

Malheur County Planning Commission

The Quasi-Judicial Land Use meeting of the Malheur County Planning Commission was held at the Four Rivers Cultural Center, 676 SW 5th Street, Ontario, Oregon 97914, on April 25, 2019. Chairman Kathy Clarich called the meeting to order at 7:30 p.m.

MEMBERS PRESENT:

Kathy Clarich, Acting Chairman
Linda Simmons
Rob Kindschy
Chad Gerulf
Teresa Ballard
Ed Anthony
Robert Quick
Gary Pearson
John Faw

Staff Members:

Eric Evans, Planning Director
Tatiana Burgess, Planning Management Assistant
Stephanie Williams, County Counsel

OLD BUSINESS:

Kathy Clarich – This is the Malheur County Planning Commission meeting of April 25, 2019. The first thing on our agenda tonight is going to be the approval of our January meeting minutes.

Approval of January 2019 minutes:

Ed Anthony made a motion to accept the January 2019 minutes. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Approval of March 2019 minutes:

Ed Anthony made a motion to accept the January 2019 minutes. Rob Kindschy seconded the motion which was unanimously approved by the Commissioners present.

CONTINUED BUSINESS:

Owner: Harry Stoddart
5475 Iron Mountain Road
Jordan Valley, Oregon 97910

Applicant: Eco-Site, Inc.
240 Leigh Farm Road
Durham, North Carolina 27707

Representative: Patrick Ewing, 2812 SW Bertha Boulevard, Portland, Oregon 97239.

(1) Conditional Use Permit of an unmanned wireless telecommunication facility consisting of a 450' tower with anchor tenant's tower mounted antenna, radios, and cabling. Ground equipment will be enclosed in a shelter. Applicants request variance approval to setback requirements on the western property line which abuts BLM land. Planning Department File #2019-02-006.

(2) Conditional Use Permit for a sage grouse rule permit pursuant to OAR 660-023-0115, Planning Department File #2019-02-007.

Kathy Clarich – Next on our agenda is applicant, Harry Stoddart. It went to the continuance from March 28, 2019. It was a hearing for consideration of conditional use permit, variance permit and sage grouse rule permit for 450' wireless telecommunication tower.

Now is the time to continue to the hearing for conditional use permit, variance and sage grouse rule permit for a 450' wireless telecommunication tower for applicant Eco-Site, Inc. Planning Department files 2019-02-006 and 2019-02-007.

Please sign in at the podium and fill out a testimony question sheet if you have not done so already and when called to speak please state your name, address and title (if any) for the record.

1. There is a general time limit for testimony of 5 minutes. The applicant's initial presentation will be 20 minutes; with a rebuttal of 10 minutes.
2. All testimony and questions shall be directed to or through the Chair. Testimony in question should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?
 - a. There are no abstentions from the members of the County Planning Commission.
4. Do any members of the County Planning Commission have any conflicts to disclose?
 - a. There are no conflicts to disclose by any members of the County Planning Commission.
5. Do any members of the County Planning Commission have any bias to disclose?
 - a. There is no bias from any members of the County Planning Commission.

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6. Do any members of the County Planning Commission have any ex parte communication, including any site visits, to disclose?
 - a. There is no ex parte communication from any members of the County Planning Commission.
7. Does anyone object to any members of the Malheur County Planning Commission hearing this application?
 - a. There are no objections.
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
 - a. There are no challenges.
9. Land Use Statement for the record: Oregon Land Use law requires several items be read into the record at the beginning of this hearing. I will now read these items.

The applicable substantive criteria upon which the application will be decided are found in Oregon State laws and rules as well as local code provisions, which are specifically set out in the Staff Report and include:

The Malheur County Code: MCC 6-6-7 General Criteria to Evaluate Suitability; MCC 6-6-8 Specific Criteria to Evaluate Suitability; MCC 6-6-8-8 Wireless Telecommunication Facilities; MCC 6-8-2 Circumstances for Granting Variances.

The Malheur County Comprehensive Plan: Goal 3 Agricultural Lands, policies 1,2 and 6-8; Goal 5 Open Space, Scenic and Historic Areas and Natural Resources – Fish and Wildlife Habitat policy 2 and Water Resources policy 4; Goal 11 Public Facilities and Service – Fire and police protection policy 2.

Sage Grouse Rule Permit – Oregon Administrative Rule 660-023-0115.

Testimony, arguments and evidence presented must be directed toward these approval criteria or other criteria in State law, the Malheur County Comprehensive Plan or the Malheur County Code that the speaker believes to apply to the decision.

The failure of anyone to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and the parties the opportunity to respond to the issue will preclude appeal on that issue.

An issue that may be the basis of an appeal must be raised no later than the close of the record. Such issues must be raised and accompanied by statements and evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision makers to respond to the issue precludes an appeal or an action for damages to Circuit Court.

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10. Order of Proceeding: The applicant, represented by Eco-Site, Inc., will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

- Staff Report for County – Eric Evans, Planning Director
- Applicant (20 minutes)
- Testimony in favor/proponent (5 minutes each)
- Testimony in opposition/opponent (5 minutes each)
- Staff comments (if any)
- Applicant/proponent rebuttal (10 minutes)
- Close the Public Hearing – no public testimony can be heard after this point. If a continuance is requested or a request to leave the record open, it must be granted. County staff recommends a continuance rather than leaving the record open.
- Deliberate

Preliminary Staff Report: *Planning Department Director, Eric Evans, read the Preliminary Staff Report; see Eco-Site, Inc., application 2 for full staff report.*

Eric Evans – As Kathy stated, this is a continuance from last month. Over the past month we've worked, probably more Patrick than myself, with ODFW to try to come up with... do you remember, it's a 3 step process, kind of a 3 step hierarchy when it comes to the sage grouse, that was the biggest problem. Avoidance, minimization and mitigation... we had the first 2 steps down, I believe, the avoidance and minimization. We did not have the mitigation to the point where ODFW was comfortable with us even granting this, even with the condition. They worked really hard and made some huge roads, we had a couple little bumps, there were some large numbers but I think we're on the right path but we're just not there yet. I talked with Nigel today and if Patrick wants to talk about it, if he wants to do his testimony too, then they can... Basically Nigel said we're not quite there yet. Although we don't have to grant Nigel a continuance, Patrick can ask for a continuance so that we can iron out all those wrinkles. A couple of things that I wanted to talk about is, there was one new exhibit that we need entered on the record and it is a letter from Eco-Site, I guess probably an attempt to partially get some of this mitigation figured out. It just basically lays out some commitments that Eco-Site is making; talking about minimizing the perching and nesting from raptors. That's pretty much the threat that we're talking about with power, is the perching and nesting of raptors and that's the threat that the tower poses on sage grouse. I think theoretically us getting to one hundred percent or them getting to one hundred percent mitigation of that is where they want to be, I think it's going to be in their best interest but they need to have some conversations probably involving engineers and everybody else to figure out how that's going to look on that tower and how that's going to function. I think that we're probably going to go on with another continuance and give... Nigel of ODFW said today that he really feels that one more month can get us where we need to be.

We have to give a ruling within 150 days of the time that I accepted the application, that's July 22nd. I feel like if we see them in May we still have plenty of time to issue our ruling and any appeals that would come from that.

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There was one other letter of support that you guys got from Snake River Economic Development Alliance, from Kit Kamo. That was a letter of support that we also needed to put on the record.

Applicant Testimony

Patrick Ewing – I won't repeat much of what Eric said but we are working with ODFW to understand that mitigation process. It's obviously a new regime and understanding the details, including what one hundred percent mitigation for raptor perching entails very specific nature which we will get to eventually. I think it's fair to say that ODFW is learning as we are learning as Malheur County is learning how this process rolls out. So we would like to request a continuance again, as we work through these details with ODFW.

On the matter of 150 days, naturally we'd like to take care of everything as soon as possible. Our goal, I think reasonably, is to hammer out details with ODFW and then receive a conditional approval at some point, conditioning the applicant, conditioning my client to perform on obligations concerning mitigation and then go from there. On the 150 days, we obviously don't want to get there but should we bump up against any timelines my client is amenable to releasing Malheur County from its statutory obligations to reach a decision.

Proponent Testimony – None.

Opponent Testimony – None.

Staff Comments –

Eric Evans – I recommend that you grant the continuance.

Closed to Public Testimony

Ed Anthony made a motion to leave the aforementioned application open until May 23, 2019, at 7:30 P.M. Teresa Ballard seconded the motion which was unanimously approved by the Commissioners present.

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NEW BUSINESS:

Owner: Berrett Land, LLC
3540 Highway 95
Jordan Valley, Oregon 97910

Applicant: Eco-Site, Inc.
240 Leigh Farm Road
Durham, North Carolina 27707

Representative: Patrick Ewing, 2812 SW Bertha Boulevard, Portland, Oregon 97239.

Conditional Use Permit for a Wireless Telecommunication Facility and Variance from Setback Requirements. Planning Department File #2019-03-012.

Kathy Clarich – Next is an application from Eco-Site and Berrett Land, LLC.

Now is the time to hear the request for a conditional use permit and variance permit for a 300' wireless telecommunication tower for applicant Eco-Site, Inc., Planning Department file 2019-03-012 and 2019-03-013.

Please sign in at the podium and fill out a testimony and question sheet if you have not done so already and when called to speak please state your name, address and title (if any) for the record.

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2. All testimony and questions shall be directed to or through the Chair. Testimony in question should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?
 - a. There are no abstentions from the members of the County Planning Commission.
4. Do any members of the County Planning Commission have any conflicts to disclose?
 - a. There are no conflicts to disclose by any members of the County Planning Commission.
5. Do any members of the County Planning Commission have any bias to disclose?
 - a. There is no bias from any members of the County Planning Commission.
6. Do any members of the County Planning Commission have any ex parte communication, including any site visits, to disclose?
 - a. There is no ex parte communication from any members of the County Planning Commission.
7. Does anyone object to any members of the Malheur County Planning Commission hearing this application?
 - a. There are no objections.
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?

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- a. There are no challenges.
9. Land Use Statement for the record: Oregon Land Use law requires several items be read into the record at the beginning of this hearing. I will now read these items.

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The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision makers to respond to the issue precludes an appeal or an action for damages to Circuit Court.

10. Order of Proceeding: The applicant, represented by Eco-Site, Inc., will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

- Staff Report for County – Eric Evans, Planning Director
- Applicant (20 minutes)
- Testimony in favor/proponent (5 minutes each)
- Testimony in opposition/opponent (5 minutes each)
- Staff comments (if any)
- Applicant/proponent rebuttal (10 minutes)
- Close the Public Hearing – no public testimony can be heard after this point. If a continuance is requested or a request to leave the record open, it must be granted. County staff recommends a continuance rather than leaving the record open.
- Deliberate

Preliminary Staff Report: *Planning Department Director, Eric Evans, read the Preliminary Staff Report.*

Eric Evans – You guys can see the map that I put up here, this is the highway coming in. Rome's back this way right?

Ed Anthony – Yes.

Eric Evans – The 450' tower is somewhere up in this area, past Burns Junction. The piece of property that we're talking about is on this little dry nob right here and the tax lot is this big piece of property, just so you guys have visualization.

The last couple of months we've been talking about sage grouse quite often. I kind of had a question or two about why this doesn't involve the same stuff and why we don't have the same hang up on this application. The answer is that this tower is not located in significant sage grouse habitat and that's codified in Oregon law, of where that sage grouse habitat is, this particular one doesn't fall inside that habitat therefore none of the process applies. I guess you could say the avoidance measure is what they applied here; they avoided the significant sage grouse habitat all together.

Just some items for the record, we did get a letter from ODFW (the local biologist) about this one with some concerns that you guys will want to take into consideration, that should have been included in the packet you got in the mail, about bats and other avian species and particularly the guyed wires that can run into or fly into. We also got an email from John Eden with the Oregon Department of Transportation with his input on this project as well. Also, that letter from the Snake River Economic Development Alliance I think actually reference both of these towers, just so you know I think it applies to both of these actions. My office has not received any letters of opposition about this.

Today we're here to put a conditional use approval of a wireless telecommunication facility. This one is 300', it's a guyed wired tower, pretty much exactly the same besides shorter than the last... the 450' tower. It's located on Tax Lot 2400, township 32, range 40 east and section 12. It's approximately 7.9 miles south of Rome, on Highway 95. The parcel size that we're looking at is 759.53 acres and it does have an existing single-family dwelling. It's exclusively used as rangeland with probably a little bit of meadow pasture as well. It's accessed by US 95, as you guys have a letter attached. There is no sanitation required. Fire protection, this one is not within a fire district. No natural hazards. No water rights on this part of the property. And there are no other zoning permits on file with this particular piece of property. Other than that everything is pretty much the same information that you guys have on that 450' one from last month.

Any questions for me?

Gary Pearson – Will the variance going to be...

Eric Evans – Oh yes, you're correct, thank you. They are also requesting a variance on this one.

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Gary Pearson – Instead of being 330 which is required, it looks like it's going to be 264, 66 feet short of the...

Eric Evans - Correct, that what the applicant is requesting, yes.

Gary Pearson – And the State of Oregon has no problem with that?

Eric Evans – Those setbacks are actually in County Code and aren't in an ORS anywhere, so we have the power to provide variances for those setbacks, we being you guys.

Gary Pearson – Doesn't the State of Oregon have the right to; because they are the adjoining property owner, don't they have the right if they so desired to say, no we don't want it there.

Eric Evans – Yes, in order to appeal that, appeal your guys decision, they'd have to have standing and I don't think there's anybody from the State of Oregon here.

Gary Pearson – They are aware of this, obviously?

Eric Evans – Yes. We sent out public notice just like with all of them.

Applicant Testimony

Patrick Ewing – I'm representing Eco-Site in this matter. If I can pick up on your comment sir, the small piece of property owned by the State of Oregon just adjacent to 95 in the higher part of the dry nob, as Eric indicated, is used for storage. I didn't actually get a clear idea of what it is used for but it's not inhabited. It has some storage; I think there is a canopied storage area under which the State of Oregon has some materials. If the State of Oregon, at any time prior to construction, had a concern and stated it we would be amenable to sliding to the south. It's a convenience that we request the variance for, for the purpose of construction the land does slope down a little bit there; this is a flatter area up to northeast. We chose the spot that would be best for the long term health of the tower, on a flat spot. It's a 300' tower, as Eric indicated, guyed tower. We did receive the comment from ODFW concerning the concern for all forms of flying animals and certainly take that into consideration in terms of construction. We do have some questions concerning the mitigation efforts; what the standards are and we can certainly discuss those in concert with the other discussion we're having with ODFW to understand the methods that they promote to prevent birds from dying. It is very much like the other tower in terms of construction. It's a slightly smaller compound, 55 x 55 and we'll have that 10' exterior buffer as well, fire break if you will, on the exterior of the fenced compound. It will be unmanned. It will be visited once a month. We will build a small/short spur adjacent to where the State of Oregon has a small road entering their property, I think we have that at a couple hundred feet to the tower location, about 300'. I will leave it at that unless there are questions for me.

Kathy Clarich – So you wouldn't have any problems with the proposals made by ODFW about the bird diverters?

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Patrick Ewing – The problem that I'm expressing is that the... there is a difference between manufacturer specifications and what is in that letter. I do not understand why there is a difference and it's something that I'd discuss with ODFW. My client is amenable to these mitigation efforts, absolutely. The spacing, the quantity is something that I researched personally and have not come to a conclusion that the manufacturer recommendations are somehow insufficient.

Gary Pearson – Is that in relation to the bird diverts or to the lighting of the tower?

Patrick Ewing – The bird diverts. There's a separation for each diverter along the guy line that's recommended by the manufacturer and one that's stated in the letter from ODFW and they differ significantly. It's something that I don't doubt we can come to a conclusion on.

The lighting is certainly FAA guided. It's something that we simply receive and make happen.

Kathy Clarich – On the lighting, they have down that they recommend that you follow recommendations identified by the Federal Communications Commission to reduce bird collision. Is that different than the FAA one?

Patrick Ewing – The FAA requires lighting of any structure greater than 200'. I understand you're saying the FCC.

Kathy Clarich – Yes, that was the question I had because...

Patrick Ewing – I do not believe it is FCC guided. I believe is FAA guided.

Kathy Clarich – I thought they said to reduce the bird collision and I'm like, okay, what kind of lights do you have so...

Eric Evans – Our code actually requires that we only do the minimum, no extra lighting besides FAA, from the Oregon Department of Aviation or as a condition from you guys. So they can't do any more lighting that what's required.

Chad Gerulf – So, as far as these bird diverters, obviously you guys have built these in the desert before, right? I find it hard to believe there's not some kind of standard. There's not just a cut and dry, okay this is what we do, if we are in sage grouse territory this is how we handle it, this is how we do the bird diverters? Have you guys not dealt with that in the past?

Patrick Ewing – No, not at all. To be honest with you, the windmills, the transmission lines you know are at the forefront of bird diversion. As far as telecommunication use, to be perfectly honest with you, we don't build an enormous number of guyed towers. There are many existing guyed towers out there, am/fm radio stations. Typically in the wireless telecommunications world we're primarily or at least initially dealing in highly populated areas so the need for a tower of over 250', which is essentially a break point for a self-supporting tower, is fairly unusual. It wouldn't be of much use in a highly populated area to be up that high. So no, I

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haven't dealt with bird diversion on towers, other than on the racks that hold the antennas. For nesting purposes we certainly have had a lot of that in all areas in Washington and Oregon, specifically and especially, because of the large birds that like to nest in the tower top, there are mitigation elements there as well that we'll be discussing with ODFW for the Stoddart property and this one as well. From an operational standpoint having a bird nesting in your tower is problem as well. The bird diverters... I did do a bit of research myself and essentially they are reflective panels that have wind movement that signals to a bird to avoid. The reason that I discussed the spacing is because I looked at the manufacturers recommendation on the 15', my only concern would be that at 15' that's an enormous number of diversion elements which is fine if that's what's required but at some point it begins to look more like a Christmas tree than a guyed tower and that presents a problem of its own.

Chad Gerulf – What does that manufacturer recommend?

Patrick Ewing – There are different products and I've seen 30', 25'; I've not seen anything down to 15' as a recommendation. I'm not suggesting that there's anything wrong with the number I just wonder if there's science behind it; whether anyone has done the studies and it's something that I intend to discuss with ODFW, just to find out where their numbers come from and whether that's the right solution. If it is my client would be amenable to doing it.

Proponent Testimony – None.

Opponent Testimony – None.

Public Testimony – Phillip Milburn, District Wildlife Biologist, Oregon Department of Fish and Wildlife.

Philip Milburn – That 15' recommendation, we were struggling to find a good reference to cite as well. We pulled that out of a California Bureau of Land Management document. I would absolutely support manufacturer's recommendations or if we could find some other industry standard. That 15' is not set in stone, that was the best published reference we could find and we've looked since as Patrick alluded to, to find... We don't want it to look like a Christmas tree on the landscape either so we're trying to walk the line here, not making this thing ugly for everybody in south Malheur County but that nob between those two green spots is probably an oasis in the desert for a variety of species on Cricket Creek, so that's the concern. I just wanted to clarify that, that we would absolutely strike that 15' minimum and be more than happy with an industry standard or manufacturer recommendation.

The other item that I was going to clarify, the recommendation from the FCC is a joint recommendation between FAA and FCC on how to set up the minimum FAA lighting so that it works in a way to minimize the collision hazard. It has to do with the timing of how long the lights on and off and the spacing and certain things. Nobody is getting around the FAA rules, the FAA rules are cast in stone but the FCC recommendation is a modification/recommendation to reduce that collision hazard and that's mainly migrating song birds. For whatever reason they migrate on storm fronts and those lights attract them and there's been instances of a couple 1000

dead birds in a morning laying at the base of a tower so that's the reason. We don't know if this is a migration pathway but it could be. So I just wanted to clarify those two comments.

Gary Pearson – So you would be in favor of this if you could work out the distance with the diverters and as long as you have an agreement on the lights? There's no other problems with it?

Philip Milburn – Absolutely. And just to clarify, if you guys are trying to get this passed today and strike that 15', I don't want to write your condition for you but if you said to manufacturer specifications or published something that would be fine. We can definitely work that out.

Staff Recommendations

Eric Evans – I guess it kind of depends on your guys thoughts on the conditions but I would recommend approving this application. I left those other conditions with the lighting and the diverters were recommendations from ODFW. They didn't really say it like it was a condition necessarily but it's up to you guys if you guys want those conditions or not. I would say to approve it and if you guys feel the need to put the diverters then approve it with those conditions as well.

Closed to Public Testimony

Commission Members Deliberate.

Ed Anthony made a motion to accept the staff report and findings of facts, with the condition of the deflectors. John Faw seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to approve the conditional use permit for a 300' wireless telecommunication facility. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to approve the 66-foot Variance from Setback Requirements. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present

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NEW BUSINESS:

Owner: Roy Long
PO Box 387
Ontario, Oregon 97914

Applicant: Jon Auw
375 Evergreen Road
Ontario, Oregon 97914

Representative: Same as Applicant

Conditional Use Permit for one Non-Farm Dwelling. Planning Department File #2019-03-007.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for one non-farm dwelling in Exclusive Range Use zone for applicant Jon Auw. Planning department file 2019-03-007.

Please sign in at the podium and fill out a testimony and question sheet if you have not done so already and when called to speak please state your name, address and title (if any) for the record.

1. There is a general time limit for testimony of 5 minutes. The applicant's initial presentation will be 20 minutes; with a rebuttal of 10 minutes.
2. All testimony and questions shall be directed to or through the Chair. Testimony in question should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?
 - a. There are no abstentions from the members of the County Planning Commission.
4. Do any members of the County Planning Commission have any conflicts to disclose?
 - a. There are no conflicts to disclose by any members of the County Planning Commission.
5. Do any members of the County Planning Commission have any bias to disclose?
 - a. There is no bias from any members of the County Planning Commission.
6. Do any members of the County Planning Commission have any ex parte communication, including any site visits, to disclose?
 - a. There is no ex parte communication from any members of the County Planning Commission.
7. Does anyone object to any members of the Malheur County Planning Commission hearing this application?
 - a. There are no objections.
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
 - a. There are no challenges.

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9. Land Use Statement for the record: Oregon Land Use law requires several items be read into the record at the beginning of this hearing. I will now read these items.

The Malheur County Code: MCC 6-6-7 General Criteria to Evaluate Suitability; MCC 6-6-8-1 Specific Conditional Use Criteria Non-resource Dwellings in EFU, EFUR or EFFU Zones; MCC 6-A3-3 Allowance of Certain Uses

OAR 660-033-130(4)(a)(D) Agricultural Lands

Testimony, arguments and evidence presented must be directed toward these approval criteria or other criteria in State law, the Malheur County Comprehensive Plan or the Malheur County Code that the speaker believes to apply to the decision.

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An issue that may be the basis of an appeal must be raised no later than the close of the record. Such issues must be raised and accompanied by statements and evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision makers to respond to the issue precludes an appeal or an action for damages to Circuit Court.

11. Order of Proceeding: The applicant, Jon Auw, will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

- Staff Report for County – Eric Evans, Planning Director
- Applicant (20 minutes)
- Testimony in favor/proponent (5 minutes each)
- Testimony in opposition/opponent (5 minutes each)
- Staff comments (if any)
- Applicant/proponent rebuttal (10 minutes)
- Close the Public Hearing – no public testimony can be heard after this point. If a continuance is requested or a request to leave the record open, it must be granted. County staff recommends a continuance rather than leaving the record open.
- Deliberate

Preliminary Staff Report: *Planning Department Director, Eric Evans, read the Preliminary Staff Report.*

Eric Evans – Again just really quick, this is the piece of property up there, right dead-center. As you can see or if you're not familiar with this maybe you don't know, this is actually the

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mushroom factory in Vale. The Malheur River goes through here. If you're leaving Vale you're coming out this road, you're going in to Vale going that direction. I can't remember what this is here, some kind of industrial cinder block building right?

Ed Anthony – It used to be a chiropractor's office.

Eric Evans – So the subject property is this. I think it's right around 19 acres; it's mostly steep, I mean this is all pretty much up and down; they're going to be limited on where they're going to put a house anyways. That being said, it is mostly steep so it's also not really grazed, I don't know if I've ever seen any animals out there.

This is Tax Lot 1900, township 18 south, range 45 east, section 20 D. It's only about 1600' from the city limits of Vale, east on the south side of Highway 20-26, as you can see. It's all zone Exclusive Range Use (C-A2). It is about 19 acres. It is vacant, again, steep rocky ground with little vegetation. Surrounding use to the north is the mushroom plant that is all zoned UGA, Vale Industrial; to the west is zoned County Heavy Industrial; to the south it's zoned Exclusive Range Use; and to the east, this whole section over here, is zoned County Rural Residential. There are no water rights attached to this property; you guys should have a letter. Also in the packet you should have a letter from Vale Fire and Ambulance and you should also have an email from John Eden with ODOT saying that there is some information about access for residential only on this piece of property in their records. Again, it's a conditional use permit for a non-farm dwelling. Also, there are no letters of opposition; I've received nothing in my office.

John Faw – I have a question. There used to be a building on that site, back in the 70's; I grew up across the road. There used to be a two-story building on that site years ago, that they used for a senior living type facility.

Gary Pearson – Is there a driveway still there?

John Faw – I'm not sure if there is or not.

Eric Evans – If it was in the 70's, that predates our zoning laws.

John Faw – But there was a building there at one time.

Eric Evans – Interesting, that was way before my time.

Applicant Testimony

Jon Auw – I'm the applicant on this permit request and the owner is a client of mine. I sell real estate and I've had this place on the market for a while and there is absolutely nobody interested in it. The only interest that I got was a guy that said if you could get the permit to build a house, it'd be a nice place to have a house; everybody's got their own dreams. I told the owner of the property that I would fill out the application and do that for him and I've done that. Is there any questions; Ed knows more about... did you see on the highway on the map there was a building

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there at one time, they called the 'poor farm' or something like that; that came from John Eden and he thought that was pretty interesting. It's more clear on the original the copies didn't come out well.

Chad Gerulf – What's a poor farm?

Kathy Clarich – That was the name of the....

Jon Auw – Ed you knew when there was a building on that site.

Ed Anthony – Yes a two-story building.

MEMBERS OF THE BOARD TALKING ABOUT PREVIOUSLY EXISTING STRUCTURE.

Gary Pearson – You don't have the road entrance? You haven't applied for that yet?

Jon Auw – No (INAUDIBLE) we had to get an approval letter from John Eden, from the Highway Department.

Gary Pearson – He's saying that you have the right to apply for one but there's a caveat that maybe you get it.

Jon Auw – I suppose there is.

Ed Anthony – We can make a condition that there is.

Jon Auw – There is a driveway in there right now, there is a little access you can drive off the Highway, I've been there.

Kathy Clarich – But is it just a dirt trail?

Ed Anthony – There used to be a road into that, I don't know what's happened since then.

John Faw – I just think it's just sat there unused but I think it's still there.

Ed Anthony – We can make a condition on that.

Eric Evans – That's actually one of the proposed conditions, number 2, having to apply for and be granted a state highway approach.

Ed Anthony – Is there enough room on there other than right there where that concrete bunker is?

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Jon Auw – That’s the only place that has a pretty moderate slope, some of its level with the highway where you can drive off into it. But that northwest corner is the only place that’s really suitable to build unless you have a helicopter.

Ed Anthony – So is there enough room to put a septic system and stuff in there?

Jon Auw – I think there’s well over 40,000 square feet there.

Ed Anthony – I know there’s a lot feet but a lot of it is straight up.

Jon Auw – Correct, it is. You can see on the map that lighter brown part is moderately sloped to level. The rest of that is darker maybe a mountain goat can live there.

Gary Pearson – That’s not in the city limits then?

Jon Auw – No.

Proponent Testimony – None.

Opponent Testimony – None.

Staff Recommendations

Eric Evans – I would recommend approving this conditional use permit for a non-farm dwelling. I think it met the criteria, I think it’s obviously a piece of land with no water rights on it so I would recommend approving this with the conditions that I’ve laid out.

Kathy Clarich – You’ve seen the conditions that were to be placed on it?

Jon Auw – No I don’t think so.

Eric Evans – You should have a copy of the staff report; I think you’re on our list.

Kathy Clarich – Do we need to read in the statement that goes on the title?

Stephanie Williams – No.

Eric Evans – So there’s right to farm statement that has to be entered on the deed, that’s all non-farm dwellings, it’s written in the statute. One of the conditions is that you have to apply and be granted an approach from ODOT. Adequate firebreaks should be constructed because of where you’re at. They’re all kind of normal conditions that we put into all of these. The last one is kind of a message for you that it’s valid for four years and substantial action must be taken or the approval will lapse.

You guys had a question about the septic. Obviously there would be no approved development on this piece of property without test holes and approval from Environmental Health.

Closed to Public Testimony

Committee Deliberates

Ed Anthony made a motion to accept the staff report and findings of facts. John Faw seconded the motion which was unanimously approved by the Commissioners present.

Robert Quick made a motion to approve the conditional use permit for one non-farm dwelling with proposed conditions of approval given in the staff report. Ed Anthony seconded the motion which was unanimously approved by the Commissioners present.

CONTINUED BUSINESS:

Owner: Calico Resources USA Corp.
665 Anderson Street
Winnemucca, Nevada 89445

Applicant: Same as above.

Representative: Garrett Stephenson – 1211 SW 5th Avenue, Ste. 1900, Portland, Oregon.
Nancy Wolverson – 665 Anderson Street, Winnemucca, Nevada.
Carlo Buffone – 665 Anderson Street, Winnemucca, Nevada.

(1) Conditional Use Permit for an underground gold and silver mine. Planning Department File #2018-10-012.

(2) Sage grouse rule permit pursuant to OAR 660-023-0115, Planning Department File #2018-10-012

Kathy Clarich – Now is the time to continue the hearing to hear the request for a conditional use permit and provide a recommendation to the County Court for a Sage Grouse Rule Permit for an underground gold and silver mine for applicant Calico Resources USA Corp. Planning Department File 2019-01-001.

Please sign in at the podium and fill out a testimony and question sheet if you have not done so already and when called to speak please state your name, address and title (if any) for the record.

1. There is a general time limit for testimony of 5 minutes. The applicant's initial presentation will be 20 minutes; with a rebuttal of 10 minutes.

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2. All testimony and questions shall be directed to or through the Chair. Testimony in question should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?
 - a. There are no abstentions from the members of the County Planning Commission.
4. Do any members of the County Planning Commission have any conflicts to disclose?
 - a. There are no conflicts to disclose by any members of the County Planning Commission.
5. Do any members of the County Planning Commission have any bias to disclose?
 - a. There is no bias from any members of the County Planning Commission.
6. Do any members of the County Planning Commission have any ex parte communication, including any site visits, to disclose?
 - a. There is no ex parte communication from any members of the County Planning Commission.
7. Does anyone object to any members of the Malheur County Planning Commission hearing this application?
 - a. There are no objections.
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
 - a. There are no challenges.

Land Use Statement for the record: Oregon Land Use law requires several items be read into the record at the beginning of this hearing. I will now read these items.

Malheur County Code – MCC 6-6-7 General Criteria to Evaluate Suitability; MCC 6-6-8 Specific Criteria to Evaluate Suitability; MCC 6-6-8-4 Mineral, Aggregate or Geothermal Resource Exploration, Mining and Processing

Malheur County Comprehensive Plan – Goal 3 Agricultural Lands, policies 1, 2 and 6-8. Goal 5 Open Space, Scenic and Historic Areas and Natural Resource – Mineral and Aggregate Resources policy 3, Fish and Wildlife Habitat policy 2, Water Resources policies 3 and 4. Goal 9 Economy policies 4, 5 and 7. Goal 11 Public Facilities and Services – Fire and Police Protection policy 2 and Water and Sewage policy 1. Goal 12 Transportation policy 20.

Sage Grouse Rule Permit – Oregon Administrative Rule 660-023-0115.

Testimony, arguments and evidence presented must be directed toward these approval criteria or other criteria in State law, the Malheur County Comprehensive Plan or the Malheur County Code that the speaker believes to apply to the decision.

The failure of anyone to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and the parties the opportunity to respond to the issue will preclude appeal on that issue.

An issue that may be the basis of an appeal must be raised no later than the close of the record. Such issues must be raised and accompanied by statements and evidence sufficient to afford the decision makers and the parties an adequate opportunity to respond to each issue.

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The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the decision makers to respond to the issue precludes an appeal or an action for damages to Circuit Court.

12. Order of Proceeding: The applicant (represented by Garrett Stephenson and Nancy Wolverson) will be allocated up to 20 minutes for initial applicant presentation. The applicant may also present up to 10 minutes for final rebuttal. All others wishing to testify will be given 5 minutes each.

- Staff Report for County – Eric Evans, Planning Director
- Applicant (20 minutes)
- Testimony in favor/proponent (5 minutes each)
- Testimony in opposition/opponent (5 minutes each)
- Staff comments (if any)
- Applicant/proponent rebuttal (10 minutes)
- Close the Public Hearing – no public testimony can be heard after this point. If a continuance is requested or a request to leave the record open, it must be granted. County staff recommends a continuance rather than leaving the record open.
- Deliberate

Preliminary Staff Report: *Planning Department Director, Eric Evans, read the Preliminary Staff Report.*

Eric Evans – First I wanted to get to where we are today. We met in March to hear the very beginning of this. We were presented with information from the applicant about how they met the conditions. The day before the hearing we did get a letter of opposition from the Oregon Natural Desert Association and 1000 Friends of Oregon and the applicant agreed to continue the hearing, they wrote a rebuttal to that opposition. You all have that 25 page letter that the applicant provided; I emailed that out to you guys. I didn't get you all of the supporting documentation (the exhibits) that the 25 pages referred to in time; that's what I'm handing out to you today. Also we handed out a letter from the Road Master and the surveyor that outlined/refined where they were going with the road. I think there was a mistake in the first letter they had so they wanted to get another letter on the record to make sure that the standards, they were actually trying to apply the wrong standards so the standards they had first submitted had curb gutters and sidewalks and it might look kind of weird. It was the wrong standard and it was caught and we decided to amend that and rightfully so. You also received tonight a letter of support from the Snake River Economic Development Alliance. Kit Kamo sent a letter as well. I also provided an exhibit list... there's a lot of stuff here in this... this is a pretty big record so I wanted to get that out there. The exhibit numbers could change but those should be all the exhibits that we have, that we've received today.

Calico did have that response to ONDA. One of the things that I wanted to point out was when we set up these ordinances, this code, when it came to the mining side of things, the mineral aggregates is that we didn't want to put an extra burden on applicants to make them, when they

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are going through another process through DOGAMI, especially the consolidated permit process, we thought it was too much for us to require certain items; DEQ, air quality... all of those things so we leave that up to DOGAMI. What our code says is that they provide you with enough information to address any additional standards that you feel might be needed but they don't have to come to you and provide the type of information that they are providing DEQ, water resources and State and possible Federal Agencies as well.

For tonight I was going to give you a rundown of where tonight could go. I would direct you, if you have the staff report that was put on page 27, number 21 I still think that those 3 (INAUDIBLE) are applicable tonight. I don't feel that any information that we have received is going to change what my recommendation was last month. So we can do three things; we can move to adopt the staff's recommendation for approval with the conditions of approval; we can move to approve the application with the following additional conditions of approval (on the staff report); or we can move to deny the application for failing to satisfy whatever criteria you feel that they didn't satisfy.

John, you weren't here, do you want me to go into a little more detail of what the staff report and process is?

John Faw – Yes please.

Eric Evans – So this is a continuance of the conditional use permit and also the sage grouse rule permit for 62 acres in Exclusive Range Use Zone. You can see what's outlined here is the patent parcel; it's roughly 61.98 acres and all the way around this is BLM land. In Malheur County we only apply zoning to private lands not Federal land. What we're talking about is only for the patent parcel. This is roughly 22 miles south of Vale, a long ways from everything. The thing I need to emphasize to you is that although we're here to approve or deny the Conditional Use Permit we are also here to make a recommendation for the Sage Grouse Rule Permit. It's kind of a similar recommendation that we did in some prior matter but the County Court is going to be the final approval for the Sage Grouse Rule Permit so you'll be making a recommendation to them regarding that. DEQ approved sanitation is required; the fire protection, the parcel is not in the fire district it's within the Vale Rangeland Fire Protection Association and the applicant has agreed to join that association and provide some things for them. There are water rights that were granted through water resources. The soil is Class 6 or Class 7 and that soil classification was not through the NRCS process and now our code actually references the NRCS; so that's actually not designated any soil, it's actually an undetermined area according to NRCS. I believe the applicant, over time, has done some studies and they figured it was Class 6 or 7 but I'm not sure that's really applicable since our Code states that we're using the NRCS data. This patent parcel, if you're curious, was created within the BLM land through a patented mining claim in 1986. They've been going through this process slowly to get to where we are at today. The staff report has all sorts of different criteria that we're looking at. Another thing that we had discussed the last time was the Comprehensive Plan has been acknowledged by the State; therefor it is kind of the law of the land so using goal (INAUDIBLE) information State rule will apply it.

Applicant Testimony

Garrett Stephenson – Good evening everybody, thank you for coming out I appreciate it, this is our second round as most of you know. Again, my name is Garrett Stephenson; I'm legal counsel for Calico Resources USA Corp. My address is 1211 SW 5th Avenue, Suite 1900, Portland, Oregon 97204. To my right is Nancy Wolverson who is the project manager for the Grassy Mountain Mine. If you have very specific technical questions please avoid me at all costs and direct those towards Nancy because if I attempt to answer them and do it wrong I will be in big trouble by her after we leave tonight.

This, as staff mentioned, is a continuation of the hearing that most of you were here for on March 28th. My presentation will be pretty short because we spent a lot of time with this project a month ago but I'm going to talk a little bit about where we're at procedurally; I'm going to talk a little bit about where we want to end up; and then I'll go ahead and respond to ONDA's letter; and then make some conclusions. But again, tonight is a continuation which means that this has been on big long hearing. It started out in March and we left the record all the way open until tonight and the reason we why we did that was because the day before the initial evidentiary hearing we received a letter from Oregon Natural Desert Association and 1000 Friends (I'm just going to refer to these parties together as ONDA). We received this letter and with that letter there was some 560 some-odd pages of exhibits and you could imagine when I saw the size of that I was in no position to want to even attempt to rebut that night. The other reason why we're here a month later is because in that letter and also orally ONDA asked to leave the record open and continue the hearing so we thought one month to give everybody time to digest what had just been submitted would be appropriate. We spent the last 3 weeks looking at ONDA's testimony working with our consultants to pull together the information that we think responds best to it. I'm going to go ahead and summarize our letter, it looks really long but I tried to make it as readable as I could given the highly technical nature of what we're trying to do so if you haven't read the letter what it involves is some summaries of what we respond to ONDA on and then specific discussion of those responses. The exhibits are there for reference, I don't think you need to review each one of them page by page. There is a reason why we didn't submit this information originally; it's highly highly technical, not that you can't understand it but the point is it's a pretty big bear to read through it all. The best way to look at that, if you haven't already, is if you... I tried to reference the exhibits where they're relevant in the letter. I think we provided a pretty good summary of what those documents indicate and frankly we think that ONDA raised some good questions. Out of respect to not only them but also to this Commission we wanted to make sure that we responded to all those questions as completely and respectfully as we could. That's what our submittal is all about; I apologize for the length; I apologize that we weren't able to get it to you until Monday but it took us some time to go through all the documents that ONDA presented.

So before I get into that, at the end of this meeting I'm going to ask the Planning Commission to do 2 things:

- 1.) I'm going to ask it to close the record in this matter; I think that we've had sufficient time, an additional 30 day continuance. To my knowledge no other opponent has utilized

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that continuance. Originally, the idea I think for our opponents was that they could provide more testimony; none of them has done so. I don't really see any reason to leave the record open any further in this matter.

- 2.) The other thing I'm going to ask you to do is kind of a two-part thing, I'm going to ask you to approve our Conditional Use Permit. I've gone through the record at length over the last 3 weeks and I certainly feel that there is sufficient evidence to demonstrate that all the applicable criteria are met. The second part of that is that we are going to ask that you approve a recommendation to the County Court to approve our Sage Grouse Rule Permit.

I'm going to talk about 4 big issues that ONDA raised. They raised probably 10 different things, some of them are more important to talk about than others but I think 4 of them I really want to hammer home tonight.

The first thing that I want to talk about is the scope of the application. Obviously, as Eric mentioned, what we have is the mine itself which is on private land and then the surrounding mine area is a larger project area where the mine processing area will ultimately take place. So it obviously raised the question of how do we really get at permitting this. What is before you tonight is an application for a mine on this piece of property; it is not an application for the tailing storage facility or the processing facility for the simple reason that all of those things are regulated by DOGAMI and the various State agencies that we talk about in our letter. In order to even apply to those facilities we need to obtain a Conditional Use Permit from the County. I want to be very clear about what you're approving tonight; you're not approving any of those facilities on Federal land. One of the reasons why I'm telling you this is because ONDA made great pains to say that County you need to evaluate things like the tailings storage facility, you need to evaluate the processing facilities, you need to evaluate everything and the problem we have is that none of that are items that we're applying for; all of that is governed by very detailed State regulations. We're not in a position to apply for those before the County simply because the County doesn't have jurisdiction over Federal land, one, and two; we need to be able to get through our consolidated permitting process with DOGAMI. I just want to make that as clear as I can. I don't think that there is anything in the County Code or County Comprehensive Plan that would require or even authorize the County to review facilities that aren't proposed or even when they will be proposed, will be proposed on Federal land.

That kind of leads me into a brief description of what the permitting process outside of the County process is going to look like. We've been working with the Department of Geology and Mineral Industries for the last 4 or 5 years, or at least the last two.

Nancy Wolverson – Yes, it's been about 5 years, but after Paramount bought Calico it's been essentially 2 years.

Garrett Stephenson – So the way that the mine itself, as a general matter, we're talking about the processing facilities, the tailing storage facility and the mine itself, including the mine operation on the patent parcel that goes through what is called a consolidated permit. That permit is issued by DOGAMI. What DOGAMI does is because a funnel for every relevant State agency. It's not like we just meet DOGAMI's standards and they issue us a permit; we're meeting ODFW

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standards; we're meeting EPA standards; we're meeting DEQ standards; for the BLM side of things we'll be doing EIS. All of this gets wrapped up into what is essentially an omnibus permitting process that is cross jurisdictional, we work with BLM but at least on the State level DOGAMI is running the show here. What that does is it forces us to apply a huge number of different regulations to this operation. I'm going to quickly talk about 5 different areas these regulations govern. 1. Chemical processing 2. Tailings storage facility 3. Wildlife impact 4. Surface and ground water impact and 5. Mine reclamation, in addition to numerous other things. I think that what ONDA's point was that the County needs to be looking at all these issues as well and frankly there are not County regulations pertaining to most of these things. What is before the County is to decide whether or not this is something that is permitted by the Comprehensive Plan and applicable land use regulations. With that context established we'll talk about a couple of substantive things.

The first one is water quality protection. For those of you who were here when Dan Morris from ONDA testified he raised a number of concerns about potential impacts on water quality and it's kind of hard to put each one of these concerns into specific brackets; but I'm going to try and discuss them all under the heading of water quality. What we discussed in our letter and what we attached to it demonstrate how the mine deals with water as a general matter. The example that ONDA gave at the last meeting about the Crested Butte Coal Mine from Colorado, I really don't think that is a good model to compare our mine to because those mines were all built in the 19th century. This is a 21st century mine with 21st century technology. While I can't cite book and verse, I have a sneaking suspicion that environmental regulations have advanced somewhat in the last 150 years. We talked a lot about that in our letter but to make this simple for the purpose of oral discussion, our water quality is going to be protected in 3 ways. The first way... this is just how I organize it in my mind, Nancy might... do chip in here if you think I'm glossing over anything but this is how I think of it. The first way we deal with water quality is through treatment and recycling all processed water on the site. As you can see this mine is not going to be an open pit mine. It's discussed in the application, this is an underground mine. You're not going to see a giant hole in the ground where we're going to be extracting the minerals out of. There is processed water involved in various things, specifically in the processing portion of it when we turn the ore into a useable mineral. All the water that is going through these processes is being collected, treated and recycled. There are systems in place in every part of the production line to make sure that happens. I will give you a couple of examples. When we're talking about the mine itself, the mine is designed to be dewatered if there is any water that gets into the bottom of it, that water would be pumped out of the mine and reused as processing water and treated. With respect to the tailing storage facility there is a drainage system in the bottom of that facility that is designed to remove the water in the tailings to the extent possible before it even gets to the membranes that prevent that water from seeping into the ground water so that's one of the ways we deal with water quality. The other way that we deal with it and this gets ONDA's concern about acid mine drainage is through treating the minerals that we are putting back in the earth. Obviously mining, you're taking a lot of material out and you're putting back in. There is the potential, and we talk about this in the letter, for that material as water drains through it to become somewhat acidic. The way that the State regulates that and the way that mining best practices deal with it is to avoid having that turn into acid in the first place. What it involves is whenever we're putting rock back into ground, typically with a strong base like lime

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that gets the pH to the point where you're not going to have acid mine drainage. Luckily, even if there was some drainage coming through that, acid or otherwise, we have the systems in place that I've just discussed to make sure that the water is collected. The last way that we deal with water quality is we keep it out of the ground water all together to the extent possible. So when it comes to the tailings storage facility, for example, you have a multi-layered liner that is actually underneath the drains, that I just talked to you about. If those drains do not pick up that water it's not allowed to get into the ground water. When the mine is reclaimed, that means we're back filling the mine itself with rock and we are covering up the tailings storage facility the tailings storage facility itself is going to have (INAUDIBLE) membrane over it. The idea is that each one of these processes we're not only catching the water as it attempts to filter through any disturbed ground but we're trying to keep water from percolating into that facility in the first place.

Nancy, do you have anything to add to that?

Nancy Wolverson - I'm just going to add one thing to that, these new membranes that are out there which we have designed this system around they actually are self sealing so even if the membrane actually gets a sharp rock or anything it actually self seals.

Garrett Stephenson - The one point that I forgot to mention has to do with the water table out there. I think that there is always a concern when you're digging a big hole in the ground that you might end up hitting water, basically create yourself a well. In this case the bottom level of the mine is above the water table. So the mine has that advantage going forward of not necessarily having a direct impact on the water table itself.

Nancy Wolverson - For anyone that knows about the area, around the deposit, around the hill the water table is a bit higher but because of the geology and the strong silicification in the deposit, the actual ore (INAUDIBLE), the ground water does not get in there and so the ground water is much deeper.

Garrett Stephenson - The other thing I want to talk about for the substantive perspective is the financial guarantee. At the last part of ONDA's letter they said, well you haven't posted a bond for this stuff. The idea is that under state regulations what we're required to do is post a bond to guarantee that is always kept topped up so that if for some reason Calico goes away there's money to reclaim this mine and close it out. The State requirements are quoted in our letter but I'm just going to briefly summarize what they are. The bond has to be posted to a high enough level to include actual closure and remediation cost. It also has to include the estimated likely cost of an environmental remediation in case there is an incident, so that's an additive on to that bond. The third thing is that bond gets reviewed annually to determine whether it's still sufficient in light of any changing conditions to make sure that it all is covered. That is a requirement that we have to meet with state regulators before any ground is broken on Grassy Mountain, either on the patent parcel or outside of the patent parcel. So I wanted to give that context because I thought it was a good question from ONDA saying, how are we taking care of this? That's how we're taking care of it. We don't mine without that bond being in place.

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Nancy Wolverson - Just one addition to that, the BLM also has very strict regulations for our bond. The DOGAMI and the BLM are working together to make sure the bond is consistent across both agencies.

Garrett Stephenson - It's always hard for me to talk about my clients suddenly disappearing. I certainly don't think that they are going to do that but I think that this system that's in place provides everybody, the State, the Federal Government and the County insurance that it needs to make sure that there's a big huge pot of money if something goes wrong to close this out and to conduct the remediation as we've designed it.

The last point that I want to make is about the social and economic impact. A large portion of the 500 pages of documents that ONDA submitted were studies talking about how terrible mines are for a local economy. I think there's a couple of problems with that perspective and I actually feel very sorry for them but I actually tasked one of my associates with going through all of that material and ground-truthing whether or not the economic arguments were there. There's a couple of things that jumped out at us about that testimony. Number one is that all of that information that ONDA gave you and gave us on the potentially problematic economic impact had to do with mining dependent communities. Frankly, Malheur County is not a mining dependent community and it won't be even after Grassy Mountain is built. We're not talking about converting the county's economy into something it's already not and then leaving town in 15 years. What we're talking about is 110 additional mining jobs and at least 150 construction jobs. I don't think that ONDA's points on that were really relevant. They've also said that this is going to cause a housing crisis in the county; I find that hard to believe given the size of the mine but also the fact is that the jobs that Grassy Mountain is going to provide are going to pay quite a bit more than the county median wage. This is not going to be something stealing from the county's limited supply of affordable housing. The idea, I think, for the folks who work in this mine is that they are going to make enough money to be able to afford the housing that they might want; we think that that is a good thing. We also think that an increase in housing demand, while it might put some pressure to build some more housing, is generally a good thing in the long term for an economy.

The third thing that ONDA claimed is that we're not going to pay these employees what we say that we are. I don't know how to rebut that other than to say...

Nancy Wolverson - It's pretty simple. If we're not going to pay an equivalent or somewhere near an equivalent to what is being paid in Nevada nobody is going work here, they're just going to go to Nevada. I can't imagine that we cannot pay close to, maybe we don't have to pay exactly what Nevada is paying because it's very competitive there but it's just a drive down the road to Winnemucca as everyone here knows.

Garrett Stephenson - I think that this is one area where the best source of information about this is probably from the applicant. We're going to pay what we represent we're going to pay.

Those are our responses to the economics and I'll just give you one example observation that was a little bit troubling to me when I read all of this is that I think ONDA's comments imply that

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they would rather prevent this project than see the modest amount of economic development that it could create for the county. I'm going to be clear, this is a mine that's designed to make money. It has, I think, very positive potential economic impacts on this county but it is 100 plus jobs, we're not talking about bringing Amazon in here. I think that when a fair mind looks at that I don't see how you could conclude that it is going to ruin the county's economy; that it's going to turn it into a boom or bust economy. I think it's a step in the right direction but I won't ever claim that it's going to solve every problem in Malheur County; I think that would be arrogant of us to say. At the end of the day we're pretty confident in the job numbers. We want to see this be a successful thing for the entire county and I hope you will view ONDA's comments in that light.

In conclusion, I want to reiterate a lot of the legal issues that ONDA brings up really stem from this... either they're misunderstanding or seeking to make us misunderstand here. We're trying to get a Conditional Use Permit for this piece of property to mine underneath that hill. As a part of that we're asking for a recommendation for the same piece of property for a Sage Grouse Permit. I can talk a long time about what I think of Sage Grouse Permitting and after I'm done talking about that we would all wonder if I actually understand it. I've done my best to cover it both in our application and in our responsive testimony; I'm not going to cover that again unless you have questions for me. At the end of the day Staff agrees, we feel there's more than enough evidence (substantial evidence) on the record that demonstrates all of the applicable criteria met. We agree with the conditions recommended by Staff and we would respectfully request that you approve the application on that basis. The other thing that I would leave you with is that this is not the end of our permitting process, this is the beginning. This project does not go, I'm being entirely truthful when I tell you this project does not go anywhere without the Commission approving it and so that is what we are asking you to do. We appreciate your time. Thank you for coming back twice to look at this but I think it was the right thing to do to take an extra month and make sure that we're addressing everybody's concerns and I hope you agree that we've done so. With that, if you have any questions for Nancy or I, we are yours tonight and would be happy to answer any questions you have.

Gary Pearson - I have several questions; I won't ask them all at once. ONDA seems to be really zeroing in mostly on containment of chemicals, of acid, are you aware of a mining process going on right now in the State of Oregon, anywhere, where there is these tailing storage facilities and cyanide detoxification, chemical management, all the terms that you folks have used in here (which are very impressive by the way), is there any of those going on in the State of Oregon right now?

Nancy Wolverson - The regulations for Division 37 and Division 43, which is the DEQ chemical mining regulation, these were written in 1991 and since then no one has attempted and as far as I know no one had attempted for a long time so the only gold mining you see in this state is the gravel mines on the western side of the state, which I know nothing about.

Gary Pearson - Are there... maybe I should have broadened that statement. Are there any in Nevada that are following the same procedures?

Nancy Wolverson - Absolutely.

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Gary Pearson - And none of them failed?

Nancy Wolverson - As far as I know none have ever failed in Nevada that are anywhere near modern. Now I can't tell you what happened in the 1800's and early 1900's.

Gary Pearson - I don't mean that. I'm talking about these processes that are referred to as the up-to-date, I don't want to say fail safe but as good as can be done I suppose.

Nancy Wolverson - No. The State of Nevada has over time, it's taken a while, but over time they have increased and changed their regulations so they have adequate monitoring and detection and how to fix the problems. We do that at all of our sites, even the historic sites, not just the operating mines. When we had a TRT meeting and NDP (Nevada Department of Environmental Protection) gave a talk to the TRT members and they were asked that question and they said no. Now, the problem that comes up... you can go online or you can go anywhere and you can find tailings disasters but we're talking about a desert environment, we're not talking about Virginia and coal tailings. That is where you are going to find all of your examples. I'm pretty sure we don't get anywhere near their rain, the precipitation. We have designed this so that all precipitation goes around, all the water will be diverted around the tailings and the only water that will get into the tailings will be the water that lands on them. Everything else will be diverted around it as clean water and it just goes off down the drainage as it would have if the tailings weren't there. It's the tailings it goes in and water that comes directly out of the sky on them is the only...

Gary Pearson - That's the only drain water?

Nancy Wolverson - That will be the only water.

Gary Pearson - That falls from the sky. The tailings will be detoxified before that ever happens?

Nancy Wolverson - Yes. The tailings are detoxified. The cyanide is taken out to a level that is regulated by DOGAMI and DEQ and we have designed, in ours, it will be more than that, we will get much less cyanide than that because the technology is now better. Also, the tailings will be treated for acid and this is also regulated very specifically, as to how much lime must be put on based on the amount of acid it has generated so there is no leeway in that. This is all regulated and the regulators can come out and look any time.

Garrett Stephenson - One thing I learned when I was reading this stuff (hopefully I've learned more than one thing) the regulation requires the level of cyanide to be reduced to something like 30 parts per million. The technology we're using, even when it was brand new technology 25 years ago, was capable and typically did get that down to 7 and now I think quite a bit less. So we're not just meeting the standard we are far below that. The other thing and I talked about this because I originally started this project looking at gold mining as a newbie and not understanding anything about, and when we talk about cyanide mining I think we all have this terrible image about heap leach mining up in Alaska and that's not what this is. This is basically... I look at it as a factory; it's an entirely enclosed system. All of the chemicals are exposed to the mining ore in a

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sealed vessel and that is how it is done; it is not open air heap leach mining. The other thing is that every single facility that we have has to have a catch basin underneath it that at least in the case of a lot of the large cyanide equipment. Basically we have the ore going into these vats, they're being exposed to these chemicals, underneath you have something that is capable of catching 110% of whatever those vessels can hold. So it's not just that, oh yes we're doing this all internal and there is, the regulations require a lot of redundancy. Another example is that every pipe that's being run across the ground has to have a line trench underneath it. There is different levels of redundancy in the safety here, it's not just hey we have this new technology and everything's going to be great. We are definitely building in a lot of safety margins and frankly state regulations require a lot of safety margins.

Gary Pearson - Does the State of Oregon have tougher regulations than Nevada?

Nancy Wolverson - I don't really think so. I think that Nevada, since 1991, they had tougher regulations but Nevada has come a long way because Nevada has got many gold mines; heap leach, underground, tailings, no tailings, everything. They've come such a long way that it might even be tougher in Nevada just because they have been doing it forever.

Garrett Stephenson - One of the things that Oregon's regulations do require, I think is kind of a catch all which was a dream to me, is they require the best practicable technology, I think that's the term they use. Somebody was thinking about this 25 years ago (or whatever) and they said look, obviously technology is going to change and whatever you build has to be the best of whatever is out there at the time you propose it. Certainly that is a requirement that we have comply with now and I think that's one of the reasons why you're getting the Rolls Royce of mine processing technologies proposed at this mine.

Kathy Clarich - The only thing I want to bring up, the stuff you're talking about the pipes and all of the rest of that, that's not going to be on the parcel we're even talking about.

Nancy Wolverson - No.

Kathy Clarich - The only thing that we need to really concern ourselves with is the parcel that the mine is on.

Nancy Wolverson - And that would be the underground mine itself; the ventilation shafts, one that takes air down and one that takes it up; some roads; some water tanks; things that everyone is used to except for the actual underground mine itself.

Garrett Stephenson - I think it's fair to discuss this stuff. I think you guys would like us a lot less if we simply just crossed our arms and said all you can do is look at this parcel. I understand you care about this community and you want to know the technology we're implementing and that's a discussion we're happy to have. In order to survive the next series of tests that we're going to have, including potentially an appeal with this, (INAUDIBLE) legally what we're doing but we have no problem answering any questions about the mine as a general matter.

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Nancy Wolverson - Part of your exhibits, I believe, are a lot of background information on a lot of these experts that we've hired to do this work and in particular the people that are designing (INAUDIBLE) and Chris McMann and Matt Barton, who are designing our tailings facility, have worked on and designed several tailings facilities in Nevada, some of them 20 times larger than the one we're looking at and they are doing it to standards above all.

Gary Pearson - I have a question on the boom or bust issue that was discussed by ONDA. I think all of us immediately the first thing we did when we got into this, the first thing we saw was how many ounces of gold you figured were under the ground times what the price of gold is. I think that's probably the first thing everybody on this committee did just for the fun of it. I did it based on \$1200.00, I don't know what the price of gold is today but it's in that area I suppose. What would happen if two years after the process began if gold went to \$500.00 an ounce?

Nancy Wolverson - \$500.00 an ounce would be tough for us. \$1000.00 an ounce we can still mine. All mines are going to have a tough time with that. What mines do though, in general, is they try and be able to last out short dips in the price. Now that would be a huge dip and I'm pretty sure that would be an economic issue all over the world not just the price of gold. I'm not sure what we would do at \$500.00 an ounce.

Gary Pearson - I probably should have said \$900.00 perhaps.

Nancy Wolverson - \$900.00 - \$1000.00 we're going to keep mining, we're just going to have some executives that are probably not going to be happy. It's not going to be... it would not shut the mine down but it would not be making a profit and we would continue to do what we could. Sometimes what we do is we stockpile ore, we sell it when we can, we don't sell it, there's a lot of things we can do. Again, I've been in gold exploration development business for almost 40 years now and I've been through every boom and bust in that time.

Gary Pearson - In worst case scenario, if it got to the point where it wasn't profitable would then this go into the reclamation at that point in time or would it just be closed up and waiting for the gold to go back up again, five years later or?

Nancy Wolverson - We have, basically, the requirements of the permitting process is we have to have two different plans. One of them is intermittent shut downs, in other words for a lot of different reasons, I mean war breaks out and there's nobody left to run the mine, those have happened in the past, I don't past. Any reason why we can't run the mine we have to have a plan for a temporary shutdown, these are regulations. But if that becomes too long then the State can insist on a full shutdown and then we go into full closure and reclamation. You have to remember that it's not just reclamation, we actually have an entire process for closure and then reclamation.

Garrett Stephenson - The only thing that I would add to that is that building the mine and the process facility is a huge capital investment and I don't think it's the type of capital investment that Calico would abandon at the drop of a hat. You could imagine building any other kind of factory, if there's choppy water, I think most reasonable people would say gosh I've sunk so

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many millions into building this we're going to keep going and see if it comes back up. So it's not... you know the way I look at it is that it's not something where a dramatic dip for a short period of time, I wouldn't think it would be a big deal just because of the huge amount of investment going into it at the beginning.

Nancy Wolverson - As Carlo mentioned last month, any gold we produce there is a market for it. We can always sell gold, period, but we don't have to. Mines have done this in the past where you keep mining, you keep producing, you just sell enough to keep your employees paid and you save the gold because you're hoping the price will go up, of course sometimes it goes down but you know there's a lot different ways to do this, it's like managing the finances of any business.

John Faw - Looking at this, what I see here is a time frame of around 15 years, the life of this mine.

Nancy Wolverson - The entire thing, yes.

John Faw - That's not the only knob in that country.

Nancy Wolverson - Yes, you're right.

John Faw - Isn't there a very good possibility to replicate this again, out in that same area or expand this when this starts reaching its...

Nancy Wolverson - As an exploration geologist the answer is yes. There was a lot of exploration going on in Oregon. There were no deposits that were discovered to this extent in Malheur County; there have been some others in some other places but none that are quite as good as Grassy but that's pretty much because everyone walked away and stopped exploring. So yes, there are a lot of targets and we have and will continue to pick up and look at targets.

John Faw - So you are still searching out in the...

Nancy Wolverson - Always.

John Faw - Because that is a lot of country.

Nancy Wolverson - Yes it is.

Linda Simmons - Are you going to make a movie?

LAUGHTER

Nancy Wolverson - Should we?

Linda Simmons - Yes. I think this is a great one. I mean this whole thing. And I would like to be in it.

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John Faw - I want to come for a tour. This is just fascinating. Especially when you get up and going. When I started reading this, you're going to mine from the bottom up.

Nancy Wolverson - Generally we are. I mean we will be trying to mine as we go down just because we've got to make some money.

John Faw - Well it doesn't make sense not to mine that as you're taking it out.

Nancy Wolverson - The reason we mine it from bottom up is so that we can actually refill everything and if you start refilling up above then you know... it's not very productive. Basically, we will be completely mining out the bottom and back filling and then mining up.

John Faw - The more I read the more fascinated I became of that but it was kind of counterintuitive when I first started because you always dig a hole from the top down.

Garrett Stephenson - I really recommend that if any of you want to go out and see the site that you get in touch with us because I actually got to go out and see it and I thought it was... because I'm looking at it from an aerial like oh it's kind of a knob in the desert and a pile of rocks, you go out there and this hill is made up of some of the most interesting geology I've ever seen on a small scale, it's full of petrified wood and all sorts interesting things.

John Faw - There's a number of us that grew up here bouncing around in that country in our younger and more formative years and then as we've matured.

Kathy Clarich - You're still bouncing around.

Nancy Wolverson - And just for your information, this is very similar to a lot of small hills and larger hills in Nevada.

Gary Pearson - We've been looking for the Blue Bucket Mine out there for the last 100 years.

Kathy Clarich - No more questions, then I'll ask you to step back.

Gary Pearson - I have one more, if you don't mind. Is it true that the DOGAMI process will not move to approve anything unless an approval is gained from the County first?

Nancy Wolverson - I've read it 20 times more than you but go for it.

Garrett Stephenson - So the reason... first of all as a general matter this is private land and in order to mine it under the County's regulations we need a Conditional Use Permit, period. What DOGAMI has said is in order to apply for the consolidated permit we need to have what's called a Land Use Compatibility Statement and what that is, is essentially after, assuming this gets approved, after it gets approved Staff can sign a single piece of paper that says, yes it's permitted under our Comprehensive Plan and Zoning Code. That is something that DOGAMI has told us they need to have before we submit our consolidated permit. Let me be clear, we would need to

get this permit from the County regardless because it is zoned ERU (Exclusive Range Use). In ERU a mine is a conditional use so it has two important aspects to it, number one the County can allow it, number two DOGAMI can allow us to submit our consolidated permit.

Proponent Testimony - Mike Niehuser - 5956 NW 213th Place, Portland, Oregon.

Mike Niehuser - I'm a 5th generation Oregonian. I married a gal from Gooding, Idaho, which is about an hour and a half east of Boise so I'm kind of familiar with this stretch. I was a commercial real estate banker for 18 years so I understand the environmental and permitting and that kind of thing, somewhat, as much as a banker could. I took a personality test and found out I wasn't a banker. I became an investment analyst in 2000, a bank analyst in 2000. In 2005 I began following the mining industry, exclusively since that time. I've written hundreds of reports for investment purposes. I'm attracted to this sector because you never stop learning, it's always location, location, location and location. It's very interesting; it's a very sophisticated industry that doesn't suffer fools and requires a lot of long term work and planning. I've been all over North America, bits of South America, Australia, Micronesia and Africa so I'm pretty understanding of this sector but I'm not a geologist; I cheated in high school chemistry so I have not a perfect understand of all things.

But I've been following this particular project since about 2007, just seeing who owned it and what was going on with it and what Calico was doing. There's a lot of other places with mining projects. I never thought I'd see a mining project get permitted in Oregon because Oregon has a real reputation outside of Portland where one would think that it could be permitted but in my investigation of Paramount and Grassy Mountain, I think it is obviously permit-able and I don't know about a Rolls Royce but it's definitely a Cadillac project and it's a Cadillac location. From about every aspect you could look at a project it's actually a perfect place to have a mine, from A-Z. I really can't think of a way to fault it in terms of location, topography, compactness, it's low sulfidation so there's not a real huge problem with acid. It's a high grade project as it's contemplated so you're not going to have tremendous amount of waste, you're not going to have a tremendous amount of tailings, you're going to pull a lot of gold out for what it is. It is expensive when you figure out the price of gold and the tonnage of gold per ton there's a lot of expenses that go into getting to that place so the profit is tight, tighter than it may seem. It's not an industry to get rich in but it's one where I think pretty much most (INAUDIBLE) large metropolitan area west of the Mississippi started as a mining community. This project, I just don't have enough good to say about it.

As far as my comments about Paramount and how they have answered my questions, I think it's a very quality company in terms of them going to every extent possible, not just to design a project that meets standards but go beyond that and to answer questions. I've also been impressed with the openness of the people in the Willamette Valley that will be rendering a decision on whether the project should go forward. I was impressed with the fact that in '91 Oregon came up with this process and it's never been used. I think Newmont was going down that path and then decided that project wasn't large enough for them. In time, like it was asked earlier, Nevada... I think in '91 Oregon had the toughest process for permitting a mine and the rest of the Country has kind of caught up with it since then. It's never going to be easy to permit.

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I just wanted to be able to put on record that as an Oregonian I think this is a great project. When I first visited it I came in the back door, I came in through Bend and drove through Brothers, little places that I was familiar with when I was lending. As a banker in Oregon I always thought I would like to see Brothers and see what's going on there. When I got to Vale, I don't want to be diminutive, but I thought this town looks a little tired and then I went into Ontario, went out to visit Grassy Mountain the next day and then driving from the project through Vale I thought Vale was the cutest thing on the face of the earth. I thought as soon as you build this mine you'll have people buying paint and insulation and fixtures and plumbing and I thought mostly of the kids in town. I was a school board member for 10 years so I know what it is to sit and listen to testimony (INAUDIBLE) and so forth.

I just want to say that it's going to be great for the kids. They're going to learn so much as will the whole community. Again, my hope is that you'll get behind this project after approving it. Thank you very much for your time. I'm available afterwards for questions, I'll leave my card.

Kathy Clarich - Do we have any other opponents or proponents?

Opponent Testimony - None.

Staff Recommendations -

Eric Evans - My recommendation, I'm not really sure what more information that we can get from the applicant at this point in time. It's going to be a little bit different, we're going to... tonight my recommendation is a little bit different about adopting the, typically we adopt the staff report and the findings and everything. My recommendation would be to close the record and then make a tentative decision without adopting anything specific. My guess is that they might not need the 7 days for the final written argument but...

Garrett Stephenson - No, we're fine to waive our final written argument phase time with the lack of anybody testifying in opposition tonight.

Eric Evans - So you'll make the tentative decision for both the Conditional Use and the Sage Grouse permit and then the findings will be developed and finalized next month. So the tentative decision would be subject to the final findings document.

John Faw - Is my understanding correct, it's just a recommendation from this body to County Court?

Eric Evans - For the Sage Grouse Permit. The Conditional Use Permit is for you guys to approve.

John Faw - So half of it is...

Eric Evans - I would recommend, again, in the staff report there's some recommended motions, those would be the best motions to use.

COMMISSIONERS DELIBERATE

Gary Pearson - Is that conditionally, that they're going to have to follow the Game Departments recommendation on the mitigation factors?

Eric Evans - Right, that is... we changed that condition from what we had in the staff report.

Kathy Clarich - We changed it to the letter that they got from ODFW.

Eric Evans - Correct, that's one of the reasons why we don't necessarily want to adopt all the staff report, exactly like this, we don't want to miss something like that.

Garrett Stephenson - Eric, if you don't mind, I'll just kind of talk about how I think is the best way to proceed here.

As Eric mentioned, what we have is a Conditional Use Permit. This Commission decides whether or not to grant that. This is... when we first looked at the Sage Grouse Permit piece of this it was the first time I'd ever seen it, it was the first time that County staff had ever looked at it before (as far as I know). The Sage Grouse Permit is not a part of the County's Code it applies by force of State Law and when we reviewed that it talks about what the local government should and should not do. So in our view it's a local government decision required, which means it's for the County Court to decide. The way that we are dealing with the Sage Grouse Rule Permit, and we worked with ODFW on this, is that what you have in the application and staff report are findings about locational dependency, essentially. So to put a really thin gloss on it, what the Sage Grouse Permitting process requires the County to do is make a decision about whether a given proposal needs to be located in Sage Grouse habitat. I think for our purposes it's pretty clear the minerals are where they are and that's the basis of our discussion of the Sage Grouse Criteria in the application. The other thing that the rule requires is for ODFW, and it's specifically for ODFW to require certain mitigation if its warranted. Through the consolidated permit process ODFW is going to look at the entire mine project, so not just the patent parcel but all of the facilities on Federal land as a whole and come up with, what we hope is, a unified Sage Grouse mitigation requirement. We saw no reason to require the County to go through a separate mitigation analysis just for the patent parcel. So what you would be doing tonight with the Sage Grouse Permit is making the findings indicated in the staff report and in the application which say, yes this is a big project, it needs to be located where it is because of the location of the minerals and we're going to adopt a condition that ODFW recommended at the last hearing; it's a long condition but I set it out in our response letter. We would be putting that condition into the final findings that you would adopt. So that's kind of the way that we're approaching this and I think that what our goal was, at least for the applicant side tonight, is to get a vote on whether or not to approve the project as a general matter, which would mean approving the Conditional Use Permit and sending the Sage Grouse Permit issue up to the County Court with the recommendation for approval. But as Eric mentioned we'll be coming back with written findings that you can review that talk about the specific language of each condition. You'll get a chance to review that, deliberate and vote on adopting those findings.

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Gary Pearson - So the recommendation to the County Court would in fact be the proposed conditions that Fish and Game and you folks have come up with? In order to keep us out of this you've come up this consolidated thing where Fish and Game Department has a proposed condition on what to follow and that would be our recommendation to the County Court then?

Garrett Stephenson - Well we've recommended that this Commission adopt that condition. So it's something we're proposing, we think you should approve the application with that condition. There are a number of reasons for that, not the least of which is it's something that our partners at ODFW have wanted us to do. We've looked at the condition, we have no problem with it. I would look at it as part of our application that we are proposing, that you would approve. We're not... I wouldn't look at it as us putting words in the Commissions mouth, so to say. I would look at it as part of the whole package.

Eric Evan - So the condition is actually a condition of the Conditional Use Permit. This isn't a condition of the Sage Grouse Rule permit, it's actually of the....

Garrett Stephenson - No. I think... The way we looked at it is since we're dealing with two permits we're looking at it, at least I was looking at it, as a condition of the Sage Grouse Permit. However, at the end of the day, the condition would apply and we'd have to meet that before any construction happened on the mine. I think it's something that we can work out with staff on how to phrase that in the findings that you adopt. I don't think it's something that is... I guess I don't want to get hung up to much on where that condition lives but ultimately what you'll have before you is a final written decision that imposes that condition. We'll work with staff in figuring out what the best line item to put that condition under is going to be.

Gary Pearson - But it will follow the Fish and Game recommendations?

Garrett Stephenson - Correct.

Kathy Clarich - And we had that in Exhibit 9.

Teresa Ballard - So it sounds like we're going to do two things. One is either recommend the 62 acre patent parcel be approved or deny it (which I hope not) and then also make a recommendation that Sage Grouse Rules Permit be sent on to the County Court.

Garrett Stephenson - That's right.

Kathy Clarich - But we're making tentative decisions on both of them tonight.

Garrett Stephenson - The reason why, at least when I like to do this work I like to have a vote before we adopt the findings, is so I know what findings to write.

Kathy Clarich - Any other questions?

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Eric Evans - A tentative decision on the Conditional Use Permit and a recommendation to the County Court.

Ed Anthony made a motion to close the record. John Faw seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to make a tentative decision to send the Sage Grouse Permit to the County Court. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to tentatively agree to approve the conditional use permit for the gold and silver mine on Grassy Mountain, subject to the adoption of the Findings at next months meeting. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

There being no further business to come before the Malheur County Planning Commission, the meeting was adjourned at 10:15 P.M.

Respectfully submitted, Kelsey Sullivan.

Minutes approved by:

Name: Kathy Clavick Date: 5-23-2019

