

Malheur County Planning Commission

The Malheur County Planning Commission Meeting was held remotely, via GoToMeeting, and in person, on March 23, 2023. Kathy Clarich called the meeting to order at 7:35 p.m.

MALHEUR COUNTY COMMISSION MEMBERS PRESENT:

Kathy Clarich
Teresa Ballard
John Faw
Robert Quick
Linda Simmons
Chad Gerulf

PLANNING DEPARTMENT STAFF MEMBERS:

Eric Evans, Planning Director
Tatiana Burgess, Planning Manager
Julie Bromley, Planning Clerk
Stephanie Williams, County Counsel

OLD BUSINESS

Applicant: Larry Wilson
3573 Highway 201
Ontario OR 97914

Owner of Record: Michael Kurtz
776 Cloverdale Ave
Nyssa OR 97913

Continuation from the January 26th, 2023 hearing for the consideration of a Conditional Use Permit for 2 non-farm dwellings and 2 non-farm partitions in an exclusive farm use zone.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for two non-farm dwellings and two non-farm partitions in Exclusive Farm Use zone for applicant Michael Kurtz. Planning department file 2022-12-009.

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. 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.

Malheur County Planning Commission
March 23rd, 2023

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

Robert Quick and Kathy Clarich drove out to the site.

Kathy Clarich – And it wasn't marked like it was supposed to be.

6. Does anyone object to any of the members of the Malheur County Planning Commission hearing this application?

7. Does anyone challenge the County Planning Commission's jurisdiction to hear these matters?

8. 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.

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.

Kathy Clarich – So we will start with a staff report and then the applicant will make their report, and then the testimony in favor or in opposition.

Preliminary Staff Report: Read by Planning Manager, Tatiana Burgess

Tatiana Burgess – Do you want me to read the staff report again, even though I did it last time?

Kathy Clarich – He wasn't here. (John Faw)

Tatiana Burgess – This is an application for 2 non-farm dwelling and 2 non-farm partitions. The applicant is Larry Wilson at 3573 Highway 201 in Ontario. And the property owner is Michael Kurtz – at 776 Cloverdale Ave in Nyssa. The property is identified as tax lot 900 on Assessor's map 19S46E34, Malheur County Ref# 9575 together with tax lot 300 on Assessor's map 20S46E02, Malheur Country Ref# 9969. Although there are two tax lots that are being discussed tonight, they're actually one unit of land, they're just separated because they're on different map boundaries. The property is zoned exclusive farm use and together is 139.65 acres. The majority of property is currently being farmed. There are row crops and on the tax lot 900 there is an existing residence. The surrounding use is entirely farm land. The access is going to be, for the proposed partitions, will be off Cloverdale Ave, through an easement. And there is a letter attached regarding the easement. And there will be a DEQ sanitation systems required for each of the new resulting non-farm dwellings. The properties are within Nyssa Rural Fire Protection District – there is also a letter regarding that. The property itself, the subject total property has water rights. There is in the vicinity of the partition site 1.7 acres of irrigated... an irrigated field. However, there is no water rights on the site of the proposed partition. And the soils on the parent parcel are class III, VI, and VIII. And the sites of the proposed partitions are covered in soils VI and VIII only, and there is a small portion, insignificant of class III. The dwelling on the tax lot 900 was built in 1940 and there was a machine shed that was added in 1999. There are no constructions on tax lot 300. And in 2009 this property was actually approved for two non-farm partitions and two non-farm dwellings. The exact same location as today's proposal. That permit expired in 2013 and was not executed and there is no other known zoning history.

Kathy Clarich – Thank you. So, Larry, you want to tell us what's going on the property?

Larry Wilson – 3573 Hwy 201, Ontario OR 97914 – Applicant’s representative

Larry Wilson – Well, I mean... Nothing’s really changed since the other application. The May kid built a new house. It’s about, I don’t know, it’s about a half of a mile away or so, on a small, few acres parcel. It sits west of the easement. Anyway, that’s the only new activity in that area. This property has kind of been in a draw. It has a bunch of old poplar trees in there. There is no, never has been farmed, there’s no water rights for it, mostly class VIII soils. So, it’s good with it, still left the parent parcel with well over 80 acres minimum. I know last time and I don’t believe this time, we’ve had any letters or calls of opposition. It is a pretty good site for two homes. And he agreed to the ingress and egress to meet the Nyssa Fire Department’s... the 20-foot all weather road. The Owyhee Irrigation had no problems. The Road District approved where the driveway is going in. And I think that is about it unless you know, you guys have some questions.

Kathy Clarich – Thank you.

Larry Wilson – This property has been surveyed, the pins and everything are all out there. Mike just never got around to... well, I don’t know, he decided not to sell it. I think he was going to sell it to a family member. That didn’t materialize, so he never got around and putting it on the market, his intention was to sell it to his son. So, it has been surveyed it just hasn’t been... the plat hasn’t been recorded.

Kathy Clarich – So, Larry, there’s a concrete ditch along the one side of that, that I assume, feeds that field? So, is the water that would be, where that driveway’s going to go, is that going to be placed on another part of the parcel?

Larry Wilson – Yes, on the... farther there to the west, he’s got a little bit more room to pick that up. He is going to move that, put a gated pipe along that, the road will go over where the east side of the ditch, right along the property line.

Kathy Clarich – Anybody has any questions for him? And the other question I have for you Larry is that, the Road District, it says, you know, 26-foot all-weather road. But usually in the Fire Code it has to have turnouts every so often, if it is over 500 feet. And it looks like it was more than 500 feet to that back property.

Larry Wilson – Well, you know, Mike agreed to do whatever, you know, he said he would meet with the Fire District. And I didn’t get an updated letter, just because they were in-between Fire Chiefs. I showed Marvin Seuell, the interim, I don’t know if they’ve replaced... if Marvin has the job now or what. But we talked to Eric, and he said Jim Farmer was the former secretary of that, or president, and he said everything was still the same and ok. And Mike’s agreed to do whatever the Fire Department asks him to do. They need a turnout – they’ll have one.

Kathy Clarich – Ok. Yeah, because we’re having them all follow the International Fire Code.

Larry Wilson – Yeah, exactly.

Malheur County Planning Commission
March 23rd, 2023

Kathy Clarich – That will probably be put in the requirements. So, anybody else have any questions for him?

Larry Wilson – You can put that in. Mike’s agreeable with all that.

Kathy Clarich – Ok, thank you. Ok. Now I am going to call: is there anybody here who is in favor of this action? Anybody here that’s opposed to this action? Anybody online that’s in favor of it?

Eric Evans – Kathy, there were a couple of people on the call that were kind of making quite a bit of noise that I muted. So, anybody if... will you announce, it’s *6.

Kathy Clarich – So, is anybody online in favor of this action? That they would like to speak on? Anybody in opposition of this action? *6. If not, I am going to close it to public testimony.

No proponent testimony.

No opponent testimony.

Closed to public testimony.

Kathy Clarich – What do you guys think? Are you going to read the rest of it, as to the conditions?

Tatiana Burgess – So, we will have, the first condition is the standard that on the partition plat, we will have the farm statement being recorded. The parcels will have to be disqualified for the true cash valuations for farming purposes. That is a condition with the Assessor’s office, that is standard. And then we had the “adequate access that has to be secured for each of the partitions through a dedicated easement”. And then regarding the fire breaks that need to be constructed to minimize the fire danger and that the approval is valid for 4 years. So, from what you were talking to Larry, I am assuming that condition #3 is where you want to add?

Kathy Clarich – Yeah, it must meet the International Fire Code. Because that is what we are asking everybody to do, so... Does anybody have anything else?

John Jaw – It has been approved once. Why not?

Kathy Clarich – Whatcha you think?

Chad Gerulf – I’m good with it.

Kathy Clarich – Anybody ready to give me a motion?

Chad Gerulf made a motion to approve the staff report and findings of fact as amended. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Chad Gerulf made a motion to approve a conditional use for two non-farm dwellings. John Faw seconded the motion which was unanimously approved by the Commissioners present.

Chad Gerulf made a motion to approve a conditional use for two non-farm partitions. John Faw seconded the motion which was unanimously approved by the Commissioners present.

NEW BUSINESS

Applicant: Mikal Lequerica
3446 Lequerica Ln.
Arock OR 97902

Owner of Record: Lequerica Brothers Incorporated
3446 Lequerica Ln.
Arock OR 97902

Conditional Use approval for one non-farm dwelling and one non-farm partition.

Kathy Clarich – This is the application 2023-02-013 for Mikal Lequerica. This is exact same criteria as last application.

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

Tatiana Burgess – This is an application for one non-farm dwelling and one non-farm partition. The owners are the Lequerica Brothers Incorporated at 3446 Lequerica Ln at Arock Oregon. The property is identified as tax lot 1800 on Assessor’s map 30S42E, Malheur Co Ref.# 12450. The non-farm partition is going to be 2.5 acres and the property is zoned Exclusive Range Use. The parent parcel is 124.88 acres and it is currently being farmed: there are some row crops and there is some range land as well. There are currently three residences on the total parcel and the property is entirely surrounded by farm or range land. There’s going to be an access off of Lequerica Ln through a private easement, which there is a letter about that. A DEQ system will be required for the home. The entire parcel is within Jordan Valley Rural Fire Protection District. There is a letter from them as well. And although the entire property currently has water rights from Jordan Valley Irrigation District, there are no water rights on the site on the proposed partition, and again, we have a letter from them. The soils on the parent parcel are a mix of class V and VI and the site of the proposed partition is class V. The dwelling on the property, one of them was constructed in 1930, which is the stick-build and the two manufactured homes were sited in 1974 and then in 1979. And there is additional farm building and corals, but other than that, there is no other zoning history known.

Kathy Clarich – Ok.

Tatiana Burgess – And Mikal is representing this application and she is online.

Kathy Clarich – Thank you. Ok, Mikal will you state your name and your address. And then tell us what you want to do.

Mikal Lequerica – Hi! I am Mikal Lequerica at 3446 Lequerica Ln and that is in Arock OR. We have an application for a non-farm dwelling and a non-farm partition, here in Arock. We are partitioning this parcel so my husband and I can build a house on there, and continue helping run the family ranch. We won't... I mean it's going to be 2 acres, so there obviously won't be any farm ground. But we want to stay in the heart of the ranch so we can help the family continue on.

Kathy Clarich – Ok, and they're just... Tatiana, did they just want to take the one partition?

Tatiana Burgess – Correct. Yeah, they're... I've talked to her about it.

Kathy Clarich – They're aware?

Tatiana Burgess – Yes. They are aware of the consequences, so they're only doing one.

Kathy Clarich – Ok, just double checking on that. Does anybody have any question for them?

John Faw – There's three residences on this property already?

Tatiana Burgess – Yes.

John Faw – But I was looking at a google map, because I didn't run clear to Arock to look at this... but there isn't anything else very close to this, is there? Neighboring ranches or?

Tatiana Burgess – No, not really, they... this family owns some other property there, surrounding this one. So...

John Faw – Couple thousand acres it looked like.

Tatiana Burgess – They have an operation there. A farming operation that expands beyond this property. So, this is one of the reasons why they only wanted to do the one non-farm partition.

Mikal Lequerica – Yes, we own, just looking at the photo you have on here, tax lots 1900, 2100, 1100. I mean, it obviously spans farther than the picture shows.

John Faw – They're going to have neighbors close, by choice. Of course, they own it.

Kathy Clarich – They own it, so they can be neighbors. Yes, does anybody else have any questions for them?

John Faw – I am good.

Kathy Clarich – If not, I am going to ask is there anybody online or in the audience that is a proponent of this? Is for this action? *6 if you want to talk. Is there anybody online or in the audience that is against this action? If not, I'm going to close it to public testimony.

No proponent testimony.

No opponent testimony.

Closed to public testimony.

Kathy Clarich – I don't have a problem with this one. I don't know if anybody else does?

John Faw – It makes sense to me. It's their ranch.

Chad Gerulf – I don't either.

Kathy Clarich – Yeah. Ok, then I will need a motion?

John Faw 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.

Chad Gerulf made a motion to approve one non-farm partition. Linda Simmons seconded the motion which was unanimously approved by the Commissioners present.

Chad Gerulf made a motion to approve one non-farm dwelling. John Faw seconded the motion which was unanimously approved by the Commissioners present.

Applicant: Larry Hinton
 1796 4th Ave E
 Vale, OR 97918

Owner of Record: Rodriguez Farm Holdings LLC
 765 Sugar Ave
 Ontario, OR 97914

Consideration of a Conditional Use Permit for commercial activity in conjunction with farm use in an Exclusive Farm Use zone.

Kathy Clarich – Now is the time to hear the request for a conditional use permit for commercial activity in conjunction with farm use in Exclusive Farm Use Zone for applicant Rodriguez Farm Holding LLC. Planning Departments File #2023-02-017.

Malheur County Planning Commission
March 23rd, 2023

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.
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, Linda Simmons, John Faw and Chad Gerulf have all been by the property.
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 6-3A-3-J Conditional Uses in EFU, ERU or EFFU Zones

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 Director, Eric Evans.

Eric Evans – Here before us today is Planning Department File #2023-02-017, which is a conditional use application for commercial activity in conjunction with farm use. The applicants – Partners Produce and they are proposing a commercial activity in conjunction with farm use, which would be for the purpose of operating an evaporation pond for onion wash water. It is tax lot 400, T.18S, R. 46E, Section 11 on Assessor’s map 18S46E11, Malheur County Ref# 7477. It’s zoned Exclusive Farm Use. The parcel is 78.68 acres and it’s currently being used as farm land. The entire property’s surrounded by farmland. It’s accessed off Sugar Ave. Obviously, it’s for waste water treatment or wastewater evaporation pond, it would need all of DEQ approval for that. It’s located within the Ontario Rural Fire Protection District, there is a letter from them as well. The majority, not all of the developed... the proposed development area is within the special flood hazard area, better known as the floodplain, the 100-year floodplain. I put a little section in there about commercial water rights, just in case, they would need... I didn’t really talk to Larry if they would ever need to add water to that pond, we’ve had that in the past, applying for... if you use over 5,000 gallons a day... applying for those special rights, if they needed to do that. The soils on the property are predominately class IV, with a small portion of it being on class III soils. Also, on... Well, so the zoning history is a dwelling... a farm dwelling was constructed on the parcel in 1940. That’s all I have.

Kathy Clarich – Ok. So, I need to know who’s going to be acting as the applicant?

Tatiana Burgess – Larry Hinton.

Kathy Clarich – Would you please state your name and address?

Larry Hinton – Yes, my name is Larry Hinton. I live at 1796 4th Ave E, Vale, OR.

Kathy Clarich – Ok. Tell us what the plan is.

Applicant’s Testimony:

Larry Hinton – Alright. Well, so Partners Produce processes onions from both Idaho and Oregon, but primarily Malheur County, since we raise more onions than anybody else. This is, I went and

took a tour of the plant. I think this has been some misunderstanding. So, the water usage is... it starts out, you take the raw field-run onion and then rip it off and wash it. At that point in time, it hits a peeler. And the peeler solids are not part of this wash water, I mean, the peelers solids go off to another site. So, at that point, the peeled onion is washed again and the majority, a good majority, at least the day I was there, majority of the onions – that was the end of the processing. And so that water is stored on-site in a big tank that is currently taken to Clay Peak. Clay Peak has since reduced their... how much water they're going to take out there. And therefore, became the need to have a secondary evaporation pond area. And where the Rodriguez family owns this piece of property and obviously they own Partners Produce, too. So, they were trying to get rid of this onion wash water. To give you... so we actually since we did the original submittal, we have actually been able to optimize the two cells that are in one dike pond system and reduce the size of the ground down to just below 10 and a half acres, less than 11 acres. Therefore, what you originally saw when we were disturbing 16 or 17 acres is now been reduced to less than 11. These two cells... there's two cells, where each one can handle the wash water from a full season. You actually would have two years total capacity, even though you would never be in a scenario where that would be applicable. The evaporation process is such that this water is milky. I mean, it's milky at best. I mean, it's a near-clear water. I mean, it does have suspended solids in it. And a full year, we have a full year of data... We analyzed that data for suspended solids and dissolved solids: 100% of those solids came out. After a full operational year, you have less than a half inch of sediment in the bottom of the ponds. So, it isn't like we're going to have a sludge-type scenario, that you would with, you know, sanitary-type lagoons. These ponds are fully lined with a HDPE liner. We would provide only, and I don't foresee this ever occurring, but we would be... we would have power. We have power to the corner of that site and if we did need to run aeration, then that's what we would do and that's in our application. It will be controlled by DEQ. The facility would be controlled by DEQ and would be monitored by them. So, that is pretty much it. We did have a letter from the Road Department. The Road Department said... they told us exactly, they want us to pave 20 feet into the property, with the entrance, which the Rodriguez family had no objections to. The Fire Department asked us to provide a 20-foot lane. There is no structure. The only way you could have a fire there would be if a truck caught fire, essentially a tanker. There're no other structures within that system. It's all gated. So, for both to keep wildlife out and any type of trespassers. So, there would be nobody within the pond area.

Kathy Clarich – Ok. I have lots of questions, so if someone else wants to go first, that's fine.

John Faw – Are those ponds going to need to be cleaned, periodically?

Larry Hinton – Periodically. Like I say, a full year is going to be somewhere around... well it's actually going to be less than a half inch of sediment and that's assuming that you're going to have 100% of those solids. So, it's set up where you could get in there. We designed it to get in there with like a small track skid steer, you know, to clean the bottom and then conveyor it out into a dump truck. Then we would test it and make sure that we could dispose of it. We would dispose of it at an appropriate site.

Linda Simmons – I have a question.

Kathy Clarich – Go ahead!

Malheur County Planning Commission
March 23rd, 2023

Linda Simmons – Is there significant odor that comes from this?

Larry Hinton – I don't anticipate any significant odor, because this literally is wash water from these onions. It does have some, you know, it's had some chlorine added to it already. It primarily is going to be evaporation. But again, the operation of it, we would try to have the operation in such a way where in the hot months the ponds would be the fullest, because that's when we're going to get the most evaporation. And that's the least likely period for... to have it be off-gassing and giving it an odor. But we will have, you know, a system, a bubbler-type system there, should odor become a problem or a nuisance.

Linda Simmons – Ok. I have one more, as well. The irrigation thing, is not very far. Do you think there's anything that will cause problems with irrigation?

Larry Hinton – Well actually, do... Eric and I have talked about this and we actually moved those ponds or the pond system, we moved it 100 feet from the closest running live water. So, which is, that's just following standard practice. But that would be like, if it was actually raw sewage. If you look at Vale and Nyssa, you know, and their systems that are raw sewage, they're closer than that to the Malheur River. I mean well, in Vale's case.

Linda Simmons – You had any discussion with the irrigation district about this?

Larry Hinton – Have I?

Linda Simmons – Mmh.

Larry Hinton – No.

Linda Simmons – Are they aware?

Larry Hinton – Are they aware of?

Linda Simmons – Whoever maintains the irrigation district, I know you are aware of that, if it's Owyhee Irrigation?

Larry Hinton – I believe it's Warm Springs Irrigation.

Kathy Clarich – Warm Springs Irrigation.

Linda Simmons – Ok. I just didn't know if there's any conversation with them about this?

Larry Hinton – There has not been.

Linda Simmons – Ok.

Chad Gerulf – I guess I have a couple of questions? I wonder about odor, too. I mean, onions – they have a strong odor. I mean, that's just what pops into my mind on this. So, say that the

ponds do get constructed and is there... like if the odor does become a problem to people that live around there, is there steps that can be taken to minimize the odor then?

Larry Hinton – Aeration.

Chad Gerulf – And aeration would?

Larry Hinton – Like bubblers. A bubbler-type system.

Chad Gerulf – Mmh. Just so we can...I just so we can put the people at ease that live close, you know, to the ponds. I am sure like with aeration, would there be noise and stuff with that also?

Larry Hinton – It's electric. You would not.... You would not hear it off the property.

Chad Gerulf – Ok.

Larry Hinton – With the setback we have.

Chad Gerulf – Mmh.

Larry Hinton – Then the distance to..... We have one exhibit that show you the distances to all the residences. Actually, the closest residence, actually is the tenant from Rodriguez Farms.

Chad Gerulf – Ok. Yeah, it looked like it was set back there, quite away. So, ok, and then the traffic in and out of there, what do you guys foresee as far as like trucking and that kind of stuff?

Larry Hinton – There would be three to five trucks a day.

Chad Gerulf – Ok. So, nothing really out of the ordinary.

Larry Hinton – Really no impact to the local transportation system.

Chad Gerulf – Ok. Ok. Thank you.

Kathy Clarich – I am going to go off the transportation. Did you do a transportation study, at all on it?

Larry Hinton – No that would not be appropriate in this case.

Kathy Clarich – Well, most tankers will be about 45,000 pounds, right? That you're taking in an out of there?

Larry Hinton – Right.

Malheur County Planning Commission
March 23rd, 2023

Kathy Clarich – And you say 3, so that actually is 6 trips on that road. And that road is not actually built as far as I can tell for that kind of capacity. So, have you got a thing with the Road District, that if things start falling apart you guys are going to replace it or fix them?

Larry Hinton – I did... I did discuss it with the Road District. And they received a statement. He received the same packet that you have, that we submitted and they... he did not have any concerns. So...

Kathy Clarich – Ok, but that doesn't answer my question. If there is, like potholes that develop and stuff like that, are you guys going to be the ones fixing it? Because, the reason I'm asking that is because, like when I go out and I catch the road or something with my equipment that I have on the back of my tractor, I have to fix it, because I caused it. If you're the ones causing it because it is... you're putting so much weight on the road that it's not used to, then are you going to be willing to fix it?

Larry Hinton – I would say yes, but I think it would be really difficult, because it is a farm road, farm and market road. And so, during harvest, you know, every farm out there is using that road with a heavy loaded truck.

Kathy Clarich – And I understand that, but you're saying 365 days a year you're going to be running trucks. I mean that's what it said in the application and that's what it showed. So, that's why I'm asking you, because you're putting more on there than a few farmers using that road during this time. I've seen what it does now to the... when they're running their trucks from the beet dump. And how it's impacting the road that they're using now, because they've changed routes again. So, that's why I was asking that question, but I think you kind of answered that for me. Did somebody... Teresa or Bob, did you have some question for them?

Teresa Ballard – Yes, I do. This is Teresa Ballard. I am going back to the odor issue. Here in Nyssa, we have wash water from the bagging plant at Amalgamated. And a few years ago, we all thought that our lagoon system was... there was something wrong, because it smelled like pig manure all over town. And in the end, it turned out to be wash water from Amalgamated Sugar. You know, washing down the plant and it was sitting. Now, that has been dealt with by hauling that water away to Nampa or something. But in consideration of this, you know Mr. Hinton nicely stated that there would be aeration or something, if odor did arise. But what's going to be the process? How are we going to know that the homeowners or the people who are being impacted by odors, how are their concerns going to be dealt with? Do they just call and say "hey, it stinks out here" or do they have to hire attorneys to mediate? Or, how will that be dealt with?

Larry Hinton – Actually DEQ does... are they quarterly inspections?

Eric Evans – Yeah, I'll put on my different hat right now, the Environmental Health side of things. So, I mean we... all complaints for that, would be under their water permit with DEQ. And that would be the first step is to... and DEQ does address odor complaints.

Audience member – How about the bacteria in that?

Eric Evans – What’s that? I’m sorry. DEQ... that’s just for odors.

Teresa Ballard – So, what would happen if I complain? Would their operation be suspended until they mediated that, or? What would happen, Eric?

Eric Evans – I mean, potentially, I mean, I think back to some of the facilities that we’ve had, like in Farewell Bend. I mean those are waste... so, I mean kind of different, but those are wastewater treatment ponds. You know, they’ve had issues, but they went under enforcement action and I mean, they didn’t make them stop it necessarily. But, I mean, they did figure out a way to fix that problem. I mean, DEQ takes it, in my experience, takes it pretty seriously. We had some issues, that I got calls with... I’m not sure if it was Select Onion or Fried Foods at the time, but when they kind of ramped-up that operation out there, we received several calls from... complaints about that. And my office hasn’t heard anything since then. So, a lot of the times they start with me, but maybe the neighbors know that, you know, that is under DEQ’s jurisdiction. So, maybe that is why I don’t hear anything. But I haven’t heard anything for a long time about those ponds.

Teresa Ballard – So there is a fairly active process that could assist the landowners, if that problem should arise?

Eric Evans – Right! And I mean...

Teresa Ballard – Sounds like a responsive system.

Eric Evans – Right, and us as a county can have the conversation too, about putting conditions on this. I mean, whether... Stephanie and I were kind of discussing, whether it’s appropriate or not, you know, having a bond... there being, them issuing a bond, that you know, covers that, where the county can go against that, act against that bond to fix any problems. You know, we can think of different ways that we can condition this to make it where odor isn’t going to be a problem.

Teresa Ballard – I would think that, that would be a good idea! You know, something that would be in place to assist with, you know, the nearby landowners – the residents.

Kathy Clarich – Does Bob have any questions?

Bob Quick – Not at this point here. I want to hear the rest of the testimony from everybody, if there is more coming.

Kathy Clarich – Ok.

John Faw – I didn’t do the math and what I read in the application, we’re looking at 3½ to 4 million gallons a year. Will those ponds handle that capacity? I didn’t do the math. I don’t know.

Larry Hinton – They can handle twice that capacity.

John Faw – So, they'll actually take 8 million gallons, those ponds?

Larry Hinton – With the recognizing that we have almost 60 inches of evaporation. You know...

John Faw – Not this time of year.

Larry Hinton – Per year. Yeah, but we also add in our water balance calculation. We add our annual precip in that too. We look at it from a month-to-month basis, on the free surface evaporation. We use really good data out of Oregon State Experimental Station.

John Faw – So, this water's just going to sit there till summer and then it will evaporate out? Because you're putting a liner in it so it's not going to soak in the ground.

Larry Hinton – Correct.

John Faw – So it's got to go up.

Larry Hinton – Yes.

John Faw – And all of that will evaporate on an annual basis?

Larry Hinton – Yes. And you know, I should mention too, that the... don't think of the boiling onion water that Top Onion hauls up and down the road all the time. That is not this product. This is a cold-water product, that you know, when you stand over the top of it, at the storage facility, it has zero odor and you can see the bottom of the tank. I mean it... So, I just want to clarify that. That it's not the onion trucks where you see the steamy onion water running on the road.

Kathy Clarich – Ok. I have... I'll start on my questions. My first question is, why not recycle the water? Drain whatever your solids are out, and reuse the water there, at the plant, so that you don't have so much water that needs to be finding a place for?

Larry Hinton – Part of that process is, you know, one, I believe that the plant is on well water.

Eddie Rodriguez – Correct.

Larry Hinton – And, so therefore, it's not a fully treated water. It's... they do have... there is some chlorine that's added. But, all-in-all, I mean, the water itself, you know, it's done its job by the time it gets through the process. I mean, these are small sprayers. This isn't that they're washing this with, but it just accumulates. I mean, I don't really have an answer of, you know, could you recycle water? I didn't investigate that.

Kathy Clarich – Well, it can be done. I just wanted to know why they weren't going to be doing it that way, because it would make more sense. My next question is, why are you doing this on farm ground, because we have a policy of no net loss of farm ground and you're taking it out of... I mean, it's still farm ground, but it's not being used to raise a crop or that sort of stuff. So,

why use farm ground when there are lots of like scrap ground and stuff around that you could be getting? I mean, I just have that question as to why?

Larry Hinton – Well this particular parcel, one, it's owned by Rodriquez Farms. It is one of their poorer pieces of ground, because it is, as one of the letters that you saw in the packet, the one gentleman next door, was concerned about it potentially causing salt accumulation, which I don't believe. He didn't understand that we weren't letting it get into the ground water or would even get into the ground water. But you know, this particular parcel again, is one of their poorer pieces of ground.

Kathy Clarich – Ok. Doesn't really answer my question, but ok. You probably can't answer it. So, my other question is why is Clay Peak not wanting the water anymore?

Larry Hinton – Pardon?

Kathy Clarich – Why is Clay Peak not wanting the water anymore?

Larry Hinton – They did a reduction across all of their users. You know, Dickson's... I don't know all of them, but I mean Dickson's was one, and then Partners Produce. And they did across the board reduction for all on all. I can't answer of why they're reducing the water they're taking.

Kathy Clarich – Ok. And my next question is, if we have a gully washer and it overflows your ponds or we have a flood that come up, what are you guys going to do about the clean-up from that?

Larry Hinton – For one, I mean, it's an engineered structure. It's got two foot of free board. So, it would require us to have a 24-inch precipitation event. If we flooded, we would provide armor on the toe of that. The 100-year flood is pretty much at the ground elevation there. So, in fact, there's areas of the site that are out of it. And again, these are...that base flood elevation contour that's right at the south end of the property – it's the highest one. And then there's one, there is another contour that's just on the south end of the property. And this is based on the latest mapping that Eric had provided me, as the floodplain administrator. But yeah, we would armor. One, those are compacted dikes and we could armor those, should we feel that they were in any type of danger of being eroded. That would be the engineered fix, just like the Corp would do.

John Faw – So, these berms are two feet above the surface of the dirt there?

Larry Hinton – Ok, these... the...

Eric Evans – Explain what you mean by 24 inches of freeboard.

Larry Hinton – Yeah, 24 inches freeboard – so, that is your maximum operating water surface. So, essentially, that's when the pond is full, which I don't think it'll ever be that way or get there. And then, we have an additional two feet above that. That's lined...

Malheur County Planning Commission
March 23rd, 2023

John Faw – Question: above the surface of the current dirt, how tall are these berms?

Larry Hinton – Oh, probably... It varies, John, it varies between 3 and 4 feet.

John Faw – Ok. So, they're fairly tall.

Larry Hinton – You know it... yeah... but it does vary, because of, you know, obviously, the field's sloped. But they are a total of a 5-foot-height.

John Faw – From the bottom of the pond?

Larry Hinton – From the bottom of the pond to the top of the dike. And that liner runs all the way to the top.

Linda Simmons – I have one more question.

Kathy Clarich – Ok.

Linda Simmons – I don't come from farming and ranching. So, I'm not as knowledgeable in things. But as I drove out there, are you already in construction? It looks like stuff is being done and there's things out there. And I wondered if it was done and have you started it without a permit?

Larry Hinton – Actually it did. It was started last fall and then we put on 100% hold when we got involved, Eric and I got involved.

Linda Simmons – So, Eric was involved at that time?

Larry Hinton – He was notified. I believe he had a...

Eric Evans – I was involved with putting a stop to it, yes. I was not involved with the construction of it.

Linda Simmons – That's my question.

Eric Evans – When we found out about it, we called appropriate people and they've immediately stopped.

Linda Simmons – Ok. That bothers me, as a tax payer, that you would've gone ahead and at least started it without going through this whole process. That gives me concern. I am interested in everything that's going on and you have good answers to things, but I just have to tell you, that bothers me a whole lot about that.

Larry Hinton – And it concerned me, too. I was not involved until it had stopped. So, and I believe it was the fact that, it wasn't that they were doing it wrong, they just needed to follow the proper process. They did have a proper lining company already on board. And they were

informed they needed to follow the process not only through the county and then taking it to the DEQ.

Linda Simons – Ok. Thank you.

Kathy Clarich – So, on the solid waste disposal, who's going to be the one that's checking up on that, to make sure it's disposed of properly?

Eric Evans – You're talking about the solids when they go in there and cleans those out?

Kathy Clarich – Yeah.

Eric Evans – I mean, it's... that's all regulated by DEQ.

Kathy Clarich – Ok. So, DEQ would know where they're taking it and stuff, because we don't know where it's going to go.

Eric Evans – I mean, yeah, to be honest... Is that a WPCF permit? It is, isn't it? Right?

Larry Hinton – Probably.

Eric Evans – So, I don't what stipulations they put on WPCF permits with that. But I mean, they regulate all pieces of it. So, I assume you would have to report to them where you're taking that. I mean, more than likely they're going to have to take a lined landfill. So, it's not like they're going to take it out to Lytle Landfill, because it's not lined. So more than likely they'll probably take it to Clay Peak.

Kathy Clarich – So, you're going to have a liner. Are you going to have anything that protects that liner from getting it, when they're cleaning out, that protects it from getting torn, ripped, or leaking?

Larry Hinton – Yeah, actually there're specific tools that they use for cleaning these ponds. So, the buckets have a rubber edge on them and then rubber skids, there're rubber tracked skids steer. So, I guess, to answer your question: no, there would not be any additional armor on protecting the liner. But these kinds of ponds, that they run all the time, like I was suggesting, with the rubber tracked skid steer and the rubber lined on the rubber edged bucket.

John Faw – Will these ponds need the addition of more water to them periodically, especially if you get an odor problem going? Are you going to have to add water to this pond system? Or are you going to have an excess of liquid already on site?

Larry Hinton – There would be, you know, to bring over a load of water... I mean, they're essentially going to bring water, you know, 5 days a week. I mean, it will be during operation periods and it would be... so, it'll stay diluted. I guess, does that answer your question, John?

John Faw – Yeah, you're not going to have to add any on site water to these ponds.

Malheur County Planning Commission
March 23rd, 2023

Larry Hinton – Not, from on-site, no.

John Faw – Ok, because if there's water right there now, I'm pretty sure of, but it is only available in the summer. If you needed to add some water late fall or early spring it's just not there without the addition of some ground water of some sort.

Larry Hinton – Right. Although, it'll have water in it in the spring, you know, just from the winter.

Kathy Clarich – Any other questions?

Teresa Ballard – I have. This is Teresa again and I, in the back of my mind, I keep wondering about the cost of hauling that water. I've driven by Partners Produce a number of times and I... that looks to me like to me a fairly significant property. Why wouldn't the ponds be established near the plant, rather than having to haul it across river and through the woods? Have those options been considered?

Larry Hinton – I don't know. And honestly, I can't answer that question, because I wasn't involved in, you know, conceptual study.

Teresa Ballard – You know, as Kathy mentioned earlier, we have a policy that we... “no net loss of farm ground” and that looks like decent farm ground that you're going to be carving out. I just wondered if there was some other prospect for placing that rather than damaging a pretty good-looking farm?

Kathy Clarich – Do you have anybody that can answer the question for her, since you can't?

Larry Hinton – Um, Eddie?

George Rodriguez Jr. – I think Eddie can answer a lot of these questions.

Kathy Clarich – State your name please.

Eddie Rodriguez – My name is Eddie Rodriguez. I live at 3600 SW 18th Ave. It would be... I am west of the pond. So, the question was, why locate it there, Teresa?

Teresa Ballard – Yes.

Eddie Rodriguez – So, when we first started looking into this, DEQ basically stopped us. They didn't stop us, they reduced our flow of water last... I am going to say, was it, last August?

George Rodriguez Jr. – Yeah, around there.

Eddie Rodriguez – So we were basically placed in duress and we were looking for another site to...

George Rodriquez Jr. – Secondary site.

Eddie Rodriquez – A secondary site, because they couldn't use all our water. Our water, Seneca's water, and Fry Foods' water. So, they were actually using our water to dilute Seneca's water and Fry Foods' water, ok? So...

George Rodriquez Jr. – Because they use batter.

Eddie Rodriquez – Yeah, they use a lot of batter and breading on their products and we don't. So again, we were placed under duress. So, we were looking for a site, any kind of site.

George Rodriquez Jr. – We have a letter from Clay Peak. We had a letter from Clay Peak that they would never shut us off.

Eddie Rodriquez – Right. Shut us off.

George Rodriquez Jr. – That they would always... have...

Eddie Rodriquez – Did George... go ahead state your name.

George Rodriquez Jr. – George Rodriquez Jr.

Kathy Clarich – State your name and your address.

George Rodriquez Jr. – 719 Morgan Ave. Ok.

Kathy Clarich – Thank you.

George Rodriquez Jr. – So, we have a letter from Clay Peak stating that they would never shut us off. Then all of a sudden, they called and said: hey we're shutting everybody down. Everybody's shutting down. So, we were going: oh, my goodness, we're going to have to close the plant down. And what are we going to do with all our employees? What are we going to do? So.

Eddie Rodriquez – And we actually did slow the plant down from August through now. We're using quite a bit less water. But the reason that they shut down, Clay Peak, is they had a permit with the DEQ that got pulling from them, because they were putting it in their evaporation pond and then they were pumping it into a field. They were sprinkling it into a field. Well DEQ took that permit from them. So, that's why.

George Rodriquez Jr. – So, it was only for like 4 years, 5 years.

Eddie Rodriquez – Yeah, it was about 5 years.

George Rodriquez Jr. – Yeah.

Malheur County Planning Commission
March 23rd, 2023

Eddie Rodriquez – Yeah. So, they took that permit from them which entail... it was a domino effect on all of our companies. So, that's what happened there. So, again, that's the reason, you know...

Kathy Clarich – I think what she was asking you though, why you didn't maybe do something over there, by the processing plant?

George Rodriquez Jr. – We were looking for property.

Eddie Rodriquez – So, we were looking for property everywhere over there in Idaho. But our processing plant sits on roughly 30 acres and it is all taken up. You know, I have no more room for lagoons there, at that site.

George Rodriquez Jr. – But you also have to ask DEQ, before you just go out buy... get a property, you know, to see if they'll, you know...

Eddie Rodriquez – Approve it.

George Rodriquez Jr. – If they'll approve it. So, we did do that in a couple of places. And they were not approved. So, we said, well I guess we have our land.

Eddie Rodriquez – Yeah, Oregon. On the Oregon side.

George Rodriquez Jr. – You know, we have over 1,000 acres, so.

Eddie Rodriquez – So, that's why, like I said, we were under duress at the time and...

George Rodriquez Jr. – And we do recycle some of our water. We do! We do have the system. Go ahead.

Eddie Rodriquez – We do have a RO system. So, our RO system, but it is not sized to fit. It's not big enough for what the plant produces on a daily basis. It roughly regenerates 9,000 tops, gallons per day, which is not significant enough. It goes through an ultra-filtration system, then our RO system and it get pumped back to the plant, where we use that water for our condensing towers.

George Rodriquez Jr. – We're also looking for a bigger system, to beef that up, as well.

Eddie Rodriquez – Yeah.

George Rodriquez Jr. – And this locating that we're talking about on our property is the secondary site.

Eddie Rodriquez – Secondary site, because Clay Peak is still taking our water...

George Rodriquez Jr. – Clay Peak is still taking our water...

Eddie Rodriquez – Today.

George Rodriquez Jr. – Still, you know.

Linda Simmons – Inaudible.

Eddie Rodriquez – So.

George Rodriquez Jr. – And then also DEQ is working with Clay Peak. Well Seneca's going to... was supposed to start January 1.

Eddie Rodriquez – So, Seneca, January 1... they're doing a RO system. They're building a RO system plant and there's supposed to be a reduction with the Seneca water. So, they'll be allowing us to do more, to send more water up there.

George Rodriquez Jr. – So, we might not even... potentially not even maybe need it. But we still...we have to have a secondary site.

Eddie Rodriquez – Yeah, DEQ... DEQ wants us always to have a secondary site. So, you'll see data in your packets. So, I have a year of data of a... It's all third party, it's all Analytical Labs. We send samples twice every month, so that data shows what's in our water.

George Rodriquez Jr. – We also approached Emmett, to see if they could take our extra water. They couldn't. They were to capacity. Ontario, Vale, and Nyssa...

Eddie Rodriquez – Ontario, Nyssa, and Vale. Yeah.

George Rodriquez Jr. – We approached them all and everybody was to capacity. It's not like we didn't, you know...

Eddie Rodriquez – You know, we have been everywhere, so even Nampa.

George Rodriquez Jr. – Nampa.

Eddie Rodriquez – We called Nampa too, so.

George Rodriquez Jr. – So, everybody is to capacity. So.

Eddie Rodriquez – And again these... what these are, they're shallow evaporation ponds. They're not deep ponds, they're shallow. So, the more, the shallower you make the ponds, the more evaporation you're going to get out of the pond. So, that's reason Mr. Hinton engineered them as such. So.

Audience Member – How about injecting it back in?

Malheur County Planning Commission
March 23rd, 2023

Eddie Rodriquez – What was that?

Audience member – How about re-injecting your water back in to the land?

Eddie Rodriquez – Ok. So, injecting back into the land, that takes another special permit through DEQ. So, we're kind of in the process, you know, of that. That will be the next step, you know, land-applying, is what that is.

George Rodriquez Jr. – And Clay Peak was land-applying our water.

Eddie Rodriquez – Right.

George Rodriquez Jr. – They were land-applying on their ground up there.

Audience Member – Well, how about injecting back into the aquafer?

George Rodriquez Jr. – Like Top Onion does?

Eddie Rodriquez – Well then.

Audience Member – Inaudible.

Kathy Clarich – Ok.

Eddie Rodriquez – So, that will be... Yeah... that will be a different permitting.

Kathy Clarich – He's got questions, but he can ask them when we get to the rest of it. So.

George Rodriquez Jr. – Ok. Ok.

Kathy Clarich – Ok, so does anybody else have any questions for them? Because you will get a rebuttal when we're done here.

Eddie Rodriquez – Sure, that is fine.

Kathy Clarich – Ok, if you want to sit down. I am going to open... Ok. First of all, online, is there any proponents online? Anybody in favor of this action online? If so, push *6. I don't see anybody. Ok, so I have one proponent here. Eddie do you want to say anymore?

Eddie Rodriquez – Nope, I am good. I just filled that out as... if I was needed. So.

Kathy Clarich – Ok.

Eddie Rodriquez – Yeah.

Kathy Clarich – So, anybody else out here that might be a proponent for it? Ok.

No proponent testimony.

Kathy Clarich – Anybody online who's against this? If so *6. Brian, want to unmute *6?

Eric Evans – Oh. Yeah, he's not on a phone. So, that only if there on the phone, so he should be fine. He should just be able to push a button.

Brian Paxton - How about now?

Kathy Clarich – Yep, you're good now.

Brian Paxton – Are we good?

Kathy Clarich – Are you an opponent or proponent?

Brian Paxton – Opponent.

Kathy Clarich – State your name and your address, please.

Opponent testimony:

Brian Paxton – Brian Paxton. 680 Butler Blvd, Ontario. I am just southeast of the proposed ground. I have lived here 25 years. I have a couple of issues here. One, if anything was to happen to the liner and it got into the ground, in the ground water, that's my drinking water. That's my family's drinking water. So, I have a little bit of a problem with that. Um, the other thing is, I am kind of, and I know you guys have gone through it, but for a landfill not to take it and for it to be in my backyard, I have a little problem with that also. And the smell. The way the wind blows, you cannot tell me that there is not going to be a smell. And again, I have lived here 25 years. I live in the country for a reason. I like the quiet. I like the fresh air. I don't know what else to say. But I don't think it is a good thing for my backyard, and I don't think anybody that is sitting in that room would want it in their backyard either.

Kathy Clarich – Alright, thank you, Brian. Ok, first one I have on my thing is Richard Oleson.

Richard Oleson – Right here.

Kathy Clarich – Go over there and state your name and address please.

Richard Oleson – My name is Richard Oleson. I live at 694 Sugar Ave, a little bit away from this. I have to apologize, I am not used to doing this. First issue I have is, what are we going to do about it... what are we going to think of these tankers running up and down the road? I don't know if anybody has ever driven a tanker. They don't respond to steering like regular trucks do. They don't stop very well. And these guys go fast. I mean, there's been a fairly large, I would say, 40-foot onion truck with a conveyor dumper on it, going up and down Sugar Ave and he's going 50-60 miles an hour. You know, there's kids and dogs and people out there and me on a bicycle. Also, talk about this Fry Foods and everybody having a different product. I mean that...

I mean, I understand you guys, I know you need this. But what if you change your product? I mean, what if you go to something that is going to... Are you guys going to stop bringing it out there? I doubt it. I am sorry, but I doubt that. I spoke to the lady from the DEQ in Idaho, that decided that they needed to reduce the volume and that is what she said. She said, she didn't want to cut it off but they need to reduce the volume and the product has to be aerated, is what she said. I didn't write her name down, but that's pretty much a quote. Ok, also are there going to flies and mosquitos and other pests hanging around. I mean, that's another... along with the odor. If your liner leaks – it's going to get into that drain ditch. I don't know if you people know that, that you used to be some kind of refuge out there, a long time ago. And they dug a drain ditch and it goes right by my house and it runs year around. And that drain ditch, if you look on the map, is 100 yards from the pond. So, if that thing leaks, it's going to come by my house. (cough) Excuse me. Also, once you get this thing running and... I mean, there's no backing up. And who's going to monitor what goes in there in the future? You know, I mean, markets change. Products change. And who's going to look at that? I mean.

George Rodriquez Jr. – DEQ

Richard Oleson – Let's see. Also, I have my life's savings out there: my house and property. So, what's this going to do my property value down there? Just you know, I got no recourse against that either. And honestly what's in it for Malheur County? I just don't see what's in it for Malheur County at all.

Kathy Clarich – Thank you.

George Rodriquez Jr. – Inaudible.

Kathy Clarich – Ok. Next is Kirk Seward. Please state your name and your address.

Kirk Seward – Kirk Seward, 650 Sugar Ave. So, you could say that I have a... what we call “a bird's eye view” because I'm a pilot and I have an airplane. And these ponds are already built. And I keep hearing these “ponds”, but it's not ponds – it's one big pond. I guess I should've brought pictures. I could go flying again, it's a great excuse. One thing that they could've done to combat the smell, is a... they could've brought some 5-gallon buckets of water, we could open them up in here, during the meeting. So, maybe next meeting, maybe bring some 5-gallons buckets of water, that'd be great. And I keep hearing about these proposed ponds that are already built, being, I heard 100 yards from the ditch. It's not true. They are... It is right next to the drain ditch that the man talked about. It's literally... I didn't pull a tape on it, but I bet it's less than 100 feet from there. And so, if it runs over, which I understand it's got 2 feet of board on top and you know, it's going to take quite a bit... But who's to say? Who's to say, who's going to monitor how high that is? So, if I was building a pond and I needed to throw an extra 10 semi loads of water in there, and I have two board feet. Well, ok, so tomato-tomato, right? I can put more in there if I want, nobody's watching. So, there's no way to regulate and keep it at two feet is my point. So, they could technically fill it clear to, within 3 inches of the top. Unless somebody's going to be monitoring that. And I don't know who'd be doing that. Probably one of the biggest things that I saw, is the construction on this started last spring. Every day, they were out there. They hauled... they hauled a gravel... They hauled pit run in for a road that is the full

length of that property, 20, probably at least 20-feet wide. They hauled all the 3/4 road mix for that road in. There was lots of truck driving, there were lots of trucks in and out of there. And, I was by there, multiple times a day. I live there. I farmed over on Railroad. I was back and forth. I saw all the... I saw... I should've marked down, like, what's going on over here? Because I remember the day it started. And it was in the spring, and it was completed by the end of summer. All the gravel's hauled, all the stuff's there. The liner is already there on the property.

Audience Member – Inaudible

Kirk Seward – Um, they don't haul this water... I heard somebody say something about hauling water over there in a truck that weights 40-some-thousand pounds... It's not what happens. They haul water in a semi and a semi is going to be 80,000 pounds, on the low end. If you put some tag axels on that, it could be up to 104,000 pounds. So, it's not a 43,000-pound or 50,000-pounds. I mean, if it was a straight 3-axel truck, it would be 50,000 pounds, if it is legal, which you can add some more extra to that. The predominate wind in that area is from 390 to 350 degrees. So, anybody that is downwind from 390 to 350 in that area... that's the wind direction, that's what it blows all the time. Sometimes from 280, but mostly from 290 to 350. That's why the runway sits at 3-2-0, because that's where the wind blows most of the time. And then, you have property values. And every real estate agent that you would talk to, would say property values will plummet in that area. And there is no telling what that's going to be. And I think at the... the County, obviously, you guys already know... But really, honestly, what is the repercussion for starting a project, finishing a project, and then coming and asking permission to do a project?

Audience Member – Yeah.

Kirk Seward – Because, if that's the case, I don't ever want to buy another permit!

Kathy Clarich – Ok, time's up. Thank you. Ok, next is Walt Longtin.

Walt Longtin – Hi everybody!

Kathy Clarich – State your name and address, please.

Walt Longtin – Walt Longtin, 3605 SW 4th Ave, Ontario. So, I'm just past the airport, on SW 4th Avenue, before it turns into Sugar. Ok. Alright, to start off, I had a telephone conversation with Mr. Gary Kelley. He oversees Clay Peak Landfill. I asked Mr. Kelley about the onion wash water ponds at Clay Peak. I shared the fact that the Rodriquez Farms applied for a conditional use permit for Oregon, as a disposal site. Mr. Kelley said the landfill is limiting all of wash water producers to 2 million gallons annually. So, there are 3 or 4 producers, which they talked about it earlier, that will be capped to 2 million gallons. That's a lot of water. Mr. Kelley stated that the producers are still allowed to dump, but limited to the 2 million gallons. On page 23, of Partners LLC's preliminary hearing report, it states that current disposal... it states, that current disposal of wash water waste is being trucked to the waste water ponds operated by Clay Peak Landfill property, in Payette Idaho. Quote: "This property is reducing and phasing out the processing

waste water”. Well they’re not phasing out. If I understood Mr. Kelley’s comment correctly, it’s not correct, as stated on page 23 of the preliminary report. They are not phasing it out. Now, regarding the 18-wheel tank trucks... The conditional use application states that there will be 3 to 6 loads daily, Monday through Friday. Ok, doing the math on 6 loads. That’s an 8-million-gallon capacity site out there, according to their stuff. They do 4 million – that’s a lot of water! But, if we go 6 loads a day, Monday through Friday, that’s 260 work days, that’s 1,560 tanker trucks yearly going down SW 4th, past a community, where there are school age kids getting on the school buses daily and by our property. Though I could give you pictures of that. This is SW 4th, it is marked here, with the school buses stop. It... it’s a couple of pages for you guys to look at. Ok, so they’re going to be going by my home. My home is 50 feet off SW 4th. So, I’m really close to the road. And this turns into Sugar, as I stated before. I’m retired. I just retired. I’m 71. You know, I really don’t want to be subjected to the sound and the smell of 1,560 trucks or more yearly going 50 feet from my house. Now, another quick thing. The holding ponds have a capacity of 8 million gallons, according to their application of this waste water. Can you imagine the smell, even if it’s 4? Can you imagine the smell in July, August, and September? We lie in a low-laying area, it’s no lake bed out there, prehistoric lake bed and these ponds are right in the middle of it. He already mentioned about mosquitos. So, the last two points, 1,560 8-wheel tankers going by school buses and by our homes. Second, in our minds changing the Exclusive Farm Use to allow commercial activity will set a precedent that none of us folks really want. This water is made in Idaho, keep it in Idaho. Thank you.

Kathy Clarich – Thank you! Ok. Next is Emilio Gonzales. State your name and address please.

Emilio Gonzales – Emilio Gonzales. I live on 790 Sugar Avenue, Ontario. I’m not sure if I’m the closest one to this pond, but I want to back up with... this gentleman said about... I called Clay Peak as well, and they’re not shutting it down, they’re just reducing it. Let’s see. I do have several concerns and one of them would be, if Partners is allowed to put this project and complete it, who’s to say they can’t profit off of it by taking others’ water and a... you know, putting it in their pond. They can profit off of that, while I am suffering from it, because my property value has gone down. Also, is there limit, if this proposed project is put in, is there a limit on how many ponds they can put in there? I mean, they get... I think it’s an 80-acre parcel there. If you allow that, who’s to say they can’t put a couple more ponds in there and create even a little more smell. I know the gentleman said the water is practically clear. I wonder, can you drink it? Is it that good? If it’s that clear, why can’t they spread it on the ground? Or does it have toxins in it? And that is why we’re not allowed to put in on the ground. Also, this aerator thing... so this is casting this water up in the air. If there are toxins in this water, does it become vapor and thus the wind carry it over to our residences? Is there any study been done on the effects of smell? I did some research, not much, but you can be affected by smells. So, eye irritation, skin irritation, and maybe even lung problems.

You know, somebody mentioned about the road. Well, the gentleman brought up even more traffic and more weight, and that sort of thing. So, there should be a history of how many times has the road department have to come down there and fix pot holes. So, if there’s a record or that and then if the increase of trucks causes even more, then I would say yeah, they need to be responsible for the difference in, you know, they have the annual maybe or seven-year plan on how many times they fix that road. An increase in traffic is obviously going to make more

damage. Therefore, I say the “yes”, if it is approved, which I’m against it, that they are responsible for the damage. And not 6 months from now, because a lot of us have to drive up and down that road. And we either have to dodge those pot holes or suffer the consequences: alignments and tires, and such.

Bringing up the liner. Somebody mentioned also if there’s a leak in the liner... Don’t gophers dig holes and they kind of uproot wherever they want to go. There’s no limit on where they want to go. They go wherever they want to. I know you got a... I know there is a fence, but that doesn’t keep gophers out. Were there any studies done on...? Well somebody mentioned the wind direction. Ok, and I mentioned about the water and the vapors. The wind direction that blows those toxins, whichever way the wind blows. Was there a study done on the effects of the smells? I did that, about the irritation and that... And also, they brought up about the new insects, maybe not new insects, but maybe an increase of insects. Oh, and is the DEQ, is that the one we got to talk to about that, because of the... You have to treat those insects, or is there a no condition on that? Is there, can the insects run ramped on this property? If it is under... has to be under control, then how is it controlled? With insecticides? Is it a spray? Or is a dry form, you know, the kind that sticks on the ground and the insect crawl on it and then they die from that. If that’s the case, then the wind’s going to come, and then also, here’s is another toxin that’s being blown in the air, that we didn’t have before. And the only reason we didn’t have it before, is because the pond wasn’t there. So, we talked about the insects. What kind of insects is it going to attract? You know, somebody mentioned mosquitos, but you know, there is flies, and mites, roaches, and whatever else, you know, desires that type of environment. I don’t know that. And they brought up about the property value. I’m retired also and we bought... we’ve been there for some time now and really enjoy it. We know there’s going to be smells. There’s a dairy somewhere. There is an applicator that comes with their aerial planes and the spray. Am I out of time?

Kathy Clarich – You’re out of time, yes.

Emilio Gonzales – ...and they spray the crops. But you know what? That spray is there and then is gone. It’s there for maybe an hour, maybe less than that, and then it is gone. But this project is going to be there 24/7 and we have to live with that.

Kathy Clarich – Thank you.

Emilio Gonzales – Thank you.

Kathy Clarich – Ok, next is Tate Turner.

Tate Turner – I have no comment at this time.

Kathy Clarich – Well if you don’t make your comment now, you can’t make one later if we make a decision. So, now’s your time to speak up and be on the record.

John Faw – Oh, speak up!

Malheur County Planning Commission
March 23rd, 2023

Kathy Clarich – Even if you’re saying the same thing as all the others. That’s fine. Just state your name and address and speak up.

Tate Turner – Tate Turner, 820 Butler Blvd. I’ve farmed all my life. I know what you got to do. These ponds are a commercial deal. They don’t need to be out on farm ground. I just, I don’t agree with it. My main concerns are the odor and property value. If that odor is there, it’s going to drive property values down. I’m not good with it at all. So, anyhow, that’s all I got to say for now.

Kathy Clarich – Ok, thank you. So, is that all of the... Anybody else that’s opponent for this or opponent on this?

Audience Member – I didn’t sign up, but I have one question, if that’s ok?

Eric Evans – You just have to state your name.

Kathy Clarich – State your name.

Becky Tucker – Becky Tucker, 820 Butler Blvd. If this turns into commercial property for these ponds, could that open up a site where they can have packing sheds and stuff later? Is it going to totally turn our land value differently out there? How is that going to affect the future of that land?

Eric Evans – I’ll answer that. I would permit a packing shed on farm ground, because it’s actually farming. It meets the definition of farming.

Becky Tucker – So, even... So, it wouldn’t even have to be commercial, you would do it anyways out there?

Eric Evans – Well, I mean what you’re saying is commercial and what I... So, marketing of an agricultural product and packaging of an agricultural product meets the definition of farm use in the State of Oregon. So, a packing shed would meet that definition. This does not meet the definition of farming, necessarily. So, what my proposal was, when I received this application, was to put it under “commercial in conjunction with farm use”. And the way that I would state that is, it would be similar to things like if, I don’t know what they are now, Campbell Tractor?

Becky Tucker – Right.

Eric Evans – ...came to me and said: hey, look, we want to put this tractor dealership out on farmland. I mean, it’s not farming, right? It’s not like they’re farming it, but they’re obviously creating and selling a product that is farming, right?

Becky Tucker – Agricultural purposes.

Eric Evans – It’s an agricultural purpose. So, the thought on this, is that this provides a place to put the wash water of an agricultural product. And so, that’s... So, commercial in conjunction

with farm use is a conditional use permit per Oregon Statute. And that's what this whole meeting's about. So, saying that it's commercial? No, I can't. I can't put anything commercial on farmland it's... It goes against the law. So.

Becky Tucker – Ok.

Eric Evans – But because this has this very significant agricultural piece to it, that's where... that's why the County put it the way it did. So.

Becky Tucker – Can I say one more thing?

Eric Evans –Yeah, absolutely.

Becky Tucker – Ok. So obviously the Rodriquezes have done their studies and they are trying to be as efficient as possible for our community, but I have also heard that somebody in Idaho had to go in and do something that wasn't like a waste water pond type deal. They did something that was more agricultural-friendly. Has that been explored at all? Have you guys looked at anything different like that, that wouldn't affect the home owners around the area?

Kathy Clarich – They can answer that in the rebuttal probably.

Becky Tucker – Ok.

Kathy Clarich – Ok. Any other questions you have?

Becky Tucker – Nope, I'll be quiet now.

Kathy Clarich – Ok. So, if there's nobody else that's an opponent for this? Ok. I don't know which one of the three of you want to do the rebuttal? You have 10 mins for a rebuttal and answer to the people's questions or if all three of you want to do it?

Applicant's rebuttal:

Larry Hinton – Well, I guess... starting off with a... ground water concerns. These lined ponds systems are monitored and a leakage detection system is under consideration also, for that, just that purpose. The odor issue, which everybody had a concern, is again, addressed by DEQ Oregon. I personally, you know, this is the first wash water pond, that I have been involved with, because it's so unique. That's why we provided all the chemical data, the chemical analysis data in the packet, that is available to the public online. To see that they're not toxic, this is not a toxicity issue at all. So, hopefully, you know, that... take a look at the data. I know you're concerned about it, take a look at the data, you'll see that there's not toxic compounds there. The traffic issues. For one, there's not going to be 1,000 trucks a year. I mean, that's... we couldn't even take that much water. I mean, they don't generate that much water in two years. So.

Walt Longtin – That's is your numbers. That's in your statement, on paper.

Larry Hinton – No, I said it would vary between 3 to 5 trucks.

Walt Longtin – 5 to 6 trucks.

Kathy Clarich – Ok, ok. Ok, I'm sorry.

Walt Longtin – I am sorry.

Kathy Clarich – Go ahead, your rebuttal time's going.

Larry Hinton – And, so anyway, the traffic issue, you know, I think that, that could be a condition of the conditional use permit, obviously, if that is a significant concern?

Aeration is not blowing toxins into the air. It is monitored. I mean, that is the other thing, that it is a monitored system. And it's not like it's going to get filled up in a rapid amount time. And it is designed to when one cell is full, and there's still 2 feet of free board, that if we had a large precipitation event, that it would flow over into the second cell, through a broad-crested weir system and that's in the drawing.

And the other concern was the location. The current location of the south abutment is going to be moved a... about 70 feet, approximately 70 feet farther away from that drain. Because I pointed out to Rodriguez family, when I first met with them, that we need to have a 100-foot distance there, from that drain. And that's actually live water. And Eric and I had talked about that also. So, what you see out there right now, was a pond system that was roughed in and is moving farther to the north, so.

This is an agricultural, it is an agricultural process. And you know, the comment of, you know, you make the water in Idaho – keep it in Idaho. These are washing Malheur County onions. I think that, that needs be brought into the process of, it is our agricultural product that we generated here. And we're just gave the Rodriguez family an opportunity to have an alternate site. The liners, the liner system itself, again these are... this is a compacted material and compacted embankment. And rodents, rodents obviously on any type of a dike and pond system, rodents have to be monitored and eradicated when they're present. And would be. Nobody wants to see a gopher get in to a liner system or even get into the dike system. And that's the same way with any type of vegetation. You know, we don't allow any elms. So, they'll be monitoring the dike continuously for vegetation, inappropriate vegetation that can cause a potential failure or damage. I believe that covers most of the concerns outside of the property value and with nobody... I honestly don't believe you're going to know it's there, once it starts operating, because of the water itself, it's being put in there to evaporate, so.

Eric Evans – Can I add one thing, one thing that I didn't hear you say anything to, is that several people have mentioned is, mosquitos?

Larry Hinton – Yeah, I mean, it would be... It'd have abatement, just like you'd do in any field or crop.

Audience Member – They don't come out there.

Larry Hinton – Pardon?

Malheur County Planning Commission
March 23rd, 2023

Audience Member – We don't get abatement out in our property. They don't come out. They should...

Larry Hinton – No, I'm just saying, the Rodriquez family would be in charge of abatement.

Eddie Rodriquez – Abatement program

Larry Hinton – Yeah.

Audience Member – Oh, ok.

Eddie Rodriquez – Yeah.

George Rodriquez Jr. – If DEQ says...

Larry Hinton – Yeah, they don't come to my house and I live in Willowcreek. So, I know exactly what you're saying.

Chad Gerulf – Can we ask questions now?

Eric Evans – Yeah.

Chad Gerulf – So, what are you guys actually think the truck traffic's going to be? And I mean, that's a concern with people. I mean, is it really going to be like a couple of loads a day? Is there going to be days when there's none? Like...

Larry Hinton – Like weekends?

Chad Gerulf – Yeah, or through the... I mean, look, if Clay Peak says, hey we'll take extra water this week, then these guys say, hey, we don't even have to haul any over to Ontario. I mean, so, what's the actual, like, number of trucks you think, because if it's not going to be 6 a day, what do you think it will be? I mean, do you know, Eddie?

Larry Hinton – Inaudible.

Eddie Rodriquez – Well, we went with our data for one year. So, I don't know if you have that on there? And it showed the 3 million gallons, then we divided by the truck loads. And that's the data that was presented to you. Again, this is going be a secondary site, with the Clay Peak being the primary site.

George Rodriquez Jr. – The answer is unknown!

Eddie Rodriquez – The answer is unknown, right now.

Chad Gerulf – Yeah.

Malheur County Planning Commission
March 23rd, 2023

George Rodriquez Jr. – For us, we want it to minimal, because we’re close to Clay Peak. We don’t want to come all the way over here. I mean...

Chad Gerulf – Yeah, so...

George Rodriquez Jr. – Unless we have to. Unless Clay Peak says. Unless Gary...

Chad Gerulf – It’s overflow. Ok.

George Rodriquez Jr. – Yeah. Unless Gary says, hey George, you know what? We’re shutting down next week. Ok, then I guess we got to go. And then we’re coming back.

(Inaudible)

Kathy Clarich – Ok, so, I do have one other question on the transportation. What route are you taking to get to there? I mean... because like, if you come by the trailer park there...

George Rodriquez Jr. – 201. It would be Boat Landing Rd. Boat Landing across the bridge. Boat Landing Rd...

Eddie Rodriquez – And 201.

George Rodriquez Jr. – 201.

Eddie Rodriquez – 201 to Sugar.

George Rodriquez Jr. – To Sugar, yeah.

Kathy Clarich – So, you’re going to come up Yturri beltine?

George Rodriquez Jr. – Beltline... beltline...

Kathy Clarich – And you’re going to go past the trailer court there?

Eddy Rodriguez – Then on 4th Avenue.

George Rodriquez Jr. – And then we’ll hang a right on Airport corner.

Richard Oleson – 4th Ave.

George Rodriquez Jr. – 4th Ave.

Kathy Clarich – 4th Ave.

Eric Evans – So you’re taking about traffic and it varies? So, I mean because we’re looking at the maximum. So, what would your maximum traffic be, I guess that’s the best way of saying it.

Eddie Rodriguez – You’re looking at the maximum there, on the list. That is the maximum, but that...

Eric Evans – I can’t remember what that is.

Kathy Clarich – 6 trucks a day.

Eddie Rodriguez – Again, that... those numbers were before Seneca putting in their RO system. So, they’re going to allow us more gallons.

Eric Evans – Right.

Eddie Rodriguez – A... once Seneca’s is up and running...

John Faw – I think it said 6 to 9 a day.

George Rodriguez Jr. – So, we’re hoping... And Seneca’s RO system was supposed to be done January 1. This January 1, 2023. So, we haven’t talked... spoken to Gary yet, to see if they actually got it finished. If they did, then Seneca was going to not take any more water to Clay Peak. And then they’re going to allow us to take more.

(Inaudible)

Eddie Rodriguez – But that’s a moving target. And concerning the pot holes, Eric? The pot holes issue on that Sugar Road... I mean yeah, we would be open to discussion on that, on the repairs of the pot holes.

George Rodriguez Jr. – However, however, we do have... I do have an issue. Top Onion goes down SW 18th Avenue all day long. Are they paying for their pot holes? I mean, and they’re going all day long. Is anybody monitoring that or is that just a Partners Produce deal? A new rule? I mean, I’m just asking.

Audience Member – Inaudible

Eric Evans – So, so... their... it’s a totally different thing. So, they’re land-applying, as a soil amendment, which, you know, is a farm practice.

George Rodriguez Jr. – Sure.

Eric Evans – So, I mean, that’s how they’re getting rid of... I mean, in the back of my mind I’m... I mean, I haven’t talked to you guys about this about out here, maybe we can. But, you know, maybe that’s another process for you guys?

George Rodriguez Jr. – I do have one more question?

Audience Member – Inaudible

Malheur County Planning Commission
March 23rd, 2023

Eddie Rodriquez – I live right there on 18th.

George Rodriquez Jr. – He lives on 18th.

Eddie Rodriquez – We're all neighbors.

George Rodriquez Jr. – But, does anybody smell Top Onion's smell? Has anybody complained about that? Or is it me, who hasn't even hauled anything over there yet?

Linda Simmons – Please one at a time!

George Rodriquez Jr. – No. I'm just asking.

Linda Simmons – Thank you.

George Rodriquez Jr. – I'm sorry.

Eddie Rodriquez – Yeah. No, I can smell it.

George Rodriquez Jr. – It was just a question.

Eddie Rodriquez – But, you know, I could smell it at night I can smell the odors. And they're probably taking 10 plus loads a day, down to their farm, so. I know it's a different process.

Eric Evans – And honestly, I mean, the people I've talked to, within my office, I mean, that's what their...

Eddie Rodriquez – Their concern is.

Eric Evans – ...their concern is. And that's what they're imagining, I feel like too, so.

Eddie Rodriquez – Yes.

Larry Hinton – And that is incorrect. That is not the product that is being hauled, at all.

Eddie Rodriquez – They're doing a completely separate process than we are.

Kathy Clarich – Ok. I got another question for you?

Larry Hinton – My time is up.

Eric Evans – The good thing is, the questions don't count toward for your time, so.

Audience Members – Inaudible

Malheur County Planning Commission
March 23rd, 2023

Kathy Clarich – So, who hauls the water. Is it a contractor or is it you guys actually hauling your own?

George Rodriguez Jr. – No, it's our farm.

Kathy Clarich – Are you running farm plates then? Or are you running commercial plates on it?

George Rodriguez Jr. – They're farm plates.

Kathy Clarich – So, you're not paying all the taxes that the other people are paying.

George Rodriguez Jr. – They're farm plates. We own farms.

Kathy Clarich – Yeah, I just... but this is actually for a commercial business that you're hauling it for. So, that's why I would like...

Eddie Rodriguez Jr. – We're agriculture-related.

George Rodriguez Jr. – We don't have land in the commercial process... it's not commercial.

Kathy Clarich – Ok. I didn't know that.

Richard Oleson – I have a question about... You've talked about you're going to have like a half inch of sediment a year and your whole idea is to let the water evaporate. What's going to stop the wind from blowing that all over the fields? And then when they irrigate it, come right down that ditch that runs by my house?

Larry Hinton – For one, you wouldn't let it dry to the point that's powder.

Richard Oleson – Inaudible ...dust?

Larry Hinton – I mean, and the other... like I said, you know, it will be tested and this is an unknown... this is really an unknown area. As far as, we know all the chemical basis of the water. We have all that data. It's public data.

Richard Oleson – To be clear, I understand that you guys need this, but this is my place and I'm going to try to defend it, so. Don't take it personally, but I really don't want you there.

Kathy Clarich – So you keep talking about...

Larry Hinton – And again, those solids... Those solids you would not wait for 'em, you know, to dry up and blow away, if that's what you're, kind of, implying.

Richard Oleson – But if a little wind comes up, blows it out to the field, then the farmer irrigates the field, it's going to come right down that ditch.

Larry Hinton – And so, no. And that could be a condition of operation.

Kathy Clarich – Ok. You talk about how everything's going to be monitored: the pond's going to be monitored. How is it monitored? Are you... have somebody coming out every day to monitor it? Is it going to have some electronics in it, so that it monitors it? I mean, that would also help people have an idea of like "ok, it's going to monitor how the..."

George Rodriquez Jr. – The flow.

Kathy Clarich – ...the depth is, and flow in it, and stuff like this?

Eddie Rodriquez – We will go through DEQ rules on that.

Kathy Clarich – Yeah. But is it, like, you get notice every day of where it's at? Or?

Eddie Rodriquez – Every day, every day. I mean, they'll be monitoring that pond every single day. It's DEQ... (inaudible)

Kathy Clarich – So, they're doing the actual monitoring?

Eddie Rodriquez – No, we will.

Kathy Clarich – You do?

Eddie Rodriquez – No, we do. In-house.

Kathy Clarich – Ok.

Eddie Rodriquez – But again, whatever data DEQ needs, that'll be submitted to them.

Kathy Clarich – I'm just...

Eddie Rodriquez – Whether it's quarterly, or monthly, or you know, weekly reporting.

George Rodriquez Jr. – They'll tell us.

Eddie Rodriquez – Yeah.

Kathy Clarich – But that's why I... the reason I was asking it, it might put some people's mind at ease...

George Rodriquez Jr – Sure.

Kathy Clarich – About the level in it and whether over-flowing or anything like that, is to how you're monitoring it. I mean, like, some things they'll come to you from anything anymore, on

your phone or whatever. That tells you what the... where the water is, in the pond at any particular time.

George Rodriquez Jr. – What the levels are.

Kathy Clarich – So that you could do something, if it was getting too high.

George Rodriquez Jr. – Sure.

Kathy Clarich – It's why I was asking that.

Larry Hinton – And there're real simple kits, that are out there for water-level monitoring, that are solar driven and even though we have power to the corner of that site, these little solar systems work very well for monitoring. And they just have a little data logger on them. But they also, you can set them up, so they are like a skater system and transmit data, too.

Richard Oleson – I got another question about the trucks. Are those going to be 18-wheelers, they're going to pull up top... I mean, what's going on? You say they're going to be farm plates. So, does that mean the people driving them aren't going to have a CDL and a tanker endorsement? I mean, what's going to happen here? We're going to have... they going to decide to jump in a truck to haul that thing on Sugar Avenue?

Kathy Clarich – Farm doesn't have to have... (inaudible)... CDL.

Kirk Seward – You have to have a farm endorsement and I think they still you have to have a tanker endorsement, to drive a tanker.

Richard Oleson – Tankers don't drive like other trucks do.

Kirk Seward – No, but you still have to have a... (Inaudible).

George Rodriquez Jr. – Ours is 4 million gallons. 4, and then 6 million gallons.

Kathy Clarich – Ok.

George Rodriquez Jr. – 6,000 gallons. I'm sorry. But they're not the ones you're talking about. I have seen the ones you're talking about.

Kathy Clarich – I have lost control, what can I say? (Inaudible).

Chad Gerulf – Is there any type of... (Inaudible).

Kathy Clarich – I know everybody's got lots of questions about stuff, but...

Eric Evans – Hold on, Chad, just a second.

Malheur County Planning Commission
March 23rd, 2023

Chad Gerulf – Ok.

George Rodriguez Jr. – Some do, some don't, but I believe ours don't.

Linda Simmons – We have a question here on the end, who's asked 5 times to talk.

Chad Gerulf – I just wondered about, who can actually see the pond? Like, can I get... can you raise your hand, to the folks out there that can actually?

Richard Olsen – When we drive by you can see it.

Emilio Gonzalez – I can see where the liners are.

Chad Gerulf – You can see the liner?

Kathy Clarich -Yeah, every time you drive down there you can see it.

Chad Gerulf – You can see the pond back there?

Kathy Clarich – Yeah.

Chad Gerulf – Is there any type of landscaping? Like, is there a tree line or brush, that would help with the wind or?

Kathy Clarich – Then you'd have stuff in the pond, that you don't want in the pond, like from trees and stuff.

Chad Gerulf – Like leaves?

Kathy Clarich – Yeah.

John Faw – And roots.

Kathy Clarich – Yeah, so. I mean, they're going to put a fence around it. I don't know, maybe they can make a privacy fence? I don't know. You know, something like that, maybe so that it couldn't be so noticeable.

Chad Gerulf – Mhm.

Kathy Clarich – We can put that in, as a condition, if we approve it.

Chad Gerulf – Ok.

Kathy Clarich – Ok, what was your question?

Bob Quick – I have one question?

Malheur County Planning Commission
March 23rd, 2023

Kathy Clarich – Go ahead, Bob.

Bob Quick – Are there any of these ponds in use in our valley at this time?

Kathy Clarich – Does anybody know the answer to that one? Eric?

Eric Evans – What was the question, I apologize.

Kathy Clarich – He want to know if there is any of these ponds in our valley in use at this time?

Eric Evans – I mean, I had some other people ask me that and I mean, in a way it's kind of unfair. But I mean, some of the ponds that I know of, that are probably a higher waste strength than what... that it sounds like this one is, are, you know, the Select Onion or Fry Foods, out off of Stanton Blvd. They have several out there and again, I used to get complaints. I... we haven't received a complaint in Environmental Health for that, for a long time, so. But maybe those are getting directed towards DEQ?

Kathy Clarich – Or maybe they're hauling them over to Clay Peak?

Eric Evans – Well, they still have the ponds, right? I mean and...

Kathy Clarich – But maybe they're not putting their water into them or they're probably going to start again, if they weren't, but...

Eric Evans- No, I mean, I think they use those year around. I mean, I don't know what goes into those. I don't really know a whole lot about it. But I do know they have those ponds. And what was the other one that I was saying? Maybe that was the only one I could think of.

Kathy Clarich – Ok.

Bob Quick. – I have a question?

Linda Simmons – Kathy, he has asked 5 times.

Emilio Gonzales – No worries.

Kathy Clarich – Just a second. I got to go with the Council first. Go ahead.

Bob Quick – Kathy?

Kathy Clarich – Yeah.

Bob Quick – So, the simple answer is, we have no evaporation ponds like this doing this project or this type of product, that we could get any statistics or data from in our areas. I know there are evaporations ponds, they're used all over the place.

Kathy Clarich – Yeah, but I don't think we have any that aren't used in the processing of the onions.

Eric Evans – Yeah, I mean, we have...

Kathy Clarich – Cause the others are processing. They're actually, they have their onions, you know... So, this would, supposedly, just washing the onions, you're not topping them or anything like that.

Bob Quick – So this would be a first, am I right on that?

Eddie Rodriguez – Clay Peak is now an evaporation pond, since they've stopped sprinkling the land.

Kathy Clarich – He said Clay Peak is now an evaporation pond, since they quit sprinkling.

Eddie Rodriguez – Correct. That's the reason for the reduction of flow.

Eric Evans – Because they're no longer land-applying.

Kathy Clarich – They were land-applying and they're no longer land-applying. So, they'll be just evaporation, or whatever they can... however much they can take up to Clay Peak.

Eddie Rodriguez – There's another outfit out of Nampa, I forgot the name it. Actually, there are two more locations, in Nampa.

Kathy Clarich – He says there's one in Nampa and one...

Eddie Rodriguez – There's two more locations in Nampa, actually two more in Nampa and one more in Boise.

Kathy Clarich – Two more in Nampa and one more in Boise, he says, that are doing the same kind of evaporation. Any more questions, Bob?

Bob Quick – Are there any site studies from them?

Eddie Rodriguez – Not that I know of.

Kathy Clarich – Not that they know of.

Bob Quick – Ok.

Larry Hinton – And you know, again, Clay Peak is... we're taking the diluted product to Clay Peak and they're receiving the stronger product that we're actually diluting. So, if somebody wanted to go out to Clay Peak and sniff around, isn't necessarily appropriate. I mean, is it a good comparison? I would say no.

Kathy Clarich – Ok. Thank you. Your question?

Emilio Gonzalez – Just to what the gentleman said that there was not a... because I referenced there would be a smell from the aerator broadcasting the water up in the air and he commented that there wouldn't be any smell from that. But if that's the case, he had mentioned earlier that when the pond is empty and they have to take the sludge out of the bottom, it goes into a lined container, it doesn't just go out on the ground. Because why? Because there's toxins, am I right?

Larry Hinton – No.

Emilio Gonzalez – What's the reason they can't just go on the ground? (inaudible)

Larry Hinton – It has to be tested. It could be land-applied, I mean, but first, you have to test it.

Linda Simmons – Could be.

Larry Hinton – So, the sludge would have, you know, a full chemical analysis done on it, to look to see what the most appropriate disposal method would be.

Emilio Gonzalez – And then the other comment I'd like to mention is that, he said this is his first time working with something like this project. So, he doesn't have enough experience to really speak on whether there will be smells or anything. It's pretty... You're just kind of, just kind of: "I think there's not going to be any smell on this?"

Larry Hinton – No. What I said was, this was very unique, because...

Emilio Gonzalez – Ok.

Larry Hinton – Just like, I mean, we're the onion capital of Oregon and this is the first wash water pond, you know, going in, so. Is it going to be like an affluent pond for sewer? No. It's the pond's designed...

Emilio Gonzalez – But the question is, is there going to be any smell? You, you... I don't know if you'd answered that. You said there probably wouldn't be, but you were kind of like, you couldn't answer me.

George Rodriguez Jr. – Ok, I can maybe answer your question. Ok, across from the river from your house, I believe there is a CAFO operation with a pond and I've seen the aerator that you're talking about. It shoots it up in the air. Do you smell that? I'm asking, right across from you. Right across the river, I believe it is on Foothill?

Richard Olsen – The dairy? That stinks, that stinks like hay...

George Rodriguez Jr. – You smell that one? (Inaudible)

Malheur County Planning Commission
March 23rd, 2023

Emilio Gonzalez – (Inaudible) Idaho. I can't say...

George Rodriguez Jr. – It's shooting up in the air. It's shooting up like a sprinkler.

Richard Olson – I can smell it at my place.

George Rodriguez Jr. – Have you seen that?

Richard Olson – I haven't seen it, but I smell it.

George Rodriguez Jr. – Oh, I've driven by it, all summer long. (Inaudible) But you don't smell that?

Emilio Gonzalez – I can't say, I can't remember smelling it so. (Inaudible)

George Rodriguez Jr. – I'll give you a ride real soon. (Inaudible)

Kathy Clarich – Ok, ok, ok!

George Rodriguez Jr. – Sorry, I apologize. (Inaudible)

Kathy Clarich – I know. And I know how important this is to you and I understand that. But we're not going to get back in a back and forth type of thing, because it doesn't help either side, either party. But, both you guys, George and Eddie, both of you willing to like, if you need to, have more understanding of it, I'm sure both of them will work with you on understanding what it is, what the aerator does and stuff like that. If we approve it, ok?

Emilio Gonzalez – Right. And that's what we're here for, is to convince you.

Kathy Clarich – They gave us in the packet, I don't know if you got the packet or not, but they gave us in the packet, it analyzes the byproducts that are in the storage tank, before they bring it out. It analyzes as to how much is the nitrates, and how much is the phosphates, and you know, all that. And so, if you need to see that stuff...

Emilio Gonzalez – I don't understand that. You know what I mean? I need a chemist to tell me what that really means.

Kathy Clarich – Ok. Well...

Eddie Rodriguez Jr. – We could help you understand it. We can help you to understand it. No, seriously!

Kathy Clarich – Do you have a question on my answer? Ok.

Walt Longtin – What he said. I want to know who physically pulls those chemical samples from the pond?

Malheur County Planning Commission
March 23rd, 2023

Kathy Clarich – It's this laboratory that does it.

Walt Longtin – But who? Do they come out and do it? Or do these guys send it to them?

Kathy Clarich – I believe they come out to do it, don't they?

Eddie Rodriguez – No, we send it to them on a biweekly basis.

Kathy Clarich – You send it to them? Biweekly basis?

Eddie Rodriguez – So, it's third party monitored from... Larry knows the exact site on the... in waste water plant there. We take ground samples, send it to analytic lab and they send us this report.

Walt Longtin – Ok, so, if you guys psychically pull the samples, if times got rough, those samples could be doctored?

Eddie Rodriguez – Oh, no. (Inaudible)

Walt Longtin – Well, they could be. They could be. (Inaudible)

Kathy Clarich – But anything can be doctored. Ok! (Inaudible)

George Rodriguez Jr. – It's our QCs from Partners Produce, take that take the samples. It's not us physically, dude.

Walt Longtin – That's what I asked.

George Rodriguez Jr. – It's not us physically, it's our QCs at Partners Produce.

Walt Longtin – Your quality control, your own paid employees. (Inaudible)

Kathy Clarich – Ok, one more question and then we're done.

Kirk Seward – We've raised onions for years. I've raised onions for years. And historically, this product, this byproduct it's coming out of the onion, it's doing that. It is... It is most likely going to be fine to put on the fields. Like literally, when they clean the pond up, most likely it will go into some sort of a spreader and spread on the field. I mean, that's what Top Onion is doing, right? It is basically the same stuff, I mean, onion doesn't really change that way. So, I think this kind of, got sidelined here a little bit, as to being toxic. I mean, onions are good. I mean, it kills e-coli, so. Onion juice kills e-coli. So, it can't be that bad.

George Rodriguez Jr. – Thank you! A man with an education here.

Kathy Clarich – Ok. Does any of the council members have any more questions, before I close it to the public? Nope? Ok. We're closed to the public.

Closed to public testimony.

Audience Member – How does this work now? You guys make a decision and then tell people or? What goes on... what goes on next?

Kathy Clarich – Mhm, yep.

Eric Evans – Yep, they will have a discussion, more of a discussion.

Kathy Clarich – And decide if we want to put conditions on it, if we decide to approve it or if we decide not to approve it, so. When Linda comes back, we'll carry on.

Kathy Clarich – Ok. So, we're closed to the public, and so now, I need to know what you guys think or what? If there's more information you want to get or what?

Chad Gerulf – I think we need places like Partners Produce, right? I mean, that's Malheur County, that's onions, that's just part of it. But we also need to make sure that all these people are protected from odors and... We don't want any dangers with toxic stuff, or trucking, or anything like that. But it'd be nice to find some common ground. I mean, if... I feel like, if maybe, if they said "look guys, we guarantee that you're not going to smell it". You know what I mean?

Audience Member – They can't guarantee it.

Bucky Tucker – They can't guarantee it.

Chad Gerulf – Well, I don't know, but that's going to take more information, because there may be chemicals or something. I mean, it could be treated, I don't know... I mean, I don't know. That is Larry's job, I don't know. But, I could see, I mean, I understand living around there... the last thing I want is for somebody's property value to go down or health to be compromised. I also like for people be able to use their property. But, I feel like there is a couple things that could be addressed here, that may help people out. I mean, if it's like you said: you'd never even notice it was there, but the problem is, can you guarantee that? I mean, if you give these people your word and we approve this, what if it does stink? You know what I mean? Are you willing to say "guys, we'll shut it down, you know, it didn't work out like it was supposed to"? Anyway, that's just my take on it. I mean, everything is not perfect either direction. But I don't know if it's something that if we can get enough conditions it would make people comfortable or the Board comfortable with it?

Eric Evans – Kathy, can I interject too, and I apologize. You guys, just for the record... you did receive this letter.

Kathy Clarich – Oh yeah, I forgot.

Eric Evans – Yeah, me too, that's why I was going to bring it up. This letter from Fred Trenkel.

Kathy Clarich – Fred Trenkel.

Eric Evans – Additionally, I was handed this at the beginning of the meeting. And it's, kind of, some petitions that were passed around for... I mean, a lot of it has to do with kind of, what they're talking about, but if you guys want to see that as well. Do you want me to read this into the record or do you want to read into the record, or just except it into the record, because we've had it, prior to the meeting?

Kathy Clarich – Did they get a copy of Trenkel's letter too?

Eric Evans – Yeah. You guys all received that, right? Yeah.

Tatiana Burgess – It was posted online.

Eric Evans – And it has been online for... since we've received it.

Kathy Clarich – I didn't know you posted it. I think you can just enter Fred's then. I mean since it's online, you can just enter it into the record.

Eric Evans – Just accept it into the record, right? Just so you know, I put Fred's letter as exhibit #4, that's #5 and the pictures that Mr. Longtin submitted as exhibit #6.

Kathy Clarich – Why don't I just, kind of read, what it says, at the top of these, so that you guys have some idea too. Did you just get this tonight?

Eric Evans – Yeah.

Kathy Clarich – Ok. The first one says... There're two different petitions with 33 signatures on one with concerns and how would these concerns be handled if they arise. The second petition has 29 signatures stating these people "are against the County Planning Board allowing Partners Produce to continuing construction on tax lot 400. These signatures are from tax paying properties surrounding purposed site. Thank you for your Consideration."

So, this first one says: "To who it may concern:

We, the undersigned, are very concerned with how the effect of the onion water holding evaporation ponds on tax lot 400 will change the values of the surrounding area. Concerns are odors, insects, traffic, among others. If proposed project is allowed to be constructed, will there be a guarantee and action taken to resolve concerns within a responsible time frame?"

And there is a lot of signatures. And the next one says: "To who it may concern:

We, the undersigned, are very concerned with how the effect of the onion water holding evaporation ponds on tax lot 400 will change the valves of the surrounding area. Concerns are odor, insects, traffic among other. If proposed project is allowed to be continued will there be a guarantee and action taken to resolve concerns within a responsible time frame?" And again, it's got several signatures on it. Do you guys what to see it? Ok. Bob, Teresa, what do you want to say about it?

Malheur County Planning Commission
March 23rd, 2023

Bob Quick – For me the impact on the County and the need for them to be able to get this processing done, isn't lost. But I also am uncertain, that we don't have even some type of assurance, because the families, we have to somehow, we're going to have a balancing act in it. Because one being what they're doing, and the employees they have, there is serious impact financially to our County and the role it plays. I for one, wish that there were some site studies where we could speak even to the people that have concerns, that there is assurance that what they say will be, or actually has been done. And if there're some sites here, in the Nampa area, I would be leaning towards asking the people who are asking for this, to produce... go to these people and produce us some hard facts. Because right now it sounds like there is speculation. There's speculation on the part of the people that are opponents about what it might be. And they're speculating that what they're saying is going to be really good. Neither of which are firm, at least in my thinking.

Kathy Clarich – Teresa, do you want to add anything?

Teresa Ballard – I'm still stuck back there at no net-loss of farm ground, and would there be other more suitable sites in an industrial zone? And so, I have reservations about whether this is an appropriate action for us to take. And I certainly would share the concerns that the adjacent property owners have, understanding that this business has to operate and they have to solve their problems. And so, I can understand that the Rodriguez family was seeking a solution to a big problem that was put on them by DEQ in Idaho, but I do think that there are some further questions and I think Bob's suggestion is a very apt one. That we really need more information and I also think that we should have some sort of information about the wear and tear to the roads. I am not happy with the fact that we don't know who's going to take care of those roads.

Kathy Clarich – Ok, thank you.

Linda Simmons – I don't think I am prepared to vote on this tonight.

Kathy Clarich – Ok.

Linda Simmons – We need a little more to bring things together and not having it just out there forever, but perhaps to do that again. I will still say, I'm not happy about what happened before this, with no permit. That's still in the back of my mind. I don't want it to be. The information from all of you was very good today, on both sides. And I think people want to be successful. We need some... if we need this, can we do it? And then, how do we protect those around it and still do the process? Because we are agriculture-based, we need to do it, but we need to do it right.

John Faw – We don't get to undo this, once we let it go forward. There's no back up. I appreciate what they're trying to do. We need this! The way it was done – causes me some concern. Because if this is our mode of action, we've just opened the door to all kinds of things, because you just go do it and then ask for forgiveness. And I've been slapped down a number of times, at great expense. And so, that is one of my concerns, is the process to here, is one of my big one. And this net-loss of farm ground... yeah, that's one we've been dealing with forever and ever. I can't change that. It is what it is, but man, we need you guys. And we need something like this.

And I'm not sure how to accommodate all parties. Because I don't want to say no. But I can't yet say yes. So, I would...

Kathy Clarich – ...like to do some more fact-finding on it?

John Faw – I think we need some more information. I think we need some more fact-finding and also, I would love to enter into a conversation with Rodriguez of a relocation of this, because this is, one of the... You own the dirt, and I appreciate you trying to use your own dirt. And you should be able to do what you want to do with your own dirt. But in a pretty populated area, where you're trying to do this. And that creates some heartburn on my part. And I understand where everybody's coming from, but not in my backyard, because it's going to smell and we're going to have skitters, and flies, and all of that, and it doesn't look good. I understand all of that, but I'm not sure where that line is and what I can do, and I'm supposed to and what somebody else... What impact it will have on some others. For me personally, I need to chew on this a little longer.

Eric Evans – Can I suggest a couple of things? Can I say two things? So, the whole concept of net-loss of farmland... I... I understand where you guys are going with that, but I would make the... I mean, this is still a farm use, right? It's in conjunction with farm use. So, I'm not sure that we're really raising to that level, per say, if we were going to build a house on it or we're, you know, building, you know, some industrial use.

John Faw – Because we could put an onion shed there. We wouldn't be having this discussion.

Eric Evans – That's my point there, right? I mean...

Kathy Clarich – But, I can play Devil's advocate with you too, on that one. There's other ground: sagebrush ground or whatever. There's lots and stuff...

Eric Evans – No, I'm not arguing against that point necessarily, right? But I'm just saying that, when you're looking at net-loss of farmland, I'm not really sure that applies in this instance, in my mind. I mean, you guys, obviously are going to make up your own minds, as well. Also, I would, my suggestion is, that we ask for the applicant, and we probably should've had one to begin with, is some kinds of operation plan? And so, the operation of this pond... some of the questions asked, you know, who's checking it, how, who's checking the levels, how your vegetation management plan, rodent control and I think mosquito abatement. Along those lines, some of my thoughts about conditions, if you were to approve it, maybe conditioning things like, the leakage detection system, if we're talking about ground water protection. And maybe DEQ would require it anyways, I'm not familiar with DEQ's WPCF process. Maybe some kind of road improvement agreement. We've had some precedence here, with some other applications, that we've asked for road improvement agreements, when it comes to traffic on roads. And, also probably having some kind of condition with, in regards to, them working with the Vector Control District, as well, would probably be appropriate.

John Faw – I think that management plan would be appropriate.

Eric Evans – Operation’s plan.

Kathy Clarich – So, since I’ve closed it to public, can we?

Eric Evans – You can still continue it, we can still continue this and still allow new...

Kathy Clarich – And does it go back open to public, if we continue it to next month?

Tatiana Burgess – For new testimony.

Eric Evans – Yeah, if we have any kind of new testimony, we have to allow it all, right?

Stephanie Williams – Yeah, we’re not going to limit testimony. We’re going to open it, again.

Eric Evans – So, if we’re going to allow them to provide new testimony, then we got to allow opponents to provide testimony, as well.

Kathy Clarich – Ok. I just want to make sure. So, is that what you guys want to do? You want to continue it and see if we can get some more information?

Chad Gerulf – Mhm.

Kathy Clarich – From them? As far as an operational plan, I’d like more information on transportation. It bothers me, coming by that trailer court there, because it’s so narrow.

John Faw – And around the airport.

Kathy Clarich – And around the airport. That kind of bothers me, bringing the trucks around there, so.

Linda Simmons – Do you want a motion?

Kathy Clarich – Yeah. Do you guys want to make a motion to do that?

John Faw – Let’s continue this.

Bob Quick – I just think this is...

Eric Evans – I want to... Sorry, Bob.

Bob Quick – The idea of having a site study, the results or analysis from something that is existing. Is that completely impossible for that to be brought back? I need to have assurance and I need those people that live there to have assurance. You know, a bit more study on this, but is that out? I mean, that we can’t find somebody that’d provide us with some hard information as to actually what happens?

Eric Evans – So, I mean...

Bob Quick – In my experience with the... We have an ideal place for having an evaporation pond. We have the right type of atmosphere, we have the right type of winds, we have the right type of humidity here. They work, but in most of the states, the places that have these, they also have very-very strict rules about the placement. And also, what they do underneath the areas to handle any leaking, I mean the underlayer. So, they're very specific in it. They're used all the time and they're very efficient. But that's at least, my concern.

Eric Evans – My suggestion would be that we... or the applicant maybe... see if we can get someone from DEQ here. I think somebody from DEQ would be the ones that's permitting this and would be, you know, a permit writer would be more familiar with these types of evaporation ponds.

Kathy Clarich – I'd also would like someone from the Road Department.

Eric Evans – And so, Bob I think that's kind of, you know, what we want... somebody like an expert, right?

Bob Quick – Absolutely!

Eric Evans – My recommendation is to pull in some kind of, somebody that's an expert in this.

Bob Quick – Eric Evans.

Chad Gerulf – Mhm.

Bob Quick – We are setting a precedent, yes or no? If this is a need that we have here for our onion growers... In other words, whatever decisions we make here, it's going to go probably forward, as it continues. I don't want to make a mistake for the residents and or the onion producers, either one, if that can be avoided.

Eric Evans – I wouldn't say this is precedent-setting, because if you guys remember right, we approved treatment ponds for a slaughter... chicken slaughter house, right? So, I mean I would say that would probably smell way worse than what we're talking about here. Was it chickens?

Kathy Clarich – Was that up on the slope?

Eric Evans – Yeah, so I mean, and then that beef for the Johnsons, right?

Kathy Clarich – But it's not nearly as many gallons as this.

Eric Evans – And then the Johnsons also had a waste water pond, as well. So, we're not setting any records here, or setting any precedents. I just want to say that, I want to be clear and concise of what we're asking the applicant to do. And we're having a lot of conversation here. I want us to say: this is what we expect, because, I mean, it would be unfair next time for us to say: oh, we also need this.

Malheur County Planning Commission
March 23rd, 2023

John Faw – I would like to see some definite of what this thing is going to smell like. We know what it's going to look like and we can fix the look part, because you can fence it, there's lots of fences around. So, we can fence this, that's not an issue. You can't fence in that smell, unless you put it in a building. If you put it in a building, then you don't have the evaporative process working, so that's not an option. So, I would like to know that, and have the operating of the monitoring system for leakage and whatever the DEQ is going to... Because if we're going to allow this to be in these guys' neighborhood, would I want it in my neighborhood? Because I live in the country. Always have.

Chad Gerulf – It sounds like the water... If they can offer some assurance on the smell, I mean, that would be a big deal. It would go a long way.

Kathy Clarich – Also monitoring the ponds at all time, not just a once a month, or once quarter, or whatever.

Eric Evans – So an operations plan.

Kathy Clarich – Continuous. Yeah.

Eric Evans – So, I have assurances on the smell, whatever that looks like, probably some kind of expert testimony. Bring a vial of it in...

Kathy Clarich – I still have a problem with the transportation. So, I want, if you can bring in...

Tatiana Burgess – Road District's supervisor?

Kathy Clarich – Yeah, their supervisor, Karl.

Eric Evans – And maybe the Rodriguezes would be open to, you know, the Commission touring the plant. I don't know.

Stephanie Williams – I don't want to get into an ex-parte, any kind of contact. So, if we loaded up on a school bus one time and looked at the gravel pit. I don't know, I just want to be really careful about ex-parte contact.

Bob Quick – Yep.

Eric Evans – So it would be everybody going, not just like one, everybody going and then...

Stephanie Williams – Seeing the same thing.
Kathy Clarich – And nobody talking to them.

Eric Evans – Right. Right, having those off... outside conversations, outside of this, right?

Kathy Clarich – No outside conversations outside of the meeting.

Eric Evans – So assurances on smell, whatever that means. An operations plan and maybe something from vector control?

Kathy Clarich – Yeah, that'd probably be a good idea.

John Faw – That'll fall under their business model.

Eric Evans – Operations plan? It wouldn't be a weird thing for them to work in conjunction with... I mean the vector control district, obviously that's what they do and having them provide some expert testimony on what's going to happen there.

John Faw – It would be a good thing, because we're outside the field of expertise that I have.

Eric Evans – Right.

Kathy Clarich – Because they might not like the smell of what's in the water anyway, so we might not have any bugs.

John Faw – Because the smell is very subjective. Because one person's stink, is not the next guy's.

Eric Evans – One thing is, if they had the bubbler going and it creates some kind of a waive there... I mean that's how you kill on ponds... is you kill mosquitoes, is you drown them, right? They put out their proboscis and a little waive just drowns them. So, or larvicides.

John Faw – See, and that just leaves me with the one issue remaining then: the cart before the horse.

Eric Evans – Right. Our mechanism to really deal with that is that we can double their permit fee.

John Faw – And I understand their motivation and their reasoning behind it. It's just...

Kathy Clarich – There are rules that you're supposed to follow.

Eric Evans – And I'll say this about that, and I'm not going to comment on how I feel about them doing it without permits from the beginning. But I do know for a fact, that when I contacted them and that conversation started, I mean they were in my office almost immediately. So, their response was encouraging.

John Faw – Well often times you don't know what you don't know.

Kathy Clarich – Ok. Anything else?

Eric Evans – Right. Ok. Assurances on smell, operation plan, vector control and did you want me say something?

Stephanie Williams – Road.

Eric Evans – What do we want from them from the road?

Kathy Clarich – Well, I'm not sure but, I thought at one time I was told that road up there that goes by those trailer houses, that half of it was City and half of it was County.

Eric Evans – I'm not sure if it's half, I'm not sure how they...

Kathy Clarich – And it's not very wide. I mean, people park out along the street. I don't know if that's legal or not there.

John Faw – Well we got a lot of truck traffic up there, already. Hay trucks are in and out of there. Onion trucks are in and out of there. Summer and fertilize...

Kathy Clarich – They have those stupid signs, so nobody can pull over.

Linda Simmons – The airport's there... (inaudible)

Kathy Clarich – It just concerns me about the traffic and going around... by the trailers and around the curb too, with the trucks, so. Just a concern and I'd like to know if there's...

Eric Evans – Having somebody from the Road Department here to answer some of your concerns is probably a good idea. Ok. Linda, did you have something?

Linda Simmons – I was just going to say I felt better knowing that Clay Peak will take some of this now. I thought it was just cut off and they can't do it, but they are accepting a certain amount and that made me feel a lot better. Because my question is, if we don't approve this, where does that leave you? And right now, that's not what we're looking for. So, I felt a lot better about that. I really would like to see us put this in continuation.

John Faw – I do not want to put you guys out of business. Not even.

Kathy Clarich – That's not the plan here. But we need to have a better understanding, so that we know how to handle things.

Eric Evans – Obviously the land use process here, in the State of Oregon, Goal 1 is Citizen's involvement. So, I mean, that's why we're sitting here today, so, I mean, that is the whole point of this, right? To make sure everybody's voices are heard.

Chad Gerulf – He wants to say something.

George Rodriguez Jr. – I want to ask a question I'm all about questions. Because my concern is, so what I'm gathering tonight, there is no smell out there right now. And Top Onion is out there and CAFO, and I keep going to that... But yeah, when I should up, who's to say who owns whose smell? No, I'm being serious.

Malheur County Planning Commission
March 23rd, 2023

Kathy Clarich – Good Question.

George Rodriquez Jr. – Who’s to say: wait that’s Partners’ smell. Wait no, that’s the CAFO’s across from sprinkling it. No, that’s Top Onion.

Audience Member – I’m across from you guys, and I will smell you. I don’t have a smell out by my house.

George Rodriquez Jr. – There is no smell right now?

Audience Member – There is no smell by my house.

Eric Evans – I can say this, so I mean, when it comes down to it...

George Rodriquez Jr. – I don’t want the smell either, you guys.

Eric Evans – Right. And so, when it comes down to it, is the CAFO... that’s an out-right permitted use on farm use, right? They don’t have to be in front of this, so. I mean, you guys, are subject to a conditional use permit. And the CAFO isn’t necessarily... the other stuff really isn’t... so I mean, yeah, I mean, we can argue all day long whether that’s fair and what not, but it is the way the rules are written.

Kathy Clarich – Ok. So, we need to make a motion to a time and day certain.

Chad Gerulf made a motion to continue this to the April 27th, 2023 hearing, at 7:30 pm. John Faw seconded the motion to continue hearing. Motion passed unanimously by all Planning Commissioners present.

Stephanie Williams – I know it seems really chaotic and stuff, but I do think it’s really important to share information and get good information, answers you know, to questions.

Kathy Clarich – Where there’s so many questions and there’s I mean... That petition has a lot of signatures on it. I don’t know if that were all the people that were here?

Stephanie Williams – I mean the applicant does have the burden of proof by substantial evidence into the record. And obviously there wasn’t substantial evidence in the record. So, that is just what we were asking them to do, is to make the record more substantial.

Linda Simmons made a motion to approve the January 2023 minutes. Bob Quick seconded motion. Planning Commissioners unanimously agreed.

Chad Gerulf made a motion to adjourn meeting. Linda Simmons seconded motion. Planning Commissioners unanimously agreed.

Signed by: Kathy Clouch 4.27-23 Planning Commission Chair