Written material submitted for December 17th Public Comment follows this cover page

If you wish to submit written comment, please send an email to publiccomment@lanecountyor.gov by no later than noon, the day before the scheduled meeting.

In the email subject line please include: PUBLIC COMMENT FOR MEETING DATE MM/DD/YYYY. These emails will be compiled and will be included on the Board Agenda with a "view material" link. Please note, all emails submitted will be public record.

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From:	Wendie Kellington
To:	Lane County Public Comment
Cc:	Jake Pelroy (jake@pelroy.com); Rachel Bacon; DAVIES Anne C; Josh Soper
Subject:	PUBLIC COMMENT FOR MEETING DATE 12/17/2024 - Board of Commissioners
Date:	Monday, December 16, 2024 11:45:27 AM
Attachments:	Ltr to BOC.pdf

[EXTERNAL]

Good Morning,

Please see the attached for tomorrow's Board of Commissioners meeting. Regards, Wendie Kellington

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Chambers RANKED IN USA 2024
Wendie Kellington

KELLINGTON LAW GROUP, PC

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Phone (503) 636-0069
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December 15, 2024

Via Electronic Mail
publiccomment@lanecountyor.gov
Board of County Commissioners
Lane County
Board of Commissioners
125 East 8th Avenue Eugene,
OR 97401

RE: **PUBLIC COMMENT FOR MEETING DATE 12/17/2024**

Dear Chair Trieger, and Members of the Board of Commissioners:

This firm represents the Lane County Garbage and Recycling Association (LCGRA). LCGRA objects to the December 17, 2024 meeting Agenda Item T.9.C. LCGRA respectfully puts the Board on notice that Agenda Item T.9.C, seeks your authorization for an unlawful expenditure, exposing the commission to civil penalties. ORS 294.100. Please include this letter in the record for the T.C.9 proceeding.

Agenda item T.9.C asks the Board to authorize spending ($354,810) of the public's money and the County Administrator to "promptly" execute a contract obliging the county to spend that money on "Clean Lane" - a land use project requiring that 11 acres of wetlands be filled, that has not been finally approved, and there is good reason to think that it cannot be approved. It is against the law for the county to spend the public's money for unlawful purposes. Obliging the county to spend more than a third of a million dollars on a firm to manage a construction project that may never, and there is evidence that cannot ever happen, is unlawful. At best, the Agenda Item asks you to roll the fiscal dice and spend significant public money on an unknown. At worst, it asks you to oblige the county to enter into a contract for the expenditure of money that the county has very good reason to know cannot be performed.

ORS 294.100(1) says that "it is unlawful for any public official" to spend the public's money "in excess of amounts provided by law, or for any other or different purpose than provided by law." ORS 294.100(2) says that "Any public official who expends any public moneys in excess of the amounts or for any other or different purpose than authorized by law shall be civilly liable for the return of the money by suit of the district attorney of the district in which the offense is committed, or at the suit of any taxpayer of such district, if the expenditure constitutes malfeasance in office or willful or wanton neglect of duty."

A lot of smart people have demonstrated that the "CleanLane" project is unlawful in its Goshen zone. The undersigned, as well as counsel for Weyerhaeuser and counsel for SaniPac have filed detailed analyses so stating. This should come as no surprise because county staff

have said the same thing for a long time. Staff has told you over and over again that "CleanLane" is not allowed in the Goshen exception industrial zones ("waste related uses" are prohibited in both the Goshen LI and GI zones) and that to get the project through requires a zone change. Your staff applied for the rezone that they told you was necessary, only to withdraw it when it became apparent that the rezone was also unapprovable.

The fact is "Clean Lane" is ill-considered and is a forbidden "waste related facility" in the Goshen industrial exception zones. The Goshen exception zones also forbid accessory recycling uses to "waste related uses". Your staff is now trying to get the facility approved under an astonishing about face that the dump, reload facility, gas generation, collection and distribution facility, tourist destination and, according to the contract with BHS, facility that will recycle just 35.55%, is really just a "recycling operation." Consider this – what if your staff is wrong that the facility cannot be approved and the undersigned, Weyerhaeuser and Sani-Pac's lawyers are right? Who is left holding the bag under ORS 294.100? You should decline staff's invitation that you authorize spending significant amounts of the public's money on this project for which there is significant reason to believe it cannot be approved.

Very truly yours,

Wendie L. Kellington

WLK:wlk
CC: Client
Anne Davies
Josh Soper