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legal review

We are presently involved in consultations seeking a legal opinion from environmental attorneys and a legal scholar to make a case for Forest Service acquisition of your property within the Alternative 2 boundaries. The following opinion titled "Wild and Scenic Act at 50: Overlooked Watershed Protection," by Michael C. Blum and Max Yoklic, published in "Nine Michigan Journal of Environmental and Administrative Law 1" (2019) states on page 61 in this legal review: "Reviewing courts have consistently required managing agencies to protect and enhance ORV's, prioritizing the overriding goal of the statute over any inference that the Wild and Scenic River Act lacks intent to authorize regulation of non-federal lands. For actions on non-federal lands within river corridors substantially threaten the protection and enhancement of the ORV's, managing agencies possess sufficient regulatory power to avoid these effects." Then, footnote 278 specifically references the White Salmon National Wild and Scenic River: "Failure to keep Comprehensive Management Plans (CMPs) up to date could equate to a failure to protect and enhance ORV. For example, on the White Salmon River, the Forest Service has not updated and revised the comprehensive management plan even though the 2001 revision passed 18 years ago. In promulgating the CMP, the agency rejected an EIS alternative which would have included a broader corridor encompassing adjacent timber lands, due to opposition from timber owners. See Lower White Salmon National Wild and Scenic River Management Plan (1991). Nearly thirty years later the timber has been cut, and the owner has the land for sale. The overdue CMP revision might require an expanded corridor boundary and perhaps adoption of the EIS alternative rejected in 1991 in order to protect and enhance ORV." Due to this opinion (the details are still being developed), the Forest Service should purchase your property as soon as possible to prevent it from being sold for residential development, which would preclude proper review of your property and the protection and enhancement of its Outstanding Remarkable Values. Until the Forest Service conducts a proper review as is required by the Management Plan, your property within the Alternative 2 boundary will be potentially under scrutiny by the Forest Service, will certainly be watched by the environmental community, and will continue to be of great interest and concern to the public. If you do decide to sell to private buyers, you may have a legal responsibility to apprise buyers of the legal authority of the National Wild and Scenic River Act, the management corridor boundary issues involving your property, and possible related problems that could result from those issues.

Your property provides habitat for species protected under state law. Oregon White Oak, which your loggers left standing, provides a WDFW priority habitat for the Western Gray Squirrel, a state-listed threatened species. We have reason to believe that other species of concern are involved, but unfortunately the Forest Service never completed the inventory study that their own Management Plan required. This is another impediment to good decision making.

The low elevation hillsides along the river provides significant winter range for upland deer populations. These herds are especially susceptible to predation from dog packs in the winter months when the deer are most vulnerable. Residential development brings in dogs.