is hereby ordered that the Motion to quash
25 * * * * *
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1 by William Kennedy, dba Lost River Ranch, is granted. This
2 application is denied based upon a lack of jurisdiction by
3 the Hearings Officer to hear this matter.

4 DATED this 19 day of May, 1982.

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8 James R. Kenter
9 Assistant Hearings Officer

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13 STATE OF OREGON; COUNTY OF KLAMATH; ss.

14 Filed for record

15 this 21 day of May, A.D. 1982 at 4:01 o'clock P.M.
16 duly recorded in Vol. M 82, of Deeds on file 6438

17 Fee None

18 By Joyce McQueen
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