

1000 FRIENDS OF OREGON

400 DEKUM BUILDING, 519 S.W. THIRD AVENUE, PORTLAND, OREGON 97204 (503) 223-4396

April 23, 1982

Mr. Harold Sawyer
Administrator, Water Quality Division
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Re: Application of Rajneesh Neo-Sannyas International Commune
for DEQ Waste Discharge Permit.

Dear Mr. Sawyer:

Enclosed with this letter is a copy of an April 22, 1982 letter from 1000 Friends of Oregon to Bernard L. Smith, Wasco County District Attorney. The letter requests that the county hold a public hearing on the question whether the sewage collection and treatment facilities proposed by Rajneesh Neo-Sannyas International Commune for the Muddy Ranch comply with LCDC's goals and the county's comprehensive plan and zoning.

This letter, together with the enclosure, constitutes a request by 1000 Friends of Oregon, Dr. and Mrs. James Perkins, Mr. and Mrs. David Dickson and Mr. and Mrs. Kelly McGreer that the Department of Environmental Quality not issue a permit for these facilities as proposed in DEQ's Public Notice of March 30, 1982, but instead conduct a hearing to determine whether the facilities requested by the applicant comply with LCDC's goals. For the reasons stated in the enclosed letter to Mr. Smith, we contend that this permit request is in violation of LCDC goals 3 (Agricultural Land) and 11 (Public Facilities and Services).

As the enclosed letter to Mr. Smith states, we have not received notice or an opportunity for review and comment prior to decisions by Wasco County to issue determinations of consistency with LCDC goals for this proposal. Because of the county's failure to provide notice and opportunity for review or comment, we are entitled to a public hearing under ORS 197.180 and OAR 660-31-035. The latter administrative rule, promulgated by LCDC, prohibits state agencies from relying on a "local government consistency determination" in a decision on a state agency permit under these circumstances:

"If notice and the opportunity for public and agency review were not provided, the state agency shall only rely on the local determination if no objections are raised during the agency's review. Where objections are raised, the agency shall make its own determination."

OAR 660-31-035(2)(b). In order for DEQ to "make its own determination," it is necessary to hold a public hearing.

1000 Friends and the ranchowners we represent in pending court proceedings would be greatly injured by a decision to issue this permit. Based on telephone conversations I had with Dick Nichols of your Bend office on April 16, I understand that the proposed lagoon facility will have a treatment capacity of approximately 2,300 persons if a system for effluent disposal is provided. I understand further from Mr. Nichols that the applicant intends to dispose of the lagoon effluent through an irrigation system, thereby achieving this high treatment capacity.

In short, the facilities which would be authorized by your agency's permit are urban in type and capacity. They are unnecessary for farm use and are wholly inappropriate violations of LCDC's Agricultural Lands and Public Facilities and Services goals, as described in the enclosed letter to Mr. Smith.

We are currently involved in proceedings before the Court of Appeals and Wasco County Circuit Court contesting the lawfulness of Wasco County's decision to authorize formation of the city of Rajneeshpuram. We do not intend to allow the applicants for this permit to obtain from your agency what we are confident will be denied them in that litigation. We will vigorously oppose the installation of urban services on land that is not yet - and we believe will not be - urban.

A decision by your agency to issue this permit without a hearing on applicable statewide planning goals would be without a reasonable basis in fact or in law. We would appeal any permit issued in that manner, and seek to recover our costs and attorney fees as provided in ORS 183.497.

Please advise this office by mail of any further action on this permit request.

Very truly yours,



Robert E. Stacey, Jr.
Staff Attorney

Enclosure

cc: Dick Nichols
Bernard L. Smith
William Young
Robert L. Haskins
Dr. & Mrs. Perkins

Mr. & Mrs. McGreer
Mr. & Mrs. Dickson
James F. Ross
David Knapp
Stephen Pfeiffer