

Malheur County Planning Commission

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, on October 28, 2021. Kathy Clarich called the meeting to order at 7:35 p.m.

MALHEUR COUNTY COMMISSION MEMBERS PRESENT:

Kathy Clarich
Linda Simmons
Clark Forsyth
Teresa Ballard
Robert Quick
Chad Gerulf
Rob Kindschy
Ed Anthony

PLANNING DEPARTMENT STAFF MEMBERS:

Eric Evans, Planning Director
Tatiana Burgess, Planning Manager
Alexis McDaniel, Planning Clerk
Stephanie Williams, County Counsel

NEW BUSINESS

Applicant: Nathan Lewis
PO Box 87, Vale OR 97918

Owner of Record: Nathan Lewis
PO Box 87, Vale OR 97918

Consideration of the conditional use permit for two non-farm partitions and two non-farm dwellings in an exclusive range use zone. Planning Department file 2021-09-013.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for 2 non-farm partitions and 2 non-farm dwellings in Exclusive Range Use zone for applicant Nathan Lewis. Planning Department file 2021-09-013.

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 and questions should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain?

If so, state the reason.

Rob Kindschy, neighbor of applicant.

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4. Do any members of the County Planning Commission have any conflicts to disclose?
If so, state the conflict.
5. Do any members of the County Planning Commission have any bias to disclose?
If so, state bias.
6. Do any members of the County Planning Commission have any ex parte communications, including any site visits, to disclose?

Kathy Clarich and Ed Anthony visited site.

7. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?
8. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
9. Land use statements 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 6-6-8-1 – Specific Conditional Use Criteria Non-Resource Dwellings in EFU, ERU or EFFU Zones
- MCC 6-6-8-2 – Specific Conditional Use Criteria Non-Resource Partitions in EFU, ERU or EFFU Zones

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.

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 or 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.

10. Order of Proceeding.

The applicant 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.

Preliminary Staff Report: Read by Planning Manager, Tatiana Burgess.

Tatiana Burgess – This is a Conditional Use Permit application for 2 non-farm dwellings, and 2 non-farm partitions. The applicant is Nathan Lewis at PO Box 87, Vale, Oregon 97918. The property is identified as tax lot 3700 on assessor’s map 18S44E. Malheur Country reference number 13347. The property is zoned exclusive range use and the current parcel size is 278.25 acres. The property is not currently being farmed - it is all range land, and there is currently one existing dwelling on the property. There is a property to the South that is currently being farmed and it has row crops. The access way is going to be for the first proposed non-farm partition – off of Bully Creek Rd, and then the second partition, to the North – will be accessed through the existing range land road, that is known as Reservoir Road. For the proposed new house, a DEQ Sanitation System will be required, and the existing house has had a system that has been approved and permitted since 1995. The sites for the non-farm partitions will be within Vale Rural Fire Protection District, and we do have a letter from them. There are currently no water rights on the property, no natural hazard, and the entirety of the property is covered in soils that have not been surveyed by the National Resource Conservation Center. The little bit about the zoning history: in 1999, the parent parcel was subjected to two minor property line adjustments. Both of those have been prior to the 2001 date. In 2021, there was a proposal to recognize that when Bully Creek Rd was built, it actually split the property into two pieces. So, the original parent parcel that was sized to 354.86 acres, should have been split into South and North of Bully Creek Rd. When Bully Creek Rd was acquired in fee by the County, a recorded instrument was recorded pertaining to that action on April 27th, 1970. The recorded instrument was #109830. Upon recognizing this divide, it brought the existing parcel to the existing size that is known today, as 278.25 acres. The piece South of the road was 53.25 acres. This segregation was recognized and recorded as Malheur County instrument number 2021-1829, and there is no other known zoning history for this site. We have Derrick McKrola, he will be doing all the surveying work for this, and he is representing the applicant.

Eric Evans – I do have a question. Does anybody have any questions about how that, you know we always talk about that parcel creation day, and that is one of these things for these non-farm partitions, right. Is that the parcel creation day has to be after 2001? So, does anybody have any questions how we got to this size, and it not changing the parcel creation date?

Ed Anthony – You have explained it in there.

Eric Evans – Okay, I just want to make sure you guys understood that the parcel creation date was the 1970s date. When the road went in and the County owned it.

Kathy Clarich – They just hadn’t finished all the paper work at that time.

Tatiana Burgess – Correct.

Eric Evans – Right, we just recognized that had happened. That administrative decision was just

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recognizing that the road was in 1970, and it's owned in fee. So, not all roads do that. Most of the roads in the County are right-of-way, and not owned in fee. We have done several of these administrative actions.

Kathy Clarich – Okay, so next is applicant's testimony. So, Nathan is not here?

Ed Anthony – Derrick is doing it.

Eric Evans – Is Nathan Lewis on the line?

Applicant Testimony – Derrick McKrola, applicant's representative:

Derrick McKrola – It will just be me. Derrick McKrola – land surveyor. I reside at 3811 Birch Rd Vale, Oregon. Pretty straight forward with what was discussed. The one side is 278 acres and they have the seller and buyer for existing home site there. They were originally talking about 25 acres. Often times the first question we ask is, okay, how much is back taxes and the new taxes? We have talked to the Assessor's office and they said 25 acres would cost \$700, which is cheap, 10 years back taxes are \$500. Then going forward, it would be \$1600 a year. After that we decided... buyer and seller agreed on bottom 19 acres for the existing home site, and then creating a second parcel. We looked at another area that we think would be a suitable home site, has enough of a flat area on top of the hillside there. We also looked at the Reservoir Rd that has been publicly used. How it ties from Bully Creek Rd several miles to the North to another County road known as South Rd G. As shown on the exhibits, we recognized that the Reservoir Rd should be dedicated to the County. The owner, Nathan Lewis, doesn't want to have anything to do with obstructing anybody from using it. So, we are going to dedicate it to the County, and the County Surveyor and the Road Departments are susceptible to that. Somewhere in the farm clause, we will probably include a statement in regards to that road, and it's only seasonally maintained once a year, whoever is there on that side would need to recognize that disadvantage. The reason why the driveway is proposed up to the North, is because we have some USA/BOR easement right-of-way there in the South West Corner. We are creating a driveway some distance more off the Reservoir Rd that will be dedicated and will come up just South of the draw, some distance to avoid the seasonal drainage. It wouldn't be much, there is not a lot of seasonal drainage there. It's just a draw there and have the driveway along the draw, and up to the home site on top where it is pretty flat. I think it is large enough to accommodate a home, septic, and drainfield. That should leave at least about 244 acres to the range land, which is more than 160-acres minimum.

Kathy Clarich – So, they aren't trying to build on this site right now, is that correct? Or are they planning on selling it or something? Because usually we get a plot plan that shows where the house is, and septic is going, and where the well is going.

Tatiana Burgess – It was submitted. It was part of the application, and included.

Ed Anthony – This is the new one, up on the hill.

Derrick McKrola – Yes.

Kathy Clarich – So, they will put in a couple of culverts for the drainage.

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Ed Anthony – I am lost. There it is.

Eric Evans – It's alright I am lost without Tatiana too, trust me.

Ed Anthony – So, I have a question on the road. This road is not dedicated to the County?

Derrick McKrola – It's not currently dedicated to the County. We do recognize that it is publicly used.

Ed Anthony – What I am saying is, the whole road all the way through – not dedicated to the County?

Eric Evans – Which road?

Ed Anthony – Reservoir Road.

Eric Evans – No, I don't think so.

Ed Anthony – Really?

Tatiana Burgess – Nothing North of Bully Creek is currently dedicated.

Ed Anthony – That goes right through me.

Eric Evans – I am not saying it's necessarily not a public road. It's probably in the Commissioner's Journal as a public road. So, dedication takes it to a different level. So, it can be approved as a public road through the Commissioner's Journals way back in the day. It's still a public road and it's legal for public. But, once we start putting it on partition plats, and then we start requiring dedication, so, that's part of the partition rules.

Kathy Clarich – So, you just dedicate just the part that is on the parcel.

Ed Anthony – Yeah, because I'm not going to go on and dedicate mine.

Derrick McKrola – It is a main road through.

Eric Evans – It doesn't mean it's not a public access road. The dedication is putting it.

Ed Anthony – Right, I understand what you're saying. I just didn't realize it wasn't dedicated. I thought it was dedicated.

Eric Evans – No, we have a lot of undedicated roads out there, that are actually public roads. The dedication is just putting it actually on a partition plat.

Kathy Clarich – Okay, anybody else have any questions? Okay, if not I'll open it to...is there anybody here in favor? Is there anybody who is against this action? Okay, do you have any staff comments?

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Tatiana Burgess – We included all the conditions that were submitted by the districts with regard to what the applicant’s proposal was. As long as you guys are okay with those conditions, that’s all we have.

Kathy Clarich – Okay, so I am going to close this to public hearing.

No Proponent Testimony.

No Opponent Testimony.

Closed to Public Testimony.

Kathy Clarich – Okay, what do you guys think?

Teresa Ballard – Looks to me like it’s pretty defined.

Kathy Clarich – Looks to me like it’s going to cost them some money for that road.

Linda Simmons – Need to get that dedicated and do what they need to do.

Kathy Clarich – Not only that, but off of the dedicated road in.

Ed Anthony – The road has been there for 75 years almost. It’s been used by the public for about 75 years.

Kathy Clarich – I need a motion for the staff report and findings of facts.

Ed Anthony made a motion to approve the staff report and findings of fact. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to approve two non-farm partitions. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to approve two non-farm dwellings. Teresa Ballard seconded the motion which was unanimously approved by the Commissioners present.

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Applicant: A4 Quality Property, LLC
14406 NW 7th Ave
Vancouver, WA

Owner of Record: Nadia Alibhai
831 Mt. Paran Rd
Atlanta GA 30327

Consideration of the conditional use permit for a commercial activity in a Rural Residential use zone. Planning Department file 2021-09-012.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for commercial activity in a Rural Service Center Zone. Planning department file 2021-09-012.

Please sign in at the podium, 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 and questions should not be directed to staff or directly to witnesses.
3. Do any members of the County Planning Commission need to abstain, disclose conflicts, disclose biases or disclose any ex parte communications or site visits?
If so, state the reason.

Kathy Clarich visited the site.

4. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?
5. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?
6. Land use statements 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 6-3F-5 and MCC 6-3G-4

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10. Order of Proceeding.

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Preliminary Staff Report: Read by Planning Director, Eric Evans.

Eric Evans – The proposed action here is a Conditional Use Permit for the installation of a fueling station with 4 fuel dispensers, and a 2-compartment 15,000-gallon tank. This all will be in a rural service center zone. This is all adjacent to the Huntington Travel Plaza. It is on Tax Lot 900, Township 15S, Range 45E, Section 4, Assessor’s map 15S45E04, Malheur County Ref. Number 19457. Again, it is zoned C-RSC, which is Rural Service Center. The parcel is currently 29.47 acres. It’s currently vacant with no improvements. Well, actually, I believe the improvement that is on it, is the waste water lagoons for the Huntington Travel Plaza. I think that is on the same parcel. So, I guess there is an improvement if you think of waste lagoons as an improvement. It is along US Hwy 30. There will be no onsite waste water generated. Obviously, there will be a little storm water generated with the hard surface they have. It really is not that much of a hard surface. It will be a canopy over 4 fueling stations. No natural hazards are identified, and the property has gone under some partition plat changes over the years, and property line adjustments, but nothing major. It is all Rural Service Center, so a lot of that doesn’t apply. So, one thing I do know, after I sent out the Staff Report, if you look at the proposed condition number 5, it talks about storm water permitting, DEQ permitting. That is kind of a catch all. In the proposal you’ll see the storm water, so there are 3 catch basins, the storm water is actually proposed to drain into an existing, I want to say, they call it, an existing drainage ditch, right?

Chad Gerulf – They do.

Eric Evans – I have a little bit concerns about that just from my sanitation base, and so I will propose that we, and I spoke with DEQ about this, as well. That we have a condition in there that they will need approval from the irrigation or drainage district for putting that waste water into their system. I am sure that, I don’t really know for sure, but the drainage probably just goes

straight to the Snake River at that point of time. And those Drainage Districts are responsible for the TMDLs, the amount of chemicals and stuff that are deposited into there in Brownlee. I was a little concerned with that after looking through this, and I think that is probably a pretty fair thing to do. Just for a little other knowledge on the Huntington Travel Plaza: obviously, a lot larger hard surface area. They have a lot more storm water generated and they actually contain that in swells, if you remember that project. So, they have onsite swells in that little grassy areas there next to the road. It kind of, looks like a landscape, but the purpose of it is to take all that water and absorb it, and basically clean it on site.

Ed Anthony – So, why couldn't they do the same thing in this one?

Eric Evans – They could. That's just not what the purposed.

Applicant Testimony – David Borys, applicant's representative:

David Borys – This is David Borys. If I can talk for a second. What we purpose is just to have the, all of the storm water, associated with the asphalt we put in, just sheet off and go to the gravel or what have you, or just the dirt there, the only thing we purposed to go to that ditch was the, under the canopy we put in catch basin just in case there was a spill, it would go into the catch phase, and from there, it would go into the treatment, which is an oil water separator. Then from there, it would go down to the ditch. So, technically under the canopy there would be no storm water that would be getting in there. The only storm water would be from the top of the canopy that would be directed out to the asphalt, and would shed off the asphalt area to the surrounding land is what it would do, on site. Does that make sense?

Eric Evans – yeah.

David Borys – So, the catch basin is actually a safety measure. The catch basin and the oil water separator were safety measures to try to catch anything that should happen, because it will hold, I mean it's a 1000-gallon oil water separator, right. Plus, the catch basin, plus the piping, that would be a heck of a spill from the dispenser, if that would ever occur to over flow and go out into the ditch. It's just a measure which helps prevent that from occurring.

Kathy Clarich – Are the tanks in concrete?

David Borys – Yeah, the tanks have a concrete slab over the top. They are not in the concrete vault. The tanks will be doubled wall and they will be put in the ground surrounded with the gravel, (INAUDIBLE), and concrete over the top of them. They will be right next to the (INAUDIBLE) essentially.

Kathy Clarich – So, if they leak where is it going to go?

David Borys – Well, if the tank leaks the solution to the secondary containment. So, it's a double wall tank. So, if the primary leaks it goes into the secondary containment, is what happens. So, it's more or less the (INAUDIBLE) is that they have underground storage tanks, double wall tank. Of course, these tanks get tested every year by DEQ standards. The piping gets tested every year. You have to have leak detection on them, and you also have to have inventory control that you turn into DEQ. Inventory control is a monthly thing.

Eric Evans – So, just to interject really quick. That would still be my recommendation, would be to add a condition that approves any kind of drainage into an existing drainage. Especially, if it is going off site, because I think somebody else controls that. So, if we want to we can move into the applicant's application testimony. So, any other questions he has would be in his presentation.

Applicant testimony - Continued

David Borys – Well, I will just recap. The owners want to put in a fueling station that is actually, I believe it will be an unbranded fueling station. It will be less money than the station right next to it, for cars, trying to get more cars to come into that area for fuel that is less money than going down either side of the highway. Going to the next towns to do that. So, that is the idea behind this station. It's just going to be a fueling station. There's not going to be any store or anything there with it. All safety precautions were taken. It is up to standards. The design is up to the current standards of DEQ, and in terms with the spill protection or anything like that, we went above and beyond the current standards for that particular site. That is what I was talking about before, just in case there is a spill there and something goes drastically wrong. In terms where the spill's going to be, it's going to be on the surface. We can contain a lot of that, and normal spills it will contain it all. Even large spills – it will contain it all. It's the catastrophic spills or something bad really happens, well everybody is in trouble then. They have taken every safety precaution to do that. In terms of storm water, as you know it's not a commercial fueling station, so it's just a retail fueling station, so it will be exempted from the industrial storm water rules, or the 1200-Z permit for that site. We still have other rules. We can't have the storm water leave the site. I believe with what, we have proposed that will not happen. In terms with getting the Irrigation District, if we are going to put a pipe down to there, to the ditch line, we absolutely will, if it is their ditch line we will have to get their permission to do that. I think they will be okay looking at the, not only do we have the catch basins, we also have the treatment before the pipe even leaves. I think they will be happy to see that.

Kathy Clarich – Anybody else have any questions for him?

Chad Gerulf – So, the oil water separator, you say it is a treatment, but it really doesn't treat anything it just contains it, right? I mean if it is overwhelmed more than 1000 gallons, raw fuel will run into the ditch.

David Borys – That is right. It would have to be 1000 gallons, plus all the piping, and the catch basins completely full. So yes, but the way this is going to work, is the catch basins that are under the canopy, are actually, they don't get much water. They don't get much rain water. All they get is whatever comes off a car pulling in dripping. Everything slopes away from the canopy is what happens. So, no storm water will go in that way.

Chad Gerulf – My only concern would be overwhelming. I mean the system could be overwhelmed in a bad situation. I just think we need to consider that as a possibility. Maybe a slight possibility, but it would still be a possibility.

David Borys – Yeah, there is slight. What we have and what we always put in, once again, this is above and beyond the regulations. That we put a gate valve on the backside of the oil, water separator. If there is ever a major issue, what would a major issue be, it would be a tanker coming into fill have a big issue. The tankers, the drivers are trained, right. If they have a spill to

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look for these gate valves on the backside, which there will be labeling, and in an emergency shut the gate valve. So, what would happen is they would shut the gate valve on the oil, water separator. So, nothing would leave out that pipe. It wouldn't go down to that ditch it would stop there. I am not saying there is a major catastrophe it won't keep rolling off, the canopy is kind of sloped to that catch basin, so it's going to start filling up there, and it can hold quite a bit before it starts to spilling off on the asphalt and spilling off the edges. It won't be going right to the river is the point. There is a lot of distance before it gets there. Nobody wants these spills to happen, but they do happen. There are all these safety measures you know, and these drivers are trained. They're trained for this. That is when you are going to see a major issue. You aren't going to see it with a car. Or you aren't going to see it with a semi-truck spilling his tank. If it doesn't stop the pump stops after so many gallons, but the issue is going to be a big tanker truck, if there is going to be a major issue.

Kathy Clarich – So, are the tanker trucks going to be under the canopy then? Or are they going to be outside the canopy to fill the tanks?

David Borys – They are going to be just adjacent to the canopy but the fills will be right there. Just adjacent to the canopy. If that leaks it's going to go over to that catch basin over there.

Kathy Clarich – Is this going to be just unleaded or is it also going to have diesel.

David Borys – There will be diesel too. There will be bio diesel too. So, it will be, it's a 3-compartment tank. It's split 10,000 unleaded, or it was actually I think 15,000-gallon tank, the idea was 7, 4, and 4. Is what they were thinking. So, 7 unleaded, super unleaded, 4 unleaded, 4 diesel, and blenders at the pump so it can make the mix grade at the pump is what it does.

Kathy Clarich – Is this going to be a card fuel type?

Eric Evans – Card lock.

David Borys – They were talking about making a portion a CFN and making the other portion of it just retail, but a lot of the CFNs can stay credit cards now. I don't know the exactly final decision on what it is going to be. If it's going to be 100% retail, or if it is going to be half CFN, half retail, or a combo of the both. I don't know exactly yet.

Kathy Clarich – Anybody else have any more questions? I am going to ask if there is anybody in favor for this? Is there anybody opponent to it? Any other staff comments?

Eric Evans – Uh no, I do want to say, you could essentially take the number 5 off the applicant, the storm water stuff. He is right I mean I would put that in there just prior talking to DEQ, but he is not required to get the 1200 Z Permit. I would still would recommend something the applicant is required to submit a letter from the Irrigation Drainage District approving the drainage into the existing ditch, or something like that. So, if you approve the staff report with that change that would be great.

Kathy Clarich – Lets close it to the public hearing. No public testimony can be heard after this point.

No Proponent Testimony.

No Opponent Testimony.

Closed to Public Testimony.

Kathy Clarich – What do you guys think?

Ed Anthony – It looks fine to me.

Linda Simmons – Me too.

Kathy Clarich – I just don't understand how they can do tanks, but on a farm, we have to have the concrete underneath it, and the catch basins and everything else underneath it, and I'm just like...

(People chattering)

Eric Evan - Bob, did you have something?

Bob Quick – I guess, I heard the discussion. Obviously, this is being treated differently than the truck stop, TA truck's stop. Less tanks in the ground, less storage. Maybe from my lack of experience, I am wondering why I sense that we have more concern about this than we do on the big operation, at the truck stop?

Kathy Clarich – The big operation seems to have more, um, pavement around there, so stuff wasn't going to have a chance to run off into the... they have catch basins, but off the end of the canopies and stuff he's just going to let anything off of those, so I don't know if somebody's sitting out there with, I mean you never know if people park out there how much will be in the dirt, so, but yeah.

David Borys – The TA truck stop has catch basins in their canopy too, and the oil/water separator. That will go off into the waste water pond if there is a major catastrophe also.

Eric Evans – Right, that's the difference is they have waste water ponds.

Teresa Ballard – So, we really have to rely on DEQ to be the expert here. I mean I have big concerns, because of the experience we have had over the last 30 years in Nyssa, with bad fuel tanks, and with farming, the things farmers have to do. But, I am not an expert on run off or any of that stuff, so our conditions then state that we would have an approval from DEQ, right?

Eric Evans – I think I put that in there before ever talking to DEQ, and DEQ indicated to me they won't, and David said it exact, they don't fall under the roles that would require the NSPDS, or whatever that is called, the National Discharge. They wouldn't have to get any of those permitting from DEQ.

David Borys – 1200 Zs. Yeah, no. What we are putting in there far exceeds even if we had to get it, we would still exceed the DEQ standards.

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Eric Evans – So, that is for storm water, because he is right all that storm water is going to be contained, actually on the site. It's going to run off and go into the dirt. So, it is probably pretty equal to the swell. So, that brings me to where we are at right now, and it's just making sure the Irrigation and Drainage District that's out there is okay with them piping this potential thing out into, because they are the ones who control that, they are the ones should be able to say yay or nay. That's my opinion. It's really up to you guys.

Teresa Ballard – So, are we expecting a formal confirmation from DEQ?

Eric Evans – Yeah, so, nothing from DEQ, no. It would just be from whoever the respected Drainage District, whoever owns that.

David Borys – In terms to the underground, outside of storm water. In terms of the underground storage tanks and the fueling system, and everything else, DEQ will 100% sign off that station, and give the permit to except fuel, before it can ever except any fuel or get anything turned on. They will 100%. We have to apply for the license. They come out and inspect it, Fire Marshal comes out and inspects it, and they sign off on it, and say okay you can now have a permit to except fuel. Their blessings you have installed everything correct. DEQ will absolutely be involved in terms of the fueling system. In terms of the storm water, no they won't be.

Eric Evans – So, what I would want. They will have to get a Zoning Permit from my office, so my ask would be they bring me a letter from the Drainage District approving them putting a pipe in their ditch.

Teresa Ballard – And we just know that DEQ is going to handle the rest?

Eric Evans – Right.

Teresa Ballard – It's better to put it in now, then try to re-insert it later.

Eric Evans – It always worries me if you are bothering somebody downstream. If it is something downstream, because you can have great neighbors now, but we know easements, road maintenance agreements, we deal with those things almost on a monthly bases, so I just want to make sure that they have permission now. That way later on when it's there, that there's no issues.

Kathy Clarich – I do have another question, because you got in your, um, staff report that it's a 2 compartment 15,000-gallons. Does that mean it's doubled layer, is that what you're meaning?

Eric Evans – That's probably what it's indicating, is that it is a 2...

Ed Anthony – 2 layered storage.

Eric Evans – Yeah.

David Borys – Multi-compartment outside the secondary containment. There is just more the one compartment is what that means.

Eric Evans – So, it's probably referring to the secondary containment.

Malheur County Planning Commission
October 28, 2021

Kathy Clarich – Kay, that’s what I was wondering, because everything says two compartments, and he says there is going to be three compartments.

Eric Evans – Right.

David Borys – So, instead of putting in 2 or 3 tanks, you can just put in 1 tank that they make at the factory as 3 compartment, or 2 compartment, or 4 compartment, whatever you want. But, it’s still all secondary contained. If a compartment leaks it’s goes into secondary containment. There is a sensor in there that tells you that it leaks, and shuts everything down.

Bob Quick – Correct me if I’m wrong. The system is designed similarly to what they are using in Hanford, and places, because of that double containment, the safety valves, the checks, and all that. It’s not quite as extensive, but it’s still in today’s scenario. It can’t be compared with the old problems we had in like in our Texaco here and others around here, with those old tanks.

David Borys – That’s correct.

Bob Quick – It’s a completely different thing.

David Borys – And very heavily monitored and checked. The leak detection systems are quite elaborate, right. They are computers essentially, what they are. Checking this and making sure and double checking, and triple checking, so inventory control and all that, so when there’s a leak you know it, because it just shuts down. It just stops. Everything stops. You can’t pump fuel. Or if it thinks there is a leak, it stops.

Kathy Clarich – So, is there somebody that is monitoring this all the time?

David Borys – Yeah, I mean it’s almost like you’re, and I’m going to use this for simplicity, but it will almost be like looking at your cameras, and how you can see your cameras online. It sends an alarm is what it will do. It will send the alarm out to where ever that alarm goes. Whether it be to the person supplying the fuel, to the owners, or to both. Or to somebody in charge of it, or the monitoring service. Then it gets distributed from there. But these guys don’t want their systems down, right. They make money selling fuel. They want the system up and running. If alarm goes off somebody is on it very quickly.

Kathy Clarich – So, we just need a motion for the findings of facts.

Ed Anthony made a motion to approve the staff report and findings of fact. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.

Ed Anthony made a motion to approve the commercial activity with the added conditions of approval. Chad Gerulf seconded the motion which was unanimously approved by the Commissioners present.

OLD BUSINESS:

Approval of transcribed minutes from the September 23rd, 2021 hearings.

Ed Anthony made a motion to approve the transcribed minutes. Chad Gerulf seconded it. The motion passed unanimously and approved by the Commissioners present.

Ed Anthony made a motion to adjourn the public hearing. Chad Gerulf seconded the motion. The motion passed unanimously approved by the Commissioners present.

Respectfully submitted, Alexis McDaniel

Minutes approved by:

Name: Kathy Claunch Date: 1-27-2022