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Forest owners see fairer future in Measure 37

Timber firms, which helped finance the property rights law, assess it as a brake on regulation

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MICHAEL MILSTEIN

Family landowners suffering under Oregon's land-use laws formed the public face of Measure 37. But the timber industry quietly supplied almost \$3 of every \$4 that buoyed the ballot initiative to an easy victory.

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Its passage means governments must either pay for drops in the market value of land when they limit its use or development, or they must rescind the limits. Yet timber companies have not rushed to demand compensation for rules that restrain logging.

Instead, industry leaders say, Measure 37 will pay off for them in other ways: first, by making government think twice before adopting costly new logging restrictions; second, by helping companies free up and sell land more valuable

for development and other uses than as commercial forest.

At least one small landowner also sees it as a way around prohibitions on streamside logging.

The industry was not uniformly behind Measure 37. Many of the state's biggest timber owners stayed silent and kept their wallets closed.

But even those who backed it profess little interest in using Measure 37 to dismantle state protections for water, fish and wildlife. Most say they favor the Oregon Forest Practices Act, which controls clear-cutting and effects on streams, because it assures that trees are cut responsibly at a time of rising public scrutiny.

"I do not see it as a tool to roll back the Forest Practices Act," said Steve Swanson, president of the Swanson Group, which owns about 150,000 acres of commercial forest in Oregon and contributed \$75,000 toward Measure 37.

Yet it could still alter landscapes by undoing zoning rules that restrain the breakup and development of forest.

Companies may identify property with a "higher and better use" than forestland if it has more value for development or other purposes, Swanson said. Measure 37 gives governments the choice of relaxing restraints on development or compensating companies for lost income if the development is not allowed.

With taxpayer cash in short supply, many governments may opt to ease the rules.

An example of the land in question might be 40 acres near metropolitan Portland that is not promising as commercial forest, said John McGhehey, vice president of resources for Stimson Lumber Co. in Portland, which gave \$30,000 to Measure 37. Trees may not flourish on the land, or cutting them might be tough.

"We say, 'What are we doing trying to grow trees on it?' " he said. "The neighbors don't like to see trees harvested. It doesn't make sense to keep trying to run that as forest when we could sell it and invest the return in land that meets our goals."

Land laws meant to maintain unbroken landscapes have often kept the company from splitting such parcels off of its larger holdings, McGhehey said. The company has asked counties that administer the laws for flexibility but typically has been turned down.

The company backed Measure 37, he said, "to give us a better way to work with counties."

Taking inventory

Now that the measure has passed, Stimson is inventorying its holdings for acreage that could be sold for other uses, McGhehey said.

But Swanson predicted that of all private forestland around the state, parcels sold for other uses will be a "very, very small piece of the whole pie."

Bob Stacey of the conservation group 1000 Friends of Oregon said timber companies will undermine their own interests by breaking up forestland. Homes scattered amid timberland may further complicate logging and divert the attention of firefighters trying to stop wildfires from consuming forest.

"We're going to lose more productive timberland than we need to," he said.

One of the most pointed attempts to contest the state Forest Practices Act under Measure 37 so far has come from Howard Leatherman, who owns about 3,000 acres of timberland south of Coos Bay.

He's been in the business since 1947, borrowing \$160 to buy his first 160 acres. Logging rules have piled up atop his land in the years since.

Stream protection

The Oregon Department of Forestry, enforcing the Forest Practices Act, has made him leave what he figures are thousands of dollars of trees along streams that flow into the Coquille River. Such rules are meant to prevent erosion and protect water quality.

But Leatherman does not see the point. Responsible logging will not harm streams, he said, and he replants logged lands almost immediately. Elk crisscrossing the streams may disturb them more than timber equipment would, he said.

He said he supports rules needed to protect the environment, but "there's so much of it, it's really overly restrictive."

Once Measure 37 passed, he asked the Oregon Department of Forestry to let him log the streamside trees. The department said it cannot, since it's bound to uphold the Forest Practices Act. He now has the option of claiming compensation for the value of the trees he cannot cut.

"All I want is to be able to harvest the timber that's taken me 50, 75 years to grow," he said.

State forestry officials said Measure 37 will slow new logging rules, such as regulations under consideration to meet water quality standards and protect salmon. The state commonly considers the economic impact of new rules but now must also weigh the probable cost of claims for compensation under Measure 37.

However, compensation is not required when rules protect public health and safety, or control pollution. Landowners cannot claim compensation for rules already in place when they bought their land.

Forestland in Oregon changes hands so often that much of it would not qualify for major compensation, some officials say.

But timber officials said they never saw Measure 37 as a ticket to easy government payoffs. Oregon's timber industry wanted the Forest Practices Act to level the playing field so careless operators cannot take shortcuts that damage the environment.

"It would be disingenuous to say we want to comply, but we want you to pay us to do it," said Ray Wilkeson of the Oregon Forest Industries Council.

Instead, the benefit to the timber industry lies in the future, said Dale Riddle, an attorney for Seneca Jones Timber Co. in Eugene, which contributed \$243,000 toward the measure.

Previously, logging companies had to absorb the cost of new logging restrictions.

Measure 37 forces the public to assume the cost of imposing the new rule by compensating those affected, Riddle said.

"The benefit's not in the past or in attacking the Forest Practices Act," which is generally sound and reasonable, he said. "It's in slowing down the constant increase in regulation."

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