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Via email to wcplanning@co.wasco.or.us
Wasco County Board of Commissioners
C/o Wasco County Planning and Development
2705 E. Second Street
The Dalles, OR 97058

Re: Setbacks; Legislative Text Amendments to WCLUDO Chapter 19

Dear Commissioners:

On January 12, 2012, LUBA reviewed the two mile setbacks for wind facilities established by the Umatilla County Board of Commissioners. *Cosner et al v. Umatilla County* (LUBA No. 2011-070-072). Opponents of the setbacks, consisting of persons who had signed leases with wind companies, appealed the county ordinances claiming there was no evidence that two mile setbacks were necessary for the protection of residences from noise impacts. LUBA disagreed, and held that the evidence in the record was sufficient to establish that a two mile setback was necessary to protect residences from the noise impacts of wind facilities. LUBA stated:

“* * * According to petitioners, there is no evidence or justification in the record to support a two-mile setback, as opposed to a lesser setback.

The county responds that the county chose to expand the existing 3,250-foot setback from residential zones to a two-mile setback from rural residences and urban growth boundaries, based on voluminous testimony regarding noise impacts up to two miles from wind facilities. Based on the testimony cited to us by the county, we agree with the county that the record provides an adequate factual base supporting the county's choice to impose a two-mile setback from wind facilities.* * * * * (LUBA opinion at 21-22).

LUBA also held that a provision allowing for waivers of setbacks was an invalid delegation of county authority because there were no standards governing the exercise of such waivers. LUBA suggested that “modest changes” setting standards for the exercise of such waivers would cure this defect. LUBA remanded the case to the county to address the waiver issue, and to formally adopt findings regarding the comprehensive plan policies cited by the county in support of the ordinance.

I continue to urge adoption of two mile setbacks from non-resource zone boundaries and resource zone residences. Thank you for your consideration of these matters.

Very truly yours,

Mark S. Womble

