

400 Dekum Building
519 S.W. Third Avenue
Portland, OR 97204
April 12, 1982

Wasco County Court
Courthouse
The Dalles, OR 97058

Re: Application of Rajneesh Neo-Sannyas International Commune
for Outdoor Mass Gathering Permit.

Dear Judge Cantrell and Commissioners:

On Behalf of 1000 Friends of Oregon, Kelly and Rosemary McGreer, James and Shirlee Perkins and David and Melinda Dickson, I offer the following comments on the above-named permit request for an outdoor mass gathering proposed to be held June 22 to July 16, 1982 on the Muddy Ranch near Antelope.

Based on the facts set forth in the affidavits of Buck Hodges, Lorin Corwin and Austin Abrams, and other documents which 1000 Friends provided to the Court on January 27, 1982, and which we incorporate into this letter by reference, we believe that Judge Cantrell may not properly participate in the Court's proceedings on this request. I request that Judge Cantrell recuse himself from this matter.

The proposal before the Court is to authorize the applicant, Rajneesh Neo-Sannyas International Commune, to hold a five-day "festival" and associated pre- and post-festival meditation programs. The applicant expects a maximum festival participation of 5,000 people "on any given day." Rajneeshpuram: The First Festival; Proposed Plan for Festival Facilities and Services." p. 5.02.

The land on which the festival is proposed to be located is zoned "exclusive farm use" in accordance with ORS 215.213 to 215.215 and 215.236 to 215.263. The proposed use is not a permitted farm or nonfarm use under ORS 215.213(1). The exclusive farm use zoning statutes make no distinction between "permanent" and "temporary" uses. Therefore, the possibility that the proposed festival would end on July 16, 1982 does not affect the fact that it is not a use permitted outright in the EFU zone.

This application is before the Court under the statutory procedures for county review of proposed outdoor mass gatherings, which are contained in ORS 433.735 to 433.770. The purpose of these procedures is to prevent "uncontrolled outdoor gatherings of large groups of persons for extended periods of time" without conformance with "reasonable health and safety rules." ORS 433.740. A determination that the applicants will comply with the Health Division's outdoor mass gathering rules does not excuse the applicant from conforming with county ordinances or

other state laws. The county may not issue a permit authorizing an outdoor mass gathering in a zone where such gatherings are not a permitted use.

Even if temporary gatherings were somehow exempt from the use restrictions of ORS 215.213(1) as incorporated in the zoning ordinance, the utility facilities necessary for such a gathering are not. Any permanently-installed utilities are land uses in and of themselves and are expressly regulated by ORS 215.213. Only "utility facilities necessary for public service" may be constructed in an EFU zone. ORS 215.213(1)(d). These facilities are further limited by LCDC Goal 11 (Public Facilities and Services) to those "appropriate for, but limited to" rural needs.

Any permanent sewer, water, electrical or other utility facilities installed to serve the needs of 5,000 persons in a relatively small area would clearly be urban in scale and capacity. See "Rajneeshpuram, The First Festival," supra, p. 5.01 (468,000 gallon daily water output with 250,000 gallon storage reservoirs; 10-inch diameter water main; 15 fire hydrants); p. 5.02 (5 million gallon capacity sewage treatment plant; pump stations; gravity flow and pressurized sewer mains throughout festival area).

These are not temporary facilities that can be filled in or trucked away when the show is over. The proposed facilities are the service backbone of a new city.

It is unlikely that temporary facilities alone could accommodate the proposed "festival" population. For example, the Health Division's rules require underground installation of water lines. OAR 333-39-015(3)(h). The cost of installing these facilities on a temporary basis, and removing them upon the conclusion of the festivities, may be rather high.

This fact reinforces our conclusion that an outdoor mass gathering is not permitted in an exclusive farm use zone. If one can be permitted, no permanent facilities in excess of the needs of rural agricultural uses are permitted by ORS 215.213 and Goal 11. Any water systems or other facilities made necessary by Health Division rules must be subject to a requirement that they be removed upon completion of the festival. The Court should require the posting of a bond to assure such removal, as authorized by ORS 433.755(1).

Thank you for your consideration in this matter.

Very truly yours,

Robert Stacey, Jr.

Robert E. Stacey, Jr.
Staff Attorney

RS/as