

**NON-PROFIT COMMUNITY SERVICE MEMBERSHIP ORGANIZATION -30th Year**

It is thanks to membership dues, donations and proceeds from our Win-a-Trip raffle that CLMP continues to maintain an office and monitor citizen reports through these thirty years. Please use the enclosed, self-addressed envelope for your 2013 dues and/or donation. Thank you for your support.



**1983 - 2013  
THIRTY YEARS!**

**MISSION STATEMENT**

The purpose of the Civil Liberties Monitoring Project is to advocate and educate about civil rights and liberties and monitor and document any civil rights abuses by law enforcement or other government agencies in our area. We encourage public awareness of constitutional rights and the involvement of the whole community in protecting them.

**2013 ANNUAL MEMBERSHIP MEETING is WED.** Sept. 4, at 5 PM in the CLMP office (upstairs in Jacob Garber Square in Garberville). Please call 923-4646 if you plan to attend.

**BOARD MEETINGS, OPEN TO MEMBERS**

Board Members: Bonnie Blackberry, Jared Rossman, Michael de Leon, John Hockett, Dora Fales, and Jill McClure, & office monitor Suzelle, meet each month in the CLMP office on 1st Wednesdays, at 5 PM.

**MONITORING LOCAL GOVERNMENT**

CLMP monitors and gives input to the Humboldt County Board of Supervisors regarding: the Code Enforcement Unit; the General Plan Update; the public participation process; and the Safe Homes/Building Amnesty Program. Also, CLMP has given input this year on the Urgency Ordinance (2477) Limiting Public Protests on Courthouse Property, and the proposed Outdoor Medical Marijuana Ordinance.

**PROMOTING COMMUNITY AWARENESS**

The monthly Redwood Community Radio, KMUD Civil Liberties Hour (1st Wednesday 7-8 pm) is focused on informing and educating the listeners on issues of local, state and national concerns, as well as creating a forum where listeners can ask questions and make comments.

This past year, guests have included members of both Humboldt & Mendocino Boards of Supervisors; staff members of Humboldt County Administration; California Highway Patrol, Humboldt Sheriffs Department, and California Fish & Wildlife personnel; California NORML directors; and a member of the San Francisco-based Electronic Freedom Foundation; as well as citizen activists. Topics have included drones, whistle blowers, surveillance and privacy, local law enforcement, medical marijuana ordinances and enforcement, water rights and

responsibilities, shaded parcels and housing amnesty. Shows can be found at kmud.org archives for ten months following airing.

**HOT-LINE MONITORING - 707 923-4646**

CLMP monitors telephone calls remotely several times every day. Reports of helicopters & law enforcement activities are reported to KMUD for Community Safety and Awareness announcements. Calls are returned when requested, and, when possible, referrals are made and suggestions given.

**IN-OFFICE MONITORING - Tues. & Fri. 11-3**

The office monitor records reports and complaints of civil liberties abuses, keeps the CLMP board informed, gives referrals, and is responsible for getting this annual report mailed out to members.

**NEWSPAPER ARTICLES & HAND-OUTS**

In 2013 reviews of the following interviews on the Civil Liberties Hour have appeared in local papers: with CHP Sgt. Martin Abshire, Sheriff Mike Downey, \*Parker Higgins of Electronic Frontier Foundation on Drones, \*Fish & Wildlife Warden Shane Embry, Scientist Jane Arnold, & activist Tom Grover on Expanding Enforcement of Water Laws, \*student activists Kat Kabick and Nathan Sheinman on Bradley Manning as hero, and Senior Planner Michael Richardson on the Housing Element. (\*Included here.)

CLMP prints up and gives out two informational civil liberties hand-outs - "Sheriff's Policy 464 on Homeless Persons," and "Some Guidelines for the Public Use of Public Spaces in Southern Humboldt."

**COMMUNITY ROUNDTABLE PARTICIPATION**

CLMP participates in meetings and workgroups to consider problems and solutions related to local homeless and transient issues.

## DEMOCRACY IS ON THE LINE

BONNIE interviewed Petrolia students, Kat Kabick and Nathan Scheinman on the July 3 Civil Liberties Hour on KMUD Radio. The subject was Bradley Manning whose actions had inspired the teens to go to Washington D.C. to attend a conference and a rally in his support. Here are excerpts:

KAT: . . . "I think that my generation needs to have, and that it can have, a really big impact on the course of history, because there are two very different futures confronting us: like, we have the future that Bush wanted and that Obama continues to carry out and worsen, right? but we also have this future that we can create. And we can look at the actions of Bradley Manning and Edward Snowden, and these really courageous people, as examples to follow.

"It's really important, because with the Bradley Manning trial, it's not just Bradley Manning, and it's not just Snowden that's on the line. . . Truth is on the line, and whether or not we're going to let telling truth become a crime. So it's really a big deal. And it's more of a big deal that a lot of people think it is."

BONNIE: "Yeah, because our whole democracy is on the line. Does our Constitution mean anything? How can you have a democracy when people are being lied to by those in power?

"There was a program on Frontline last night about Bradley Manning talking about being in the military and (just being 5'2" he's not a very large person, and he's not treated very well by his peers in the military), and he's young, and I'm totally impressed with his courage to come forward with this information. And also with Edward Snowden who sees what's happening to Bradley Manning. . ."

"But we've got a lot of people in our government, and especially in the administration that are not open to having transparency in our government, and are willing to do whatever they need to do to keep people quiet. It's put a really big crimp on their style with the NSA revelations by Edward Snowden about them collecting information on everybody.

"Well, first they said they weren't collecting it, and then when it got exposed that they actually were, then it's: 'well, we're not reading, we're not listening, we're just collecting it. We'll only look at it if we need to, and of course we'll do it legally.'

"But that doesn't give me any reassurance that they're going to do the right thing. Because they

have secret laws and they've already proved that they're not trustworthy: they'll lie as long as they can get away with it.

"And now we've got people all over the world that have found out what's happening to them with the United States spying on all these people that thought they were the countries that were our friends. And so it's causing a lot of questioning."

NATHAN: "It turned out that in Bradley Manning's case there were 4.8 million other people who had that exact same access to those exact same documents as Bradley Manning had." Also Nathan reported that he and Kat had heard Peter Van Buren speak at a conference they attended in D.C, another whistleblower who was fired by the State Department because he wrote a book about how the United States works inside the system, that he also had access to those exact same documents that Bradley Manning released, and Van Buren had asked, 'Why didn't I do what Bradley Manning did?'

BONNIE: "It takes an amazing amount of courage (I mean, you want to talk about a national hero!) because he knows what's going on in Guantanamo, he knows that there's people being held, maybe for the rest of their lives, without a trial, and about people being assassinated if they step out of lines. For him to have the courage to do that. . . Is it one out of 4.8 million? That's pretty darn incredible!"

KAT: ". . . And you're right, he's short and he's small, but he's so big in the impact that he can continue to have. He's a hero. He's the hero of my generation, and the hero of many generations to come.

"And Daniel Ellsberg, he was speaking at a panel that we went to when we were in D.C., and he said, 'I could have done more. What Bradley Manning did is bigger than what I did.'"

BONNIE: "It seems like the most powerful thing that we have is the truth."

And, "I think our Constitution and our Bill of Rights is our national security, and violating that is the biggest danger that we have."

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CLMP Board Member JARED ROSSMAN is collecting donations for both BRADLEY MANNING and EDWARD SNOWDEN.



**Citizen activist Tom Grover, F&W Warden Shane Embry, CLMP's Bonnie Blackberry in studio, Redwood Community Radio (KMUD) engineer Larry Lashley behind window**

## **EXPANDING ENFORCEMENT OF STATE WATER DIVERSION LAWS**

On JUNE 5, 2013, the CIVIL LIBERTIES HOUR on KMUD Redwood Community Radio looked at current California water regulation and enforcement. Bonnie Blackberry hosted the show and welcomed guests: Fish and Wildlife (F&W) Warden Shane Embry and citizen activist Tom Grover in the studio, and F&W Biologist and Environmental Scientist Jane Arnold by telephone.

Blackberry introduced the subject of water regulations by reading the following pertinent details from a copy of a certified letter a local landowner had recently received from the CA Water Board: "The State Water Resources Control Board Division of Water Rights was notified by the Department of Fish and Wildlife of potential CA Water Code violations for failure to file a Statement of Water Diversion and Use, and a potential unauthorized diversion of water on your property located at . . . And the Division was also notified by the Department of Fish & Wildlife of

an alleged fish-kill that occurred in October of 2012 as a result of low-flow conditions in China Creek. . .

"In general if you take water from a lake, river, stream, creek or from underground supplies for a beneficial use, the Calif. Water Code (division 2) requires that you have a water right."

The letter required the landowner's immediate attention (30 days to respond). "If the surface water diversions on your property are subject to our permitting authority, then they are unauthorized diversion of water to which you could be subject to liability. An unauthorized diversion of water constitutes a trespass against the State and the State Water Board may impose a civil liability in an amount not to exceed \$500 for each day the unauthorized diversion or use of water occurs."

". . . California Water Code section 5101 requires with

minor exceptions that a person who diverts water from a stream in the absence of a permit, license, or registration must file a Statement with the Water Board."

"If you have diverted water since 2009, then you are required to report your diversion and use to the State Water Board by filing a Statement unless that diversion falls within one of the limited exceptions provided by the California Water Code section 5201."

Tom Grover, who has been reading up on the law, pointed out that, contrary to what many people might think, springs are part of the stream system and [may be] subject to the Water Board's authority. He also said he was completely behind this effort to regulate, "This is a real serious problem with the fish." He suggested people go to the State Water Resources Control Board's website (<http://www.waterboards.ca.gov/waterrights/>) and look up the CA Water Law, and added, "If your spring is not connected to the stream by a known channel, above or below the ground, then it is exempt."

Jane Arnold, F&W Biologist, clarified that most of the people who received this letter in the China Creek area are probably riparian users, and that filing a Statement of Diversion or Use is free. She said it's a new requirement that the State Board has had for the last 3 or 4 years. It's on-line filing only. Riparian users are people who, by virtue of having a spring or stream running through their property, have a property-right to use that water, and the only requirement is to file the Statement. Alternatively, if someone is using that water, but is not a riparian user, then they would have to do the Appropriative Water Rights request. She said that the State Board has been doing enforcement throughout the state, in particular, the Delta and the vineyards, and a lot of people have come into compliance with the water laws. Now, they're starting to move to areas in Humboldt County and elsewhere.

Warden Embry said there were different types of permits, and the one he was most familiar with as F&W is the Lake or Stream in Alteration Agreement, not really an alteration but simply a water diversion whether it is stored in a tank or simply in the pipe.

Arnold interjected, "The State Water Board's mandate is to ensure that all citizens are sharing water equally and well for their beneficiary use, and that there is water left over for public resources. F&W is very focused on what are the fish and wildlife needs," she emphasized, "That's their nexus for coming in." And Embry suggested that she outline the three steps as she had earlier in the day with a group of landowners.

1) "Most of these rural residents will be riparian users. You can file your Statement of Use and Diversion. You want to make sure you have a valid claim to your water. It's free to file: it's a \$500 per day fine if you don't file, so you might as well get ahead of the State enforcement sweep. And, you know, it's a property right. It validates your property right that you're using the water. Water's like gold now, it's probably going to be like titanium soon in California, as far as its value.

2) "And if you store water, riparian or non-riparian, you can do it under a registration program for domestic use: household, a half acre or so of irrigating land. And that's a \$250 registration. It's a 5-year permit, easily renewed after 5 years. And again it's a water right to add to your property right. The State Board doesn't usually come out for those. I come out for those. I do the Environmental Review for the State Board. Then you're good to go, you're all legal."

CLMP asked if it made any difference as far as getting the permit if you didn't have a permitted house. Arnold answered, "Not to the State. That's a County Ordinance. It would be up to the landowner to comply with all laws," but that's not the focus of F&W or the State Water Control Board.

3) "For the small domestic registration, first you file the diversion, then you fill out the form for the registration . . . [which includes] the point of diversion (where you take your water from the stream or spring), how much water you use, and how much you store, and describe what your place of use is, household, etc." And this is the same information you give when you file for your diversion.

Warden Embry said that the last couple of summers of driving rural roads and informing landowners about water regulations had brought zero compliance. "A heavier serving of enforcement is probably due, because the educational outreach wasn't working. And so the only next step for me is to bring the court system into the picture. What we've been doing is, either through citizen tips, or through just general patrol, we've been discovering and locating water diversions and trying to contact landowners to try to get them into compliance." People are being discouraged from drawing water in the low water periods in the late summer, and are being encouraged to get water storage during wet periods. There is misinformation in the community about what is being asked of people. It's not that people can't use the water; it just needs to be regulated.

Jane Arnold explained, "What we look at is the

context of the watershed: how many users, what the low flow is, what are the resources, what would naturally be there, and what do the resources need to survive. In China Creek we're talking about the trifecta of fish, you know: Chinook, steelhead, and Coho. Coho are on the ropes. In one way, South Fork Eel needs to be proud of the fact that they have the longest run of Coho salmon that are non-hatchery influenced. On the other hand, Shane was out there documenting Coho dying last year, and so, at this point, we can't allow much more Coho death before they're extinct. . .I'm sure the community would like to see the fish come back and would not like to be part of fish kills."

Tom Grover: "Part of the new rulings in the last couple of years requires people to put in water-monitoring devices to measure it," and there's one without lead available (\$179 at Dazey's), but needs 8 lbs. of water pressure, and no dirt. Jane: the Board might accept a simple bucket and stopwatch method of measurement if asked. Shane: \$15-20, low-flow counters are available. Tom: with Eel River Recovery Project, we're hoping to get info collected and on flyers.

CLMP asked: Limit on spring water storage in

winter? Jane: Small Domestic Use limit is 10 acre feet of water. Tom: That's 2,800,000 gallons. Jane: 3.25 million gal. is 300 ft. Limit for livestock ponds is 10 acre ft. Small Irrigation Registration for vineyards (in Napa, and in the Mattole) allows 20 acre ft.

Asked about storing rainwater, Jane said: "Rainwater we like to call God-water in California. It's not regulated. (Colorado and Arizona do regulate rainwater.)" You don't need a storage permit for rainwater. Rainwater that runs off your roof can be stored without a water permit, and sheet flow into a pond, as well.

Go online to [www.KMUD.org](http://www.KMUD.org) Archives to listen to this program in full.

CLMP at 923-4646, [clmp@civilliberties.org](mailto:clmp@civil liberties.org). To contact F&W Warden Shane Embry's office in Myers Flat: 943-1745; F&G Staff Scientist Jane Arnold's office: 441-5671; Water Rights, Sacramento office: 916-341-5300. Info on water rights can be found on State Water Board's website: <http://www.waterboards.ca.gov/waterrights/>.

## DRONES AND CIVIL LIBERTIES

Interviewed by Bonnie Blackberry and Robie Tenorio on The Civil Liberties Hour on KMUD Radio, 7 pm, Apr. 3, 2013, Parker Higgins of the San Francisco-based ELECTRONIC FRONTIER FOUNDATION (EFF) explained: "The EFF is a digital civil liberties group, focused on civil liberties issues like freedom of speech and privacy as they intersect with technology. For a long time that has been mostly defending people's rights on the web and when they use their devices, but increasingly that has come to include privacy that involves electronic surveillance. We've been working on DRONES from that perspective, as a way to insure that people have the same kind of privacy that they expect when there's technology like these surveillance machines involved. We've pushed for government transparency on this. We've gotten the documents from the FAA (Federal Aeronautics Administration) on who's allowed to fly DRONES and on what exactly the regulations are."

Shown on their website, [eff.org](http://eff.org), EFF has filed a number of Freedom of Information Act (FIA) requests to the FAA, and Robie commented that

she "was shocked about the escalation during the last few years of the agencies wanting to use drones." Parker replied, "Part of this is because of a law that Congress passed last year, called the *FAA Modernization Act* that required the FAA to put regulations in place for licensing drone use by 2015. And part of this is just a function of technology. A lot of the same components that we use, for example, in smart phones are used to build drones, so as the cost for that has come down, and especially as the need for military drones overseas has calmed down a little bit, we're seeing a lot more pushing from the drone industry, and law enforcement especially, to fly drones domestically."

One of the FIA requests was to have an updated list of police departments that want drones. EFF is a non-profit organization and a law firm, "About half the staff is lawyers," Parker said, "and we have the resources to follow up on the requests with lawsuits. . .And we needed to do that in the case of the FAA. . . We've got ongoing lawsuits with the FAA, and also we've asked the Department of Homeland Security for information about how it uses the drones that it flies on the

US border. And since they didn't respond in a timely manner to our FIA request there, we filed the lawsuit against that department too."

Explaining further, "The Department of Homeland Security (DHS) has ten Predators, the larger version – Predator-V drones, that they fly on the US border. And they do surveillance. It's part of the Customs Border Protection Agency. And we also know that, at least in some cases, they loaned these to police departments. . .but we don't yet know exactly under what conditions the DHS will loan their drones out. So that's why we're issuing that lawsuit.

"But then also, there are some drones that are much smaller, like the size of a shoebox, and that's the kind of drones that police departments across the country are applying to get. Where these really large Predator drones cost tens of millions of dollars, these smaller drones cost tens of thousands. For now they can only stay in the air for maybe twenty minutes at a time."

Asked about the possibility of drones being equipped with tasers or rubber bullets, Parker confirmed that manufacturers have said they could, "But so far we have only seen them used in surveillance by police departments."

The potential for air-traffic problems was addressed, "Some of these drones that are flying autonomously don't have the same kind of sense and avoid feedback that real pilots do." And CLMP noted on the website that "the FAA estimates that as many as 30,000 drones will be flying in the US skies by 2020." "Wow!" And Parker said, "Some of the ones seen in military applications can fly incredibly high, and when they've got high-definition cameras, it doesn't slow them down at all, but it makes it so that people on the ground won't know they're getting surveilled, so it makes it really different from something like a helicopter." CLMP noted that on the website it said that cameras can scan entire cities, and alternately zoom in and read a milk carton from 60,000 feet.

And, Parker said, "Drones can be programmed to follow a single individual or a license plate. Or in some cases, we're hearing about drones that are equipped with sensors, not cameras but other sensors, that can detect heat or detect chemicals, and follow that, so it's not exactly being controlled by a human at that point."

There are also some positive aspects, such as universities using them for agricultural research

and for teaching drone use in journalism, and Search and Rescue Team use, Parker conceded, "But we just want to make sure that your privacy rights around law enforcement and what kind of video is allowed to be used as evidence; we want to make sure that we get that framework in place."

EFF is advocating for local and state laws and, "some 35 States have introduced legislation that is aimed at limiting drone use. The better cases are aimed specifically at limiting the kinds of incidental footage that can be captured by drones and used as evidence. . . That's a real vote for what the public thinks a reasonable expectation of privacy is." In California, statewide legislation has been introduced, but it hasn't advanced very far. "In Alameda County, Berkeley, San Francisco, this is being discussed at great length between the County Supervisors and the Sheriff. . .Whenever they've held hearings, they are held for packed rooms, and people are very concerned about the use of DRONES."

EFF is finding alliances with people across the various political divides, "Because this is an issue that really doesn't break down along party lines. This is a civil rights issue, and civil liberties. And that's something that, for the most part, everyone can agree on." Congress has called a hearing in the Senate Judiciary Committee on the "Future of Drones in America, Law Enforcements and Privacy." Parker said, "It's really captured the public's attention. And it's poised to really change the way that privacy law works in this country." And Bonnie commented that "There are two bills that have been introduced, one by Representative Poe from Texas, *Preserving American's Privacy Act*, and then Representative Markey from Massachusetts filed a *Drones, Aircraft Privacy and Transparency Act*, and both of those require warrants for use of drones by law enforcement and regulate data collection and disclosure, which basically is transparency."

People called in with very thoughtful questions and concerns. Hear the whole interview on KMUD archives, or for a copy of the complete transcript, call CLMP at 923-4646.

Bonnie concluded "One thing that people can do is to contact their governmental representatives here in California, and in Washington D.C., and let them know what we think, and also support organizations like the Electronic Frontier Foundation that are doing this important work."

## THE PITCH

**We know the recession is affecting everybody, but we want you to know that we have enough funds for about one more year of CLMP office maintenance at our current level of fund raising. The annual expenses, though quite minimal, have exceeded our annual income for several years and our savings have slowly diminished. A healthy infusion will be welcomed, and is necessary, if we are to keep the office functioning beyond this year.**

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ANY SUGGESTIONS OR INPUT?  
COME TO THE ANNUAL MEMBERSHIP MEETING (CALL 923-4646).

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Make a note of your email address and include it in or on the envelope if you don't already receive occasional emails of pertinent information from CLMP, and would like to.

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MEMBERSHIP DUES & DONATIONS ARE ESSENTIAL

TO KEEP THE CLMP OFFICE OPEN

Please renew your membership by using the enclosed self-addressed envelope.

Suggested donations:	Supreme Supporter	\$500+
	Major Supporter	\$100+
	Membership Plus	\$50+
	Basic Membership	\$20+

All contributions are tax deductible.

THANK YOU FOR YOUR SUPPORT!

**CLMP Letter to Board of Supervisors, April 30, 2013**  
**re: Draft Medical Marijuana Outdoor Cultivation Ordinance for Humboldt County**

Dear Chairman Sundberg & Members of the Board,

The Civil Liberties Monitoring Project (CLMP) sees numerous problems with the Outline of the Draft Medical Marijuana Outdoor Cultivation Ordinance presented at the March 5, 2013 Board of Supervisors meeting. There are so many problems with this proposal that it is difficult to know where to start.

Public participation should have happened at the beginning of the process instead of commenting after a proposal is presented. This proposed ordinance is too heavy handed and over broad which would make it very difficult for medical marijuana patients to cultivate their medicine outdoors, while at the same time diverting resources away from dealing with the much bigger problems associated with large commercial industrial cultivation.

CLMP has serious concerns about mandatory registration, inclusion of unrelated requirements and use of nuisance per se as the enforcement tool. The current indoor ordinance has phrases like, "as long as the cultivation is in conformance..." and "Any violation of this Code shall be, and the same hereby is declared to be, a public nuisance..." whereas this draft outdoor proposal has raised the bar to mandatory registration and requirements enforced via nuisance per se.

CLMP's understanding of nuisance per se is that an action or non action doesn't have to be a real nuisance to be declared a nuisance per se. The county says it's a nuisance per se, therefore it is, regardless any nuisance effects. We recommend that the county focus on remedies for the real nuisances instead of creating non-nuisance nuisances.

Mandatory registration is not part of the Indoor ordinance. Requiring mandatory registration for outdoor cultivation presents a multitude of problems concerning protection of the rights of medical marijuana patients especially with the current stance of the federal government. It doesn't seem realistic to propose that people turn themselves in and trust that all will be well.

Including adherence to requirements that have no rational relationship to nuisance effects of outdoor cultivation of medical marijuana further complicates and creates more adversity. What does having a permitted house or "legal parcel" have to do with nuisance effects of outdoor medical marijuana cultivation?

The explanation that "The requirement that only legal parcels be allowed to register is intended to curtail the illegal division of parcels for the purposes of obtaining additional parcels to grow MMJ...", brings up a concern that if the County doesn't already have a mechanism in place to prevent the creation of any more shaded parcels, (for any purpose) then that needs to be addressed, independent of any marijuana ordinance.

Sheriff Downey has said that his priority is large industrial grows, the community has expressed similar views. Protection and restoration of the environment is highly valued by the vast majority of people living in southern Humboldt and elsewhere in the county. Something more needs to be done, but this isn't it.

Respectfully submitted,  
Bonnie Blackberry  
in behalf of Civil Liberties Monitoring Project

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**ANNUAL MEMBERSHIP MEETING IS SEPTEMBER 4TH, AT 5 PM, AT CLMP OFFICE**

CIVIL LIBERTIES MONITORING PROJECT  
PO BOX 544  
REDWAY, CA 95560

CLMP 2013 REPORT TO MEMBERS  
And NOTICE OF GENERAL MEETING  
Please let us know if you plan to attend  
-CALL 923-4646