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The Politics of Marginality in Wallowa County, Oregon: Contesting the Production of Landscapes of Consumption

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Abstract. The state of Oregon's (USA) land use planning framework has long been characterized by tensions between state and local authority, between traditionally-defined "urban" and "rural" concerns, and between the competing interests of various landowners. An examination of Wallowa County, Oregon's implementation of House Bill 3326, a 2001 law giving counties the power to define certain agricultural lands as "marginal," and therefore exempt from restrictions on subdivision and development, illustrates the ways in which these tensions become magnified as rural communities attempt to govern private land use in the context of rural restructuring. Implementation of HB3326 highlighted the tensions between landowners interested in capitalizing on development opportunities afforded by HB3326, neighboring producers concerned about interference from future amenity migrants, and existing amenity migrants with interests in protecting their rural idyll. Contestations over nonfarm development took place in the

context of a strong agricultural community identity, concerns about the effects of economic restructuring on producers, and local resistance to the rural gentrification process. The process of defining marginality came to encompass not only technical issues of land productivity, but also broader community contestations over the continuation of traditional land uses and the legitimacy of various actors to govern private land.

Keywords: governance; land use policy; rural restructuring; rural gentrification; legitimacy

1. Introduction: Of wastrels and yeomen

In a 1973 speech supporting an expanded state role in the regulation of residential development on private land, Governor Tom McCall of Oregon, USA warned that “The interest of Oregon for today and in the future must be protected from the grasping wastrels of the land.” By “grasping wastrels” McCall meant the well-financed developers of sprawling suburbs within the populated Willamette Valley, condominiums along the coast, and rural subdivisions in the more lightly-populated southern and eastern parts of the state (Robbins, 2006). Caught in the midst of this political clash between the power of the state of Oregon and the power of real estate developers were rural landowners themselves—including family farmers, ranchers, and nonindustrial private forest owners—for whom the prospect of land use restrictions carried multiple and conflicting implications. Fearful of the effects of unchecked suburban sprawl on agriculture, several Willamette Valley farmers played central roles in crafting Oregon’s early statewide land use policy and in building political support for its passage. At the same time, the freehold estate has long been plagued by tensions between land as a productive asset and land as

a speculative commodity, as Thorstein Veblen observed nearly a century ago (Veblen, 1923). Consequently, restrictions on the freedom to subdivide and develop land are typically framed by farmers and other landowners as threats to the exchange value of landed property (Freyfogle, 2003; Liffmann et al., 2000).

As recent state policy changes have devolved a measure of authority over land use governance from the state to the county level, contestations over land use and property rights have likewise shifted to more local levels. Here we examine Wallowa County, Oregon's efforts to resolve tensions between rights of development and the protection of agricultural operations (and the "open space" amenities the latter provide) within the context of amenity-driven rural restructuring. In particular, we focus on the county's experience implementing House Bill 3326, a 2001 revision to state land use law allowing counties to permit a limited amount of subdivision and development on rural lands deemed marginal or "generally unsuitable for agriculture."

1. Rural land use governance

1.1 Policy background

The state of Oregon has long been known for its statewide land use planning framework, which goes farther than any other American state in attempting to protect agricultural and forest land from residential development (Abbott et al., 1994; Gosnell et al., 2011; Walker and Hurley, 2011). Oregon first asserted state authority over county and city land use decisions in 1969 via Senate Bill 10, which required both zoning and land use planning for all local governments (Groll, 1982). The more comprehensive Senate Bill 100 was passed four years later, largely on the basis of public and political support from the densely-populated Willamette Valley and over

the objections of most rural Oregonians and their elected representatives (Knaap, 1994). Some of the key components of the framework created by SB100 include the requirement for counties and cities to designate urban growth boundaries, outside of which subdivision and residential development of resource lands are strongly regulated, and the creation of a state-level Land Conservation and Development Commission (LCDC) authorized to set statewide goals and oversee goal compliance by local entities. The overall thrust of the Oregon model is aimed at concentrating development within core urban areas, preventing subdivision and development on agricultural and forest lands, and protecting key natural, scenic, and historical resources through a power-sharing arrangement between the state, counties, and municipalities (Gustafson et al., 1982; Knaap, 1994). Continuing political support for this statewide land conservation policy has come largely through a coalition of “strange bedfellows” (cf. Pincetl, 1992), primarily a subset of agricultural producers concerned about the loss of productive land to sprawling development aligned with urban populations interested in conserving rural scenery and “open space” (Knaap, 1994; Slavin, 1994; Walker and Hurley, 2011).

SB100 continues to provide the overall framework for land use within the state, although a series of legislative actions and ballot initiatives since 1973 has shifted the balance of power between the state, local governments, citizenry, and property owners (Pease, 1994). The most visible and significant of these changes was Measure 37, an anti-“takings” ballot initiative passed in 2004 which effectively pre-empted many land use controls by requiring monetary compensation—or a waiver of regulation—for any loss in property value resulting from restrictions on development enacted since the time of purchase¹ (Hunnicut, 2006; Jackson and Kuhlken, 2006; Walker and Hurley, 2011). Measure 49, a legislative referral passed by Oregon voters in 2007, nullified much of M37’s effect even as it created new, more limited, avenues for

subdivision and development by long-time landowners and retained some of the anti-“takings” components of its predecessor. That Oregonians were not of one mind regarding such issues is demonstrated by their voting patterns on these two measures: M37 passed with 60.6% of the statewide vote in 2004; three years later, M49 garnered 62.6% of the popular vote. In Wallowa County these figures were 63.5% and 49.6%, respectively.

In a separate process in 2001, the Oregon legislature passed House Bill 3326, under which counties can authorize landowners to split off up to two nonfarm parcels and dwellings on parcels currently zoned for “exclusive farm use” (EFU)². In order to qualify for subdivision and development under HB3326, the lands to be divided and developed must comply with three general criteria: 1) the addition of nonfarm dwellings must not interfere with, nor increase the cost of, agricultural or forestry activities in the surrounding area; 2) the cumulative impacts of the proposed and potential future nonfarm development must not “materially alter” the stability of land use patterns in the surrounding area; and 3) the lands to be divided and developed must be “generally unsuitable for the production of farm crops and livestock or merchantable tree species considering the terrain, adverse soil or land conditions, drainage or flooding, vegetation, location and size of the tract.” Counties that choose to opt-in to the HB3326 authorities retain wide latitude to determine what lands are deemed marginal (“generally unsuitable”) for agriculture and forestry³.

1.2 Governance, rural restructuring, and property rights

While the case of HB3326 is specific to the state of Oregon and its local governments, it exemplifies tensions related to agricultural landscape change—and struggles over the identity of rural communities—taking place across the globe. These contestations occur in the context of

processes of rural restructuring and shifting forms of land use governance characterized by an enhanced role for local actors (Gurran et al., 2007; Stanley et al., 2005; Warner, 2003; Woods, 1998). Such shifts have arisen from multiple interrelated processes: the perceived ineffectiveness of centralized or corporatist models of environmental governance (Baker and Kusel, 2003; Krishnaswamy, 2005); the decline of productivism as a regulating force within the postfordist transition (Lowe et al., 1993; Marsden et al., 1993); and as a specific manifestation of the overall triumph of neoliberal ideologies and governance frameworks in the U.S. and elsewhere (Lockie et al., 2006; McCarthy, 2005; Stanley et al., 2005). Although under-theorized in the U.S., patterns of rural restructuring across economically developed nations share many broad similarities (Gosnell and Abrams, 2009; Nelson, 2001), particularly in terms of the creation of uneven rural terrains characterized by diverse economic activities, patterns of migration, and land use expectations, onto which a range of governance frameworks are mapped (see, e.g., Flynn and Lowe, 1994; Holmes, 2006; Marsden, 1998, 1999; Murdoch et al., 2003). In this context, land use planning becomes “an important institutional arena where struggles to define the meaning of the natural environment and how communities structure their relations with nature take place” (Hurley and Walker, 2004, p. 1532).

In Oregon, HB3326 devolved a measure of private land governance from state to county levels at a time when many rural communities across the state were struggling to define new economic and cultural identities following the decline of traditional sectors, particularly forestry and agriculture. Remote and traditionally resource-dependent communities like Wallowa County were hit particularly hard by abrupt economic and policy changes, including public land policy revisions that shifted management away from timber production towards wildlife and preservation goals, restrictions on both public and private land uses as a result of endangered

species listings, and statewide ballot initiatives regulating hunting and predator control across ownerships (Christoffersen, 2005). In this context, the role of Wallowa County government, like other rural Oregon county governments, can be seen to have shifted from providing public services to acting as an advocate for a particular construction of rurality (Woods, 1998).

Specifically, Wallowa County elected officials played a role resisting, at least symbolically, the imposition of burdens on landowners and traditional productivist land uses by state and national agencies (and their largely urban bases of political support). The Wallowa County Board of Commissioners' decision to opt-in to the authorities provided by HB3326 was consistent with this role. Legislative approval of HB3326 and voter approval of M37 were widely interpreted as victories for rural Oregon as a whole in that the policies provided relief from "unjust" state restrictions on land use (Hunnicut, 2006). As we explain below, however, the procedural justice offered by HB3326 brought along with it the need to confront a number of complex issues regarding the legitimacy of various claims to regulate rural space (Young, 2011).

Whether administered via statewide policy or local citizen/governmental institutions, governance of rural land use is often the management of contradictions. These include contradictions between the accumulation and consumption interests of various actors in rural space (Flynn and Lowe, 1994; Green et al., 1996; Walker and Fortmann, 2003), between the agency of local actors and extra-local political or economic forces (Feldman and Jonas, 2000), and even between the property ideologies and desired landscape outcomes of individual landowners (Walker et al., 2003). An example of the latter is the tension, common among agricultural producers, between fidelity to free market principles and strong normative beliefs that agricultural land should stay in production rather than being converted to residential real estate (Huntsinger and Hopkinson, 1996; Liffmann et al., 2000). A perhaps even more

fundamental and commonly-encountered contradiction is that between the property rights ideals of landowners toward their own holdings and their evaluation of neighbors' property rights (Freyfogle, 2003).

Such contradictions arise from the multiple and hybrid nature of rural land, creating governance challenges for entities at any scale. For agricultural and forestry producers, land acts as a source of livelihood even as it is simultaneously a market commodity. For the increasing numbers of amenity-oriented purchasers of rural estates, private land can represent a range of rural idylls (Bunce, 1994)—idylls which are often sustained through residential development on amenity owners' land combined with the regulation of land uses on surrounding properties (Cadieux, 2009; Lowe et al., 1993). As Bunce (1998, p. 240) observes, "Local rural conservation is at its most active in exurban communities, in which the protection of open space and of rural character is inextricably bound up in lifestyle and property values." This amenity-centered rural vision, long present in the Oregon land planning framework, emanates not only from the distant urban centers that constitute the locus of political power in Oregon, but increasingly from amenity-oriented migrants and property owners in rural locales such as Wallowa County for whom "open space" preservation is a key activity in maintaining their own rural idyll. For nearly all members of rural communities, land and its uses represent important sources of identity (Bliss and Martin, 1988; Burton, 2004; Holloway, 2002; Shucksmith, 1993). Land use governance in the context of rural restructuring highlights these contradictions by forcing explicit tradeoffs between the various interests of property owners and between these and a broader community vision; such exercises often reveal schisms within an apparent consensus regarding collective identity (Hibbard and Lurie, 2000).

2. Setting

Wallowa County, Oregon (figure 1) is characterized by its remoteness, low population (2010 population: 7008), historic economic dependence on wood products and agriculture, picturesque scenery, and, recently, by changes in local demographic and land ownership patterns resulting from both economic restructuring and amenity-driven migration. While approximately 18,000 of the county's ~240,000 hectares of nonindustrial private land comprise high-value irrigated land, most is agriculturally marginal due to a combination of poor soils, steep topography, high elevation, and a generally arid climate. Seasonal grazing by beef cattle is the predominant use on these lands, with some dryland farming on areas with better soils. The U.S. government owns most of the non-agricultural land in Wallowa County, primarily located in the county's steep mountain and canyon landscapes. Corporate and industrial landowners are represented in the county's most productive timberlands, where nonlocal timber companies have had a presence since the turn of the twentieth century. Currently most of these lands are held by a Massachusetts-based timber investment management organization (TIMO), which has continued intensive timber production while identifying a limited number of less-productive parcels for sale as real estate. Despite this entity's push to realize value from rural land sales, they have relatively inactive in local land use politics.

Recent economic changes in Wallowa County mirror those across much of the rural American West, with declining income from agriculture and forestry activities and a growing importance of service-sector employment and transfer payments (Power, 1996; Vias and Nelson, 2006). Unlike rural western counties closer to urban areas (Otterstrom and Shumway, 2003), Wallowa County has not experienced a significant population increase in recent decades. Rather, demographic changes here are characterized by out-migration of young adults and in-migration

of adults of retirement and pre-retirement age. Land ownership patterns in recent years include a strong trend toward absentee ownership of agricultural and forest parcels ranging from a few to several thousand hectares in extent, with over 52,000 hectares purchased by out-of-county owners between 2000 and 2008 alone (Abrams, 2011). While “amenity” owners rarely eliminate production-oriented uses (e.g. cattle grazing, timber harvesting) altogether, they typically emphasize consumption and protection over agricultural or forestry production (Holmes, 2006) and often substitute low-impact, “sustainable” land uses for intensive production practices. U.S. Census data show that residential development in the county has increased in recent years even as the permanent population has declined.

At a recent Wallowa County community visioning session, both “traditional” agricultural producers and amenity-oriented in-migrants voiced support for the maintenance of a rural, agricultural identity as the centerpiece of their community ideal. The vision statement resulting from this process includes several references to the importance of the county’s “working lands.” For example: “Together we value wide-open spaces and intact ranchlands. We create opportunities to carry agriculture and ranching forward into the next generation” (Wallowa County Economic Action Team, 2007, p. 6). At the same time, Wallowa County’s predominant political conservatism and reverence for private landowner rights mean that many local residents—landowners and non-landowners alike—tend to be deeply suspicious of government in general and of governmental regulation of landed property in particular (Waage, 2000), including regulation designed to protect agricultural lands⁴. Some local landowners maintain that unfettered property rights and the promotion of traditional productivist land uses are complementary, rather than contradictory, though this position has become harder to defend

following the brief spike in real estate speculation and agricultural land development that visited Wallowa County roughly between 2003 and 2008.

[Figure 1 about here]

3. Methods

For this exploratory case study, the first author conducted 51 semi-structured key informant interviews with 70 individuals between 2008 and 2010. Interviewees were initially chosen from a random sample of landowners from the county tax lot database. Following this first round, further interviewees were chosen selectively for their insights regarding the phenomenon of land ownership and land use change, often based on snowball sampling from the initial interviewees (see Klepeis et al., 2009 for a similar methodology). Fifty of those interviewed were landowners whose private holdings within the county ranged from 16 to over 5,000 hectares and the remaining twenty were key stakeholders in positions such as cooperative extension, weed control, local government, conservation advocacy, and renters or managers for local landowners. Both seasonal (absentee) and year-round tenures, and both those who purchased their Wallowa County holdings on the open market and those who acquired their land through family channels (e.g. inheritance or purchase from family) were represented in the suite of landowners interviewed here. In addition, we reviewed documents pertaining to all HB3326 claims, including both official county documents and public letters of support, opposition, or concern, and correspondence between county officials and HB3326 petitioners. These data were explored, organized, and coded using QSR International's NVivo 8. Rounds of "open coding," to develop broad themes, were followed by focused coding in an iterative process. We drew broadly on

Charmaz's (2006) "constructed" grounded theory approach as a means of creatively integrating existing theory with original interview and other qualitative data.

4. The politics of marginality in Wallowa County

Passage of HB3326 was welcomed by many Wallowa County landowners and members of local government because it appeared to provide, in the words of one county official, a "pressure-relief valve" from the perceived stifling effects of statewide land use policy. In particular, many landowners and members of local governmental bodies hoped that the ability to subdivide, develop and sell marginal parcels of farm ground would help struggling producers sustain their operations and encourage their children to remain in, or return to, Wallowa County to take over the farm or ranch. Implementation of the policy soon snagged, however, on the management of contradictory interests in private land development, the rural ideals of a range of landowners, and the benefits of EFU zoning to local producers. The vague and somewhat subjective nature of key concepts in the policy (e.g., marginality) and the available avenues for public input on individual HB3326 petitions created ample opportunities for neighbors and other community members to contest specific proposals. Opposition to HB3326 petitions came primarily from two stakeholder types: agricultural and forestry producers concerned about the potential for future amenity migration to interfere with their operations, and established amenity landowners protective of their scenic rural settings. Those petitioning for rights of subdivision and development under HB3326 included agricultural producers (both younger farmers and those of retirement age), local and nonlocal investor/developers, and economically struggling landowners preparing to sell their holdings. Their motivations for doing so included the desire to

provide additional residences for family, to produce income to support continued productivist land uses, and to maximize the exchange value of landed property for sale.

From 2002, the first year Wallowa County implemented HB3326, through 2008 the county received petitions for subdivision and development every year; no petitions were filed in 2009 or 2010. Over this seven-year period a total of 23 petitions were filed with the county planning department, representing 43 proposed nonfarm parcels (table 1). During the first years of implementation in Wallowa County, nearly every petition for subdivision and development was granted with unanimous consent from the planning commission, despite occasional protest from neighboring landowners. The years 2006-2008 brought some particularly contentious proposals and a declining level of accord among members of the planning commission. Five of the nine petitions filed during 2006-2009 were denied by the planning commission; two of these denials were subsequently overturned by the Board of County Commissioners on appeal. The makeup of the county planning commission, which included business, agricultural, real estate, development, and conservation interests, did not change substantially over the period 2002-2008. Rather, the change in treatment of HB3326 proposals was the result of several factors, most importantly the unprecedented wave of property turnover and private land development in the county in the years following passage of the new policy, as well as voter approval of M37. While the level of development in Wallowa County paled in comparison to places such as central Oregon, Colorado's Front Range, or scenic regions of Idaho, it was sufficient to highlight contradictions present in the multiple meanings of rural land, forcing landowners and members of local governmental bodies to confront their own role—and that of neighboring landowners—in facilitating the process of rural gentrification. The entry of M37 as an alternative end-run around Oregon's planning framework diminished the perceived need for HB3326 among members of

local governmental bodies and threatened to accelerate existing trends in amenity-driven land ownership change.

[Table 1 about here]

A particular flaw in the policy (or in the county's implementation of it) was the lack of a clear definition of lands "generally unsuitable" for agriculture. By law such determinations cannot rely on soil classification or parcel size alone, but must include contextual factors, including whether the parcel in question could be put to productive use as part of a larger operation. HB3326 petitioners emphasized the rocky, unproductive nature of their proposed nonfarm parcels, but such claims often drew skeptical reactions in a county where the predominant land use is extensive, seasonal grazing on arid grasslands. As several landowners and members of local governmental bodies pointed out, even the rockiest terrain can act as an important component of an overall agricultural operation:

In agriculture, every piece of ground has some value to it, maybe not every year, or for the same type of value, but to save a piece of ground that you're not going to rut up or tear up or something because you can move [stock] over here to drive or feed on or something, has a great value every five and a half years or whatever it is...because in the spring, when you're down here in these wetlands, which the whole valley becomes, you know you're getting rigs stuck, animals are getting scours and hoof rot and whatever else they can get. [Member of local governmental entity]

Claims of agricultural marginality were frequent sources of contestation, with petitioners often identifying the prevalence of seasonal cattle grazing as evidence of a parcel's marginality, and those in opposition pointing to that same land use as evidence of its value for agriculture. After a particularly controversial 2008 petition that pitted neighbors against one another, the planning commission voted unanimously to request a six month moratorium on HB3326 applications until more "objective" criteria could be established for adjudicating claims of marginality. County commissioners subsequently chartered an ad-hoc working group consisting of local experts in forestry and agriculture to help craft unambiguous criteria for informing these kinds of decisions. The resulting guidance established certain clear indicators of land that should not qualify as marginal (e.g. the presence of irrigation rights, recent dryland farming activity, or enrollment in the federal Conservation Reserve Program) while leaving a substantial amount of discretion for determining marginality on a case-by-case basis.

As central as the definition of marginality was to the challenges in implementing HB3326, in many ways the question of how to define marginality was merely an arena in which to contest larger community disputes regarding property rights, community identity, the value of agriculture, and landowners' roles in facilitating gentrification. Such divisions were magnified by the diminishing margins of return for agricultural and forestry producers and their apparent loss of economic options. The experience of economic restructuring—particularly the decline in farm viability, loss of local sawmill infrastructure, and difficulty recruiting a younger generation to stay "on the farm"—was felt acutely by long-time Wallowa County residents and landowners, yet this common experience did not translate into a common response to development proposals. Restructuring was variably identified by landowners and others as reason to allow development to move forward and as reason to protect traditional land uses. HB3326 petitioners pointed to

their economic challenges as justification for diversifying to real estate development, portraying farmland conservation policy as a burden on producers. The following letter excerpt by a petitioner indicates an ironic recognition of the amenity interests motivating much of the activism in support of farm preservation. In it, the farmer positions himself as doubly burdened by poor economic returns from agriculture and the expectation that he continue to produce visual landscape amenities valued by the wider community:

The intent of 3326 was to allow retiring farmers to sell part of the land and use the proceeds to enjoy their retirement. Under the dismal economic conditions in the farm sector there is no market for the farmland and the only way to get any return on the investment is through the sale of an acreage. Then he might be financially able to hang on to a losing business and provide the “open spaces” for everyone’s benefit.

At the same time, those contesting specific HB3326 proposals also highlighted the challenges associated with economic restructuring. In such cases, residential development was portrayed as a short-term economic strategy that would erode the county’s agricultural base, exacerbating the loss of farm viability:

[At HB3326 hearings] somebody would get up and say they need to be able to do this because they can’t make it anymore, they need the money, the money will keep them going, and then I would get up and say, “Well yeah, but then three years from now when that money is gone, you’re going to be less able to because your property is now smaller.” [Conservation advocate]

The perceived loss of future farming options loomed large in discourse surrounding HB3326 claims, as did the threat of rural gentrification. Local coalitions had previously worked to halt a proposed ski area installation and airport expansion in the county as means of preventing the kind of gentrification that had come to characterize other scenic locations in the rural West. More difficult, however, was preventing the spread of landscapes of consumption as amenity-oriented landowners continued to purchase former “working lands” as lifestyle amenities. While these owners were often sympathetic to the ideal of continuing traditional land uses in the county, their own uses clearly deemphasized production in favor of hunting, scenery, outdoor recreation, nature preservation, ecological restoration, and residential uses. In a few cases, wealthy amenity owners actively impeded the activities of local producers by closing road access, denying traditional rights to move cattle across adjacent holdings, and filing complaints about the visual impacts of farming equipment stored along roadways. Those contesting HB3326 proposals—both producers and established amenity landowners—consistently raised the specter of an invasion by wealthy outsiders in their arguments. An interesting component of this discourse was the adoption by amenity landowners of an agricultural identity as a means of claiming legitimacy:

My family acquired 2 ranches in this beautiful country 8 years ago...I am retired from a management position in the computer industry, and my hobby is to restore, preserve and beautify ranches...[The neighbors and I] all feel we are here for the unique beauty of this part of the Lower Valley, and to conduct agricultural activities, which is the life-blood industry of this county. [Neighbor of HB3326 petitioner, in letter of opposition]

HB3326 petitioners were portrayed in such discourse as enemies of the county's agricultural identity, even in cases where the petitioners were themselves agricultural producers.

Petitioners frequently constructed their rights to develop on claims of a lack of economic options as producers and their deserved right to retire on the farm (or a piece of the farm). In response, opponents contended that nonfarm development would open the door to the entry of urban "outsiders" whose ideals and lifestyle demands would be incompatible with the needs of producers. The discourse surrounding these prospective newcomers included both cultural and class elements. Culturally, potential immigrants were cast as ignorant of, or opposed to, farming practices. One landowner raised the prospect of "people with no agricultural knowledge or intent to make a living off the land" interfering with the activities of neighboring producers. His letter of protest continued, "When we farm there is big machinery, dust, and sprays to name a few of the problems. These people likely would not be compatible with the community concerning these problems and many others." The class dimensions of amenity migration were already highly salient in Wallowa County due to the recent "discovery" of the county as, according to an article in the *New York Times* Real Estate section, "an unbeatable place" for urban refugees to "hide" (*New York Times*, March 26, 2006: "Rugged, western, and still a bargain"). One agricultural producer highlighted the class dimensions of the development debate in her letter of opposition to an HB3326 petition:

Reminding you all of the community's wishes to remain agriculturally based, and that agriculture is profitable under this new economic/fuels demand economy for our farmers...please follow the conservative line of thinking to reserve our lands for

agriculture...Please turn away from breaking up our agricultural lands into homesites for the wealthy.

Attached to this letter was a photocopied page from a real estate magazine advertising multi-million dollar mansions near Sun Valley, Idaho, a clear warning of a possible future for Wallowa County under the influences of runaway gentrification.

Community sentiment toward the prospect of increased gentrification as a result of nonfarm development under HB3326 was not lost on petitioners, particularly those who filed in 2007 and 2008. By this time Wallowa County had experienced not only several years of HB3326 petitions but had also seen a total of thirty-four M37 claims, a proposed development in an area of high visibility and scenic value, the installation of several conspicuous multi-million dollar residential structures on former farmland (figure 2), and a substantial amount of turnover in rural property ownership accompanied by a steep rise in land values. HB3326 increasingly came to be viewed by Wallowa County residents, as well as some members of local governmental bodies, as a facilitator of unwelcome changes rather than a tool to restore lost property rights. Claims of marginality began to receive greater scrutiny, and HB3326 claims drew more skeptical reactions from the planning commission as well as greater opposition from neighbors. Such opposition represented landowners' attempts to not only manage their visual environment, but to specifically resist the process of rural gentrification. According to one HB3326 petitioner:

...there were probably three neighbors that wrote letters in that weren't really against us but basically didn't feel that we should be able – I mean everybody had a problem with us making money on it. If it was for family, nobody really cared. We were kind of blown

away by that, it's just like, "Hey as long as you're giving it to family, you're keeping it in the family, no problem, but we don't want the neighbor from California or whatever."

[Interviewer]: So it's not about the structure per se...It's the unknown outsider that they don't want coming in.

Yeah, exactly.

[Figure 2 about here]

A pervasive theme in public discourse surrounding HB3326 proposals was the legitimacy of particular landowners' rights to take advantage of the freedoms offered by HB3326. Contestations over legitimacy took several forms: drawing distinctions between locals and non-locals, between those whose petitions were intended to serve family and those whose petitions were meant to create a salable commodity, and between "authentic" producers and (implicitly "inauthentic") developers. Petitioners were frequently portrayed by opponents as illegitimately capitalizing on a law meant to help "real" farmers:

The purpose and intent of HB 3326 is to allow farmers and ranchers who are struggling financially to stay in business and "save the farm" by selling off a small portion which is not suitable for agricultural use. This not the case with [the petitioners]. [They] are developers who are only interested in making money by subdividing, building, and selling...[The petitioner] is not a man who has any interest in farming or preserving

farmland and open space for future generations. [Letter of opposition to an HB3326 petition from neighboring landowner]

The desire to allocate rights of development based on local legitimacy reflected an attempt on the part of community members to manage processes of restructuring and gentrification, providing resources to “authentic” producers while preventing “outsiders” and developers from exploiting rights provided by HB3326. Yet such considerations were limited by the provisions of the policy, based as they are on agricultural productivity and effects on surrounding operations. Still, these sentiments were voiced not only by neighboring landowners, but even from members of local governmental bodies tasked with applying the policy as written:

I'll admit...that somebody that's been here all their life and have worked the ground all their life and they want to [file an HB3326 petition] to try to preserve, stay on the place, I mean they could sell the whole place and move to town. They don't want to do that. They want to stay on the place. Some people would say, “Well tough, they can just move to town.” I don't particularly like that idea. Now the guy that comes in here from someplace else and buys a chunk of ground and then says, “Well geez I can make money by splitting off two of these,” I don't have any sympathy for them at all. They shouldn't have come here in the first place, if that was their motivation. [Member of local governmental entity]

Amenity landowners, caught in a positional middle ground between long-term local producers and outside investor/developers, clearly recognized the value of local legitimacy. In contesting neighbors' HB3326 petitions, amenity landowners often attempted to claim status as legitimate,

local, and rooted members of the community in contrast to neighboring producers looking to capitalize on their landed assets:

A structure [on the neighbor's property] will cause a loss of privacy and mountain views. We purchased this property with a seven mile drive on a dirt road, in order to have that privacy...the [petitioners] are gaming the land use system. All of this property is for sale. [The petitioner] is moving and she apparently does not care, and never has, how her actions affect her neighbors. We hope that the Planning Commission cares more for the people who live and work here than the people who are leaving. [Letter of opposition from neighbor of HB3326 petitioner]

5. Discussion and Conclusions

HB3326 represented a largely urban-oriented state legislature's attempt to address rural concerns by ceding a measure of authority over nonfarm development to the county level. Wallowa County's experience implementing this policy illustrates the complex landscape of such "rural" interests under the influences of economic restructuring, amenity-driven demographic and land ownership change, and a strong and persistent agricultural community identity. While the development provisions of HB3326 are based on technical concerns of land productivity and effects on surrounding operations, implementation in Wallowa County ran aground on issues of class, legitimacy, and competing propertied interests. The positioning of these various interests, particularly in their constructions of agricultural productivity, economic constraints and opportunities, threats of gentrification, and claims of legitimacy, provides insight into the complex political terrain in rural landscapes characterized by a diversifying set of

demands on space. In such contexts, the representation of “rural” interests, traditionally defined in terms of the expansion of private property rights, is complicated by an enlarged set of actors with interests in the regulation of rural change, including the dynamics of both landscape alteration and community composition.

Contestations over HB3326 petitions in Wallowa County were not, for the most part, struggles between landowners and government, nor between landowners and a non-landowning “public,” but occurred primarily between different landowners with competing interests in their own property and that of their neighbors (cf. Bromley, 1998; Flynn and Lowe, 1994; Freyfogle, 2003). Such conflicts were managed largely in terms of resistance to competing pressures on those at the center of local discourse, the county’s agricultural producers. On the one hand, state land use laws threatened to reduce the exchange value of landed property, and HB3326 promised recourse to allow the realization of development values without compromising farm conservation. At the same time, a burgeoning rural gentrification process threatened to displace the land uses and users that had come to define Wallowa County’s identity and HB3326 appeared poised to accelerate these unwelcome changes. The maintenance of an agricultural identity as an act of community resistance to processes of restructuring (Murdoch and Marsden, 1994) was thus confronted by contradictory pressures. What has, for the time being, resolved these contradictions is largely the collapse of the real estate market.

The dynamics observed in this case include not only the repositioning of landowners’ responses to claims of private property rights but also the discursive and symbolic repositioning of various landed actors in terms of their legitimacy to regulate the uses of rural space. Declines in agriculture and forestry as bases of the local economy clearly have not led to a decline in their symbolic power. If anything, the mantle of the “local,” of the yeoman farmer, is now brandished

by an even wider array of actors attempting to legitimize their claims in the local arena. Indeed, such symbols become themselves objects of contestation as they are employed to defend or attack the legitimacy of particular land uses.

An intriguing outcome of HB3326 implementation in Wallowa County is the making of “strange bedfellows” in the shared opposition to nonfarm development among agricultural producers and established amenity landowners. As Walker and Fortmann (2003) observe, amenity migration to rural areas can result in the emergence of unexpected (and potentially unstable) political coalitions. While shared opposition to HB3326 proposals in Wallowa County never attained the status of a true coalition, the alignment of interests between producers and amenity landowners nevertheless mirrors in important ways the policy coalition between farmers and urban “open space” advocates at the statewide level that has provided support for Oregon’s land use framework for nearly four decades. That such alignment was possible in remote and rural Wallowa County speaks to the multiple constructions of rural property rights, widespread community anxiety regarding gentrification and loss of an agricultural identity, and the “blurring” of interests (Dwyer and Childs, 2004) that has accompanied urban-to-rural migration across much of the developed world.

This study adds to a growing body of work documenting the complexities of rural governance in an era of restructuring, amenity migration, and competing visions of rural land (Hurley and Walker, 2004; Walker and Fortmann, 2003; Walker and Hurley, 2011; Young, 2011). This case points to challenges for the governance of “contested” rural landscapes in which the influences of economic restructuring and amenity-driven land ownership change lead to new alignments of interests. Despite Oregon’s strong state role in regulating rural land use, local governments and non-governmental actors here, as across much of the developed world,

maintain a significant (and growing) degree of influence over the fate of the rural landscape. This case suggests that even remote rural areas may be characterized by interests in land that are as diverse and contradictory as those found at the state and higher levels of governance. The variable positioning of these interests vastly complicates efforts to privilege the “authentic” producer without also privileging the much-despised “grasping wastrels of the land.”

Finally, the HB3326 case underscores the problematic nature of using the concept of “marginality” to guide land use decisions in the context of arid and rangeland landscapes where nearly all land is arguably marginal, not only from an ecological standpoint, but increasingly from an economic standpoint as well. As the “highest and best use” (conventionally defined in economic terms) is increasingly associated with residential development, local communities and state-led institutions will be challenged to develop new metrics that can more effectively guide decisions regarding the fate of agricultural landscapes in a changing socioeconomic context. Attempting to define “marginality” in this case only added to the complexity and ambiguity of a governance environment where definitions of “rural” interests and “authentic” producers were highly contested.

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¹ Oregon forestry and agriculture interests were divided on Measure 37, with the Oregon Cattlemen's Association and most timber corporations campaigning in favor of the ballot measure and several wine growers' associations, nurseries, and local farm bureaus campaigning against it.

² Note that this was not the first time that the state allowed exemptions for marginal EFU lands; a 1983 law, modified in 1985, directed the LCDC to establish standards for defining marginal lands. As Pease (1994) describes, the various interest groups monitoring this process evaluated the marginality definition more by political considerations than by scientific adequacy.

³ Oddly, HB3326 provides a very specific definition of marginality for cases where the remaining EFU parcel is at least 40 acres (16.2 hectares) but smaller than the county-defined minimum parcel size (160 acres or 64.7 hectares for Wallowa County) after accounting for the loss of the nonfarm parcels. In cases where the remaining EFU parcel is equal to or greater than the minimum parcel size, counties have wide discretion to define standards for marginality. Nonfarm subdivision of land under HB3326 is prohibited on parcels less than 40 acres.

⁴ However, Wallowa County's first comprehensive land use plan established minimum parcel sizes for agricultural land that were actually larger than the state-mandated minimum. Debate continues within the county whether to keep these or to revert to state minimum parcel sizes in an upcoming plan revision.

Figure 1. Wallowa County, Oregon, USA is located in the remote northeast corner of the state, isolated by topographic features and distance from population centers.



Figure 2. The construction of luxury mansions in Wallowa County during the real estate “bubble” of the early 2000s created widespread concern over the prospects of rural gentrification.



Table 1. HB3326 petitions filed in Wallowa County, 2002-2008. Data from Wallowa County Planning Department.

	Petitions	Proposed nonfarm parcels	Petitions denied by planning dept.	Denials overturned by Board of Commissioners
2002	4 ^a	8	0	-
2003	5	10	0 ^b	-
2004	1	2	0	-
2005	4	8	0	-
2006	4	7	2	-
2007	3	5	2	1
2008	2	3	1	1
Total	23	43	5	2

^a One petition in 2002 was withdrawn and later re-submitted in 2005.

^b One petition in 2003 received planning commission approval for just one of two proposed parcels.