

'SHADED PARCELS' DISPUTE

County to pay \$238K in suit

Judge considered settlement outcome to be a 'public benefit'

By Will Houston

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A four-year-old lawsuit challenging Humboldt County's practice of "shading parcels" came to a close last week with the county being ordered to pay nearly \$238,000 in attorneys fees.

Attorney Timothy Needham, who along with attorney William Barnum represented the Humboldt Coalition for Property Rights, said Humboldt County Superior Court Judge Marilyn Miles considered the outcome of the case to be a "public benefit" and that there was a "necessity" for the case.

"Hopefully, in the future, we can avoid this kind of expense and work toward a more amicable solution without the necessity of litigation," Needham said.

Humboldt County Counsel Jeffrey Blanck said that the finding of a "public benefit" is a prerequisite that needs to be met for any type of attorney fee award to be made. As to the award, Blanck said he is "disappointed with the result, but I'll have to talk to (the board of supervisors) to see if we can do anything."

The Humboldt Coalition for Property Rights, also known as HumCPR, filed the lawsuit against the county in the spring of 2012.

What led to the lawsuit was the county Planning and Building Department being unsure of whether certain parcels of land throughout the county were compliant with California's Subdivision Map Act, which regulates how cities and counties can plan, divide and map land in their jurisdictions.



Blanck

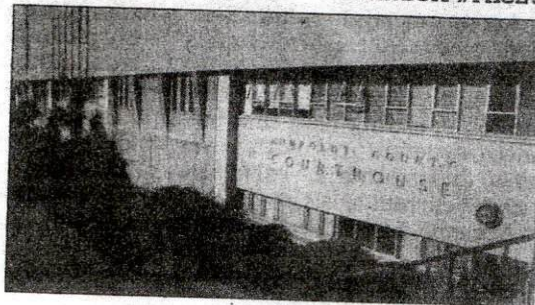
Within its maps and records, the county "shaded" these ambiguous parcels to indicate their legal uncertainty.

HumCPR filed the lawsuit claiming the county had violated the Subdivision Map Act by leaving parcels in this indeterminate legal status.

In order to avoid a costly trial, the board of supervisors settled the case in 2015 and agreed to resolve the legal status of shaded parcels and notify the landowners of the decision. The county also agreed to maintain a public list of the parcels for which the county is still unable to resolve the legal status, notify landowners any time it becomes aware the landowner has illegally divided their parcel, and cease its practice of shading parcels.

In a previous interview with the Times-Standard, 3rd District Supervisor Mark Lovelace said the county had already stopped the shading parcel practice in 2011.

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TIMES-STANDARD — FILE PHOTO

Humboldt County Superior Court Judge Marilyn Miles has ordered Humboldt County to pay nearly \$238,000 in attorneys fees, ending a four-year legal dispute involving the county's practice of "shading parcels."

Lawsuit

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Neither side admitted liability as part of the settlement.

Since the case settled, HumCPR had been working to recover attorneys costs and fees from the county to the tune of about \$273,000 as they claimed the outcome was of great public benefit. The county held the stance that the settlement did not meet such standards to warrant any attorney fees being awarded, though court documents showed the county argued the court should limit any award to \$61,000

or less.

Miles eventually agreed with HumCPR on May 16, but awarded less than asked for with \$237,877.

Needham said they got "everything we could have possibly achieved" with the lawsuit and said HumCPR will continue to work with the county in the future to avoid any future litigation.

Blanck said the board of supervisors now has two options: "You let the judgement stand or the other is you appeal it."

The county has 60 days after the ruling to appeal the decision, Blanck said.

Will Houston can be reached at 707-441-0504.

Biologists for hire sell opinions

The recent arrest of Mad River biologists Ronald LeValley and Sean McAllister on charges of using phony spotted owl surveys to embezzle funds from the Yurok Tribe should lead to an in-depth discussion of the long-standing method of obtaining a scientific consultation for any resource project. For many years, I have been troubled by the many partially trained alleged biologists willing to give an opinion on virtually any project for a large sum of money. This is usually done under the guise of "science," and the experts usually have some scientific training. The more expensive ones may have a college degree or have written numerous reports. They may have become a member in good standing of the local



MY WORD

Denver Nelson

scientific community.

In most situations, there is no criteria for becoming an expert. Some experts have undergraduate degrees; a few have advanced degrees; some did not complete their degree or have degrees in a field not related to their expert opinions. There are virtually no testing or knowledge standards for becoming an expert.

It is a poorly kept secret

that if you have a project that needs a favorable expert scientific opinion, there are many alleged scientific experts in this area who will give you a favorable opinion for a large sum of money. Conversely if you need a negative opinion, for an equally large sum of money, you can find an alleged scientific expert who will back your negative opinion. If this project then comes to court, judges are left with no valid scientific expertise and are forced to base their opinions on the narrow interpretations of the legal process such as the ridiculous Richardson Grove opinion being based on the accuracy of measurements of tree diameters.

I do not know Ron LeValley or Sean McAllister, and

have had no dealings with either of them. I have no opinions on the legality of their dealings with the Yurok Tribe. I do believe that there needs to be a reevaluation of the use and credentials of scientific experts in resource issues. Scientific experts are routinely making recommendations that affect public safety and public funds. Virtually all other professionals, from cosmetologists to neurosurgeons, are required to be licensed by the state; so should scientific experts.

Dr. Denver Nelson is a Humboldt County planning commissioner, former neurosurgeon, Klamath River advocate and Cutten resident.

Opinions expressed in My Word pieces do not necessarily reflect the editorial viewpoint of the Times-Standard.

Guilty plea in 2008 fatal Weaverville copter crash

Steven Dubols

THE ASSOCIATED PRESS

PORTLAND, Ore. — An Oregon man has pleaded guilty to fraud in connection with the deadliest helicopter crash involving working firefighters in U.S. history.

Levi Phillips, 46, of Grants Pass faces up to 20 years in prison when he is sentenced in April. As part of a plea deal, he agreed to testify against another man, 42-year-old Steven Metheny of Central Point.

Phillips was the director of maintenance for Carson Helicopters Inc., reporting directly to Metheny, a former vice president.

Prosecutors say that when the U.S. Forest Service solicited bids for helicopters to be used in firefighting operations, Metheny submitted proposals with altered performance charts and falsified weight and balance records. Then, after winning the \$20 million contract, the incorrect informa-

tion was given to pilots who had to calculate the maximum payload capacity during firefighting operations.

The Aug. 5, 2008, crash near Weaverville, Calif., killed the pilot, a Forest Service safety inspector and seven firefighters with Grayback Forestry of Merlin. The co-pilot and three firefighters were hurt. Witnesses said the helicopter took off more slowly than normal before clipping trees and then crashing into a hillside.

A National Transportation Safety Board investigation showed the Sikorsky S-61N helicopter weighed more than 19,000 pounds when pilots tried to take off from a mountaintop clearing during the Iron 44 wildfire in Shasta-Trinity National Forest. If Forest Service guidelines had been followed, investigators said, the weight shouldn't have exceeded 15,840 pounds.

Phillips pleaded guilty Monday guilty in U.S. District Court in Medford to a

single charge of defrauding the Forest Service.

Metheny remains charged with 22 counts of mail and wire fraud, making false statements to the Forest Service, endangering the safety of aircraft in flight, and theft from an interstate shipment.

A Portland jury ruled last year that a problem with an engine was responsible for the crash. Jurors reached their verdict after the pilot who survived and the widow of the one who was killed sued General Electric for \$177 million, alleging the company knew the engines it made for the Sikorsky S-61N helicopter had a design flaw.

Metheny's trial is scheduled to start March 4. His attorney, Steven L. Myers, said Tuesday they will "aggressively defend the case."

The attorney said he's going through thousands of pages of discovery in a case made more complex by the length of time between the crash and

the criminal charges.

Myers said he was aware that Phillips has agreed to testify against his client.

"It's going to be interesting to see exactly what he says, given that we have a plethora of depositions where he's denied the allegations that sort of comprise the charges against him," Myers said. "He's been under oath before, and I'm not sure what he's going to say now."

Relatives of the victims were glad to see someone accept responsibility.

Nina Charlson's 25-year old son, Scott Charlson, was one of the firefighters killed. Charlson told the Mail Tribune she is grateful that Phillips, who created the false charts, admitted his part in the scheme.

"Our one big hope is that this changes things," Charlson said. "We don't want history to repeat itself — the mess that greed has caused."