



CURRY COUNTY BOARD OF COMMISSIONERS

SPECIAL MEETING

Wednesday, February 14, 2018 at 10:00AM
Commissioners' Hearing Room, Courthouse Annex
94235 Moore Street, Gold Beach, Oregon
www.co.curry.or.us

Curry County does not discriminate against individuals with disabilities and all public meetings are held in accessible locations. Auxiliary aids will be provided upon request with 48 hours advance notification. Please call 541-247-3296 if you have questions regarding this notice.

AGENDA

*Items may be taken out of sequence to accommodate staff availability and the public.
For public comment, a completed speaker's slip must be submitted.*

- 1. Call To Order Pledge of Allegiance**
- 2. Adoption/Approval of Agenda (5 minutes)**
- 3. Consent Calendar**
 - A. Elevator Contractor. – Eric Hanson, Facilities and Maintenance Coordinator (10 minutes)
 - B. ADA Restroom Project at Boice Cope. – Jay Trost, Juvenile/Parks Director (5 minutes)
- 4. Presentations**

Nesika Beach Ophir Water District Ground Lease. – John Huttli, County Counsel (30 minutes)
- 5. Executive Session. – John Huttli, County Counsel (30 minutes)**
 - A. ORS 192.660(2)(a) To consider the employment of a public officer, employee, staff member or individual agent.
 - B. ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection.;
 - C. ORS 192.660(2)(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.
- 6. Recess – Reconvene at 2:30PM**

- 7. Old Business.** – Carolyn Johnson Community Development Director (60 minutes)
2:30pm Elk River Property Irrigation pipeline and treated water
De novo Appeal
Deliberation on de novo appeal of Elk River Property Development application AD-1705, for the analysis of a pipeline and ancillary facilities to use recycled wastewater for irrigation of a golf course
- 8. Administrator Comments**
- 9. Commissioner Comments**
A. Commissioner Boice
B. Commissioner Gold
C. Commissioner Huxley
- 10. Adjourn**

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: An Order Authorizing a Contract to Modernize the Elevator serving the Curry County Jail

TIMELY FILED Yes No Acting Interim County Administrator Approved
If No, justification to include with next BOC Meeting

AGENDA DATE^a: 02/14/2018 **DEPARTMENT:** Building **TIME NEEDED:** 10min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain:

CONTACT PERSON: Eric Hanson **PHONE/EXT:** 3384 **TODAY'S DATE:** 02/09/2018

BRIEF BACKGROUND OR NOTE: (If no memo attached) see memo

FILES ATTACHED:

- (1) Contract Thyssen Krupp \$73,137
- (2) Straight Up Elevator \$54,400
- (3) Otis Elevator \$91,926

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

- 1. Confirmed Submitting Department's finance-related responses Yes No N/A
Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail) Contract requires Board approval

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

- Commissioner Sue Gold Yes No
- Commissioner Thomas Huxley Yes No
- Commissioner Court Boice Yes No



MEMORANDUM

FROM John R. Hutt, Curry County Counsel

TO Board of Commissioners

RE: Jail Elevator Modernization

DATE: February 9, 2018

Introduction

The jail elevator is failing and needs modernization. Staff recommends using Thyssenkrupp bid for \$65,637 with additional payment of \$7500 for work to receive priority handling and be performed in 5 days. Total award

The amount is over \$10,000 so required Board approval.

The amount is under \$100,000 so we can use informal competitive quote procedure instead of sealed bid.

Eric Hanson obtained three competitive quotes.

1) Straight Up Elevator	\$54,400
2) Thyssenkrupp Elevator	\$73,137
3) Otis Elevator	\$91,926

Hanson recommends Thyssenkrupp because they are our existing vendor and have knowledge of the equipment and they offer priority handling and this is a critical part of jail functions. Additional reasons on file in Building Maintenance Department. Contact Eric Hanson if questions.

/s/

John R. Hutt
Curry County Counsel

CONTRACT BETWEEN CURRY COUNTY AND

[NAME]

This contract is made and entered into this _____ day of _____, 2016 by and between Curry County, a General Law County, Political Subdivision of the State of Oregon (County) and Thyssenkrupp (Contractor).

1. Work to Be Performed

Contractor, shall, except as otherwise provided, at its own expense, furnish all materials, labor and equipment, necessary to complete the project regarding the services

Jail Elevator Modernization as described on Exhibit A

Services Outlined in Exhibit "A" that is attached hereto and incorporated by reference.

Contractor shall perform work to specifications and according to generally accepted standards in Contractor's trade or industry.

2. Performance and Payment Bond

Payment Performance Bonds not required for contracts below \$100,000. ORS 279C.380.

3. Completion Date

This contract shall commence upon execution and terminate when work is complete. Work shall be completed within 5 days of contract execution.

4. Compensation Not to Exceed

Contractor agrees to perform the work called for under this contract for an amount not to exceed \$73,137.00.

5. Prevailing Wages and Procurement

Contractor and County agree that the project is subject to prevailing wages because the amount of the contract is greater than \$50,000. Contractor shall comply with state and federal prevailing wage laws.

6. Independent Contractor

Contractor is engaged as an independent contractor, and will be deemed so for purposes of the following:

A. Contractor will be solely responsible for payment of any federal or state taxes required as a result of this contract.

B. This contract is not intended to entitle Contractor to any benefits generally granted to County's employees, such as vacation, sick leave, health insurance, Social Security, etc.

7. Incorporation of Statutory Provisions Required for Public Contracts

The Contractor certifies that it will comply with all applicable public contract laws, including, but not limited to, ORS 279C.838 and 279C.840.

8. Workers' Compensation

Contractor, its subcontractors, if any, working under this contract are subject workers under Oregon Workers' Compensation law and shall comply with ORS 656.017, which requires it to provide workers' compensation coverage for all of its subject workers.

9. Certification of Reading and Understanding of Documents

The Contractor certifies that it has read and fully understands all contract documents including this contract, the solicitation document and all terms and conditions. The Contractor understands and acknowledges that in signing this contract Contractor waives all right to plead any misunderstandings regarding the same.

10. Indemnification

Contractor shall indemnify, defend and save and hold harmless County from any and all suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties losses, injuries, damages, expenses or costs, including interest and attorney fees, in any way connected with any injury to any person or damage to any property occasioned in any way by Contractor's or Contractor's subcontractor's prosecution of work under this contract.

11. Insurance

Contractor shall provide the following insurance in connection with the project:

INSURANCE DESCRIPTION	MINIMUM REQUIRED COVERAGE
A. Workers' Compensation	Statutory
B. General Liability	\$2,000,000
C. Automobile Liability	\$1,000,000

Evidence of such insurance shall be provided to County within ten days of the execution of this agreement and before work begins. The liability insurance shall name County and its officers, agents and employees as additional insured.

12. Nonwaiver

No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach.

13. Severability

Should any clause or section of this contract be declared by a court to be void or voidable, the remainder of the contract shall remain in full force and effect.

14. Termination by County

County may terminate for non-appropriation of future budget funds. If County terminates pursuant to this section, County shall retain any other right or remedy which County has against Contractor. Termination shall not prejudice the rights of the County that accrued before termination. If the County invokes this provision, it may notify Contractor by any commercially reasonable means. Contractor shall be entitled to payment for work done up to the date of termination.

15. Attorney Fees and Costs

In the event that either party to this contract shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this contract, each party shall be wholly responsible for its own expenses which it may incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any non-judicial action.

16. Applicable Laws

This contract is executed in the State of Oregon and is subject to Oregon law and the jurisdiction of Curry County.

17. Written Changes Required

The rights and duties under this contract shall not be modified, delegated, transferred, or assigned, except upon written signed consent of both parties.

THE CONTRACTOR, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR

By (signature)

Date

Printed Name

Street

City

State

Zip Code

CURRY COUNTY

Signature

Print Name

Title

Approved as to Form:

Curry County Legal Counsel

Curry County Accountant

John Huttli

From: Eric Hanson
Sent: Tuesday, January 30, 2018 1:23 PM
To: John Huttli
Cc: John Hitt
Subject: FW: Gold Beach jail elevator
Attachments: H-Power Brochure.pdf

This Quote starts at \$75,000 for the same modernization.

From: Olson, Matt [mailto:Matt.Olson@thyssenkrupp.com]
Sent: Tuesday, January 23, 2018 9:27 PM
To: Eric Hanson
Subject: RE: Gold Beach jail elevator

Eric,
Thank you for the conversation this afternoon. I wanted to recap our conversation and update you on the jail elevator. Good news, my elevator mechanic left the elevator running. Bad news, the troubleshooting performed today identified an electrical board that is failing. The board is failing intermediately. The board that is failing intermediately is also obsolete. I would only use the elevator for ADA needs only. My elevator mechanic exercised the elevator many times and only saw the problem once. That being said, this issue will become more present in the near future. You have three different options for a repair. The numbers are for budgeting purposes only and not a quote.

The first - The riskiest – The cheapest – The obsolete board potentially can be repaired. We would come remove the board and send it in to our factory to be repaired. This will be around \$6,000 - \$8,000. If the elevator board can be repaired we will come back and reinstall the board, then test the elevator's safety functionality. This will be around \$7,000 - \$9,000. If the board cannot be repaired then the elevator will not be able to run at all and we will have to discuss options 2 and 3. The elevator will be down for 1 to two weeks.

Second – Most expensive – I would piece out a simple modernization. I would source out the parts from different providers that will be able to provide the parts needed faster than my factory. We would replace the controller. Per state of Oregon code, once the elevator controller is replaced the elevator has to be brought up to current code (elevator, electrical, plumbing, fire, & building code). Per the elevator code we will have to update the elevator fixtures (hall call and elevator cab buttons). I would highly recommend updating the power unit (pump, motor, & tank) and door operator too. If we expedite this process this will fall in the range of \$75,000 - \$95,000. I would budget the work by others at 20-25% of the final quoted price. I should be able to have all the parts needed for the modernization in 4-6 weeks with an install time of 2-3 weeks, depending on when we can schedule an inspection with a state inspector.

Third – In my opinion, the best option – I would source out a modernization from my factory. We would replace the controller, power unit, door operator, fixtures, and door safety edge. The lead time will be 8-12 weeks with an install time of 2-3 weeks, depending on when we can schedule an inspection with a state inspector. The price range will be between \$65,000 - \$80,000. If you wanted to add new elevator cabs, I would budget \$15,000 - \$20,000. I would budget the work by others at 20-25%. I have attached my H-power brochure to explain what this package includes and why it's a better option.

A good analogy to compare your elevator to would be your car. Your elevator was installed in 1985. What vehicle is still on the road that has been running 7 days a week for 8 hours a day without a major repair that's 33 years old? I can't think of any. Your elevator is past it's life span. Please let me know what option you would like to quote and I will drop everything to quote it. Time is of the essences.

Regards,
Matt Olson
Account Manager, Eugene
ET-AMS/FLD

M: +1 541 606 2861 matt.olson@thyssenkrupp.com

thyssenkrupp Elevator Corporation, 555 Lincoln St. Suite B, Eugene, OR 97401, www.thyssenkruppelevator.com
[Facebook](#) · [Blog](#) · [Twitter](#) · [LinkedIn](#) · [Google+](#) · [YouTube](#)

[MAX-The game changer](#)
[thyssenkrupp – bringing new vision to elevator maintenance with Microsoft HoloLens](#)

From: Eric Hanson [<mailto:hansone@co.curry.or.us>]

Sent: Monday, January 22, 2018 10:19 AM

To: Olson, Matt

Cc: Louise Kallstrom; John Hitt; Joel Hensley

Subject: Gold Beach jail elevator

It seems as if the switch gear in the basement of the Curry County jail has failed. It is being operated manually and is getting worse. This is a major priority! Please begin action on this immediately. I will need a verification of failure and a quote ASAP.

Again, please use 541-698-7336 and this e-mail address for future activities. I left you a voice mail this morning as well.

Thank you. Eric Hanson, Curry County Facilities Director



MODERNIZATION PROPOSAL
Curry County - Jail - Mod

February 06, 2018

Purchaser: Curry County Courthouse
Address: 94235 Moore St Ste 411

Location: CURRY COUNTY COURTHOUSE
430 N Ellensburg Ave
430 N Ellensburg Ave
Gold Beach, OR 97444

City/State/Zip: Gold Beach, OR 97444-9708

On behalf of thyssenkrupp Elevator, I am pleased to provide this multi-page proposal (the "Proposal") to modernize the elevator equipment described herein (the "Equipment") at the above referenced location. This proposal is valid for 45 days.

Our modernization package is engineered specifically for your elevator system and will include the elevator mechanical and electrical components being replaced, refurbished or retained.

Benefits of Modernization include:

- Increased Durability and Reliability
- Improved Fire and Life Safety Features
- Decreased waiting times
- Reduced Energy Consumption
- Reduced Operational Cost
- Reduced Troubleshooting Time

If you have any questions or concerns, please do not hesitate to contact me. We appreciate your consideration.

Sincerely,

Matthew Olson
Account Manager
matt.olson@thyssenkrupp.com
+1 541 6062861



MODERNIZATION PROPOSAL
Curry County - Jail - Mod

SCOPE OF WORK

Group 1	HYDRAULIC	\$65,637.00
	<i>Jail</i>	
Pump Unit		
Power Unit (Adjacent)	New - Power Unit (Adjacent)	
Shut Off Valve	New - Shut Off Valve Kit	
Oil	New - Oil	
Control System		
Controller (tank mounted)	New - Controller (tank mounted)	
Car Door Equipment		
Front Car Door Operator / Kit	New - Front Car Door Operator / Kit	
Door Detectors	New - Infrared door detector	
Front Mechanical Restrictor Package	New - Front Car Door and Hatch Side Restrictors (vanes)	
Cab/Platform/Car Fixtures		
Main Car Station	New - Main Car Station Includes: Custom finish, Applied panel, Braille Plates, Digital Position Indicators, Standard Key Switch Package, Locked Service Cabinet, ADA Phone System, Emergency Light, Swing Return (TKE Cab only), Vandal Resistant Floor Buttons	
Car Position Indicator	New - Car Position Indicator	
Car Traveling Lantern	New - Car Riding Lantern (Standard)	
Hands Free Phone	New - Hands Free Phone	
Emergency Lighting	New - Emergency Lighting	
Hall and Lobby Fixtures		
Hall Stations (excluding Egress)	New - Hall Stations (excluding Egress)	
Egress Hall Stations (Lobby)	New - Egress Hall Stations (Lobby)	
Jamb Braille	New - Jamb Braille	
Hall Position Indicators	New - Hall Position Indicators	
Hoistway Access Station	New - Hoistway Access Switch	
Hoistway Equipment		
Leveling Unit / Landing System	New - Leveling Unit / Landing System	
Hoistway Wiring		
Traveling Cable / Car Wiring	New - Traveling Cable / Car Wiring	
Hoistway Wiring	New - Hoistway Wiring Package	
Raceway / Duct / Piping	New - Hoistway Duct Kit	
Pit		
Pit Ladder	New - Pit Ladder	
Pit Switch	New - Pit Switch	
Jack Packing	New - Jack Packing	
Overspeed (Rupture) Valve	New - Overspeed (Rupture) Valve Kits	
Miscellaneous		
Toe Guard	New - Toe Guard	

Value Engineering Opportunities & Alternates



MODERNIZATION PROPOSAL
Curry County - Jail - Mod

(Initial next to the option below to indicate acceptance)

Initial 1\

VALUE ENGINEERING OPPORTUNITIES & ALTERNATES

- 1. Ninja Mod. Thyssenkrupp can perform this mod in 5 days, working overtime. Initial to Accept _____
This would add \$7,500 to the project.
- 2. thyssenkrupp can make this project an all inclusive project. We would hire out Initial to Accept _____
the work by others and be the project manager. Pricing depending on bids from
contractors

INSTALLATION SEQUENCE AND SCHEDULE

The following is a list of some of the key tasks that comprise a typical modernization, along with their sequence and approximate durations or lead times for each such task:

Preparation of submittals upon receipt of subcontract and plans: (Additional Time Required for Cab, Signal, Entrance If Applicable)	1 Week
Approval of submittals by Purchaser	1 Week
Fabrication time from receipt of all approvals, fully executed contract, and payment of pre-production and engineering invoice:	5-7 Weeks
Modernization of elevator system (Per Unit) : (After completion of all required preparatory work by others)	1-3 Weeks

The durations or lead times listed above are strictly approximations that can vary due to factors both within and outside of thyssenkrupp Elevator’s control, are subject to change without notice to Purchaser and shall not be binding on thyssenkrupp Elevator.

All work specified herein will be performed from 6:00 AM to 2:30 PM, except scheduled union holidays (“regular working hours of regular working days”). If, after the execution of this Proposal, overtime is mutually agreed upon, an additional charge at thyssenkrupp Elevator’s usual rates for such work shall be added to the price of this Proposal.

One or more of the units described in this Proposal will be out of service and unavailable to move passengers and/or property during entire duration of the performance of the work described in this Proposal until re-certified by the applicable authority(ies) having jurisdiction and in good standing with payment schedules. Temporary use of the equipment is not included in this Proposal.

All work described in this Proposal will be performed in accordance with the version of all applicable state or local codes that deal exclusively with the installation and/or modernization of elevators that are in effect at the time that this Proposal is fully executed. In the event that either (A) those codes change or (B) rulings are made by the applicable authority having jurisdiction that extend the application of those codes following the complete execution of this Proposal, thyssenkrupp Elevator will provide Purchaser with a separate and additional proposal to comply with such changes at an additional cost. It is solely the Purchaser’s responsibility to ensure that the work described in this Proposal meets all applicable Federal, state and/or local codes that do not deal exclusively with the installation and/or modernization of



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Curry County - Jail - Mod

elevators and to secure any necessary permission and/or priority from all applicable governmental authorities to complete that work.

No permits or inspections by others are included in this work, unless otherwise indicated herein. The price of this Proposal only includes one (1) inspection by the applicable authority having jurisdiction. At the conclusion of its work described herein, thyssenkrupp Elevator will perform all tests required by the applicable authority having jurisdiction to ensure that the equipment that is the subject matter of this Proposal conforms to applicable codes and will provide Purchaser with copies of reports generated in conjunction with completed tests. Should the equipment fail any test due to reasons that are the responsibility of the Purchaser as set forth in this Proposal or are not specifically included in this Proposal, or should the applicable authority having jurisdiction refuse to issue written approval to Purchaser to use and operate the equipment due to items that are the responsibility of the Purchaser as set forth in this Proposal or are not specifically included in this Proposal the Purchaser shall bear sole financial responsibility for (A) addressing those items, (B) the cost of the performance of any re-tests or additional inspections and (C) the labor incurred by thyssenkrupp Elevator to re-test the equipment or to attend those additional inspections at thyssenkrupp Elevator's current billing rate as posted at its local office. thyssenkrupp Elevator shall not be liable for any damage to the building structure or the elevator resulting from the performance of any tests it shall perform at any time under this Proposal.

Should the Purchaser or the local authority having jurisdiction require thyssenkrupp Elevator's presence at the inspection of equipment installed by others in conjunction with the work described in this Proposal, Purchaser agrees to compensate thyssenkrupp Elevator for its time at thyssenkrupp Elevator's current billing rate as posted at its local office.

Upon notice from thyssenkrupp Elevator that the work described herein has been completed, Purchaser will arrange to complete an inspection of the work with thyssenkrupp Elevator and will provide Purchaser's final acceptance thereof in writing by Purchaser's duly authorized representative at that time if the work is acceptable. The date and time for such an inspection shall be mutually agreed upon. In no event shall that inspection occur more than ten (10) business days after the date of thyssenkrupp Elevator's written notice to Purchaser that the work herein has been completed unless both parties agree otherwise in writing. Immediately following its inspection of the work, Purchaser's duly authorized representative shall execute thyssenkrupp Elevator's "Final Acceptance" form(s) prior to turnover and use of the equipment described in this Proposal. Purchaser shall not unreasonably delay or withhold such final inspection or its written acceptance of the work.

At the conclusion of its work, thyssenkrupp Elevator will remove all equipment and unused or removed materials from the project site and leave its work area in a condition that, in thyssenkrupp Elevator's sole opinion, is neat and clean.

WORK NOT INCLUDED

There are certain items that are not included in this Proposal, many of which must be completed by Purchaser prior to and as a condition precedent to thyssenkrupp Elevator's performance of its work as described in this Proposal. In order to ensure a successful completion of this project, it shall be solely Purchaser's responsibility to coordinate its own completion of those items with thyssenkrupp Elevator. The following is a list of those items that are not included in this Proposal:

1. Equipment Storage: the provision of a dry and secure area at the project site for storage of the elevator equipment at the time of delivery and the provision of adequate ingress and egress to this area. Any relocation of the equipment as directed by the Purchaser after its initial delivery will be at Purchaser's sole expense.
2. The hiring of a disposal company which MUST be discussed prior to any material being ordered or work being scheduled. thyssenkrupp will provide environmental services ONLY if this is specifically included under the "Scope of Work" section above. thyssenkrupp assumes no responsibility and/or liability in any way whatsoever for spoils or other contamination that may be present as a result of the cylinder breach and/or other conditions present on the work site.
3. Electrical:
 - a. suitable connections from the power main to each controller and signal equipment feeders as required, including necessary circuit breakers and fused mainline disconnect switches per N.E.C. Suitable power supply capable of operating the new elevator equipment under all conditions;
 - b. the wiring to the controller for car lighting per N.E.C. Articles 620-22 and 620-51;

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Curry County - Jail - Mod

- c. a means to automatically disconnect the main line and the emergency power supply to the elevator prior to the application of water in the elevator machine room that shall not be self-resetting;
 - d. wiring and conduit from life safety panel or any other monitor station to the elevator machine room or a suitable connection point in hoistway;
 - e. a bonded ground wire, properly sized, from the elevator controller(s) to the primary building ground; and all remote wiring to the outside alarm bell as requested by all applicable code provisions
 - f. a dry set of contacts which close 20 seconds prior to the transfer from normal power to emergency power or from emergency power to normal power whether in test mode or normal operating conditions in the event that an emergency power supply will be provided for the elevator;
 - g. automatic time delay transfer switch and auxiliary contacts with wiring to the designated elevator controller and
 - h. electrical cross connections between elevator machine rooms for emergency power purposes
 - i. the following emergency power provisions are not included: interface in controller, pre-testing and testing, emergency power keyswitches;
 - j. emergency power operation is included as part of the design of the elevator control system and based on each car in the group only, to properly sequence, one at a time to the programmed landing, and park. The design requires that the generator, transfer switch, and related circuitry are sufficient to run this function or any other function for any building other system that is associated with this project. In the event that the generator, transfer switch, and related circuitry are not sufficient, thyssenkrupp Elevator will provide Purchaser with a written change order for Purchaser's execution.
- 4. Machine Room:** a legal machine room, adequate for the elevator equipment, including floors, trap doors, gratings, foundations, lighting and a machine room temperature maintained between 50 and 90 degrees Fahrenheit, with a relative humidity less than 95% non-condensing;
- 5. Heat and Smoke Sensing Devices:** heat and smoke sensing devices at elevator lobbies on each floor, machine room, and hoistways with normally open dry contacts terminating at a properly marked terminal in the elevator controller;
- 6. Dedicated Telephone Lines:** a dedicated telephone line to elevator each controller recognizing that the elevator telephone is required by code to be monitored 24 hours a day, 7 days a week; one additional telephone line per group of elevators for diagnostic capability wired to designated controller;
- 7. Removal of Obstructions:** the cutting and patching of walls, floors, etc. and removal of such obstructions as may be necessary for proper modernization of the elevator(s);
- 8. Fire Rating:** the furnishing, installing and maintaining of the required fire rating of elevator hoistway walls, including the penetration of firewall by elevator fixture boxes;
- 9. Flooring:** all work relating to the flooring including, but not limited to, the provision of materials and its installation to comply with all applicable codes;
- 10. Painting:** all painting, except as otherwise specifically included herein;
- 11. Waterproofing:** ensuring that the elevator hoistways and pits are dewatered, cleaned and properly waterproofed;
- 12. If entrances are replaced:** adequate bracing of entrance frames to prevent distortion during wall construction and all sill supports, steel angles, sill recesses, and the grouting of doorsills;
- 13. Hydraulic jack replacement:**
- a. the excavation of the elevator cylinder well hole in the event drilling is necessary through soil that is not free from rock, sand, water, building construction members and obstructions. Should obstructions be encountered, thyssenkrupp Elevator will proceed only after written authorization has been received from the Purchaser. The contract price shall be increased by the amount of additional labor at thyssenkrupp Elevator's standard labor rates as per the local office along with any additional expenses and materials required;
 - b. adequate ingress and egress, including ramping, for rail-mounted or truck-mounted drill rig;



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- c. Purchaser is responsible for pumping truck contractor to remove and dispose of spoils from the site. In the event that unforeseen and unfavorable below ground conditions are encountered, including but not limited to concrete around the cylinder, construction debris, adverse water and/or soil conditions, erosion, cavitations, oil contamination, or circumstances necessitating increased hole depth, etc., which require the employment of specialized contractors, thyssenkrupp shall immediately advise the Purchaser and costs will be extra to the contract;
- d. in ground protection systems other than thyssenkrupp Elevator's standard HDPE or PVC protection system with bottomless corrugated steel casing;
- e. any required trenching and backfilling for underground piping or casings, and conduit as well as any compaction, grouting, and waterproofing of block-out;
- f. engineering, provision and installation of methane barriers or coordination/access;
- g. access to 2" pressurized water supply within 100'-0" of the jack hole location;
- h. a safe, accessible storage area for placement of D.O.T. 55 gallon containers for the purpose of spoils containment; obtaining of local environmental or disposal permits
- i. any spoils or water testing;

In the event another subcontractor requires pit access during the modernization process, upon a request from Purchaser, thyssenkrupp Elevator will park the elevator at an upper landing and lock and tag out the equipment at no additional cost in exchange for Purchaser's agreement to remain solely responsible for (A) providing its subcontractor with any and all means and methods to access the pit, (B) properly safeguarding and barricading all landings and hoistway openings and (C) providing all supervision of and control over that subcontractor, the landings, hoistway openings and pit. Upon notice to thyssenkrupp Elevator from Purchaser that its subcontractor has completed its task and no longer requires pit access, thyssenkrupp Elevator will remove its lock and tag from the elevator.

In the event that thyssenkrupp Elevator, in its sole opinion, believes that asbestos is present in either the car or hoistway doors the drilling of any doors shall be expressly excluded from thyssenkrupp Elevator's scope of work and shall be performed by others at Owner's/Contractor's direction and solely at Owner's/Contractor's expense.

This Proposal does not include any maintenance, service, repair or replacement of the modernized equipment or any other work not expressly described herein. thyssenkrupp Elevator will submit a separate proposal to Purchaser covering the maintenance and repair of this equipment to be supplied to Purchaser at an additional cost.

WARRANTY

thyssenkrupp Elevator warrants the equipment it installs under this Proposal against defects in material and workmanship for a period of one (1) year from the date of Purchaser's execution of thyssenkrupp Elevator's "Final Acceptance" form(s) mentioned above on the express condition that all payments made under both this Proposal and any mutually agreed-to change orders have been made in full, or two (2) years from the date material ships from the manufacturer, whichever occurs first. This warranty is in lieu of any other warranty or liability for defects. thyssenkrupp Elevator makes no warranty of merchantability and no warranties which extend beyond the description in this Proposal, nor are there any other warranties, expressed or implied, by operation of law or otherwise. Like any piece of fine machinery, this equipment should be periodically inspected, lubricated, and adjusted by competent personnel. This warranty is not intended to supplant normal maintenance or service and shall not be construed to mean that thyssenkrupp Elevator will provide free service for periodic examination, lubrication, or adjustment, nor will thyssenkrupp Elevator correct, without a charge, breakage, maladjustments, or other trouble arising from normal wear and tear or abuse, misuse, improper or inadequate maintenance, or any other causes other than defective material or workmanship. In order to make a warranty claim, Purchaser must give thyssenkrupp Elevator prompt written notice at the address listed on the cover page of this Proposal and, provided all payments due under the terms of this Proposal and any mutually agreed to written change orders have been made in full, thyssenkrupp Elevator shall, at its own expense, correct any proven defect by repair or replacement. thyssenkrupp Elevator will not, under any circumstances, reimburse Purchaser for cost of work done by others, nor shall thyssenkrupp Elevator be responsible for the performance of any equipment that has been the subject of revisions or alterations by others. If there is more than one (1) unit which is the subject of work described in this Proposal, this section shall apply separately to each applicable unit.

PAYMENT TERMS



MODERNIZATION PROPOSAL
Curry County - Jail - Mod

Purchaser agrees to pay the sum of Sixty Five Thousand Six Hundred Thirty Seven Dollars (\$65,637.00) for the work described in this Proposal. This price is expressly contingent on the completion of thyssenkrupp Elevator’s work as described in this Proposal by December 31, 2017. In the event that such work is not completed by December 31, 2017 due in part to reasons outside of thyssenkrupp Elevator’s control, Purchaser agrees that thyssenkrupp Elevator shall automatically be entitled to a change order addressing any increase in thyssenkrupp’s cost of labor and materials.

Price includes shipping and delivery and material use tax or factor tax imposed on thyssenkrupp Elevator as of the date that thyssenkrupp Elevator first offers this Proposal for Purchaser's acceptance but does not include sales or gross receipts tax that may be billed in addition to the contract price. Purchaser agrees to pay any additional taxes, fees or other charges exacted from Purchaser or thyssenkrupp Elevator on account of the work described in this Proposal as a result of any law enacted after the date that thyssenkrupp Elevator first offered this Proposal for Purchaser's acceptance.

In the event Purchaser defaults on any payments due under this Proposal or breaches any of its obligations under this Proposal or any change orders, thyssenkrupp Elevator expressly reserves the right to declare the unpaid balance of the price of this Proposal (including any change orders) immediately due and payable along with the right to discontinue its work until such time as it has received written assurances from Purchaser to thyssenkrupp Elevator’s satisfaction that the breach(es) will be immediately cured (and in the event of a delinquent payment that future payments will be made as they come due).

A service charge of 1½% per month, or the highest legal rate, whichever is less, shall apply to delinquent accounts.

50% of the price set forth in this Proposal as modified by options selected from the section entitled “Value Engineering Opportunities & Alternates” (if applicable) will be due and payable as an initial progress payment within 30 days from thyssenkrupp Elevator's receipt of a fully executed copy of this Proposal. This initial progress payment will be applied to costs and fees associated with project management, permits, submittals, and raw material procurement, and its receipt will trigger the ordering of material to complete the scope of work description.

50% of the price set forth in this Proposal as modified by options selected from the section entitled “Value Engineering Opportunities & Alternates” (if applicable) shall be due and payable when the material described above has been furnished. Material is considered furnished when it has been received at the jobsite or thyssenkrupp Elevator staging facility. thyssenkrupp Elevator's receipt of payment is required prior to mobilization of its labor associated with the work description.

It is agreed that there will be no withholding of Retainage from any billing and by the customer from any payment.

Proposal Price:		<u>\$65,637.00</u>
Engineering / Pre Prod / Shop	(50%)	\$32,818.50
Drawings / Submittals:		
Material Furnished:	(50%)	\$32,818.50

The remainder of the Proposal amount, including change orders that are created in a manner consistent with the process outlined in this proposal, is due at the time of completion and approval by the applicable authority having jurisdiction (if any), but prior to turnover of the equipment by thyssenkrupp Elevator to the Purchaser for use. If this Proposal includes more than one (1) unit, final payment shall be made separately as each unit is completed and approved by the applicable authority having jurisdiction (if any).

TERMS AND CONDITIONS

thyssenkrupp Elevator's performance of this Proposal is contingent upon Purchaser furnishing thyssenkrupp Elevator with any necessary permission or priority required under the terms and conditions of any and all government regulations affecting the acceptance of this Proposal or the manufacture, delivery or installation of any equipment described in this Proposal. It is agreed that thyssenkrupp Elevator's personnel shall be given a safe place in which to work and thyssenkrupp Elevator reserves the right to discontinue its work in the location above whenever, in its sole opinion, thyssenkrupp Elevator believes that any aspect of the location is in any way unsafe.



MODERNIZATION PROPOSAL
Curry County - Jail - Mod

Purchaser agrees that in the event asbestos material is knowingly or unknowingly removed or disturbed in any manner at the job site by parties other than employees of thyssenkrupp Elevator or its subcontractors, the work place will be monitored, and prior to and during thyssenkrupp Elevator's presence on the job, Purchaser will certify that asbestos in the environment does not exceed .01 fibers per cc as tested by NIOSH 7400. In the event thyssenkrupp Elevator's employees, or those of its subcontractors, are exposed to an asbestos hazard, PCB's or other hazardous substances resulting from work of individuals other than thyssenkrupp Elevator or its subcontractors, Purchaser agrees to indemnify, defend, and hold thyssenkrupp Elevator harmless from any and all claims, demands, lawsuits, and proceedings brought against thyssenkrupp Elevator or its employees or subcontractors resulting from such exposure. Purchaser recognizes that its obligation to thyssenkrupp Elevator under this clause includes payment of all attorneys' fees, court costs, judgments, settlements, interest and any other expenses of litigation arising out of such claims or lawsuits. Removal and disposal of asbestos containing material is solely Purchaser's responsibility.

thyssenkrupp Elevator shall not be liable for any loss, damage or delay caused by acts of government, labor troubles, strikes, lockouts, fire, explosion, theft, floods, riot, civil commotion, war, malicious mischief, acts of God or any cause beyond its control.

In the event a third party is retained to enforce, construe or defend any of the terms and conditions of this Work Order or to collect any monies due hereunder, either with or without litigation, the prevailing party shall be entitled to recover all costs and reasonable attorney's fees. Purchaser agrees that this Work Order shall be construed and enforced in accordance with the laws of the state where the vertical transportation equipment that is the subject of this Work Order is located and consents to jurisdiction of the courts, both state and Federal, of that as to all matters and disputes arising out of this Work Order. Purchaser further agrees to waive trial by jury for all such matters and disputes.

The rights of thyssenkrupp Elevator under this Proposal shall be cumulative and the failure on the part of the thyssenkrupp Elevator to exercise any rights given hereunder shall not operate to forfeit or waive any of said rights and any extension, indulgence or change by thyssenkrupp Elevator in the method, mode or manner of payment or any of its other rights shall not be construed as a waiver of any of its rights under this Proposal. In the event any portion of this Proposal is deemed invalid or unenforceable by a court of law, such finding shall not affect the validity or enforceability of any other portion of this Proposal.

In no event shall thyssenkrupp Elevator be responsible for liquidated, consequential, indirect, incidental, exemplary, and special damages.

This Proposal shall be considered as having been drafted jointly by Purchaser and thyssenkrupp Elevator and shall not be construed or interpreted against either Purchaser or thyssenkrupp Elevator by reason of either Purchaser or thyssenkrupp Elevator's role in drafting same.

Certificates of Workmen's Compensation, Bodily Injury and Property Damage liability Insurance coverage will be furnished to Purchaser upon request. thyssenkrupp Elevator complies with provisions of Executive Orders 11246, 11375, 11758, Section 503 of the Rehabilitation Act of 1993, Vietnam Era Veteran's Readjustment Act of 1974, 38 U.S.C. 4212 and 41 CFR Chapter 60. thyssenkrupp Elevator supports Equal Employment Opportunity and Affirmative Actions Compliance programs.



MODERNIZATION PROPOSAL
Curry County - Jail - Mod

Acceptance

Purchaser's acceptance of this Proposal and its approval by an authorized manager of thyssenkrupp Elevator will constitute exclusively and entirely the agreement between the parties for the goods and services herein described and full payment of the sum of Sixty Five Thousand Six Hundred Thirty Seven Dollars (\$65,637.00).

All other prior representations or regarding this work, whether written or verbal, will be deemed to be merged herein and no other changes in or additions to this Proposal will be recognized unless made in writing and properly executed by both parties as a change order. Should Purchaser's acceptance be in the form of a purchase order or other similar document, the provisions of this Proposal will exclusively govern the relationship of the parties with respect to this transaction. No agent or employee shall have the authority to waive or modify any of the terms of this Proposal without the prior written approval of an authorized thyssenkrupp Elevator manager.

thyssenkrupp Elevator Corporation:	(PURCHASER):
<p>By: _____ (Signature of thyssenkrupp Elevator Representative)</p> <p align="center">Matthew Olson Account Manager matt.olson@thyssenkrupp.com +1 541 6062861</p> <p align="center">02-06-2018</p> <p>_____</p> <p align="center">(Date of Submission)</p>	<p>By: _____ (Signature of Authorized Individual)</p> <p align="center">Eric Hanson</p> <p>_____</p> <p align="center">(Print or Type Name)</p> <p>_____</p> <p align="center">(Print or Type Title)</p> <p>_____</p> <p align="center">(Date of Acceptance)</p>
<u>thyssenkrupp Elevator Corporation Approval</u>	
<p>_____</p> <p align="center">(Date of Approval)</p>	<p>_____</p> <p align="center">(Signature of Branch Representative)</p> <p align="center">Tawnya Randall Service Sales Manager</p>



**SCHEDULING AND PRODUCTION
REQUEST FOR PAYMENT**

Please Remit To: thyssenkrupp Elevator Corporation
Attn: Accounts Receivable Dept.
1265 E Fort Union Blvd Ste 350
Cottonwood Heights, UT 84047-5624

Attn: Eric Hanson

Date	Terms	Reference ID	Customer Reference # / PO
February 06, 2018	Immediate	ACIA-1DSMRHM	

Total Contract Price: \$65,637.00
Engineering / Pre Prod / Shop Drawings (50%) \$32,818.50
/ Submittals:
Amount Due upon Acceptance: \$32,818.50

For inquiries regarding your contract or services provided by thyssenkrupp Elevator, please contact your local account manager at +1 541 6062861. To make a payment by phone, please call 801-449-8505 with the reference information provided below.

Thank you for choosing thyssenkrupp Elevator. We appreciate your business.

Please detach the below section and provide along with payment.

Customer Name: Curry County Courthouse
Location Name: CURRY COUNTY COURTHOUSE
Customer Number: 69755

Remit To:
thyssenkrupp Elevator
Attn: Accounts Receivable Dept.
1265 E Fort Union Blvd Ste 350,
Cottonwood Heights UT 84047-
5624

Reference ID:	ACIA-1DSMRHM
Remittance Amount:	\$32,818.50



HYDRAULIC MODERNIZATION

MOD solutions

ThyssenKrupp Elevator Americas



ThyssenKrupp

H POWER



Front and Rear Openings

Up to 8 Stops

Power Supply: 200-208V, 220-240V, 460-480V, 575-600V, 50/60 HZ AC, 60 HP Max

Speeds: Up to 200 fpm

Capacity: 1200 to 5000 lbs. Cars in group can have different capacities

Travel: Up to 60'-0"

PERFORMANCE. EFFICIENCY. RELIABILITY.

More than 30 performance-optimizing features provide a total solution that consumes less energy and uses superior materials. With our H-Power modernization, there is no need to replace your entire hydraulic elevator system.

1 TAC CONTROLLER

Our digital-controlled system has diagnostic capabilities for easier troubleshooting.

NON-PROPRIETARY USER-INTERFACE TOOLS

Unrestricted access for on-board adjusting and troubleshooting keeps trouble calls short.

BATTERY LOWERING UNIT This device prevents entrapments and provides supplemental power to the controller in case of an outage. It also eliminates the need for a costly power generator.

SOLID STATE STARTER Energy-efficient motor starter minimizes power surges and provides smooth, quiet and reliable operation.

ELEVATOR POSITIONING ENCODER Teflon-coated, perforated tape that runs the length of the hoistway, digitally communicates the elevator's location. This provides a safe and level landing for passengers when boarding and exiting.

2 POWER UNIT (OPTIONAL)

This key component reduces noise and vibration during operation—allowing for a quiet and smooth ride. The compact design uses less materials to construct and takes up less space. Furthermore, precise operation of the unit increases leveling accuracy and improves passenger safety.

3 DOOR OPERATOR

Typically, the door operator causes the most trouble calls. Ours has an on-board diagnostic service tool resulting in consistent operation and fewer shutdowns and service callbacks. A linear door operator is also available on certain models.

4 FUSION FIXTURES

Our stainless steel fixture line includes car operating panels, hall fixtures and car riding lanterns that improve elevator appearance and functionality. Fixtures are also easy to install, do not damage the walls and are in full compliance with U.S. and Canadian fire service codes.

5 WIRING PACKAGE

Our cable and hoistway wiring system utilizes advanced CAN-BUS technology, which communicates with multiple devices through one wire. This provides safer, more efficient operations and maintenance. It also speeds installation and troubleshooting, as well as uses less wiring materials and other resources.

Ask your ThyssenKrupp Elevator representative about our Advantage Packages that make the H-Power modernization process as quick and convenient as possible for you and your tenants.

H-POWER PERFORMANCE PACKAGE FEATURES:

TAC CONTROLLER

- Digital controls
- Simplex or group operations
- On-board diagnostics
- Solid state starter
- Battery lowering
- Tenant security
- Local code compliance
- Limit switches (if required by local code)
- Leveling accuracy: +/- 1/2 inch (13 mm)

POWER UNIT (optional)

- Submersible design
- Exclusive TKE i-2® control valve
- Motor from 5 to 60 HP
- Oil flow silencer

DOOR OPERATOR

- Closed-loop encoder feedback
- On-board diagnostics
- MicroLight electronic door detector

TAPE SELECTOR

- Elevator position digitally communicated to TAC controller

FIXTURES

- Car operating panel
- Digital position indicator
- ADA-compliant hands-free phone
- Emergency light
- Braille
- Code-compliant signage
- Surface-mounted hall fixtures with fire service
- Surface-mounted main floor digital position indicator (optional)
- Car riding lantern
- Hoistway access fixtures

WIRING PACKAGE

- Traveling cable
- Hoistway wiring

SAFETY

- Car top railing where applicable
- Car top exit switches

ThyssenKrupp Elevator Americas • 2600 Network Blvd., Ste. 450, Frisco, TX 75034 • Phone (877) 230-0303 • thyssenkruppelevator.com

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STRAIGHT UP Elevator Co.

PO Box 427 | Klamath Falls, OR 97601 | CCB# 199734 | ESB# 9253
We are committed to sound service and fair prices with a sincere approach.

MODERNIZATION PROPOSAL

January 29, 2018

Curry County
Attn: Eric
450 N Ellensburg Ave
Gold Beach, OR 97444

RE: Elevator Modernization – Curry County Jail

Straight Up Elevator Co. proposes to provide labor and materials to modernize, One (1) Elevator – located at:

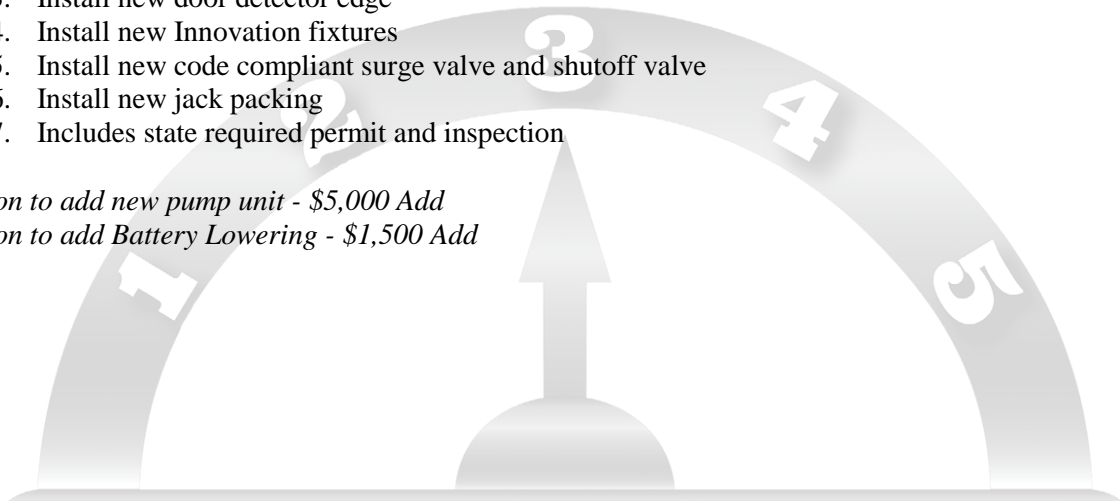
Curry County Jail
29808 Colvin St.
Gold Beach, OR 97444

Modernization:

Straight Up Elevator Co. will upgrade the elevator specified above, with A17.1 ASME 2013 upgrades to improve the safety and reliability of the elevator.

1. Install new SmartRise Controller – non-proprietary microprocessor controlled ASME A17.1 2013 compliant including fire service Phase 1 and Phase 2
2. Install new GAL MOVFR door operator
3. Install new door detector edge
4. Install new Innovation fixtures
5. Install new code compliant surge valve and shutoff valve
6. Install new jack packing
7. Includes state required permit and inspection

Option to add new pump unit - \$5,000 Add
Option to add Battery Lowering - \$1,500 Add



Jack Replacement Exclusions: (If Applicable)

Special Conditions: Jack Hole and Well Casing Clause

Suction truck and disposal to clean jack hole is not included in this price.

The quoted price is based on the existing jack hole being plumb and cased or jacketed to prevent hole collapse once the existing jack is removed. The existing jack hole must be clear of rock, water, concrete, debris or any other underground condition which hinders us from freely pulling the existing jack or installing the new jack or which alters the method required to complete the project.

Purchaser agrees to provide a safe, accessible storage area for placement of D.O.T. 55 gallon containers for the purpose of spoils containment. Any spoils or water testing by others or delays due to such testing are not included in this proposal.

The hiring of a disposal company/suction truck is the responsibility of Purchaser, and **MUST** be discussed prior to any material being ordered or work being scheduled. Straight Up Elevator Co. will **NOT** provide any environmental services and assumes **NO** responsibility and/or liability in any way whatsoever for spoils or other contamination that may be present as a result of the cylinder breach and/or other conditions present on the work site.

For the purpose of providing this estimate, we assume no unusual conditions as outlined above. If necessitated by unusual conditions, a proposal for additional labor and materials shall be submitted to Purchaser for approval prior to performance of additional work. Straight Up Elevator Co. shall not be responsible for delays due to such causes. Written authorization will be required for any labor or materials required beyond this original proposal amount.

Modernization Exclusions:

Work required by others if applicable to your equipment:

1. Heat and smoke sensors at each floor, elevator equipment room, elevator pit and overhead- with wire brought to elevator controller.
2. Shunt trip disconnect in elevator machine room if required.
3. Elevator equipment room air conditioner to maintain temperature between 65 and 95 degrees.
4. All required building electrical and lighting requirements.
5. Any cutting including: cutouts to accommodate hall signal fixtures; patching and painting of walls, floors or partitions; finish painting of entrance doors and frames.
6. Operating elevator for other trades is not included in this bid and will be billed at Straight Up Elevator Co.'s standard billing rate.
7. Crane time is not included in this proposal price.

Preparatory Work Not Included in Elevator Contract (May or May Not Apply):

- A properly framed and enclosed legal hoistway including venting as required by the governing code or authority.
- Suitable ventilation and cooling equipment, if required to maintain the machine room temperature between 32° and 104°F or 40°C. The relative humidity should not exceed 90% non-condensing.

- Dry pit reinforced to sustain vertical forces on car and counterweight rails and impact loads from the car and counterweight buffers.
- Where access to a pit over 3 feet 0 inches in depth is by means of the lowest hoistway entrance, vertical iron ladder extending 42 inches minimum above sill of access door.
- Any cutting, including cutouts to accommodate hall signal fixtures, patching and painting of walls, floors or partitions together with finish painting of entrance doors and frames.
- At no expense to us, others are to provide a dedicated (non PBX) touch-tone business telephone line terminated in the machine room.
- Provide a fused disconnect switch or shunt breaker for each elevator per the National Electrical Code with feeder or branch wiring to controller. Size to suit elevator contractor.
- Provide a 120 volt, AC, 15amp, single phase power supply with fused SPST disconnect switch for each elevator, with feeder wiring to each controller for car lights.
- Provide a separate 120 volt, AC, 15amp, single phase power supply with fused SPST disconnect switch for each elevator, with feeder wiring to each controller for our lights.
- Suitable light and convenience outlets in machine room with light switches located within 18 inches of lock jamb side of machine room door.
- Convenience outlet and light fixture in pit with switch located adjacent to the access door.
- Provide heat, smoke and products of combustion sensing device with dry N/C contact located as required with wiring from the sensing device to each elevator controller.
- Should operation of the elevators be required on standby power, others are to provide a standby power unit and means for starting it with delivery to the elevator power to operate one or more elevators at a time at full rated speed. Provide a transfer switch for each feeder for switching from normal power to standby power and a contact on each transfer switch closed on normal power supply with two wired from this contact to one elevator controller.
- Guarding and protecting the hoistway during construction. The protection of the hoistway shall include solid panels surrounding each hoistway opening at each floor, a minimum of 48 inches in height. Hoistway guards to be erected, maintained and removed by others. All electrical power for light, tools, hoists, etc. during erection as well as electric current for starting, testing and adjusting the elevator.
- Provide a safe and dry on-site storage area for elevator material.
- Flooring by other.

Purchaser agrees to provide a safe, accessible storage area for placement of D.O.T. 55 gallon containers for the purpose of spoils containment. Any spoils or water testing by others or delays due to such testing are not included in this proposal.

Bonding: Should a performance, payment, or other bond be required for this project, an additional amount of 3% of the base price shall be added to the overall proposal price for each bond required.

For the purpose of providing this estimate, we assume no unusual conditions as outlined above. If necessitated by unusual conditions, a proposal for additional labor and materials shall be submitted to Purchaser for approval prior to performance of additional work. Straight Up Elevator Co. shall not be responsible for delays due to such causes. Written authorization will be required for any labor or materials required beyond this original proposal amount.

Lead time for materials approximately 12-14 weeks. Installation time approximately 5 weeks.

Straight Up Elevator Co. guarantees the materials and workmanship of the elevator equipment to be first-class and will furnish any defective parts, labor included, for Twelve (12) months following final acceptance. Damage caused by improper use, or vandalism is not warranted.

It is understood that all work will be done during the regular working hours of the trade, in a professional manner, and we are to have the uninterrupted use of the elevator while doing this work. Workmen's Compensation and

Public Liability Insurance will be enforced by us. It is expressly understood and agreed that all verbal agreements are void and that the acceptance of the proposal shall constitute the contract for material and work specified above. Any changes to this contract must be made in writing signed by both parties.

Payment Terms are as Follows: 50% of Proposed Price Upon Approval and Acceptance of Proposal
25% of Proposed Price Upon Material or Equipment Delivery
25% of Proposed Price Upon Passing Inspection, (The elevator will be turned over to Purchaser for use after final payment is made.)

This proposal is submitted for acceptance within **30 days** from date executed by Straight Up Elevator Co. Please return a signed copy of the proposal; we will then contact you for scheduling.

Thank you for this opportunity to earn your business.

Sincerely,

Heather Schriver

Heather Schriver, CFO
Straight Up Elevator Co.
PO Box 427
Klamath Falls, OR 97601
541-891-9190
heather@straightupelevator.com

Authorization for elevator modernization located at:

Curry County Jail
29808 Colvin St.
Gold Beach, OR 97444

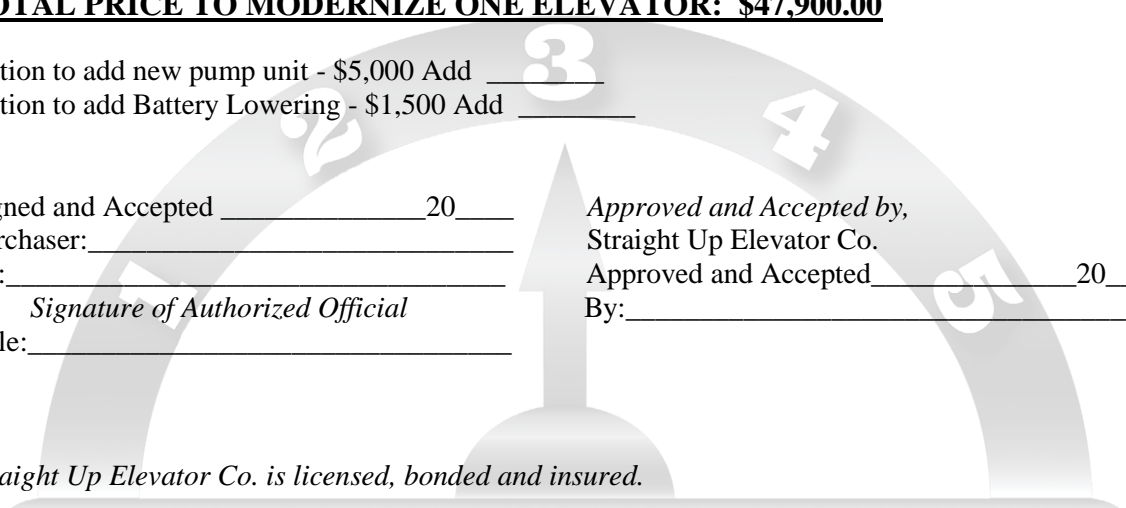
TOTAL PRICE TO MODERNIZE ONE ELEVATOR: \$47,900.00

Option to add new pump unit - \$5,000 Add 3
Option to add Battery Lowering - \$1,500 Add

Signed and Accepted _____ 20__
Purchaser: _____
By: _____
Signature of Authorized Official
Title: _____

Approved and Accepted by,
Straight Up Elevator Co.
Approved and Accepted _____ 20__
By: _____

Straight Up Elevator Co. is licensed, bonded and insured.





DATE: 02/05/2018

TO:
Curry County
PO Box 746
Gold Beach, OR 97444

FROM:
Otis Elevator Company
7216 Sw Durham Road, Suite 900
Portland, OR 97224

Patrick Hollinger, Territory Manager
Phone: (775) 250-6821
Fax: (860) 353-3608

EQUIPMENT LOCATION:
Curry County Jail
94235 Moore Street
Gold Beach, OR 97444

PROPOSAL NUMBER: QHH180205133759

MACHINE NUMBER(S) : C70930 (Jail Elevator)

We will provide labor and material to furnish and install on the above referenced machine(s) the following:

As new, rapidly changing technology is increasingly being used in the manufacture of elevators, component life cycle is becoming a greater issue for elevators. Our records indicate that you currently have components in your system that are no longer in production. At Otis, we have made it our priority to engineer solutions for component obsolescence. This proposal addresses your elevator components of concern.

OTIS HYDROACCEL HYDRAULIC CONTROL SYSTEM MODERNIZATION & SINGLE BOTTOM CYLINDER REPLACEMENT

We propose to furnish labor and material to provide a hydraulic microprocessor-based control system. It is designed to meet the needs of modernizing hydraulic elevators. The system is integrated by communications over serial links and discrete wiring. The software dispatches elevators based upon real-time response to actual demands on the elevator(s).

DUTY

The present capacity and speed will be retained.

TRAVEL

The present travel will be retained.

STOPS AND OPENINGS

The present stops and openings will be retained.

POWER SUPPLY

The present power supply of will be retained and confirmed. The new equipment will be arranged for this power supply.

SOLID STATE STARTER

A new solid-state starter will be provided. It will be of the same power requirement and starting configuration as presently exists.

POWER UNIT

The existing power unit will be replaced with a new submersible power unit. The new power unit consists of a positive displacement pump, motor, integral 4-coil control valve, oil tank and muffler. The pump and motor are submerged and are mounted to the tank with rubber isolators to reduce vibration and noise. A muffler is provided to dissipate pulsations and noise from the flow of hydraulic fluid. The valve consists of up, up leveling, down and down leveling controls along with manual lowering and a pressure relief valve. Seismic rupture valve will be put in the pit of the elevator.

AUTOMATIC SELF-LEVELING

The elevator shall be provided with automatic self-leveling that shall bring the elevator car level with the floor landings, no more than +/- 1/2" regardless of load or direction of travel. The automatic self-leveling shall correct for overtravel or undertravel.

CONTROLLER

A microprocessor-based control system shall be provided to perform all the functions of safe elevator motion and elevator door control. This shall include all the hardware required to connect, transfer and interrupt power, and protect the motor against overloading. The system shall also perform group operational control.

Each controller cabinet containing memory equipment shall be properly shielded from line pollution. The microcomputer system shall be designed to accept reprogramming with minimum system downtime.

OPERATION

Operation shall be automatic by means of the car and landing buttons. Stops registered by momentary actuation of the car or landing buttons shall be made in the order in which the landings are reached in each direction of travel after the buttons have been actuated. All stops shall be subject to the respective car or landing button being actuated sufficiently in advance of the arrival of the car at that landing to enable the stop to be made. The direction of travel for an idle car shall be established by the first car or landing button actuated.

“UP” landing calls shall be answered while the car is traveling in the up direction and “DOWN” landing calls shall be answered while the car is traveling down. The car shall reverse after the uppermost or lowermost car or landing call has been answered, then proceed to answer car calls and landing calls registered in the opposite direction of travel.

If the car without registered calls arrives at a floor where both up and down hall calls are registered, it shall initially respond to the hall call in the direction that the car was traveling. If no car call or hall call is registered for further travel in that direction, the car shall close its doors and immediately reopen them in response to the hall call in the opposite directions. Direction lanterns, if furnished, shall indicate the change of direction when the doors reopen.

An independent service switch shall be provided in the car operating panel which, when actuated, shall cancel previously registered car calls, disconnect the elevator from the hall buttons and allow operation from the car buttons only.

A car arriving at a floor to park shall not open its doors. Cars shall open their doors only when stopping in response to a car or hall call.

If for any reason the doors are prevented from closing and the car is unable to respond to a hall call, it shall lose its zone assignment and the hall call shall be transferred to the other car.

A car, without registered car calls, arriving at a floor where both up and down hall calls are registered shall initially respond to the hall call in the direction that the car was traveling. If no car or hall call is registered for further travel in that direction, the car shall close its doors and immediately reopen them in response to the hall call in the opposite direction. Direction lanterns, if furnished, shall indicate the change of direction when the doors reopen.

When the Independent Service switch in the car operating panel is actuated, that elevator shall be disconnected from the hall buttons and shall operate independently from the car buttons only.

INDEPENDENT SERVICE

When the Independent Service switch in the car operating panel is actuated, it shall cancel previously registered car calls, disconnect the elevator from the hall buttons, and allow operation from the car buttons only. Door operation shall occur only after actuation of the "DOOR CLOSE" button.

SPECIAL EMERGENCY SERVICE

Special Emergency Service operation shall be provided in compliance with the latest revision of the ASME/ANSI A17.1 Code.

Special Emergency Service Phase I to return the elevator (s) non-stop to a designated floor shall be initiated by an elevator smoke detector system or a keyswitch provided in a lobby fixture.

If required, the smoke detector system is to be furnished by others. The elevator contractor shall provide input connections on the elevator controller to receive signals from the smoke detector system.

A keyswitch in the car shall be provided for in-car control of each elevator when on Phase II of Special Emergency Service.

If an elevator is on independent service when the elevators are recalled on Phase I operation, a buzzer shall sound in the car and a jewel shall be illuminated, subject to applicable codes.

INSPECTION OPERATION

For inspection purposes, an enabling keyswitch shall be provided in the car operating panel to permit operation of the elevator from on top of the car and to make car and hall buttons inoperative.

On top of the car an operating fixture shall be provided containing continuous pressure "UP" and "DOWN" buttons, an emergency stop button, and an inspection-initiating switch. This switch makes the fixture operable and, at the same time, makes the door operator and car and hall buttons inoperable.

APPLIED CAR OPERATING PANEL

An applied car operating panel shall be furnished. The panel shall contain a bank of illuminated buttons marked to correspond with the landings served, an emergency call button, emergency stop button or switch, door open and door close buttons, and a light switch. The emergency call button shall be connected to a bell that serves as an emergency signal. A fan switch, if optional fan is provided, shall also be located in the car operating panel. All car operating panel lamps shall be the low-voltage long life lamps.

HOISTWAY ACCESS SWITCH

An enabling keyswitch shall be provided in the car operating panel to render all car and hall buttons inoperative and to permit operation of the elevator by means of an access keyswitch adjacent to the hoistway entrance at the access landing. The movement of the car away from access landing, other than the lower terminal, by means of the access keyswitch at the landing shall be limited in travel and direction to that as specified for the upper landing in the latest revisions of the ASME/ANSI A17.1 Code.

ADA ELEVATOR EMERGENCY PHONE

Provision shall be made in the elevator cab for the installation of an ADA approved telephone. We propose to furnish and install a new ADA elevator emergency phone. The ADA elevator emergency phone is a telephone, which enables communication between persons in the elevator and a 24-hour answering service.

The phone will be mounted in a telephone box or surface mounted in the elevator cab. It will automatically dial a preprogrammed number and will inform the answering service of the elevator location via prerecorded digital voice communication. After disclosing the elevator location, the phone will allow two-way voice communication. The phone

contains two light-emitting diodes -- one that indicates the call is in progress and another that indicates the call has been acknowledged. After receiving acknowledgment of the call from the answering service, a deaf/mute person can signal the answering service by reactivating the call button. The phone can be easily programmed and allows incoming calls to be received. The telephone will be furnished and installed in accordance with the ASME A17.1 Safety Code for Elevators and Escalators, and is registered with the FCC.

CAR POSITION INDICATOR

A new car position indicator shall be installed in the new car station. The position of the car in the hoistway shall be shown by illumination of the indication corresponding to the landing at which the car is stopped or passing. All lamps shall be low-voltage, longer life lamps.

AUDIBLE SIGNAL

An audible signal shall sound in the car to tell passengers that the car is either stopping or passing a landing served by the elevator.

"IN-CAR" DIRECTION LANTERN

New direction lantern(s) shall be mounted in or near the car entrance jamb(s), visible from the corridor, which when the car stops and the doors are opening, shall indicate the direction in which the car will travel. A chime shall also be furnished on the car, which will sound once for the "UP" direction and twice for the "DOWN" direction as the doors are opening.

EMERGENCY CAR LIGHTING

An emergency power unit employing a 12-volt sealed rechargeable battery and a totally static circuit shall be provided. The power unit shall illuminate the elevator car and provide current to the alarm bell in the event of normal power failure. The equipment shall comply with the requirements of the latest revision of the ASME/ANSI A17.1 Code.

HALL BUTTONS

New hall buttons shall be installed at each terminal landing.

When a call is registered by momentary pressure on a landing button, that button shall become illuminated and remain illuminated until the call is answered. Hall button lamps shall be low-voltage, long life lamps.

HOISTWAY OPERATING DEVICES

Normal terminal stopping devices shall be provided to slow down and stop the car automatically at the terminal landings and to automatically cut off the power and apply the brake, should the car travel beyond the terminal landings.

CAR GUIDES AND CAR FRAME

The existing car guides shall be retained. They shall be thoroughly inspected. Any worn parts will be replaced by the original manufacture parts or equal. The existing car frame shall be retained.

PLATFORM AND FLOORING

The current platform will be retained. The present flooring will be retained.

EMERGENCY RETURN UNIT

We propose to furnish and install an Emergency Return Unit (ERU) providing auxiliary power to your hydraulic elevator. In the event of a primary power failure or a single phase condition, the ERU is designed to automatically return the elevator to its lowest landing at normal speed and allow all passengers to exit safely.

Four to six seconds after a power failure has been sensed, an electronic timer in the ERU is designed to turn on an

inverter (converting DC battery power into elevator operating voltages). Six seconds later, the device is designed to send a signal to the microprocessor to disengage the hall and car floor buttons, close the door(s), and open the valve to return the car to the lowest landing at normal speed.

When the car reaches the lowest landing, the ERU is designed to open the door(s) for a preset time. The device is also designed to allow the DOOR OPEN button to continue to operate normally to allow passengers to exit safely. After all passengers have exited, the car remains parked with the door(s) closed. To preserve battery life, the ERU is designed to turn off after four minutes.

If all elevator controls are in normal position, the elevator will be able to resume normal operation when building power is restored. Once main power has returned, it takes from six to 24 hours for the batteries to become fully charged, depending on the amount of power consumed in performing an ERU operation.

Work by Others for ERU Install

Others are to provide an auxiliary contact on the main line and shunt trip disconnect switches and run two #18 wires from this each auxiliary contact to the elevator controller such that when the main line disconnect or shunt trip switch is in the ON position, the auxiliary contact is closed and opens mechanically when the main line or shunt trip disconnect switches is are placed in the OFF position.

AT400 CLOSED LOOP DOOR OPERATOR

A new closed loop door operator shall be installed.

Doors on the car and at the hoistway entrances shall be power operated by means of a closed loop door operator mounted on top of the car. The door operator is a fully closed loop system designed to give consistent door performance with changes in temperature, wind or minor debris in the door track. The system continually monitors door speed and position and adjusts it accordingly to match the pre-determined profile.

Door operation shall be automatic at each landing with door opening being initiated as the car arrives at the landing and closing taking place after expiration of an adjustable time interval. An electric car door contact shall prevent the elevator from operating unless the car door is in the closed position.

Door close shall be arranged to start after a minimum time, consistent with Handicap Requirements. Doors shall be arranged to remain open for an adjustable time period sufficient to meet ADA requirements. The time interval for which the elevator doors remain open when a car stops at a landing shall be independently adjustable for response to car calls and response to hall calls.

INTERLOCKS

New elevator door interlocks will be installed.

OPTIGUARD DOOR PROTECTION DEVICE

A solid state, infrared passenger protection device shall be installed on the car door. This device provides 56 infrared light beams that create an invisible safety net across the elevator entrance. In addition, Optiguard adds a triangular coverage area to protect passengers approaching or exiting the landing door zone or entryway. The Optiguard system aims 12 additional infrared beams out into the entryway at a nominal 30 degree angle away from the direction of door travel. If these beams strike an object in the middle of the entryway, some of the light is reflected into special photo-diode receivers which scan into the entryway at a nominal 30 degree angle. If the receivers detect enough light, a reversal signal is generated to open the doors. The maximum projection of these 12 additional beams at any time is one-third of the door opening width.

If any beam is interrupted, Optiguard's door-reversal signal will cause the elevator doors to reopen instantly without touching the passenger. After a car stop is made, the door shall remain open for a predetermined interval before closing. If, while the door is closing, the matrix of invisible light beams is interrupted by a passenger entering or leaving the car, the door shall stop and reopen, after which the door shall again start to close.

Graceful degradation operation is also included. If one or two isolated beams (up to a maximum of 36 beams) are interrupted, Optiguard's door-reversal signal will cause the doors to reopen instantly. If the beams remain blocked for more than 80 seconds, the beams are considered permanently blocked. Optiguard then ignores these blockages and the detector will continue to operate as it would without any blockages.

If three or more adjacent beams are interrupted, Optiguard's door-reversal signal will cause the doors to reopen instantly. If they remain blocked for more than 80 seconds, they are considered permanently blocked. The doors will then either remain open indefinitely, go into nudging mode or remain open for a specified period of time, depending on local codes and the door operating system. The doors will remain in this mode until the blockage is corrected.

CAR ENCLOSURE AND CAR DOOR HANGER

The present car enclosure shall be retained. The present car door hanger will be retained and inspected for proper alignment. Any adjustment required will be accomplished.

HOISTWAY ENTRANCES AND HOISTWAY DOOR HANGER

The present hoistway entrances will be retained. The present hoistway door hanger will be retained and inspected for proper alignment. Any adjustment required will be accomplished.

PIT SWITCH

An emergency stop switch shall be located in the pit accessible from the pit access door.

SPRING BUFFERS

New spring buffers will be installed with the new hydraulic cylinder.

WIRING

All new wiring and electrical interconnections shall comply with governing codes. Insulated wiring shall have flame-retardant and moisture-proof outer covering and shall be run in conduit, flexible tubing or electrical wireways. Traveling cables shall be flexible and suitably suspended to relieve strain on individual conductors.

ENGINEERING DESIGN

All new material furnished will be specifically designed to operate with original elevator equipment being retained, thus assuring maximum performance and eliminating any divided responsibility.

SUPERSEDED MATERIAL

All material, removed or unused, not required in the modification will become the property of the Otis Elevator Company and we reserve the right to remove and retain it.

PERMITS AND INSPECTIONS

The elevator contractor shall furnish all licenses and permits and shall arrange for and make all required inspections and tests.

CODE

The elevator equipment shall be furnished and installed in accordance with the latest additions of the ASME/ANSI A17.1 Safety Code for Elevators and Escalators, An American National Standard, including the latest Supplement, and the Americans with Disabilities Act. The elevator equipment shall comply with all applicable state and local codes.

WORK BY OTHERS

The following items must be performed by others and you agree to:

Provide suitable ventilation and cooling equipment, if required, to maintain the machine room ambient temperature between 32oF and 113oF. The relative humidity should not exceed 95 percent non-condensing.

Provide electrical power for light, tools, hoists, etc. during installation as well as electrical current for starting, testing and adjusting the elevator.

Provide a smoke detector system, located as required with wiring from the sensing devices to each elevator controller.

Do any required cutting, including cutouts to accommodate hall signal fixtures, patching and painting of walls, floors or partitions.

At no expense to us, others are to provide a dedicated (non-PBX) touch-tone business telephone line terminated in the machine room.

Provide a fused disconnect switch or circuit breaker for each elevator per the applicable National Electrical Code with feeder or branch wiring to controller. Size to suit elevator contractor.

Provide a 120 volt AC, 20 amp, single-phase power supply with fused SPST disconnect switch for each elevator with feeder wiring to each controller for car lights.

Provide a separate 120 volt AC, 15 amp, single-phase power supply with fused SPST disconnect switch with duplex outlets in the machine room and lobby or other applicable location, for power to each elevator video display panel and controller when display system is provided.

Provide a 120 volt AC, 15 amp, single-phase power supply with fused SPST disconnect switch with duplex outlets in the machine room or other locations as required for information display terminal and controller of information display when provided. Also provide one (1) pair of shielded/twisted conductors between the terminal and the machine room.

Provide standby power unit and means for starting it that will deliver sufficient power to the elevator disconnect switches to operate one or more elevators at a time at full-rated speed. Provide a transfer switch for each feeder for switching from normal power to standby power and a contact on each transfer switch closed on normal power supply with two wires from this contact to one elevator controller.

Provide a safe and dry on-site storage area for elevator material.

Any modification or installation of lights and/or electrical outlets in the machine room and/or pit to be performed by others.

LIMITATIONS

Under no circumstances shall the Otis Elevator Company be liable for indirect, consequential, or special damages resulting from the installation or use of this product.

HYDRAULIC CYLINDER REPLACEMENT

Remove the existing underground hydraulic single bottom cylinder, piston and cylinder head and replace with a new double bottom design cylinder with sealed PVC encasement, new piston and new cylinder head.

Benefits:

- Eliminate liability associated with potential injury/death caused by catastrophic cylinder failure resulting from undetected pinhole leaks in the cylinder
- Eliminate liability associated with potential environmental damage caused by oil leaking from pinhole(s) in the buried cylinder
- Eliminate risk related to the continued use of the deteriorating hydraulic cylinder
- Eliminate possibility of corrosion/electrolysis of the existing buried cylinder from naturally-occurring minerals in the ground and groundwater
- Warranty of up to twenty (20) years on product and workmanship defect.

General Scope Description and Provisions:

The new cylinder being proposed for installation is a sealed, double-bottom, PVC-protected design, which offers protection from corrosion, as well as permitting monitoring and evacuation of liquids to ensure the cylinder does not come in contact with water. This design will also help contain oil in the unlikely event of a cylinder leak. The sealed PVC protection can help protect your property against possible environmental contamination and associated clean-up costs and penalties.

In certain cases, the installation of the sealed PVC design cylinder may require significant additional work. Such situations include:

1. When an existing well casing must be removed in order to achieve the proper clearance for the installation of the sealed PVC cylinder.
2. When such an installation would require modifications to the building or hoist way (i.e., the required drill rig does not fit in the building through an existing entrance or implies the need to move the existing rails).

The scope of work will include the following:

- Obtain all necessary permits
- Secure the elevator cab at a safe working height
- Remove the existing plunger
- Remove the existing cylinder
- Re-drill the existing cylinder hole (if necessary, see clarifications) and prepare it for installation of a new PVC-encased cylinder
- Any spoils will be removed from the job site (if necessary, see clarifications)
- Install A17.1-compliant PVC cylinder, type 1, grade 1 CPVC-1120, specifically designed for underground use
- Install a new double bottom cylinder with sealed PVC encasement and safety valve
- Plumb the cylinder to the vertical
- Install a new cylinder head
- Install new plunger
- Install new packing
- Install new pit channels and buffer springs
- Install new over speed seismic rupture valve
- Perform a full load safety test
- Assist the State of Oregon Elevator Inspector in his inspection
- Return the elevator to service
- NOTE: Well casing installation is not anticipated to be needed, so it is not included in this proposal.

New Cylinder and Sealed PVC Protection Warranty:

The cylinder and sealed PVC protection used for this project is warranted against product and installation defect for the duration of an uninterrupted Otis full-coverage maintenance agreement, up to twenty (20) years. Otis Elevator would be required to maintain this elevator for the twenty (20) year warranty to be effective.

Clarifications:

1. Cylinder Well Hole Drilling: The quote priced is based upon the existing jack hole being plumb and cased or jacketed to prevent hole collapse once the existing jack is removed. The existing jack hole must be clear of rock, water, concrete, debris or any other underground condition which hinders us from freely pulling the existing jack or installing the new jack or which alters the method required to complete the project. If we encounter such conditions and drilling becomes required, the project will stop and an additional proposal will be given with an amount for continuation.
2. "Rock Clause" -- Cylinder Well Hole Drilling: There will be an additional cost of \$395.00 per hour (driller) plus Mechanic standby costs, as applicable, at Otis's discounted rate of \$300 per man hour, to drill the new hole if site conditions (such as rock, water or other unanticipated conditions) prevent completion of the hole drilling within sixteen (16) drilling hours.
3. Spoils Removal: The spoils generated during the completion of this project (primarily during the drilling phase) must be removed from the site. The spoils may or may not be contaminated, the contamination being attributed to the existing ground soil condition, oil introduced from a leak in the underground cylinder, or both. The removal of contaminated soil and drilling spoils must be performed by certified, authorized agents whose methods and processes are compliant with existing hazardous waste transportation and disposal laws. The drilling subcontractor assumes responsibility for the proper removal of all spoils associated with the replacement of the piston/cylinder. The legally-required manifest describing removed spoils will be provided upon completion of this work. Otis will provide assistance coordinating the scheduling of the spoils removal, as necessary. Otis Elevator will also have a vacuum truck remove excess soil once the existing cylinder is removed. The vacuum truck company will be responsible for the spoils removal.

NOTES:

Proposal is valid for sixty (90) days.

All work is to be completed during the regular working hours of the elevator trade.

Where conditions require it, we will provide protection for floors, walls and the elevator entrances for the normal activities associated with this work. Building protection associated with special or unusual drilling or excavation procedures is the responsibility of the building owner.

This proposal is based on the building owner agreeing to provide the following:

- Electric power for light, tools, hoists, welding, drilling rig, etc. required for the duration of this project.
- Full access to the work area for professionals completing this work during the agreed-upon work hours for the duration of the project.
- On-site storage (clear and in close proximity to the work area) for materials associated with the completion of the project, including cylinder, piston, oil, tools, etc. during the project.
- Permits required for the use of welding and gas-burning and cutting in the elevator hoist way.
- Deactivation and reactivation of all fire, smoke and/or combustion sensors in the work area that may be activated by the effects of the procedures required to complete this work.

PRICE: \$ 91,926.00
Ninety-one thousand nine hundred twenty-six dollars

This price is based on a fifty percent (50 %) downpayment in the amount of \$ 45,963.00.
This proposal, including the provisions printed on the last page(s), and the specifications and other provisions attached hereto shall, when accepted by you below and approved by our authorized representative, constitute the entire contract between us, and all prior representations or agreements not incorporated herein are superseded.

Submitted by: Patrick Hollinger
Title: Territory Manager
E-mail: patrick.hollinger@otis.com

Accepted in Duplicate

CUSTOMER

Approved by Authorized Representative

Otis Elevator Company

Approved by Authorized Representative

Date: _____

Date: _____

Signed: _____

Signed: _____

Print Name: _____

Print Name: Steven Sorensen

Title _____

Title General Manager

E-mail: _____

Name of Company _____

Principal, Owner or Authorized Representative of Principal or Owner

Agent: _____
(Name of Principal or Owner)

TERMS AND CONDITIONS

1. This quotation is subject to change or withdrawal by us prior to acceptance by you.
 2. The work shall be performed for the agreed price plus any applicable sales, excise or similar taxes as required by law. In addition to the agreed price, you shall pay to us any future applicable tax imposed on us, our suppliers or you in connection with the performance of the work described.
 3. Payments shall be made as follows: A down payment of fifty percent (50 %) of the price shall be paid by you upon your signing of this document. Full payment shall be made on completion if the work is completed within a thirty day period. If the work is not completed within a thirty day period, monthly progress payments shall be made based on the value of any equipment ready or delivered, if any, and labor performed through the end of the month less a five percent (5%) retainage and the aggregate of previous payments. The retainage shall be paid when the work is completed. We reserve the right to discontinue our work at any time until payments shall have been made as agreed and we have assurance satisfactory to us that subsequent payments will be made when due. Payments not received within thirty (30) days of the date of invoice shall be subject to interest accrued at the rate of eighteen percent (18%) per annum or at the maximum rate allowed by applicable law, whichever is less. We shall also be entitled to reimbursement from you of the expenses, including attorney's fees, incurred in collecting any overdue payments.
 4. Our performance is conditioned upon your securing any required governmental approvals for the installation of any equipment provided hereunder and your providing our workmen with a safe place in which to work. Additionally, you agree to notify us if you are aware or become aware prior to the completion of the work of the existence of asbestos or other hazardous material in any elevator hoistway, machine room, hallway or other place in the building where Otis personnel are or may be required to perform their work. In the event it should become necessary to abate, encapsulate or remove asbestos or other hazardous materials from the building, you agree to be responsible for such abatement, encapsulation or removal, and in such event Otis shall be entitled to delay its work until it is determined to our satisfaction that no hazard exists and compensation for delays encountered if such delay is more than sixty (60) days. In any event, we reserve the right to discontinue our work in the building whenever in our opinion this provision is being violated.
 5. Unless otherwise agreed in writing, it is understood that the work shall be performed during our regular working hours of our regular working days. If overtime work is mutually agreed upon and performed, an additional charge therefore, at our usual rates for such work, shall be added to the contract price. The performance of our work hereunder is conditioned on your performing the preparatory work and supplying the necessary data specified on the front of this proposal or in the attached specification, if any. Should we be required to make an unscheduled return to your site to begin or complete the work due to your request, acts or omissions, then such return visits shall be subject to additional charges at our then current labor rates.
 6. Title to any material to be furnished hereunder shall pass to you when final payment for such material is received. In addition, we shall retain a security interest in all material furnished hereunder and not paid for in full. You agree that a copy of this Agreement may be used as a financing statement for the purpose of placing upon public record our interest in any material furnished hereunder, and you agree to execute a UCC -1 form or any other document reasonably requested by us for that purpose.
 7. Except insofar as your equipment may be covered by an Otis maintenance or service contract, it is agreed that we will make no examination of your equipment other than that necessary to do the work described in this contract and assume no responsibility for any part of your equipment except that upon which work has been done under this contract.
 8. Neither party shall be liable to the other for any loss, damage or delay due to any cause beyond either parties reasonable control, including but not limited to acts of government, strikes, lockouts, other labor disputes, fire, explosion, theft, weather damage, flood, earthquake, riot, civil commotion, war, mischief or act of God.
 9. We warrant that all services furnished will be performed in a workmanlike manner. We also warrant that any equipment provided hereunder shall be free from defects in workmanship and material. Our sole responsibility under this warranty shall be at our option to correct any defective services and to either repair or replace any component of the equipment found to be defective in workmanship or material provided that written notice of such defects shall have been given to us by you within ninety (90) days after completion of the work or such longer period as may be indicated on the front of this form. All defective parts that are removed and replaced by us shall become our property. We do not agree under this warranty to bear the cost of repairs or replacements due to vandalism, abuse, misuse, neglect, normal wear and tear, modifications not performed by us, improper or insufficient maintenance by others, or any causes beyond our control. We shall conduct, at our own expense, the entire defense of any claim, suit or action alleging that, without further combination, the use by you of any equipment provided hereunder directly infringes any patent, but only on the conditions that (a) we receive prompt written notice of such claim, suit or action and full opportunity and authority to assume the sole defense thereof, including settlement and appeals, and all information available to you for such defense; (b) said equipment is made according to a specification or design furnished by us; and (c) the claim, suit or action is brought against you. Provided all of the foregoing conditions have been met, we shall, at our own expense, either settle said claim, suit or action or shall pay all damages excluding consequential damages and costs awarded by the court therein and, if the use or resale of such equipment is finally enjoined, we shall, at our option, (i) procure for you the right to use the equipment, (ii) replace the equipment with equivalent noninfringing equipment, (iii) modify the equipment so it becomes noninfringing but equivalent, or (iv) remove the equipment and refund the purchase price (if any) less a reasonable allowance for use, damage and obsolescence.
- THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE 9 ARE THE EXCLUSIVE WARRANTIES GIVEN; WE MAKE NO OTHER WARRANTIES EXPRESS OR IMPLIED, AND SPECIFICALLY MAKE NO WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE; AND THE EXPRESS WARRANTIES SET FORTH IN THIS ARTICLE ARE IN LIEU OF ANY SUCH WARRANTIES AND ANY OTHER OBLIGATION OR LIABILITY ON OUR PART.
10. Under no circumstances shall either party be liable for special, indirect, liquidated, or consequential damages in contract, tort, including negligence, warranty or otherwise, notwithstanding any indemnity provision to the contrary. Notwithstanding any provision in any contract document to the contrary, our acceptance is conditioned on being allowed additional time for the performance of the Work due to delays beyond our reasonable control. Your remedies set forth herein are exclusive and our liability with respect to any contract, or anything done in connection therewith such as performance or breach thereof, or from the manufacture, sale, delivery, installation, repair or use of any equipment furnished under this contract, whether in contract, in tort (including negligence), in warranty or otherwise, shall not exceed the price for the equipment or services rendered.
 11. To the fullest extent permitted by law, you agree to hold us harmless, and defend us and indemnify us against any claim or suit for personal injury or property damage arising out of this contract unless such damage or injury arises from our sole negligence.
 12. It is agreed that after completion of our work, you shall be responsible for ensuring that the operation of any equipment being furnished hereunder is periodically inspected. The interval between such inspections shall not be longer than what may be required by the applicable governing safety code. Notwithstanding any other provisions hereof, if any part delivered hereunder incorporates software, the transaction is not a sale of such software; rather, you are hereby granted merely a license to use such software solely for operating the equipment for which such part was ordered. By accepting delivery of such part, you agree not to copy or let others copy such software for any purpose whatsoever, to keep such software in confidence as a trade secret, and not to transfer possession of such part to others except as a part of a transfer of ownership of the equipment in which such part is installed, provided that you inform us in writing about such ownership transfer and the transferee agrees in writing to abide by the above license terms.
 13. In furtherance of OSHA's directive contained in 29 C.F.R. § 1910.147(f)(2)(i), which requires that a service provider (an "outside employer") and its customer (an "on-site employer") must inform each other of their respective lock out/tag out ("LOTO") procedures whenever outside servicing personnel are to be engaged in control of hazardous energy activities on the customer's site, Otis incorporates by reference its mechanical LOTO procedures and its electrical LOTO procedures. These procedures can be obtained at www.otis.com by (1) clicking on "The Americas" tab on the left side of the website; (2) choosing "US/English" to take you to the "USA" web page; (3) clicking on the "Otis Safety" link on the left side of the page; and (4) downloading the "Lockout Tagout Policy Otis 6.0" and "Mechanical Energy Policy Otis 7.0," both of which are in .pdf format on the right side of the website page. Customer agrees that it will disseminate these procedures throughout its organization to the appropriate personnel who may interact with Otis personnel while Otis personnel are working on site at Customer's facility.
 14. This Agreement constitutes the entire understanding between the parties regarding the subject matter hereof and may not be modified by any terms on your order form or any other document, and supersedes any prior written or oral communication relating to the same subject. Any amendment or modifications to this Agreement shall not be binding upon either party unless agreed to in writing by an authorized representative of each party.

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: ADA restroom project at Boice Cope

TIMELY FILED Yes No 2/6/18

If No, justification to include with next BOC Meeting

AGENDA DATE^a: 2/14/2018 **DEPARTMENT:** Parks **TIME NEEDED:** 5 min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain:

CONTACT PERSON: Jay Trost **PHONE/EXT:** 3235 **TODAY’S DATE:** 2/6/18

BRIEF BACKGROUND OR NOTE: (If no memo attached)

FILES ATTACHED:

- (1) Lance Kessler Construction bid for project
- (2)
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

- 1. Confirmed Submitting Department’s finance-related responses Yes No N/A
Comment:
- 2. Confirmed Submitting Department’s personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS’ REQUEST TO ADD TO AGENDA:

- Commissioner Sue Gold Yes No
- Commissioner Thomas Huxley Yes No
- Commissioner Court Boice Yes No

Curry County Juvenile Department

94235 Moore Street, Suite 231
Gold Beach, Oregon 97444

Jonathan J. Trost, Director



Date: 02/06/2018

Re: Cover Letter for AGRS (ADA restroom project)

During the spring of 2017 the Curry County Parks was awarded a grant opportunity to update the restroom facilities at Boice Cope to meet ADA standards. This grant is for 150,000.00. This includes the county match of 25 % or \$37,500 that has been budgeted.

We have been actively searching bids with several contractors in the county and only one has responded. The reasons for the lack of bids range from not being willing to travel to Boice Cope and not having the time due to projects already being scheduled out 18 months in advance.

Kessler Construction has been working diligently on this bid, and came in at the budgeted amount. Attached is an architectural outline provided by Oregon State Parks of the building that we are proposing to build.

Please consider approving this bid so construction can begin before the shoulder season comes.

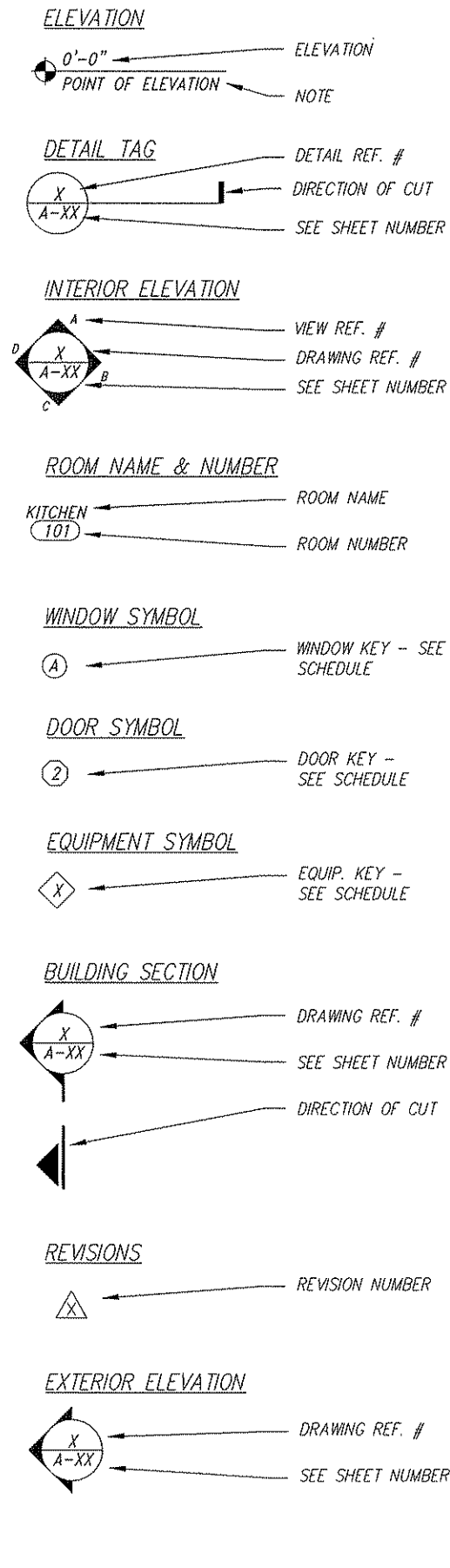
Respectfully submitted,

Jay Trost

ABBREVIATIONS

&	AND	FLASH'G.	FLASHING	U.	URINAL
@	AT	FLR.	FLOOR	UNF.	UNFINISHED
L	ANGLE	FLUOR.	FLUORESCENT	U.N.O. or	UNLESS NOTED OTHERWISE
A.B.	ANCHOR BOLT	F.O.C.	FACE OF CONCRETE	U.O.N.	UNIFORM BUILDING CODE
ACT.	ACOUSTIC	F.O.F.	FACE OF FRAMING	U.B.C.	UNIFORM BUILDING CODE
ADJ.	ADJUSTABLE	F.O.I.C.	FURNISHED BY OWNER, INSTALLED BY CONTRACTOR	Y.C.T.	VINYL COMPOSITION TILE
A.F.F.	ABOVE FINISHED FLOOR	F.O.M.	FACE OF MASONRY	VERT.	VERTICAL
AGGR.	AGGREGATE	F.O.S.	FACE OF STUD	VEST.	VESTIBULE
ALUM.	ALUMINUM	FRM'G.	FRAMING	V.P.	VENER PLASTER
APPROX.	APPROXIMATE	FT. or'	FOOT or FEET	V.T.R.	VENT THRU ROOF
ARCH.	ARCHITECT(URAL)	FTG.	FOOTING	W.	WIDTH
ASB.	ASBESTOS	FURN.	FURNISH	W/	WITH
A.C.	ASPHALT CONCRETE	FURR.	FURRING	W.C.	WATER CLOSET
AVG.	AVERAGE	GA.	GAUGE	WCT.	WAINSCOT
BD.	BOARD	GALV.	GALVANIZED	WD.	WOOD
BITUM.	BITUMINOUS	GEN'L.	GENERAL	W.I.	WROUGHT IRON
BLDG.	BUILDING	GL.	GLASS	W/O	WITHOUT
BLK.	BLOCK	G.L.B.	GLU-LAM BEAM	WP.	WATERPROOF
BLKG.	BLOCKING	GND.	GROUND	W.R.	WATER RESISTANT
BLT-IN	BUILT-IN	GR.	GRADE	WSR.	WASHER
BM.	BEAM	G.S.M.	GALVANIZED SHEET METAL	WT.	WEIGHT
BOT.	BOTTOM	G.W.B.	GYPSTUM BOARD	W.W.F.	WELDED WIRE FABRIC
BRK.	BRICK	G.W.X.	GYPSTUM BOARD (TYPE X)	PLYWD.	PLYWOOD
CAB.	CABINET	H.B.	HOSE BIBB	P.M.	PROJECT MANAGER
C.B.	CATCH BASIN	H.C.	HOLLOW CORE	PR.	PAIR
CEM.	CEMENT	HDBD.	HARDBOARD	P.T.	PRESERVATIVE TREATED
CER.	CERAMIC	HDP.C.	HIGH DENSITY POLYETHYLENE	PTH.	PARTITION
CG.	CORNER GUARD	HDR.	HEADER	PVC.	POLYVINYL CHLORIDE
C.I.	CAST IRON	HOWD.	HARDWOOD	Q.T.	QUARRY TILE
C.J.	CONTROL JOINT	HOWR.	HARDWARE	QTY.	QUANTITY
CLG.	CEILING	H.M.	HOLLOW METAL	R.	RISER
C.L.	CENTER LINE	HORIZ.	HORIZONTAL	RAD.	RADIUS
CLO.	CLOSET	H.R.	HANDRAIL	R.C.P.	REFLECTED CEILING PLAN
CLR.	CLEAR	HT.	HEIGHT	REDWD.	REDWOOD
C.M.U.	CONC. MASONRY UNIT	H.W.	HOT WATER	REF.	REFERENCE
CNTR.	COUNTER	HGR.	HANGER	REFR.	REFRIGERATOR
COL.	COLUMN	I.D.	INSIDE DIAMETER	REINF.	REINFORCE
CONC.	CONCRETE	IN. or"	INCH(ES)	REQ'D	REQUIRED
CONH.	CONNECTION	INSUL.	INSULATION	RESIL.	RESILIENT
CONT.	CONTINUOUS	INT.	INTERIOR	REV.	REVISION
CONTR.	CONTRACTOR	JAN.	JANITOR	R.D.	ROOF DRAIN
CONST.	CONSTRUCTION	JT.	JOINT	RGTR.	REGISTER
CORR.	CORRIDOR	JTS.	JOISTS	R.S.	ROUGH SAWN
C.T.	CERAMIC TILE	KIT.	KITCHEN	R.O.	ROUGH OPENING
CPT.	CARPET	LAB.	LABORATORY	RM.	ROOM
CYR.	CENTER	LAM.	LAMINATE	SCH.	SCHEDULE
CTSK.	COUNTERSUNK	LAV.	LAVATORY	S.C.	SOLID CORE
C.W.	COLD WATER	LB. or #	POUND	SECT.	SECTION
C.Y.	CUBIC YARD	LIN.	LINEAR	S.F.	SQUARE FOOT
		LTG.	LIGHTING	SHR.	SHOWER
		MAT'L.	MATERIAL	SHT.	SHEET
		MAX.	MAXIMUM	SHTG.	SHEATHING
		MECH.	MECHANICAL	SIM.	SIMILAR
		MEMB.	MEMBRANE	SPEC(S).	SPECIFICATION(S)
		MFR.	MANUFACTURE	S.P.F.	SPRUCE/PINE/FIR (PRE-PRIMED)
		M.H.	MANHOLE	SO.	SQUARE
		MIN.	MINIMUM	S.S.	STAINLESS STEEL
		MISC.	MISCELLANEOUS	STA.	STATION
		M.O.	MASONRY OPENING	STD.	STANDARD
		MTD.	MOUNTED	STL.	STEEL
		MTL.	METAL	STOR.	STORAGE
		MULL.	MULLION	SUSP.	SUSPENDED
				S.V.	SHEET VINYL
				S.W.	SIDEWALK
				SYM.	SYMMETRICAL
				SYS.	SYSTEM
EA.	EACH	(N)	NEW	T.	TREAD
(E) OR EXIST.	EXISTING	NAT.	NATURAL	T.& B.	TOP AND BOTTOM
EQ.	EQUAL	N.I.C.	NOT IN CONTRACT	T.C.	TOP OF CURB
EQUIP.	EQUIPMENT	NO. or #	NUMBER	TEL.	TELEPHONE
ELEC.	ELECTRIC	NOM.	NOMINAL	TEMP.	TEMPERATURE
ELEV. or EL.	ELEVATION	N.T.S.	NOT TO SCALE	TER.	TERRAZZO
EMER.	EMERGENCY	OBS.	OBSCURE	T.&G.	TONGUE AND GROOVE
ENCL.	ENCLOSURE	O.C.	OH CENTER	THK.	THICK
E.P.	ELECTRICAL PANELBOARD	O.D.	OUTSIDE DIAMETER	T.O.	TOP OF
E.W.C.	ELEC. WATER COOLER	O.H.	OVER HANG	T.O.C.	TOP OF CONCRETE
EXT.	EXTERIOR	O.F.S.	OVERFLOW SCUPPER	T.O.G.	TOP OF GYPSUM CONCRETE
		O.M.C.	OPTIMUM MOISTURE CONTENT	T.O.P.	TOP OF PARAPET
F.A.	FIRE ALARM	OPN'G.	OPENING	T.O.S.	TOP OF SLAB
FAB.	FABRICATE	OPP.	OPPOSITE	TLT.	TOILET
F.D.	FLOOR DRAIN	O.S.B.	ORIENTED STRAND BOARD	T.P.	TOP OF PAVEMENT
FDN.	FOUNDATION	O.S.S.C.	OREGON STRUCTURAL SPECIALTY CODE	T.V.	TELEVISION
F.E.	FIRE EXTINGUISHER	PART. BD.	PARTICLE BOARD	T.W.	TOP OF WALL
F.E.C.	FIRE EXTINGUISHER CAB.	P.L.	PLASTIC LAMINATE	TYP.	TYPICAL
F.F.E.	FINISHED FLOOR ELEVATION	PL.	PLATE		
FIN.	FINISH	PLAST.	PLASTER		
		PLBG.	PLUMBING		

SYMBOLS KEY



BUILDING AREAS, SITE AND CODE INFORMATION

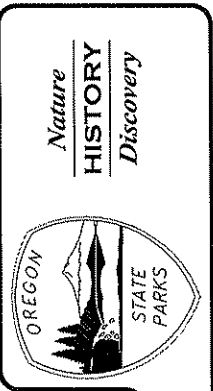
SITE ELEVATION: VARIES, SEE SITE PLANS
 SEISMIC ZONE: REFER TO STRUCTURAL CALCULATIONS
 CLIMATE ZONE: 1
 OCCUPANCY CLASSIFICATION: B
 TYPE OF CONSTRUCTION: IBC V-B

BUILDING AREA CALCULATIONS (TYPE 6-4b RESTROOM/SHOWER):
 ENCLOSED AREA: 825 S.F.
 EXTERIOR COVERED AREA: 344 S.F.
 TOTAL: 1,169 S.F.

GENERAL NOTES

- ALL CONSTRUCTION SHALL CONFORM TO THE APPLICABLE ADDITION OF THE OREGON STRUCTURAL SPECIALTY CODE (O.S.S.C.), INTERNATIONAL AND UNIFORM BUILDING CODES, UNIFORM MECHANICAL AND ELECTRICAL CODES, AND ANY OTHER CODE OR REGULATION USED BY THE LOCAL PERMITTING AUTHORITY.
- THE CONTRACTOR IS SOLELY RESPONSIBLE FOR ALL CONSTRUCTION MEANS AND METHODS AND SHALL MAINTAIN THE STRUCTURAL INTEGRITY OF ANY CONSTRUCTION UNTIL ALL FINAL SYSTEMS ARE COMPLETED.
- CONTRACTOR TO VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS. DO NOT SCALE THE DRAWINGS. THE CONTRACTOR SHALL FIELD VERIFY ALL CONDITIONS AND DIMENSIONS PRIOR TO PROCEEDING WITH ANY WORK. IN CASE OF A DISCREPANCY, CONTACT THE OWNER'S REPRESENTATIVE FOR INSTRUCTIONS.
- THE CONTRACTOR SHALL NOT BACKFILL ANY UTILITY TRENCHES OR COVER ANY WORK UNTIL INSPECTIONS HAVE BEEN DONE BY THE PERMITTING AUTHORITY AND THE OWNER.
- DRAWING DIMENSIONS ARE TO FACE OF FRAMING, CONCRETE AND MASONRY OR CENTER OF FRAMING, CONCRETE AND MASONRY UNLESS NOTED OTHERWISE.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE COMPLETE SAFETY AND SECURITY OF THE SITE WHILE THE JOB IS IN PROGRESS AND UNTIL JOB COMPLETION.
- INSTALL ALL ACCESSORIES, EQUIPMENT, FIXTURES, ETC. IN STRICT ACCORDANCE W/ MFR. RECOMMENDATIONS AND INSTRUCTIONS.
- LOCATE ALL EXISTING UTILITIES BEFORE BEGINNING ANY WORK. CONTRACTOR TO REPAIR ANY DAMAGE TO UTILITIES CAUSED BY THEIR ACTIVITIES AT NO ADDITIONAL COST TO THE OWNER.
- WHERE A DIFFERENCE BETWEEN OR WITHIN THE PLANS AND SPECIFICATIONS OCCUR, THE MOST STRINGENT REQUIREMENT OR BETER QUALITY PRODUCT SHALL GOVERN.

BY:	
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DESIGNED BY:	SMS
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	05-14-10
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GENERAL INFORMATION
 CAMPGROUND IMPROVEMENTS
 HUMBUG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT



SHEET:	A-02
FILE:	
RR TYPE 6-4b ARCH.DWG	

STRUCTURAL NOTES

THESE NOTES SHALL STIPULATE THE MINIMUM STANDARDS OF CONSTRUCTION, AND THE DRAWINGS SHALL GOVERN OVER THE NOTES IN ALL MATTERS SPECIFICALLY STATED. VERIFY DIMENSIONS AND EXISTING CONDITIONS, AND NOTIFY ARCHITECT OR ENGINEER OF DISCREPANCIES BEFORE PROCEEDING. THE CONTRACTOR IS RESPONSIBLE FOR SAFE CONDITIONS AT THE JOBSITE, AND FOR TEMPORARY SUPPORT OF THE BUILDING PRIOR TO THE COMPLETION OF THE VERTICAL AND LATERAL LOAD SYSTEMS.

CODES:

ALL WORK TO COMPLY WITH THE STATE OF OREGON STRUCTURAL SPECIALTY CODE (O.S.S.C.), APPLICABLE EDITION USED BY THE LOCAL PERMITTING AUTHORITY AND LOCAL RULES, REGULATIONS AND STANDARDS.

DESIGN LOADS:

ROOF LIVE LOAD = 25 PSF
 GROUND SNOW LOAD = 25 PSF
 MINIMUM ROOF SNOW LOAD = 25 PSF W/ DRIFTING PER IBC
 FLAT ROOF SNOW LOAD, P_f = (NOT APPLICABLE)
 SNOW EXPOSURE FACTOR, C_e = 0.9
 SNOW LOAD IMPORTANCE FACTOR, I_s = 1
 THERMAL FACTOR, C_t = 1.0
 WIND SPEED = 100 MPH (3 SECOND GUST, CODES: 2007 OSSC, ASCE 7-05)
 SPECIALTY CODE DESIGN PROVISIONS.

WIND IMPORTANCE FACTOR, I_w = 1
 SEISMIC DESIGN CATEGORY D AND SITE CLASS D
 SEISMIC IMPORTANCE FACTOR, I_e = 1
 MAPPED SPECTRAL RESPONSE ACCELERATIONS S_s = 1.121 AND S_1 = 0.456
 SPECTRAL RESPONSE COEFFICIENTS S_{ds} = 0.786 AND S_{d1} = 0.469
 BASIC SEISMIC-FORCE RESISTING SYSTEM: BEARING WALL SYSTEM WITH LIGHT FRAMED WALLS WITH WOOD SHEAR PANELS
 SEISMIC RESPONSE COEFFICIENT, C_s = 0.131
 RESPONSE MODIFICATION FACTOR, R = 6
 ANALYSIS PROCEDURE USED: EQUIVALENT LATERAL FORCE PROCEDURE

FOOTING DESIGN SOIL PRESSURE = 1500 PSF TOTAL LOAD MAXIMUM BEARING PRESSURE.

COORDINATE LOADS OF MECHANICAL EQUIPMENT, SPRINKLER SYSTEMS AND LOADS FROM OTHER TRADES NOT SHOWN ON THE STRUCTURAL DRAWINGS. LOADS OF GREATER THAN 100 POUNDS SHALL BE SUPPORTED VIA AN APPROVED SUPPORT DEVICE. PROVIDE ADDITIONAL FRAMING MEMBERS TO TRANSFER LOADS TO MAIN BEAMS, GIRDERS OR COLUMNS/WALLS FOR ALL LOADS IN EXCESS OF 250 POUNDS UNLESS APPROVED BY ENGINEER.

CARPENTRY:

1. REFERENCE SPECIFICATION - OSSC CHAPTER 23.
2. LUMBER - DOUGLAS FIR WITH 19% MOISTURE CONTENT AT TIME OF FABRICATION. ALL WOOD IN CONTACT WITH CONCRETE, MASONRY OR EXPOSED TO WEATHER TO BE PRESSURE PRESERVATIVE TREATED. GRADES AS FOLLOWS (UNLESS NOTED OTHERWISE ON PLANS):
 - A. POSTS, BEAMS, JOISTS AND RAFTERS - D.F. NO. 2 AND BETTER.
 - B. STUDS - D.F. NO. 2 AND BETTER.
 - C. PLATES AND SILLS - D.F. STANDARD AND BETTER.
 - D. BLOCKING - D.F. UTILITY GRADE.
 - E. 2"x6" T&G DECKING - DOUGLAS FIR COMMERCIAL GRADE (SELECT OR APPEARANCE GRADE IF EXPOSED).
 - F. DIAGONAL BRACING - D.F. NO. 2 AND BETTER
3. SHEATHING - D.F. APA RATED CDX PLYWOOD WITH WATERPROOF GLUE FOR EXTERIOR APPLICATIONS:
 - A. ROOF SHEATHING - APA 32/16, THICKNESS AND NAILING PER PLANS.
 - B. FLOOR SHEATHING - APA 48/24, THICKNESS AND NAILING PER PLANS.
 - C. WALL SHEATHING - APA 24/0, THICKNESS AND NAILING PER PLANS.
4. ADHESIVE FOR FIELD GLUING PANELS TO FRAMING SHALL COMPLY WITH APA AFG-01 AND APPROVED FOR TYPE OF PANEL USE.
5. CONNECTIONS - SIMPSON STRONG-TIE OR APPROVED, HOT DIP GALVANIZED STEEL OR WHEN IN CONTACT W/ WOOD PRESERVATIVE TREATED LUMBER: "Z-MAX" (G-185) OR #316 STAINLESS STEEL.
6. FRAMING - PER INDUSTRY AND CODE STANDARDS FOR ALL DETAILS NOT SHOWN.
7. DRYING - PRIOR TO INSTALLATION OF GYPSUM WALL BOARD OR FINISH CARPENTRY, DRY COMPLETELY TO A MAXIMUM MOISTURE CONTENT OF 15%.
8. NAILING - USE COMMON WIRE NAILS OR EQUIVALENT PNEUMATICALLY DRIVEN NAILS (P-NAILS), AS INDICATED BELOW. PROVIDE MINIMUM NAILING PER OSSC TABLE 2304.9.1 UNLESS NOTED OTHERWISE ON PLANS.
9. PROVIDE SOLID BLOCKING FOR JOIST AND RAFTERS AT ALL BEARING WALLS AND BEAMS. PROVIDE BRIDGING AND FIRE STOPPING AS REQUIRED BY CODE.

COMMON WIRE NAIL	PNEUMATIC NAIL DIAMETER	MINIMUM NAIL LENGTH	NAIL APPLICATION
20D COMMON	N/A	4"	3X DECKING
16D COMMON	0.148"~ P-NAIL	3-1/4"	SOLE PLATE
16D COMMON	0.148"~ P-NAIL	3-1/4"	GEN. FRAMING
10D COMMON	0.148"~ P-NAIL	2-1/2"	WALL SHEATHING
10D COMMON	0.148"~ P-NAIL	2-1/2"	FLOOR SHEATHING
8D COMMON	0.131"~ P-NAIL	2-1/2"	ROOF SHEATHING
8D, 10D OR 16D	N/A	2-1/8"	STRAPS (SEE PLANS)

CONCRETE:

THE ACI STANDARD SPECIFICATION FOR STRUCTURAL CONCRETE FOR BUILDINGS ACI-301 SHALL BE FOLLOWED FOR ALL ITEMS NOT SPECIFICALLY COVERED ON THE DRAWINGS AND SPECIFICATIONS.

PROVIDE CONTROL JOINTS FOR CONCRETE SLABS ON GRADE IN ACCORDANCE WITH DETAILS AND SPACING SHOWN ON DRAWINGS. WHERE SPACING INFORMATION IS LACKING, SPACE JOINTS AT A MAXIMUM OF 10 FEET IN EACH DIRECTION.

CONCRETE HANDLING, PLACEMENT AND CURING SHALL BE IN ACCORDANCE WITH THE SPECIFICATIONS OF ACI-301 IF NOT OTHERWISE NOTED.

CONCRETE MIX REQUIREMENTS:

MIX CONCRETE IN ACCORDANCE WITH ASTM C94.

DELIVERY TICKETS OF CONCRETE DELIVERED SHALL INCLUDE DOCUMENTATION OF ALL WATER IN THE BATCHING MIX, AND ALL WATER ADDED AT THE JOBSITE.

FOR CONCRETE EXPOSED TO FREEZE-THAW CYCLING, ADD AIR ENTRAINING AGENT TO MIX TO PRODUCE 5 PERCENT AIR ENTRAINMENT, WITH TOLERANCE OF PLUS/MINUS 1 PERCENT AT DELIVERY.

FLY ASH CONFORMING TO ASTM C618 MAY BE USED TO REPLACE UP TO 20 PERCENT OF THE REQUIRED CEMENT CONTENT.

FOOTINGS, STEM WALLS, AND OTHER CONCRETE:

MAXIMUM SLUMP OF 4 INCHES AT POINT OF PLACEMENT. IF A WATER REDUCING ADMIXTURE CONFORMING TO ASTM C494 TYPE "A" IS USED, SLUMP PLACEMENT SHALL FALL WITHIN THE RANGES NOTED IN THE TABLE BELOW. ADMIXTURE SHALL NOT CONTAIN CALCIUM CHLORIDE AND SHALL BE CONSIDERED AS PART OF THE TOTAL MIXING WATER.

SLAB ON GRADE:

CONCRETE MIXTURE SHALL INCLUDE A MID-RANGE WATER REDUCING ADMIXTURE CONFORMING TO ASTM C494 TYPE "A" WHICH SHALL BE USED TO ADJUST THE SLUMP AT PLACEMENT TO A RANGE OF 4 TO 6 INCHES WHILE MAINTAINING WATER TO CEMENT RATIOS NOTED IN THE TABLE BELOW. ADMIXTURE SHALL NOT CONTAIN CALCIUM CHLORIDE AND SHALL BE CONSIDERED AS PART OF THE TOTAL MIXING WATER.

CONCRETE ELEMENT	MINIMUM COMPRESSIVE STRENGTH (28 DAYS)	MINIMUM CEMENT CONTENT	MAXIMUM WATER TO CEMENT RATIO	MAXIMUM SLUMP USING WATER REDUCER
FOOTINGS, STEM WALLS, AND OTHER CONCRETE	3000 PSI	470 LBS/C.Y.	0.55 W/O AIR 0.50 W/ AIR	4 TO 6 INCHES
SLAB ON GRADE	3,500 PSI	520 LBS/C.Y.	0.45 W/O AIR 0.40 W/ AIR	4 TO 6 INCHES

FOUNDATIONS:

FOOTINGS SHALL BEAR ON FIRM UNDISTURBED SOIL OR PROPERLY COMPACTED ENGINEERED FILL PLACED OVER PROPERLY PREPARED SUB-GRADES. THE BEARING HORIZON OF FOOTING SHALL BE LOCATED 18 INCHES MINIMUM BELOW THE TOP OF THE INTERIOR FLOOR SLABS (INTERIOR FOOTINGS MAY NEED TO BE THICKER TO ACCOMMODATE HOLDOWN ANCHORS) OR 18 INCHES BELOW ADJACENT EXTERIOR GRADE.

DO NOT EXCAVATE CLOSER THAN 1-1/2 HORZ. TO 1 VERT. SLOPE BELOW BOTTOM OF FOOTING. BACKFILL ALL PIPE TRENCH AND OTHER EXCAVATIONS BELOW FOOTINGS AND SLABS WITH MATERIAL SUITABLE FOR COMPACTING. COMPACT FILL TO 90% OF MODIFIED PROCTOR DRY DENSITY (ASTM D1557 OR ASSHTO T-180) BELOW 2 FEET FROM SURFACE, AND TO 95% AT THE UPPER 2 FEET.

INSTALL ALL SITE FILLS UNDER STRUCTURAL ELEMENTS IN ACCORD WITH REQUIREMENTS OF SPECIFICATIONS. WHERE NOT OTHERWISE NOTED, COMPACT TO DENSITY OF 95% OF MODIFIED PROCTOR DRY DENSITY (ASTM D1557 OR ASSHTO T-180) IN LIFTS NOT TO EXCEED 8 INCH THICKNESS. PROVIDE 4 INCH MINIMUM THICKNESS COMPACTED GRANULAR BASE UNDER CONCRETE SLAB ON GRADE AND INCREASE WHERE NOTED.

PLYWOOD ROOF DIAPHRAGM

PLYWOOD TO BE 5/8" EXTERIOR GRADE WITH MINIMUM PANEL INDEX OF 32/16. LAY PANELS WITH FACE GRAIN PERPENDICULAR TO SUPPORTS AND WITH ENDS OF PANELS STAGGERED 48". FASTEN PANELS WITH 10d COMMON NAILS OR .148 P-NAILS AT 4"O.C. AT ALL DIAPHRAGM BOUNDARIES & BLOCKINGS & AT 4" O.C. AT PANELS SUPPORTED ENDS, BEAMS AND GIRDERS & AT 10"O.C. AT INTERMEDIATE SUPPORTS.

GLULAM WOOD MEMBERS:

GLUE LAMINATED BEAMS SHALL BE ARCHITECTURAL APPEARANCE GRADE WHERE EXPOSED, AND INDUSTRIAL APPEARANCE GRADE WHERE CONCEALED, DOUGLAS FIR COMPLYING WITH CURRENT AITC 117 DESIGN STANDARD. FIBER STRESS IN BENDING SHALL BE F_b = 2400 PSI FOR BEAMS 15 INCHES AND DEEPER, AND F_b = 2000 PSI FOR BEAMS 13 1/2 INCHES DEEP AND LESS. F_v SHALL BE EQUAL TO 165 PSI. GLUE SHALL BE OF A WATERPROOF TYPE. MULTIPLE AND CANTILEVER SPAN BEAMS SHALL HAVE FULL STRESS CAPACITY AT TOP OF BEAM WHERE TOP IS STRESSED IN TENSION, AND SHALL BE COMBINATION 24F-V8 OR 20F-V8 ACCORDING TO DEPTH NOTED PREVIOUSLY. PROVIDE STANDARD CAMBER OF 2000 FOOT RADIUS FOR BEAMS NOT OTHERWISE NOTED.

CONCRETE REINFORCING STEEL:

REBAR SHALL CONFORM TO ASTM A615 GRADE 60. BARS OF #4 AND SMALLER SIZE MAY BE GRADE 40. WELDED WIRE MESH SHALL CONFORM TO ASTM A-185. PLACE AND SECURE ALL BARS PER ACI STANDARDS, AND MAINTAIN SPACING AND CLEARANCE REQUIREMENTS.

MINIMUM CONCRETE COVER SHALL BE PROVIDED FOR REINFORCEMENT AS FOLLOWS:

- CONCRETE CAST AGAINST AND PERMANENTLY EXPOSED TO EARTH... 3"
- CONCRETE EXPOSED TO EARTH OR WEATHER
 - No. 6 THROUGH No. 18 BAR..... 2"
 - No. 5 BAR, W31 OR D31 WIRE, AND SMALLER..... 1-1/2"
- CONCRETE NOT EXPOSED TO WEATHER OR IN CONTACT WITH GROUND SLABS, WALLS, JOIST:
 - No. 11 BAR AND SMALLER..... 3/4"
- BEAMS, COLUMNS:
 - PRIMARY REINFORCEMENT, TIES, STIRRUPS, SPIRALS..... 1-1/2"

FOR GRADE 40 REINFORCING, LAP SPLICE ALL CONTINUOUS BARS A MINIMUM OF 36 BAR DIAMETERS. FOR GRADE 60 BARS - SEE SCHEDULE BELOW

FY = 60 KSI	LAP SPLICE SCHEDULE			
	3000 PSI		4000 PSI	
SIZE	CASE 1	CASE 2	CASE 1	CASE 2
#6 AND SMALLER	44 d _b	66 d _b	38 d _b	57 d _b
#7 AND LARGER	54 d _b	82 d _b	47 d _b	71 d _b

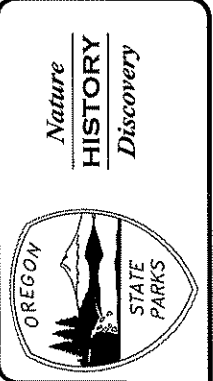
- NOTES: CASES 1 AND 2 ARE DEFINED AS FOLLOWS (d_b = BAR DIAMETER)
- BEAMS OR COLUMNS: CASE 1: COVER > d_b AND O/C SPACING ≥ 2 d_b
 - CASE 2: COVER < d_b OR O/C SPACING < 2 d_b
 - ALL OTHER ITEMS: CASE 1: COVER > d_b AND O/C SPACING ≥ 3 d_b
 - CASE 2: COVER < d_b OR O/C SPACING < 3 d_b

FOR TOP BARS MULTIPLY LAP LENGTH ABOVE BY 1.3. TOP BARS ARE HORIZONTAL BARS WITH MORE THAN 12" OF CONCRETE CAST BELOW THE BARS.

DOUBLE BARS IN ALL WALLS AROUND OPENINGS EXTENDING THE LAP DISTANCE BEYOND OPENING, MINIMUM. PROVIDE CORNER BARS OF SIZE AND SPACING TO MATCH HORIZONTAL BARS AT ALL INTERIOR SECTIONS OF WALLS AND FOOTINGS. PROVIDE FOOTING DOWELS OF SIZE AND SPACING TO MATCH VERTICAL BARS IN WALLS AND COLUMNS. PROVIDE (2) #4 X 4'-0" DIAGONAL BARS AT ALL RE-ENTRANT CORNERS IN SLABS.

BY	
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REVISION	

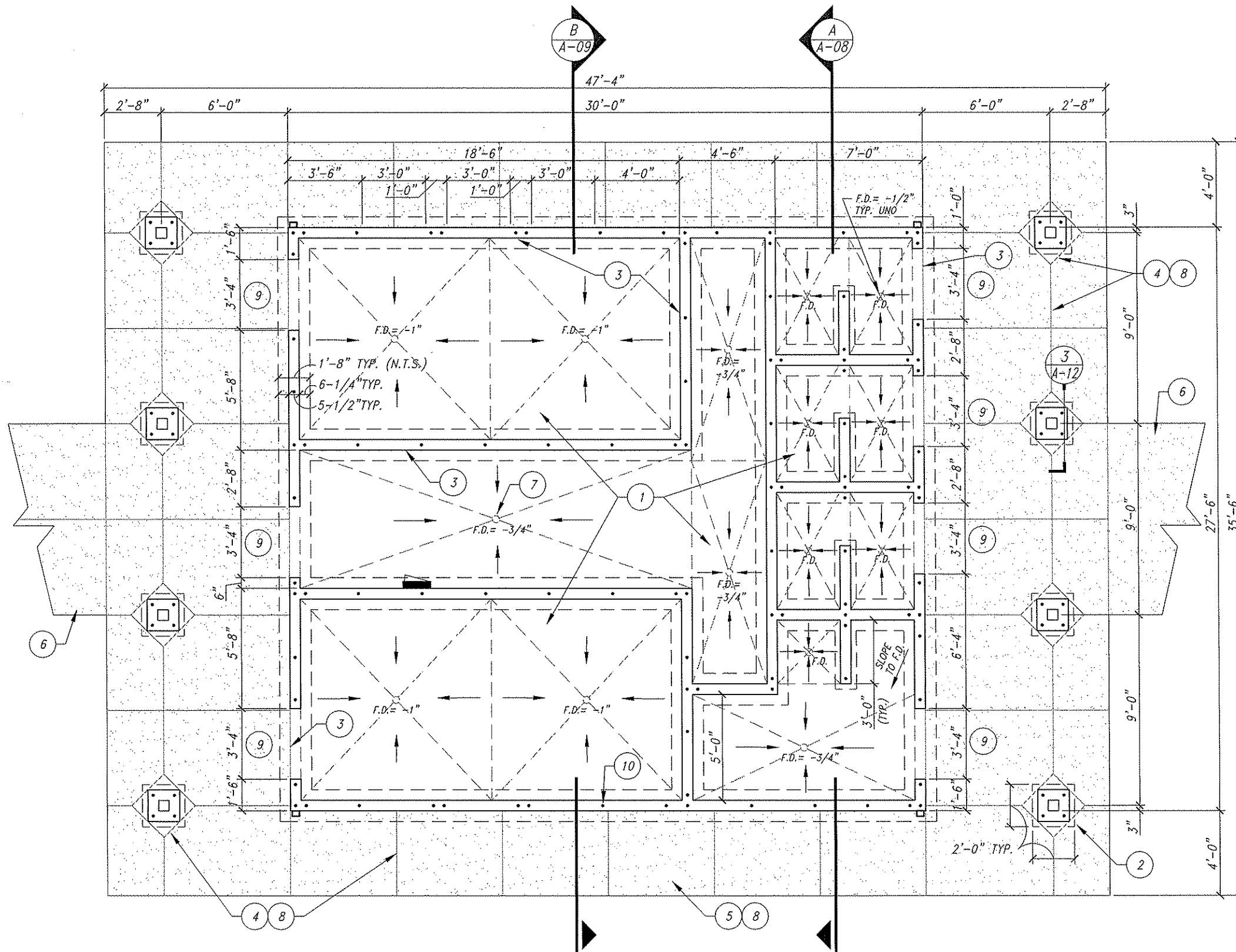
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STRUCTURAL NOTES, TYPICAL MASONRY DETAILS
 CAMPGROUND IMPROVEMENTS
 HUMBUG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT



SHEET:	A-03
FILE:	RR TYPE 6-4b ARCH.DWG

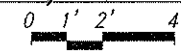


FOUNDATION PLAN NOTES:
(TYPICAL U.N.O.)

TYPICAL CONC. SLAB CONST:

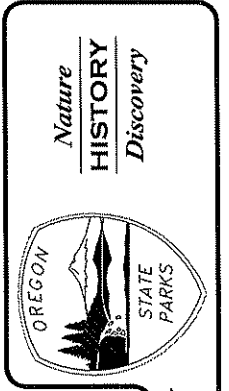
- 1) a) 4" THICK W/ 6"x6" 10/10 W.W.F. IN CENTER OF SLAB ON APPROVED SUPPORTS OVER 2" SAND OVER VAPOR BARRIER OVER 4" COMPACTED 3/4"-0 CRUSHED ROCK BASE
 b) CONSTRUCT W/ 1% MIN. SLOPES TO FLOOR DRAINS
 c) DEPRESS CONC. FLOOR FOR THICKNESS OF CERAMIC TILE SYSTEM WHERE INDICATED ON FINISH SCHEDULE, BUILDING SECTIONS AND INTERIOR ELEVATIONS
 d) FINISH: STEEL TROWELED, SMOOTH
 e) COORDINATE W/ PLUMBING AND ELECTRICAL CONTRACTORS FOR UNDERGROUND PIPING AND CONDUIT WORK
- 2) 24"x24"x10" COLUMN FOOTING W/ #4 BOT. BARS @ 8" O.C. EA. WAY, SEE DETAIL 3/A-12
- 3) F.F.E. @ SLAB PERIMETER = SIDEWALK ELEV. @ ENTRY DOOR, SEE CIVIL SITE PLAN FOR SIDEWALK ELEV. & DETAIL 1/A-13
- 4) CRACK CONTROL JOINTS @ 5' O.C. (±) AND AS OTHERWISE SHOWN
- 5) 4" THICK SIDEWALK SLAB W/ 6"x6" 10/10 W.W.F. IN CENTER OF SLAB ON APPROVED SUPPORTS OVER 4" COMPACTED 3/4"-0 CRUSHED ROCK BASE, CONSTRUCT W/ STEEL TROWELED, MEDIUM BROOM FINISH AND 1% MIN. TO 2% MAX. SLOPE AWAY FROM BUILDING EXTERIOR WALL
- 6) PATH PAVING, REFER TO CIVIL SITE PLANS FOR ADDITIONAL INFORMATION
- 7) FLOOR DRAIN, VERIFY REQUIREMENTS W/ PLUMBING FIXTURE MFR.
- 8) CONFIRM EXACT LAYOUT W/ P.M.
- 9) VERIFY R.O. W/ DOOR MFR. REQUIREMENTS
- 10) VERTICAL REINFORCEMENT, SEE BUILDING SECTION FOR ADDITIONAL INFORMATION

FOUNDATION PLAN TYPE 6-4b RESTROOM/SHOWER
SCALE: 3/16"=1'-0"



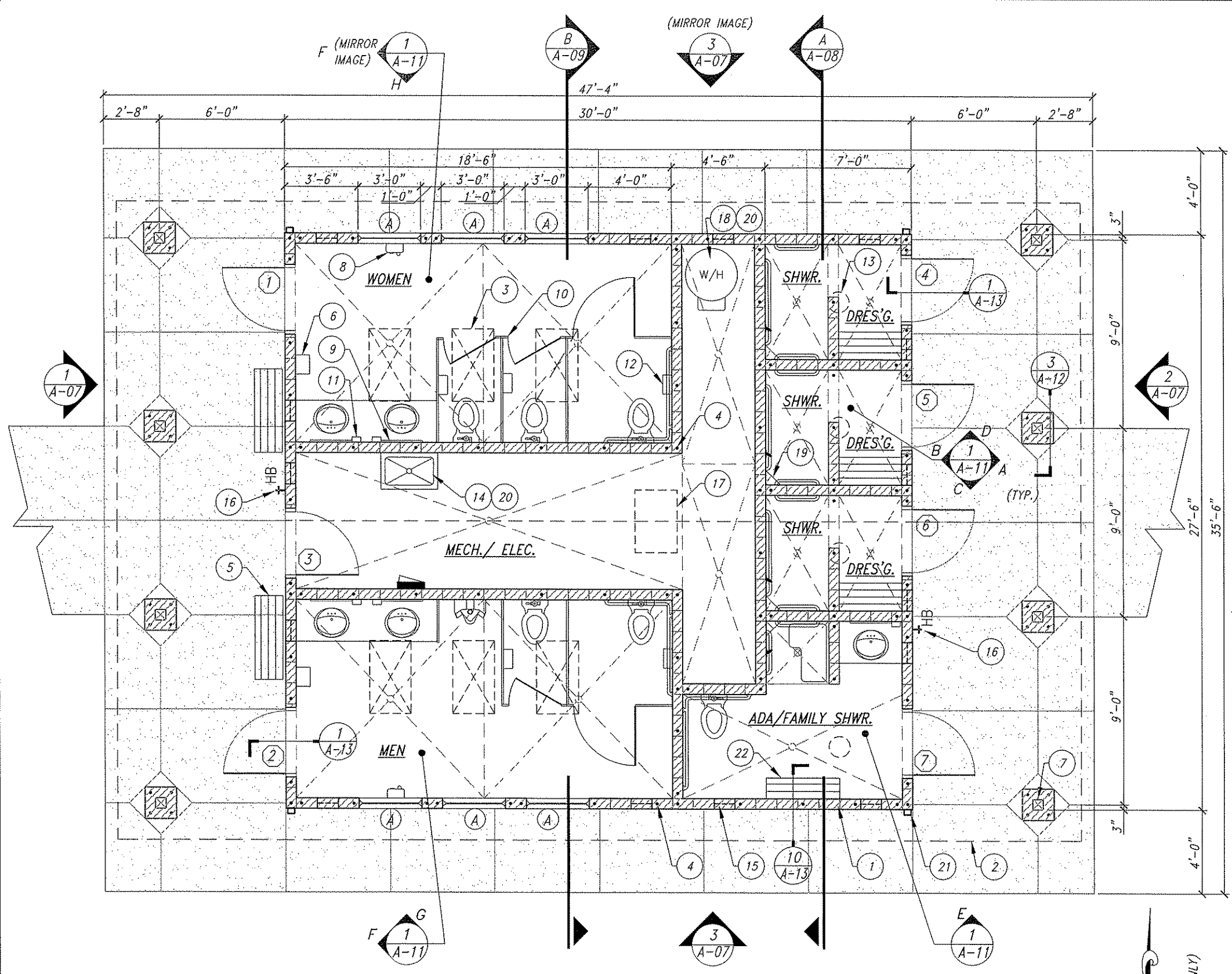
REVISION	DATE	BY

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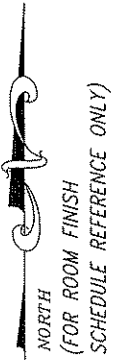
FOUNDATION PLANS
CAMPGROUND IMPROVEMENTS
HUMBUG MOUNTAIN STATE PARK
OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-04
FILE:	RR TYPE 6-4b ARCH.DWG



- FLOOR PLAN NOTES:**
(TYPICAL U.N.O.)
- 1 STRUCTURAL BRICK WALL: a) "KLA-ALL TILE", 6" NOMINAL WIDTH, STRUCTURAL CLAY UNITS AS MANUFACTURED BY MUTUAL MATERIALS (www.mutualmaterials.com), COLOR AND TEXTURE AS SELECTED BY OWNER
 - 2 ROOF O.H. LINE
 - 3 OPERABLE SKYLIGHT ABOVE
 - 4 VERTICAL REINFORCEMENT, SEE BUILDING SECTION FOR ADDITIONAL INFORMATION
 - 5 NEW 4' BENCHES INSTALLED/ANCHORED TO CONCRETE SIDEWALK W/ 1/2"x2-1/2" GALVANIZED EXPANSION BOLTS W/ WASHERS, INSIDE OREGON ENTERPRISES MODEL #702-056-009 (W/ 4' CUSTOM LENGTH, GALVANIZED STL. SUPPORTS W/ CLEAR CEDAR BOARDS) OR APPROVED EQUAL (www.insideoregon.com, PHONE: 1-800-776-7712)
 - 6 PAPER TOWEL DISPENSER (O.F.I.C.)
 - 7 6X6 POST AND MASONRY PIER
 - 8 HAND DRYER
 - 9 MIRROR
 - 10 TOILET PARTITIONS
 - 11 SOAP DISPENSER (O.F.I.C.)
 - 12 TOILET PAPER DISPENSER
 - 13 TUBULAR SKYLIGHT
 - 14 UTILITY SINK, SEE NOTE 1d ON SHEET A-11 FOR ADDITIONAL INFORMATION
 - 15 WALL VENT, SEE EXTERIOR ELEVATIONS
 - 16 RECESSED WALL HYDRANT (HOT & COLD), WOODFORD MODEL HCB67
 - 17 24"x36" ATTIC ACCESS W/ 1X3 FRAME AND TRIM @ PERIMETER OF OPENING, CONFIRM LOCATION WITH P.M.
 - 18 WATER HEATER, SEE ELECTRICAL PLAN FOR ADDITIONAL INFORMATION
 - 19 S.S. CORNER SHELF, SEE DETAIL 6/A-13
 - 20 PROVIDE INSULATION ON ALL HOT AND COLD WATER PIPING IN MECH./ELEC. ROOM AND ANY OTHER SPACES WHERE IS PIPING EXPOSED.
 - 21 DOWNSPOUT LOCATION
 - 22 42" LONG BENCH

FLOOR PLAN TYPE 6-4b RESTROOM/SHOWER
SCALE: 3/16"=1'-0"



REGISTERED ARCHITECT
4481
STEVEN M. SMITH
LAKE OSWEGO, OREGON
STATE OF OREGON

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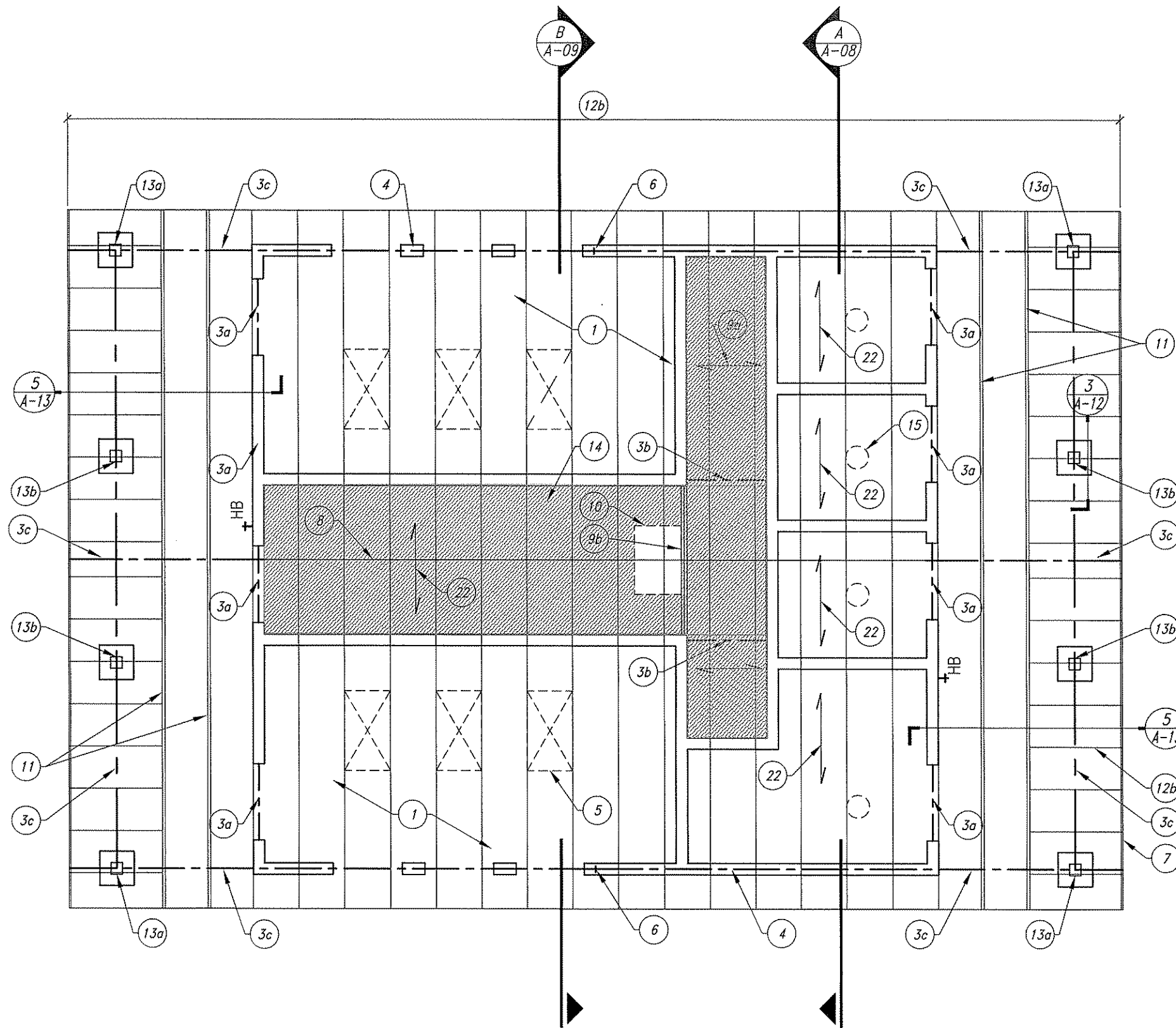
Nature HISTORY Discovery

FLOOR PLAN
CAMPGROUND IMPROVEMENTS
HUMBUG MOUNTAIN STATE PARK

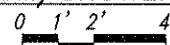
OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-05
FILE:	RR TYPE 6-4b ARCH.DWG

NOTE: ORIGINAL DRAWING SIZE IS 11"x17". ADJUST SCALE ACCORDINGLY IF PRINTED AT A DIFFERENT SIZE.



ROOF FRAMING PLAN TYPE 6-4b RESTROOM/SHOWER
SCALE: 3/16"=1'-0"

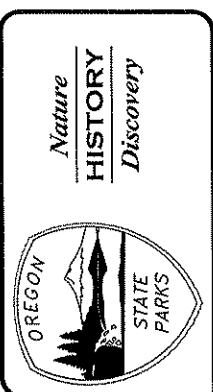


ROOF FRAMING PLAN NOTES:
(TYPICAL U.N.O.)

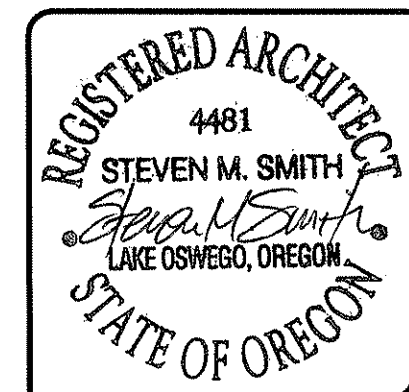
- 1 5/8" D.F. PLYWD. ROOF SH'T'G., SEE STRUCTURAL NOTES FOR ADDITIONAL REQUIREMENTS
 - 2 8" TALL MASONRY LINTEL W/ 2-#5 BOT. BARS
 - 3 HEADER OR BEAM:
a) 6X6 D.F. #2
b) 4X6 D.F. #2
c) 6X10 D.F. #2
 - 4 6X10 BEAM U.N.O. INSTALLED OVER FORTIFIBER "FORTIFLASH 40" SELF-ADHESIVE WATERPROOF FLASHING MEMBRANE @ MASONRY WALLS
 - 5 SKYLIGHT OPENING
 - 6 BEAM JOINT
 - 7 FASCIA LINE
 - 8 RIDGE LINE
 - 9 2X6 CEILING JOISTS:
a) @ 24" O.C.
b) DOUBLE CEILING JOISTS
 - 10 24"X30" ATTIC ACCESS W/ 1X3 FRAME AND TRIM @ PERIMETER OF OPENING, CONFIRM LOCATION WITH P.M.
 - 11 DOUBLE RAFTERS
 - 12 2X8 RAFTERS:
a) @ 16" O.C.
b) @ 24" O.C.
 - 13 6X6 WOOD COLUMN, SIMPSON BASE & CAP:
a) BASE #CB66, CAP #CCT66 W/ 7 GA. STIRRUP WELDED TO SIDE FOR PERPENDICULAR BEAM CONNECTION
b) BASE #CB66, CAP #CC66 W/ STRAPS ROTATED 90°
- NOTE:**
1. ALL EXPOSED BASES, CAPS, BOLTS, HANGERS AND FASTENERS TO BE GALVANIZED & POWDER COATED SATIN BLACK.
2. ALL OTHER METAL FASTENERS TO BE H.D.G. OR 316 STAINLESS STEEL.
- 14 SHADED AREA INDICATES EXTENT OF ATTIC PLYWOOD SHEATHING OVER CEILING JOISTS
 - 15 TUBULAR SKYLIGHTS, CENTER AS MUCH AS POSSIBLE IN ROOM

BY	DATE	OPRD
#	#-#-#	

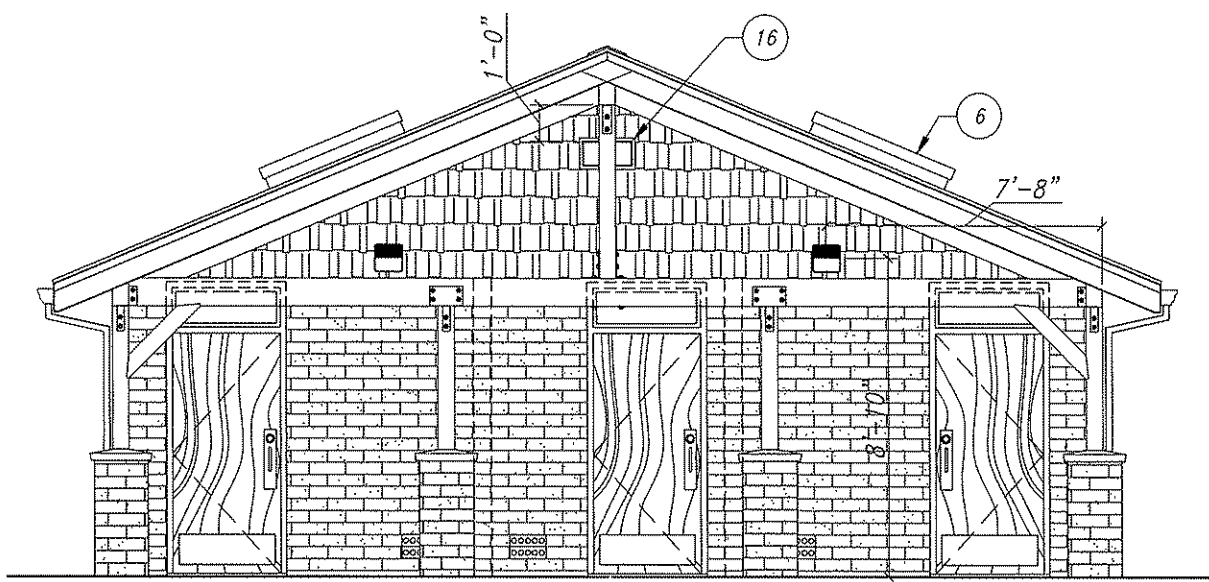
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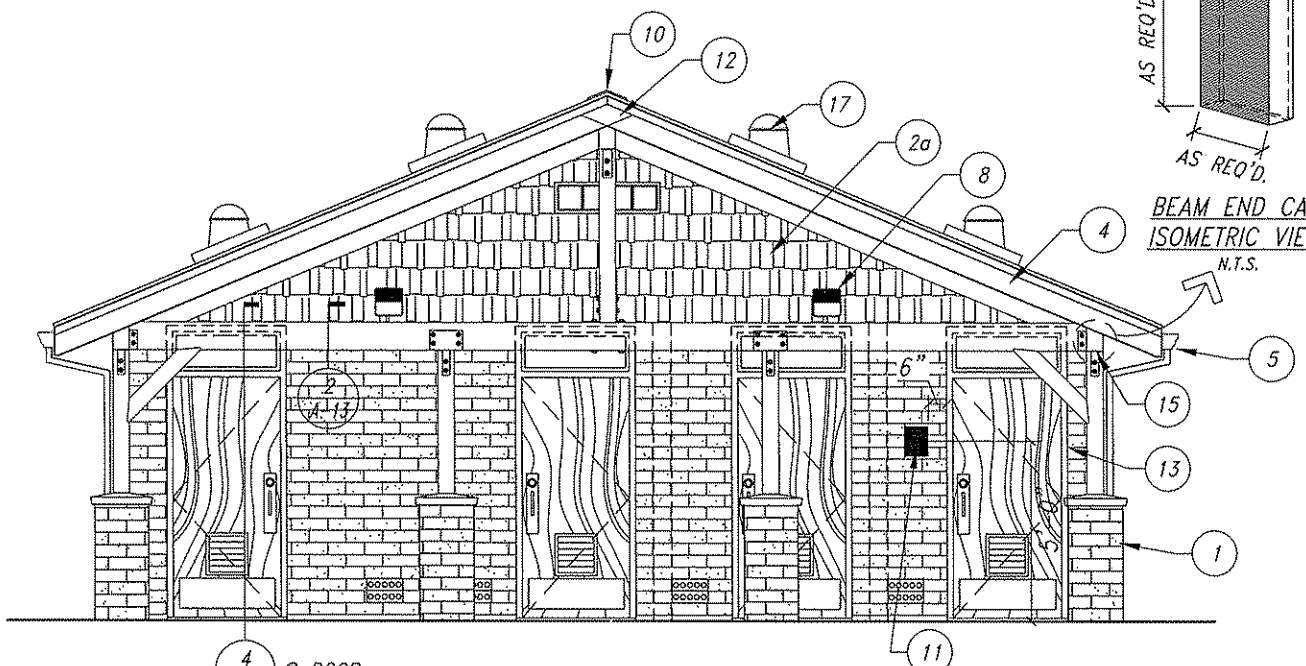
ROOF FRAMING PLAN
 CAMPGROUND IMPROVEMENTS
 HUMBURG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT



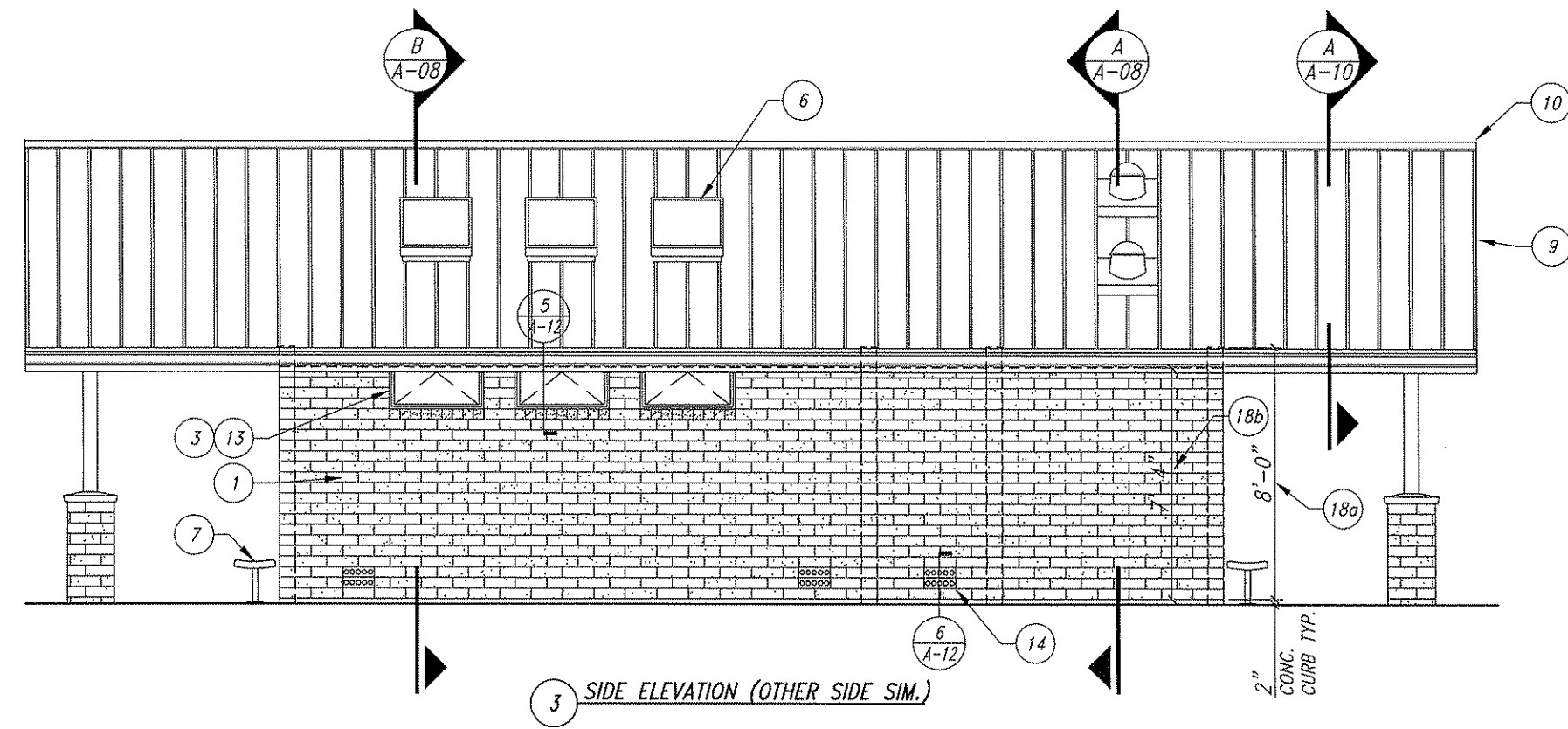
SHEET:	A-06
FILE:	RR TYPE 6-4b ARCH.DWG



1 FRONT ELEVATION (RESTROOMS)



2 REAR ELEVATION (SHOWERS)

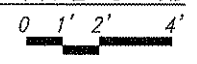


3 SIDE ELEVATION (OTHER SIDE SIM.)

EXTERIOR ELEVATION NOTES:
(TYPICAL U.N.O.)

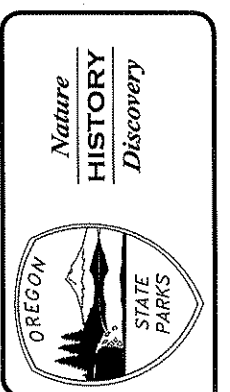
- 1 STRUCTURAL BRICK W/ MATCHING COLORED MORTAR APPROVED BY P.M.
- 2 CEMENT FIBER SIDING W/ PAINTED FINISH OVER 15# BUILDING PAPER:
a) "HARDISHINGLE INDIVIDUAL SHINGLES"
- 3 OPERABLE, INSULATED WINDOWS
- 4 2X10 R.S. FACIA W/ STAINED FINISH AND METAL ROOFING GABLE TRIM
- 5 GUTTER & DOWNSPOUT, VERIFY DOWNSPOUT LOCATIONS W/ P.M.
- 6 OPERABLE SKYLIGHTS
- 7 BENCH
- 8 LIGHT FIXTURE, PROVIDE 2X CEDAR BASE W/ BEVELED EDGES, SIZED FOR FIXTURE TO PROVIDE 1" BORDER AROUND FIXTURE BASE
- 9 STANDING SEAM METAL ROOFING
- 10 TAYLOR METAL MODEL RPV RIDGE PERFORATED VENT OR APPROVED EQUAL
- 11 SIGNAGE F.O.I.C.
- 12 FASCIA JOINT COVER CUT FROM CEMENT FIBER SIDING MATERIAL
- 13 CAULK PERIMETER OF DOOR AND WINDOW FRAMES (EXTERIOR AND INTERIOR)
- 14 WALL VENT
- 15 24 GA. SHEET METAL BEAM END CAP W/ 3/8" HEMMED EDGES, MATCH SHEET METAL ROOFING MATERIAL, INSTALL BEFORE FACIA MATERIAL
- 16 EXHAUST FAN HOODED WALL DISCHARGE, PROVIDE 2X CEDAR BASE W/ BEVELED EDGES, SIZED TO PROVIDE 1" BORDER AROUND DISCHARGE UNITS
- 17 TUBULAR SKYLIGHT
- 18 MASONRY WALL HEIGHT:
a. AT FRONT, REAR AND INTERIOR WALLS
b. AT SIDE WALLS

EXTERIOR ELEVATIONS- RESTROOM/SHOWER TYPE 6-4b
SCALE: 3/16"=1'-0"



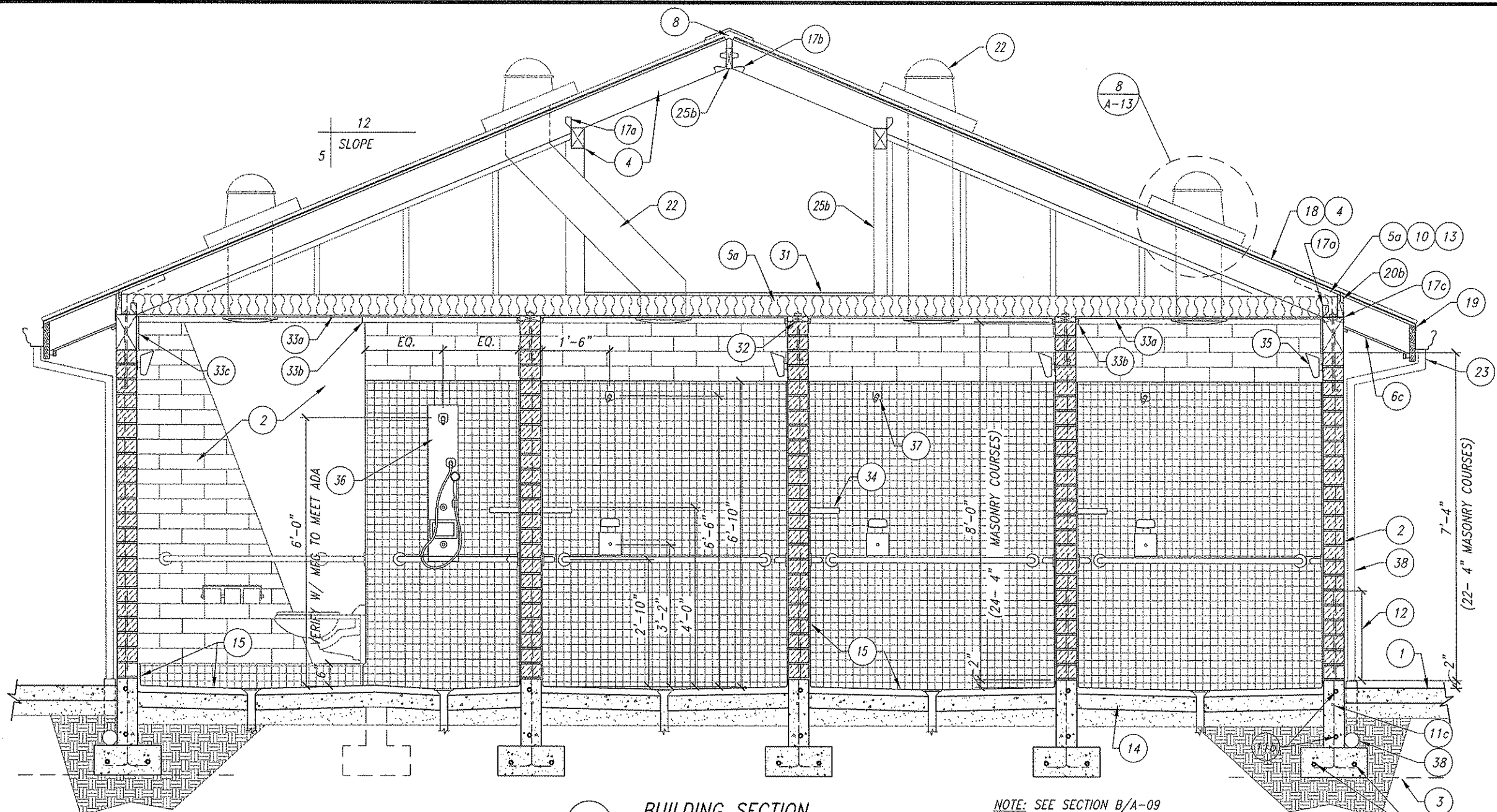
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EXTERIOR ELEVATIONS
CAMPGROUND IMPROVEMENTS
HUMBURG MOUNTAIN STATE PARK
OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-07
FILE:	RR TYPE 6-4b ARCH.DWG



CONSTRUCTION NOTES:
(TYPICAL U.N.O.)

- 1 CONCRETE SIDEWALK, SLOPE AWAY FROM BUILDING 1/8"/FT. MIN., 1/4"/FT. MAX.
- 2 STRUCTURAL BRICK W/ #5 VERT. BAR @ 36" O.C. MAX. (SEE PLAN FOR LOCATIONS) AND HORIZ. REINF. PER DETAILS 2/A-10 & 2/A-11 U.N.O.
- 3 BOTTOM OF FOOTING ELEVATION= 18" BELOW FINISH GRADE
- 4 ROOF STRUCTURE, SEE ROOF FRAMING PLAN
- 5 THERMAL INSULATION W/ VAPOR BARRIER INSTALLED ON WARM OR HEATED SIDE OF INSULATION:
 - a) R-19 FIBERGLASS BATTS
 - b) R-19 RIGID INSULATION
- 6 1/2" O.S.B. SIDING W/ WOOD GRAIN EXPOSED SURFACE AND GROOVES TO SIMULATE INDIVIDUAL BOARDS:
 - a) W/ GROOVES @ 8" O.C. PERPENDICULAR TO RAFTERS
 - b) W/ NO GROOVES
 - c) W/ GROOVES @ 8" O.C. VERTICAL
- 7 PROVIDE 2"X2" CUTOUT IN TOP OF RAFTERS FOR AIR FLOW AROUND SKYLIGHT FRAMING
- 8 2"X CONTINUOUS VENT W/ ALUM. OR S.S. INSECT SCREEN
- 9 SEE INTERIOR ELEVATIONS FOR ADDITIONAL INFORMATION
- 10 MIN. 1" AIR SPACE ABOVE INSULATION TYP.

A BUILDING SECTION
SCALE: 3/8"=1'-0" 0 1' 2' 4'

- 11 REINFORCEMENT STEEL:
 - a) 2-#4 HORIZ. BAR CONT. BOT. W/ 24"X24" 90° CORNER BARS TYP.
 - b) 1-#4 HORIZ. BAR CONT. TOP & BOT. W/ 24"X24" 90° CORNER BARS TYP.
 - c) #5 VERT. BARS @ 36" O.C. (MIN.) W/ ALTERNATING 90° BOTTOM HOOKS TYP. (MATCH WALL REINF. SPACING)
- 12 LAP FOOTING AND WALL BARS 40 BAR DIAMETERS OR 24" MIN.
- 13 PRE-MANUFACTURED VENTILATION CHUTE TO PROVIDE UNRESTRICTED AIR FLOW OVER INSULATION
- 14 CONCRETE SLAB, REFER TO FOUNDATION PLAN
- 15 CERAMIC TILE OVER W.P. MEMBRANE
- 16 DBL. 2X6 D.F. TOP PLATE W/ 48" MIN. LAP SPLICE
- 17 SIMPSON FRAMING TIE OR HANGER:
 - a) H3 @ EA. RAFTER
 - b) LSU26 @ EA. RAFTER
 - c) LTP4 @ CENTER OF BLK'G. @ RAFTER SPACING
- 18 METAL ROOFING SYSTEM
- 19 2X10 R.S. FASCIA (STAIN FINISH) W/ ROOF'G. MFR. STD. EAVE FLASH'G. TYP.
- 20 D.F. WOOD BLKG. OR NAILER:
 - a) 2X WIDTH AS REQ'D.
 - b) 2X WIDTH AS REQ'D. SHAPED FOR ROOF SLOPE, PROVIDE (4) 2"Ø SCREENED VENT HOLES
- 21 R.S. WOOD TRIM:
 - a) 1X2 (PAINT FINISH)
 - b) 1X3 (PAINT FINISH)
 - c) 1X4 (PAINT FINISH)
 - d) 2X6 (PAINT FINISH)
- 22 10"Ø CRYSTALITE TUBULAR SKYLIGHT
- 23 GUTTER & DOWNSPOUT
- 24 TOILET PARTITION
- 25 2X D.F. FRAMING:
 - a) 2X8 RAFTERS @ 24" O.C.
 - b) 2X6 RIDGE

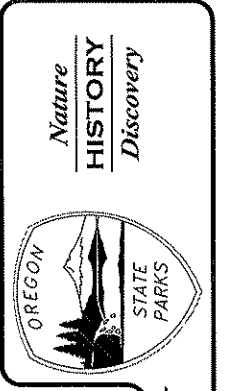
- 26 OPERABLE SKYLIGHT:
 - a) CRYSTALITE MODEL #2650 W/ #5830 BRONZE ANODIZED ALUMINUM/PVC OPENER FRAME.
- 27 6X6 D.F. POST, SEE ROOF FRAMING PLAN FOR POST CAP SPECIFICATION
- 28 6X8 D.F. TOP CORD (STAIN FINISH)
- 29 6X10 D.F. BOT. CORD (STAIN FINISH)
- 30 LIGHT FIXTURE, SEE ELECTRICAL PLAN
- 31 3/4" D.F. PLYWOOD T&G FLOOR SHEATHING
- 32 2X6 P.T. CONT. PLATE INSTALLED OVER FOAM GASKET MATERIAL W/ 1/2"X12" A.B. @ WALL VERT. REINF. SPACING
- 33 "AZEK" P.V.C. PANELING AND TRIM (INSTALL W/ S.S. FASTENERS):
 - a) 1/2"X 5-1/2" BEADBOARD PANELING CEILING FINISH
 - b) 5/8"X 1-5/8" TRIM @ PERIMETER OF CEILING
 - c) 5/8"X 9-1/4" TRIM @ 4X10 BEAM
- 34 S.S. SHELF, SEE DETAIL 6/A-13
- 35 RADIANT COVE HEATER
- 36 ADA SHOWER FIXTURE
- 37 SHOWER HEAD
- 38 CONNECT DOWNSPOUTS TO ABS DRAIN LINE AROUND PERIMETER OF BUILDING WITH TEE'S AND DOWNSPOUT CONNECTOR FITTINGS, EXTEND DRAIN LINE TO DAYLIGHT AT NEAREST DRAINAGE SWALE APPROVED BY PROJECT MANAGER



CONSTRUCTION NOTES (CONT.):
(TYPICAL U.N.O.)

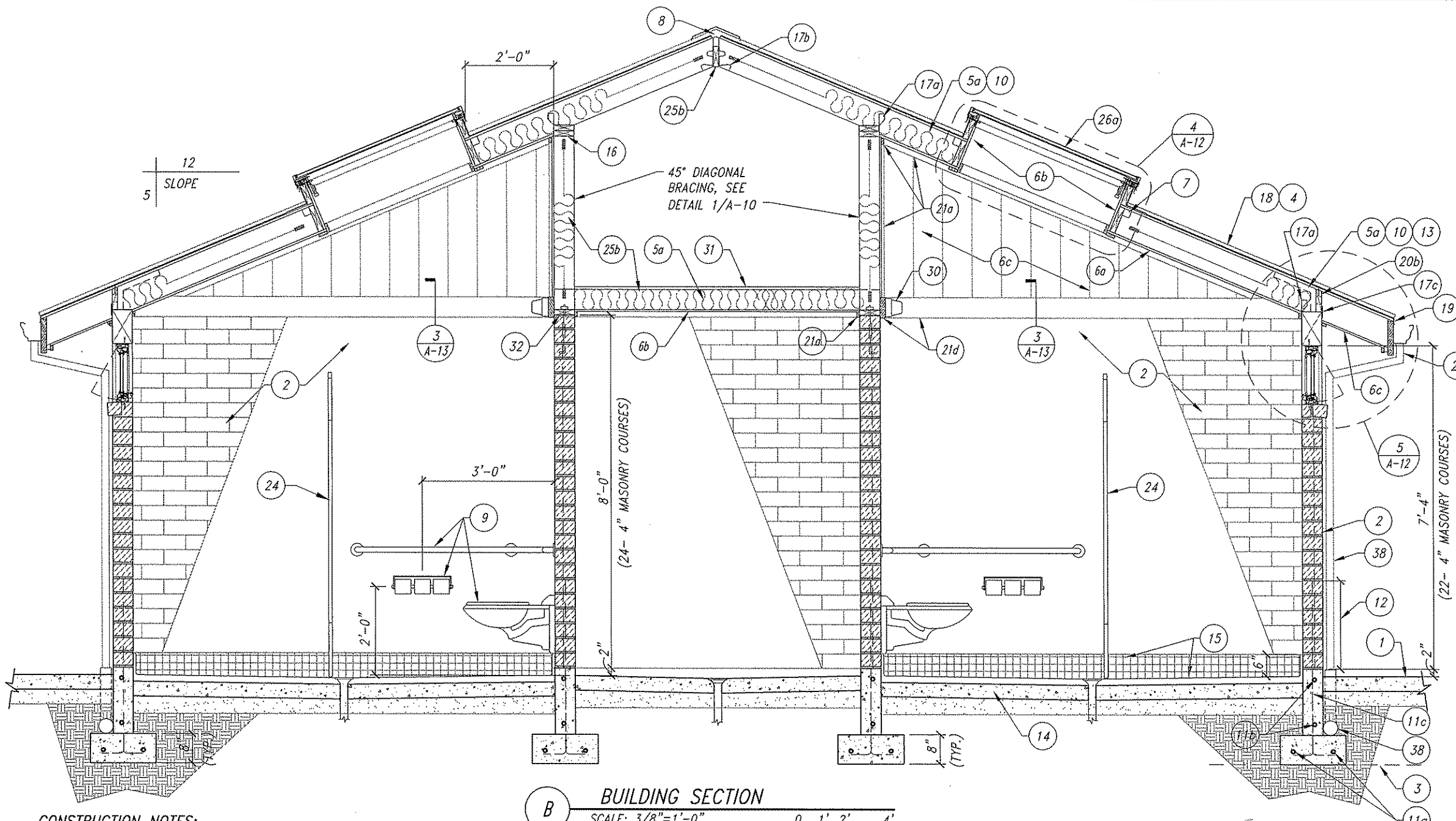
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SECTIONS AND DETAILS
 CAMPGROUND IMPROVEMENTS
 HUMBURG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-08
FILE:	RR TYPE 6-4b ARCH.DWG



CONSTRUCTION NOTES:
(TYPICAL U.N.O.)

- | | | | | | |
|--|--|--|---|--|---|
| <p>1 CONCRETE SIDEWALK, SLOPE AWAY FROM BUILDING 1/8"/FT. MIN., 1/4"/FT. MAX.</p> <p>2 STRUCTURAL BRICK W/ #5 VERT. BAR @ 36" O.C. MAX. (SEE PLAN FOR LOCATIONS) AND HORIZ. REINF. PER DETAILS 2/A-10 & 2/A-11 U.N.O.</p> <p>3 BOTTOM OF FOOTING ELEVATION= 18" BELOW FINISH GRADE</p> <p>4 ROOF STRUCTURE, SEE ROOF FRAMING PLAN</p> <p>5 THERMAL INSULATION W/ VAPOR BARRIER INSTALLED ON WARM OR HEATED SIDE OF INSULATION:
a) R-19 FIBERGLASS BATTS
b) R-19 RIGID INSULATION</p> | <p>6 1/2" O.S.B. SIDING W/ WOOD GRAIN EXPOSED SURFACE AND GROOVES TO SIMULATE INDIVIDUAL BOARDS:
a) W/ GROOVES @ 8" O.C. PERPENDICULAR TO RAFTERS
b) W/ NO GROOVES
c) W/ GROOVES @ 8" O.C. VERTICAL</p> <p>7 PROVIDE 2"X2" CUTOUT IN TOP OF RAFTERS FOR AIR FLOW AROUND SKYLIGHT FRAMING</p> <p>8 2"X CONTINUOUS VENT W/ ALUM. OR S.S. INSECT SCREEN</p> <p>9 SEE INTERIOR ELEVATIONS FOR ADDITIONAL INFORMATION</p> <p>10 MIN. 1" AIR SPACE ABOVE INSULATION TYP.</p> | <p>11 REINFORCEMENT STEEL:
a) 2-#4 HORIZ. BAR CONT. BOT. W/ 24"X24" 90° CORNER BARS TYP.
b) 1-#4 HORIZ. BAR CONT. TOP & BOT. W/ 24"X24" 90° CORNER BARS TYP.
c) #5 VERT. BARS @ 36" O.C. (MIN.) W/ ALTERNATING 90° BOTTOM HOOKS TYP. (MATCH WAL REINF. SPACING)</p> <p>12 LAP FOOTING AND WALL BARS 40 BAR DIAMETERS OR 24" MIN.</p> <p>13 PRE-MANUFACTURED VENTILATION CHUTE TO PROVIDE UNRESTRICTED AIR FLOW OVER INSULATION</p> <p>14 CONCRETE SLAB, REFER TO FOUNDATION PLAN</p> | <p>15 CERAMIC TILE OVER W.P. MEMBRANE</p> <p>16 DBL. 2X6 D.F. TOP PLATE W/ 48" MIN. LAP SPLICE</p> <p>17 SIMPSON FRAMING TIE OR HANGER:
a) H3 @ EA. RAFTER
b) LSU26 @ EA. RAFTER
c) LTP4 @ CENTER OF BLK'G. @ RAFTER SPACING</p> <p>18 METAL ROOFING SYSTEM</p> <p>19 2X10 R.S. FASCIA (STAIN FINISH) W/ ROOF'G. MFR. STD. EAVE FLASH'G. TYP.</p> <p>20 D.F. WOOD BLKG. OR NAILER:
a) 2X WIDTH AS REQ'D.
b) 2X WIDTH AS REQ'D. SHAPED FOR ROOF SLOPE, PROVIDE (4) 2"Ø SCREENED VENT HOLES</p> | <p>21 R.S. WOOD TRIM:
a) 1X2 (PAINT FINISH)
b) 1X3 (PAINT FINISH)
c) 1X4 (PAINT FINISH)
d) 2X6 (PAINT FINISH)</p> <p>22 10"Ø CRYSTALITE TUBULAR SKYLIGHT</p> <p>23 GUTTER & DOWNSPOUT</p> <p>24 TOILET PARTITION</p> <p>25 2X D.F. FRAMING:
a) 2X8 RAFTERS @ 24" O.C.
b) 2X6 RIDGE</p> | <p>26 OPERABLE SKYLIGHT:
a) CRYSTALITE MODEL #2650 W/ #5830 BRONZE ANODIZED ALUMINUM/PVC OPENER FRAME.</p> <p>27 6X6 D.F. POST, SEE ROOF FRAMING PLAN FOR POST CAP SPECIFICATION</p> <p>28 6X8 D.F. TOP CORD (STAIN FINISH)</p> <p>29 6X10 D.F. BOT. CORD (STAIN FINISH)</p> <p>30 LIGHT FIXTURE, SEE ELECTRICAL PLAN</p> <p>31 3/4" D.F. PLYWOOD T&G FLOOR SHEATHING</p> |
|--|--|--|---|--|---|

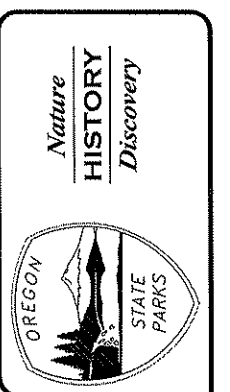
CONSTRUCTION NOTES (CONT.):
(TYPICAL U.N.O.)

- 32 2X6 P.T. CONT. PLATE INSTALLED OVER FOAM GASKET MATERIAL W/ 1/2"X12" A.B. @ WALL VERT. REINF. SPACING
- 33 "AZEK" P.V.C. PANELING AND TRIM (INSTALL W/ S.S. FASTENERS):
a) 1/2"X 5-1/2" BEADBOARD PANELING CEILING FINISH
b) 5/8"X 1-5/8" TRIM @ PERIMETER OF CEILING
c) 5/8"X 9-1/4" TRIM @ 4X10 BEAM
- 34 S.S. SHELF, SEE DETAIL 6/A-13
- 35 RADIANT COVE HEATER
- 36 ADA SHOWER FIXTURE
- 37 SHOWER HEAD
- 38 CONNECT DOWNSPOUTS TO ABS DRAIN LINE AROUND PERIMETER OF BUILDING WITH TEE'S AND DOWNSPOUT CONNECTOR FITTINGS, EXTEND DRAIN LINE TO DAYLIGHT AT NEAREST DRAINAGE SWALE APPROVED BY PROJECT MANAGER



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DATE	05-14-10



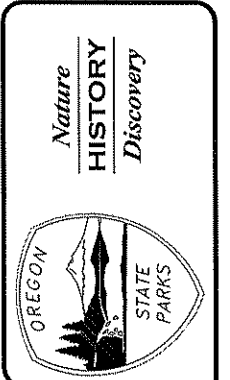
SECTIONS AND DETAILS
CAMPGROUND IMPROVEMENTS
HUMBURG MOUNTAIN STATE PARK

OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-09
FILE:	RR TYPE 6-4b ARCH.DWG

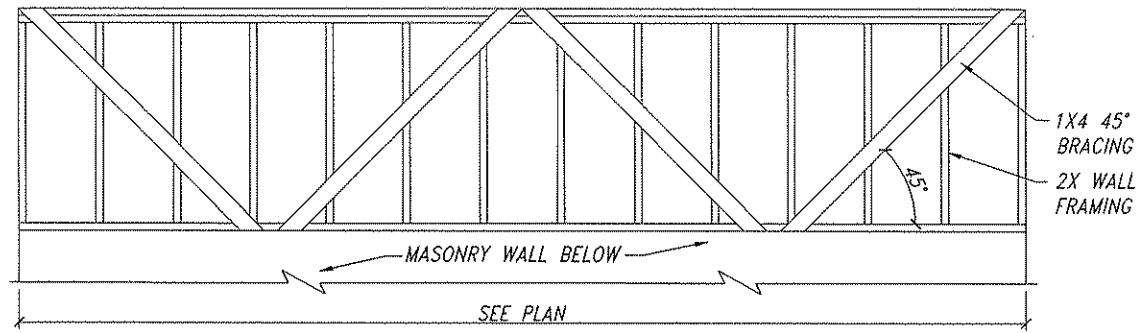
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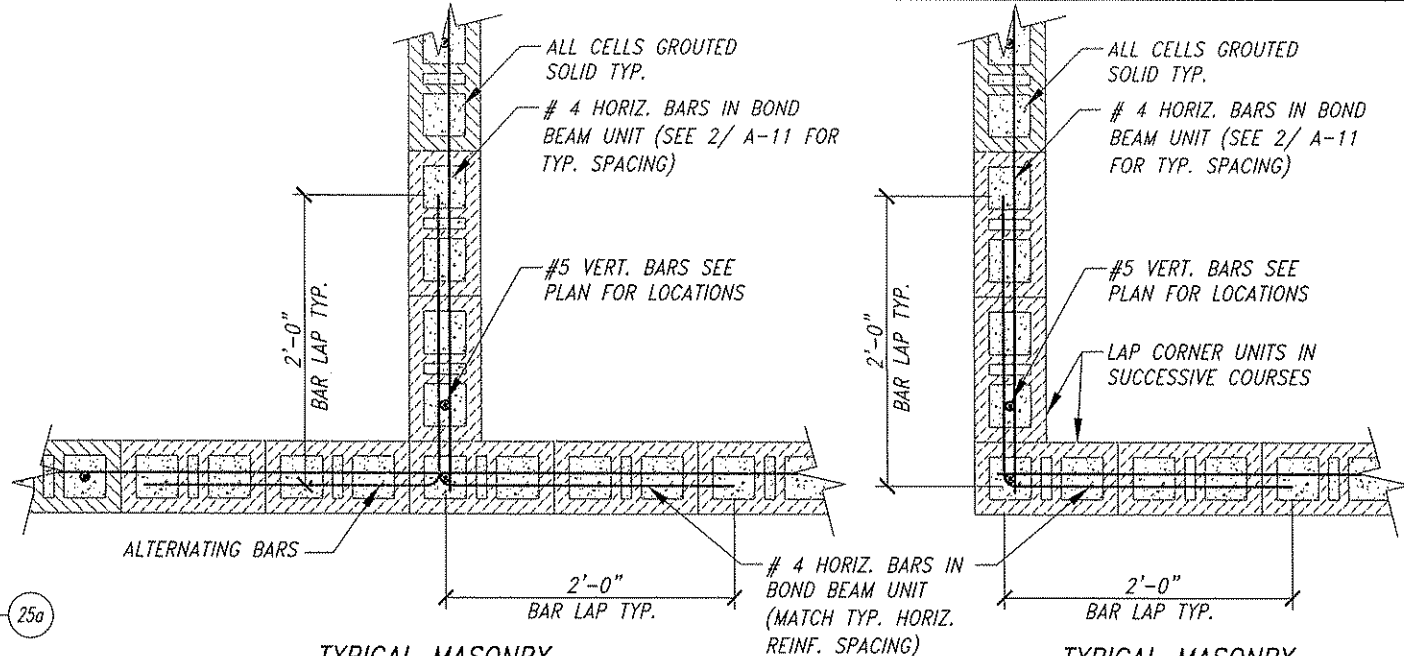


SECTIONS AND DETAILS
 CAMPGROUND IMPROVEMENTS
 HUMBUG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-10
FILE:	
RR TYPE	6-4b ARCH.DWG



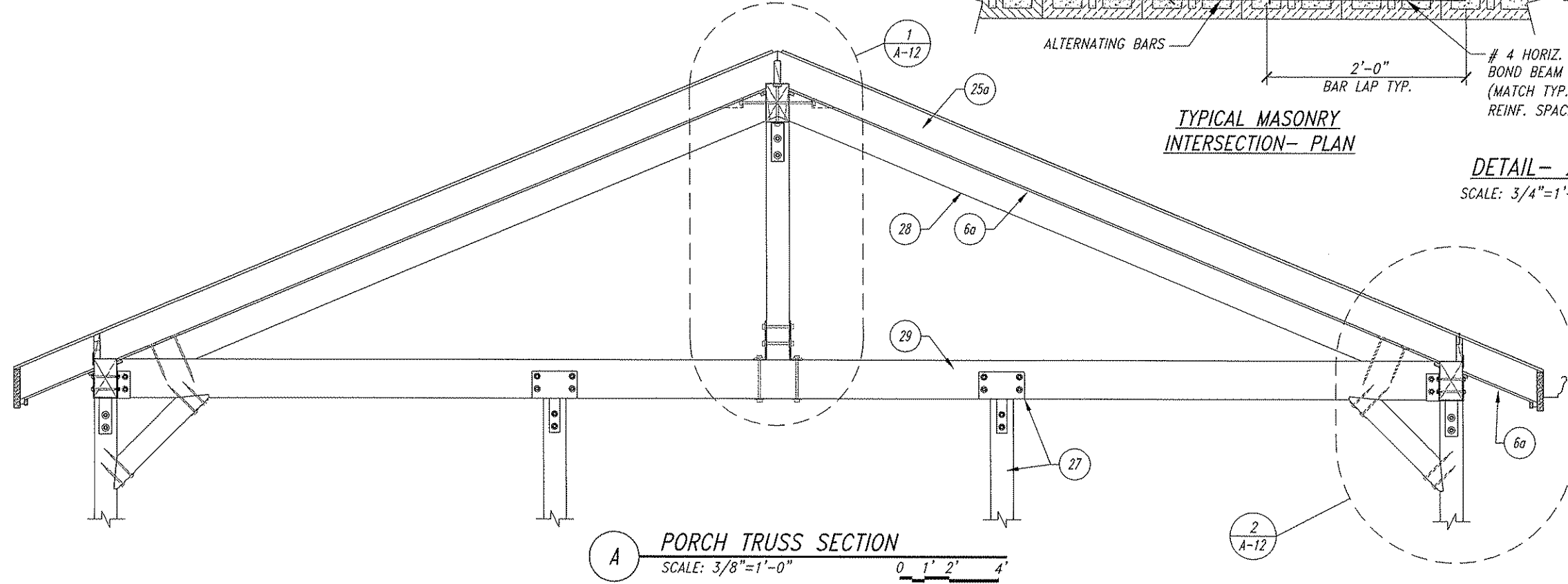
DETAIL-1
SCALE: 3/4"=1'-0"



TYPICAL MASONRY INTERSECTION- PLAN

TYPICAL MASONRY CORNER- PLAN

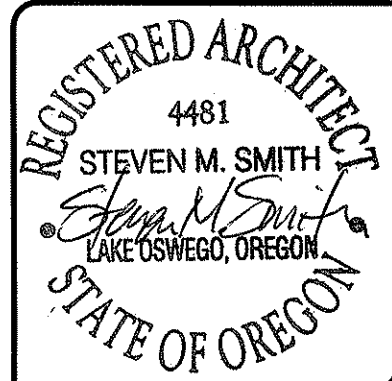
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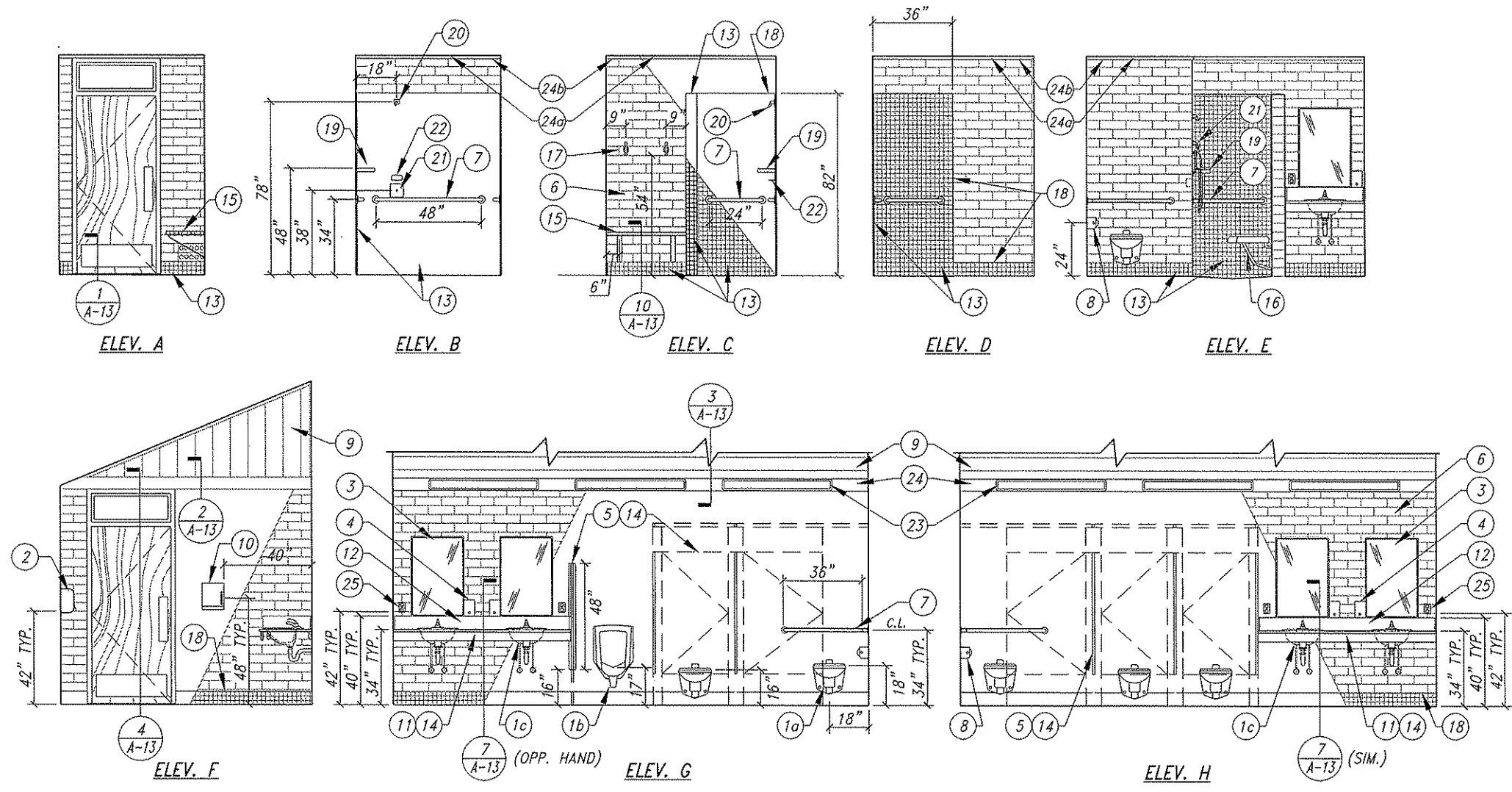


A PORCH TRUSS SECTION
SCALE: 3/8"=1'-0" 0 1' 2' 4'

CONSTRUCTION NOTES:
(TYPICAL U.N.O.)

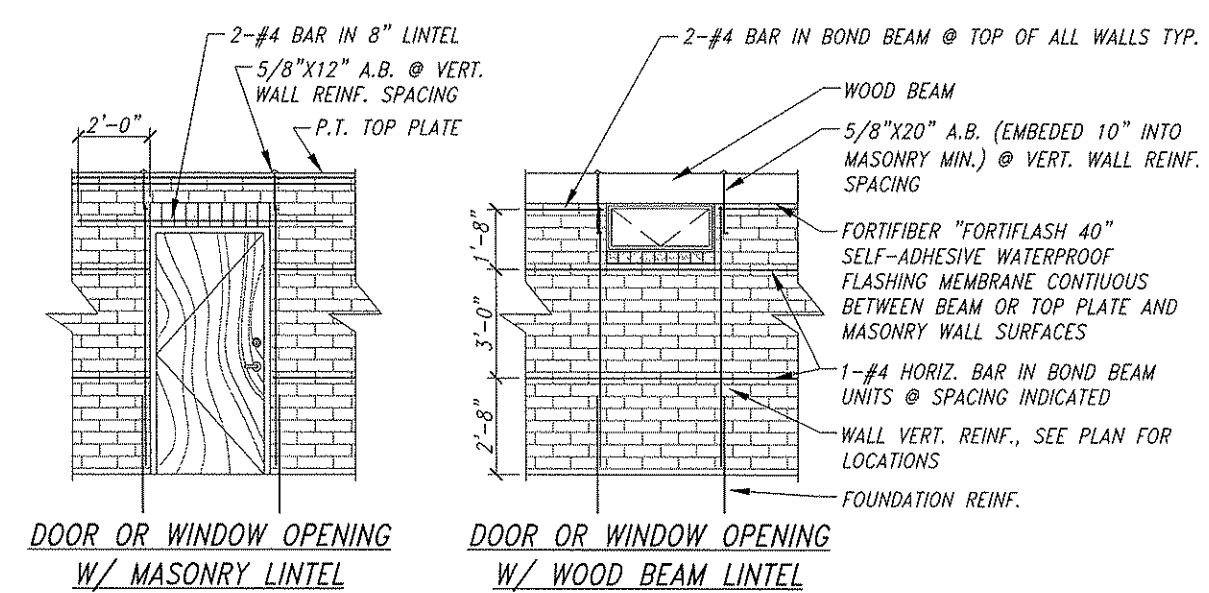
- 1 CONCRETE SIDEWALK, SLOPE AWAY FROM BUILDING 1/8"/FT. MIN., 1/4"/FT. MAX.
- 2 STRUCTURAL BRICK W/ #5 VERT. BAR @ 36" O.C. MAX. (SEE PLAN FOR LOCATIONS) AND HORIZ. REINF. PER DETAILS 2/A-10 & 2/A-11 U.N.O.
- 3 BOTTOM OF FOOTING ELEVATION= 18" BELOW FINISH GRADE
- 4 ROOF STRUCTURE, SEE ROOF FRAMING PLAN
- 5 THERMAL INSULATION W/ VAPOR BARRIER INSTALLED ON WARM OR HEATED SIDE OF INSULATION:
 - a) R-19 FIBERGLASS BATTS
 - b) R-19 RIGID INSULATION
- 6 1/2" O.S.B. SIDING W/ WOOD GRAIN EXPOSED SURFACE AND GROVES TO SIMULATE INDIVIDUAL BOARDS:
 - a) W/ GROVES @ 8" O.C. PERPENDICULAR TO RAFTERS
 - b) W/ NO GROVES
 - c) W/ GROVES @ 8" O.C. VERTICAL
- 7 PROVIDE 2"x2" CUTOUT IN TOP OF RAFTERS FOR AIR FLOW AROUND SKYLIGHT FRAMING
- 8 2"x CONTINUOUS VENT W/ ALUM. OR S.S. INSECT SCREEN
- 9 SEE INTERIOR ELEVATIONS FOR ADDITIONAL INFORMATION
- 10 MIN. 1" AIR SPACE ABOVE INSULATION TYP.
- 11 REINFORCEMENT STEEL:
 - a) 2-#4 HORIZ. BAR CONT. BOT. W/ 24"x24" 90° CORNER BARS TYP.
 - b) 1-#4 HORIZ. BAR CONT. TOP & BOT. W/ 24"x24" 90° CORNER BARS TYP.
 - c) #5 VERT. BARS @ 36" O.C. (MIN.) W/ ALTERNATING 90° BOTTOM HOOKS TYP. (MATCH WAL REINF. SPACING)
- 12 LAP FOOTING AND WALL BARS 40 BAR DIAMETERS OR 24" MIN.
- 13 PRE-MANUFACTURED VENTILATION CHUTE TO PROVIDE UNRESTRICTED AIR FLOW OVER INSULATION
- 14 CONCRETE SLAB, REFER TO FOUNDATION PLAN
- 15 CERAMIC TILE OVER W.P. MEMBRANE
- 16 DBL. 2X6 D.F. TOP PLATE W/ 48" MIN. LAP SPLICE
- 17 SIMPSON FRAMING TIE OR HANGER:
 - a) H3 @ EA. RAFTER
 - b) LSU26 @ EA. RAFTER
 - c) LTP4 @ CENTER OF BLK'G. @ RAFTER SPACING
- 18 METAL ROOFING SYSTEM
- 19 2X10 R.S. FASCIA (STAIN FINISH) W/ ROOF'G. MFR. STD. EAVE FLASH'G. TYP.
- 20 D.F. WOOD BLKG. OR NAILER:
 - a) 2X WIDTH AS REQ'D.
 - b) 2X WIDTH AS REQ'D. SHAPED FOR ROOF SLOPE, PROVIDE (4) 2"Ø SCREENED VENT HOLES
- 21 R.S. WOOD TRIM:
 - a) 1X2 (PAINT FINISH)
 - b) 1X3 (PAINT FINISH)
 - c) 1X4 (PAINT FINISH)
 - d) 2X6 (PAINT FINISH)
- 22 10"Ø CRYSTALITE TUBULAR SKYLIGHT
- 23 GUTTER & DOWNSPOUT
- 24 TOILET PARTITION
- 25 2X D.F. FRAMING:
 - a) 2X8 RAFTERS @ 24" O.C.
 - b) 2X6 RIDGE
- 26 OPERABLE SKYLIGHT:
 - a) CRYSTALITE MODEL #2650 W/ #5830 BRONZE ANODIZED ALUMINUM/PVC OPENER FRAME.
- 27 6X6 D.F. POST, SEE ROOF FRAMING PLAN FOR POST CAP SPECIFICATION
- 28 6X8 D.F. TOP CORD (STAIN FINISH)
- 29 6X10 D.F. BOT. CORD (STAIN FINISH)





1 INTERIOR ELEVATIONS
SCALE: 3/16"=1'-0" 0 1' 2' 4'

NOTE:
REFER TO BUILDING SECTIONS FOR ADDITIONAL INTERIOR ELEVATION INFORMATION



2 TYPICAL MASONRY REINFORCEMENT
SCALE: 3/16"=1'-0"

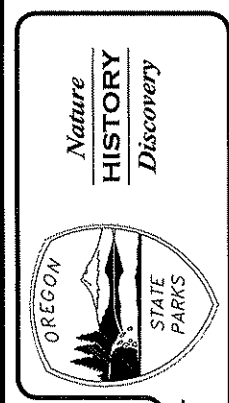
- INTERIOR ELEVATION NOTES:**
(TYPICAL U.N.O., REFER TO TECHNICAL SPECIFICATIONS FOR ADDITIONAL INFORMATION OR ITEMS NOT SPECIFIED)
- 1 PLUMBING FIXTURE:**
- a) KOHLER KINGSTON K-4329, WHITE, WALL HUNG, VITREOUS CHINA, ELONGATED BOWL TOILET; K-4670-CA SEAT ASSEMBLY; ALL SUPPORTS, ACCESSORIES & HARDWARE FOR COMPLETE INSTALLATION
 - b) KOHLER BARDON K-4960-ER, WHITE, WALL HUNG, VITREOUS CHINA URINAL; ALL SUPPORTS, ACCESSORIES & HARDWARE FOR COMPLETE INSTALLATION
 - c) KOHLER FARMINGTON K-2905, WHITE, ENAMELED CAST IRON LAVATORY; SYMMONS #S-20-2-G CHROME PLATED BRASS FAUCET W/ HOT AND COLD TEMPERATURE MIXING VALVE AND VANDAL RESISTANT LEVER HANDLE, 4" CENTERS, HIGH LIMIT STOP FOR MAXIMUM TEMPERATURE, CHROME PLATED BRASS GRID DRAIN
 - d) ELKAY EFS3321C STAINLESS STEEL FLOOR SERVICE SINK; KOHLER KNOXFORD K-8905, CAST BRASS FAUCET W/ THREADED HOSE CONNECTION, LEVER HANDLES, PAIL HOOK AND VACUUM BREAKER

- INTERIOR ELEVATION NOTES (CONT.):**
- 2 HAND DRYER
 - 3 24"X36" MIRROR
 - 4 SOAP DISPENSER
 - 5 TOILET PARTITIONS
 - 6 STRUCTURAL BRICK W/ CLEAR FINISH
 - 7 GRAB BARS
 - 8 TOILET PAPER DISPENSER
 - 9 OSB GROVED PANELING W/ 1X2 TRIM @ PERIMETER
 - 10 PAPER TOWEL DISPENSER
 - 11 3/4" THICK COUNTER AND APRON FABRICATED FROM SAME MATERIAL AS TOILET PARTITIONS (BOBRICK SOLID COLOR REINFORCED COMPOSITE)
 - 12 BACK SPLASH & SIDE RETURNS FABRICATED FROM SAME MATERIAL AS TOILET PARTITIONS
 - 13 CERAMIC TILE OVER W.P. MEMBRANE
 - 14 SUBMIT COMPLETE SHOP DRAWINGS IN ACCORDANCE W/ SPEC. SECTION 01300
 - 15 BENCH
 - 16 ADA FOLDING SHOWER SEAT
 - 17 S.S. CLOTHING HOOKS (2 PER SHOWER)
 - 18 ELASTOMERIC SANDED GROUT CAULKING @ TILE PERIMETER
 - 19 S.S. CORNER SHELF, SEE DETAIL 6/A-13
 - 20 SHOWER HEAD
 - 21 SHOWER CONTROL
 - 22 SOAP DISH
 - 23 LIGHT FIXTURE
 - 24 2X6 TRIM
 - 25 DUPLEX ELECTRICAL OUTLET W/ S.S. COVER PLATE
 - 24 "AZEK" P.V.C. T&G PANELING AND TRIM (INSTALL W/ MFR'S. JOINT ADHESIVE @ EA. T&G JOINT & S.S. FASTENERS):
a) 1/2"X 5-1/2" BEADBOARD PANELING CEILING FINISH
b) 5/8"X 1-5/8" TRIM @ PERIMETER OF CEILING, CAULK ALL JOINTS W/ SILICONE SEALANT



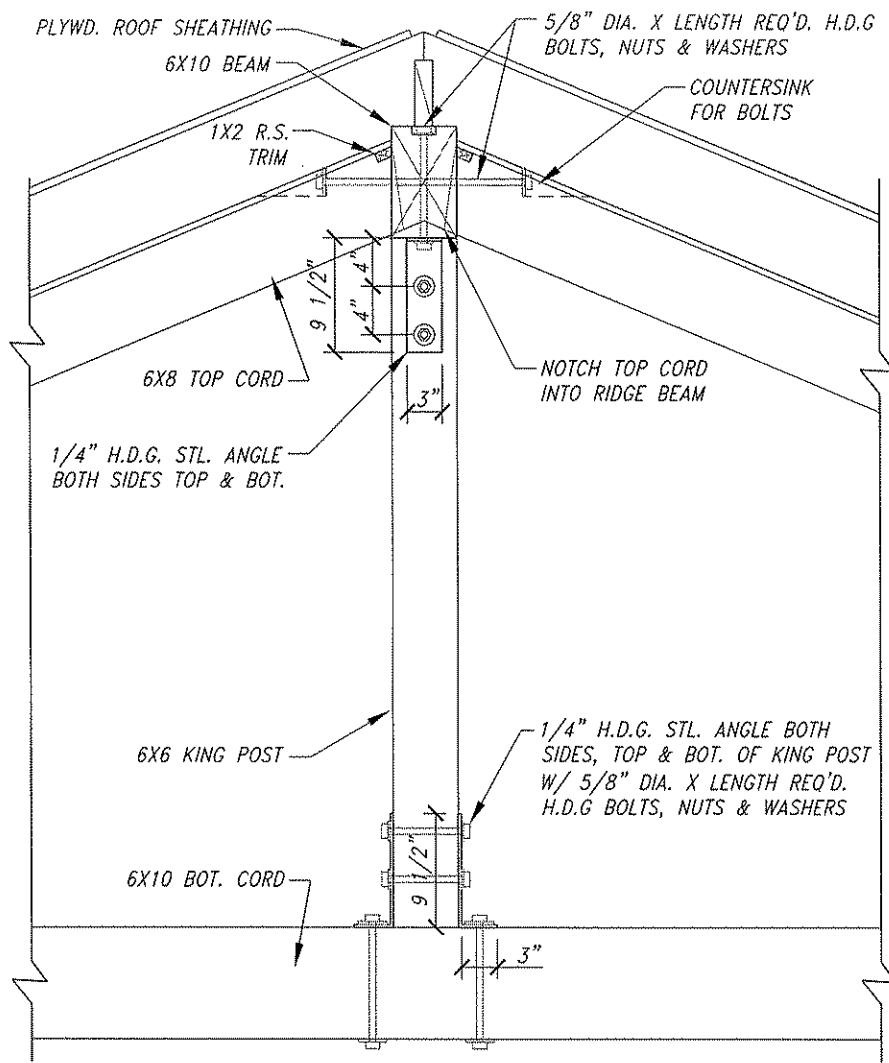
REVISION	DATE

APPROVED BY	SMS	05-14-10
CHECKED BY	SMS	
DESIGNED BY	SMS	
DRAWN BY		

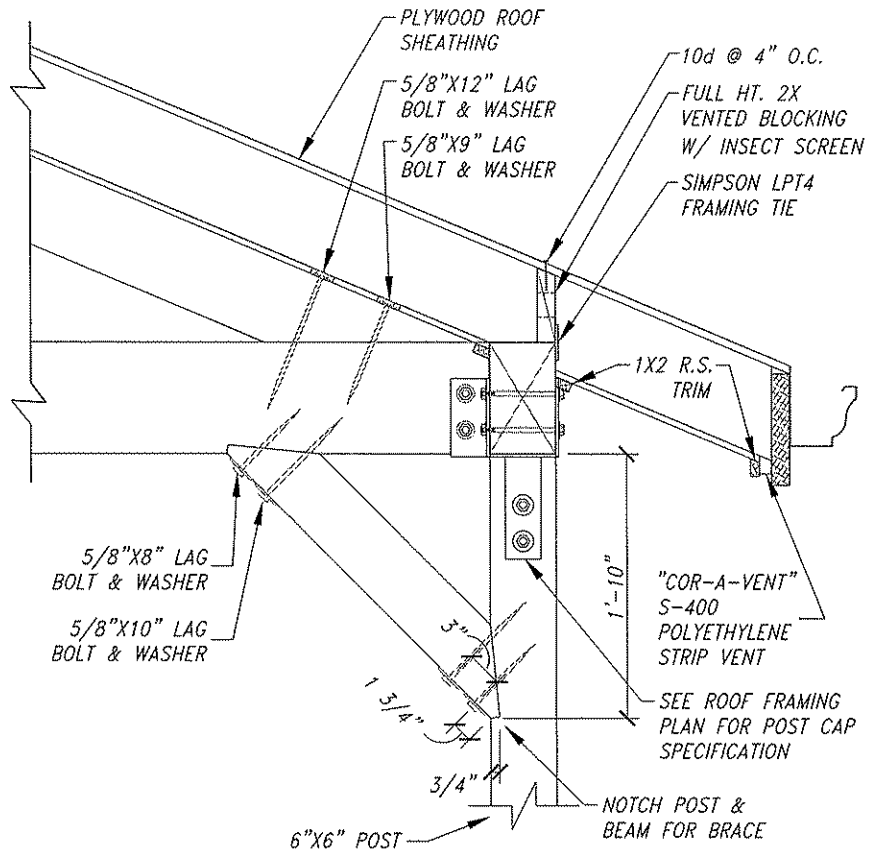


INTERIOR ELEVATIONS
 CAMPGROUND IMPROVEMENTS
 HUMBUG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT

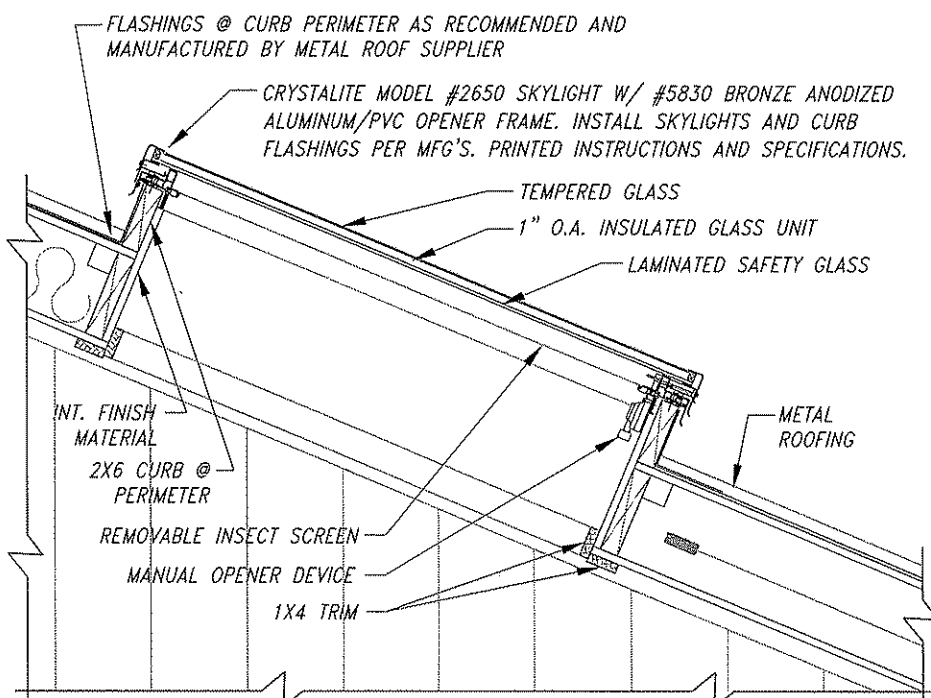
SHEET:	A-11
FILE:	
RR TYPE	6-4b ARCH.DWG



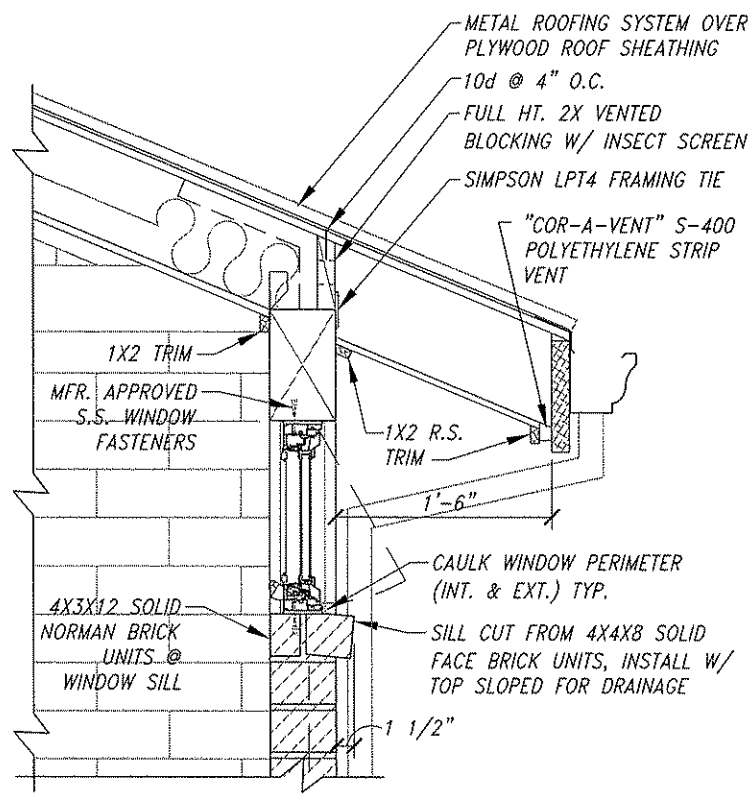
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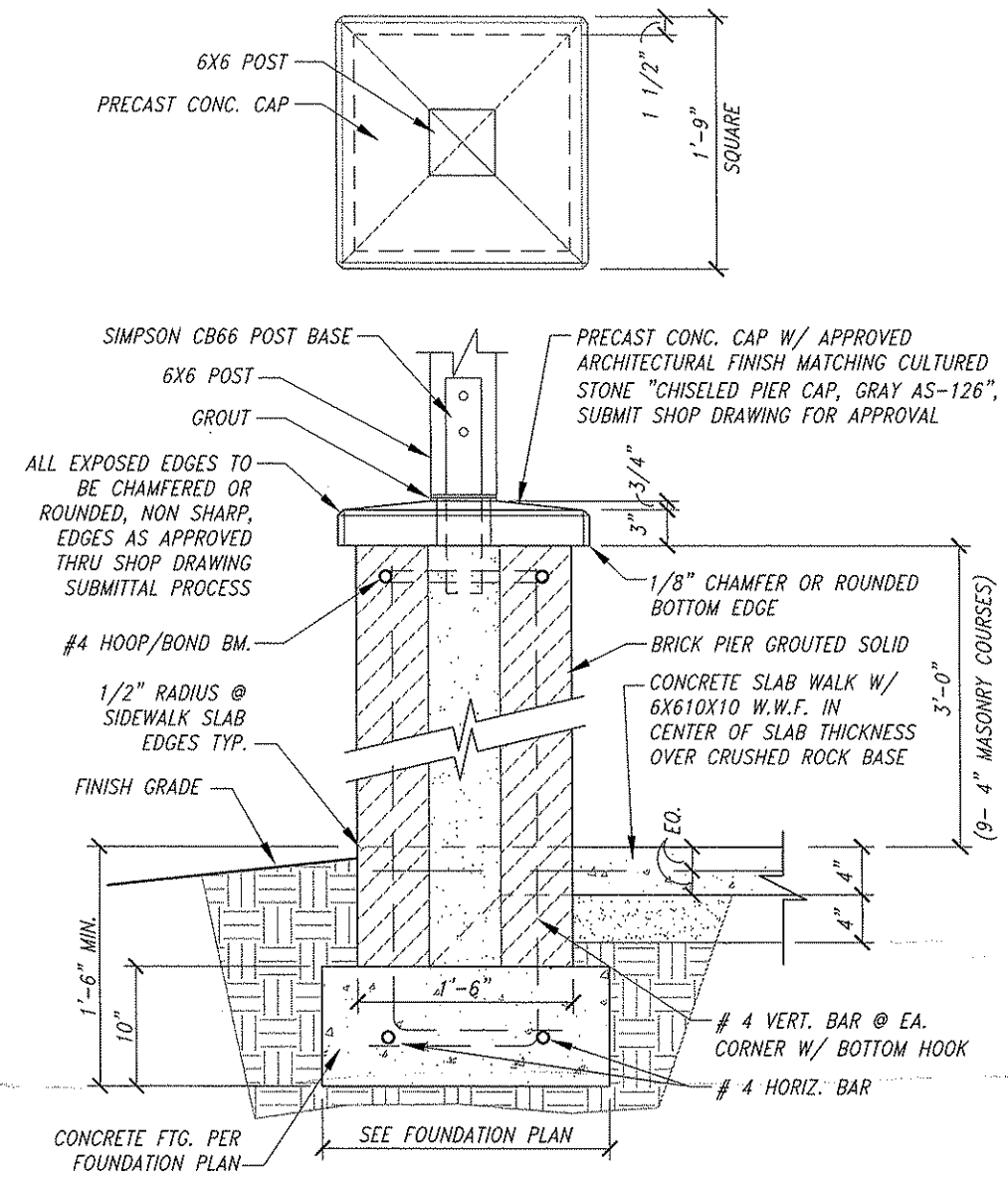
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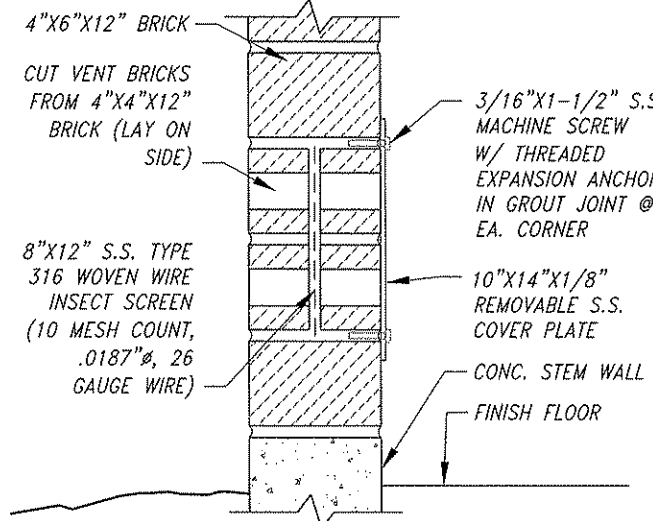
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DETAIL-5
SCALE: 3/4"=1'-0"



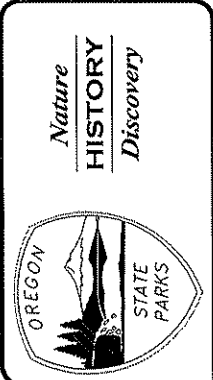
DETAIL-3
SCALE: 3/4"=1'-0"



DETAIL-6
SCALE: 1-1/2"=1'-0"

BY	
DATE	
REVISION	

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DESIGNED BY	SMS	
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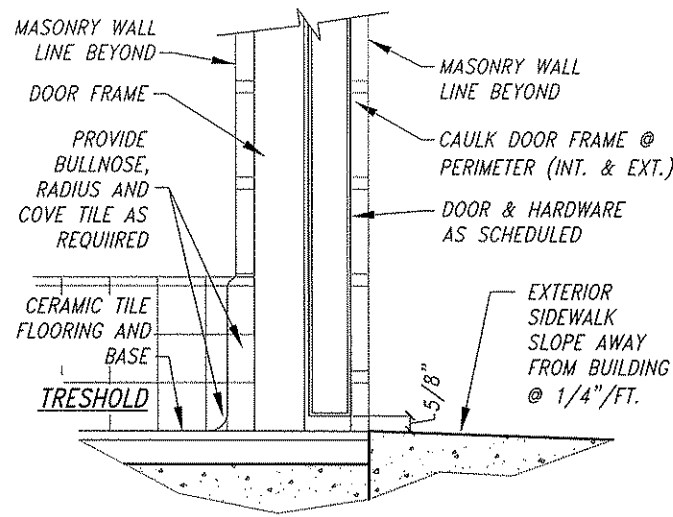


DETAILS
 CAMPGROUND IMPROVEMENTS
 HUMBURG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT

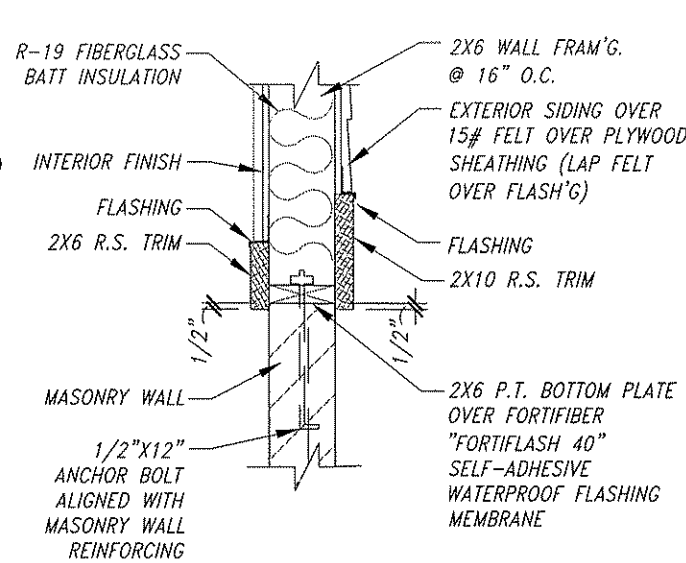


SHEET:	A-12
FILE:	
RR TYPE	6-4b ARCH.DWG

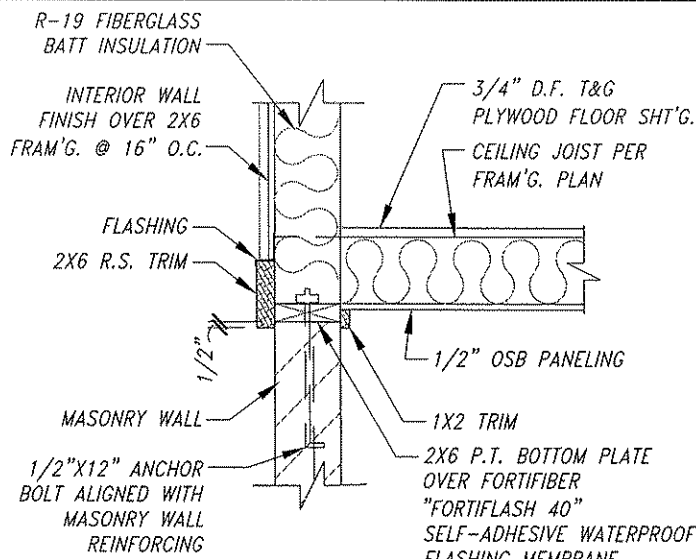
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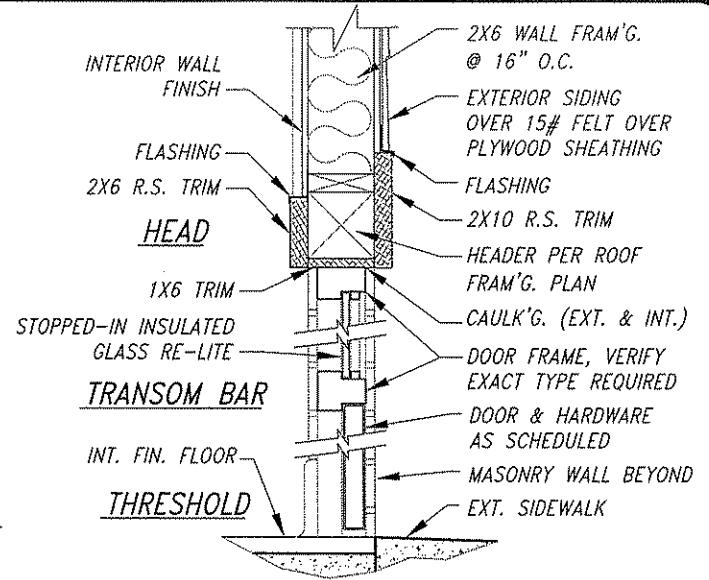
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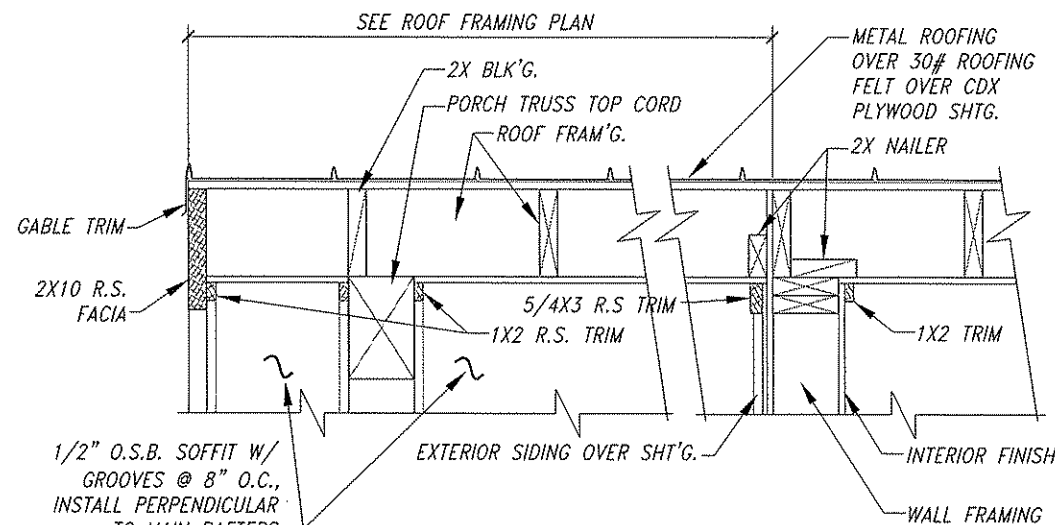
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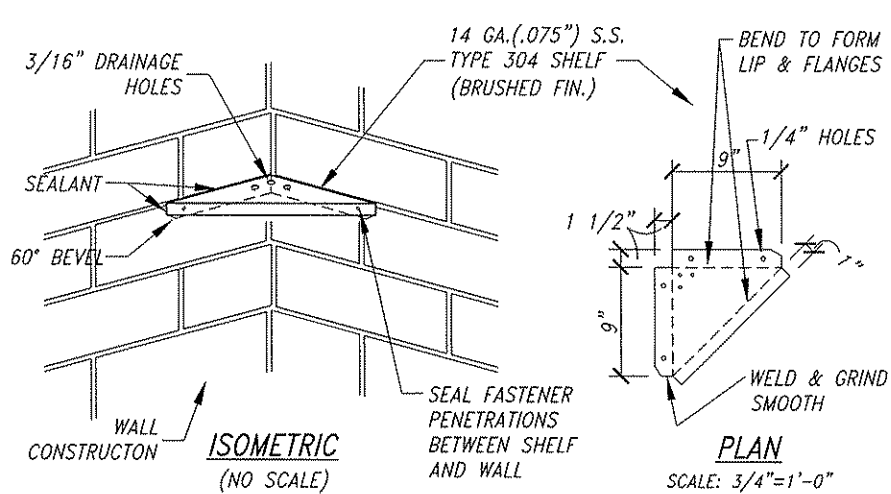
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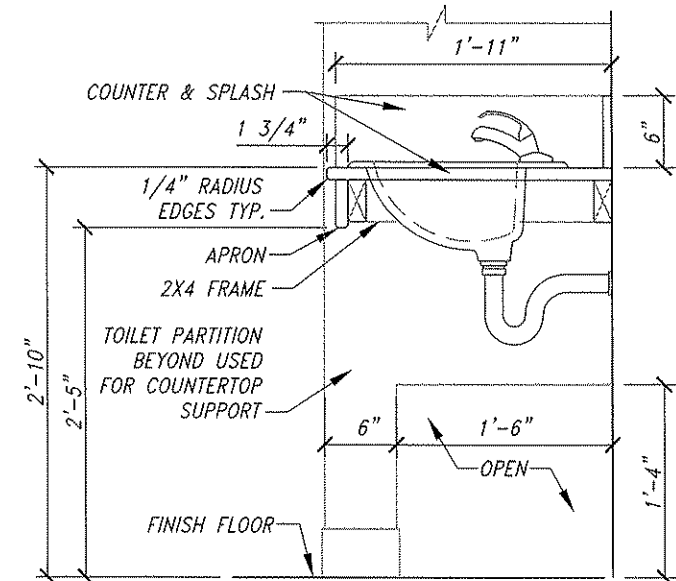
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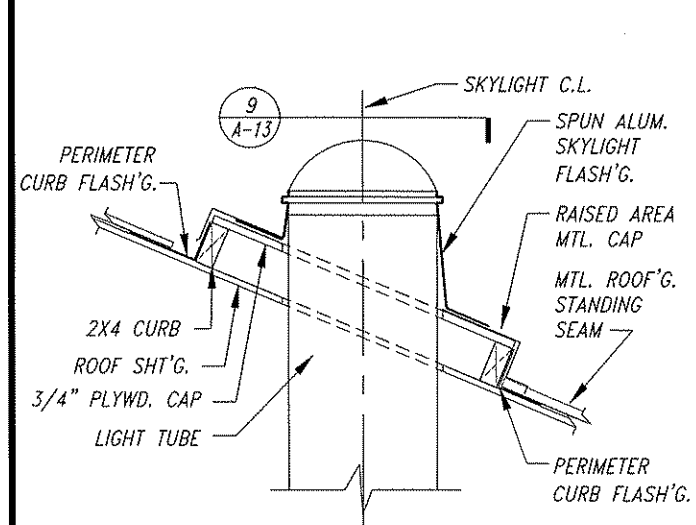
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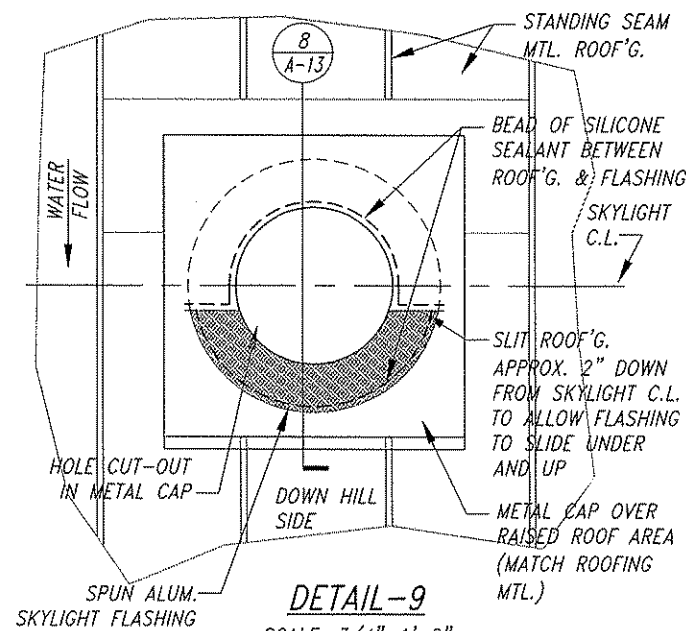
DETAIL-6
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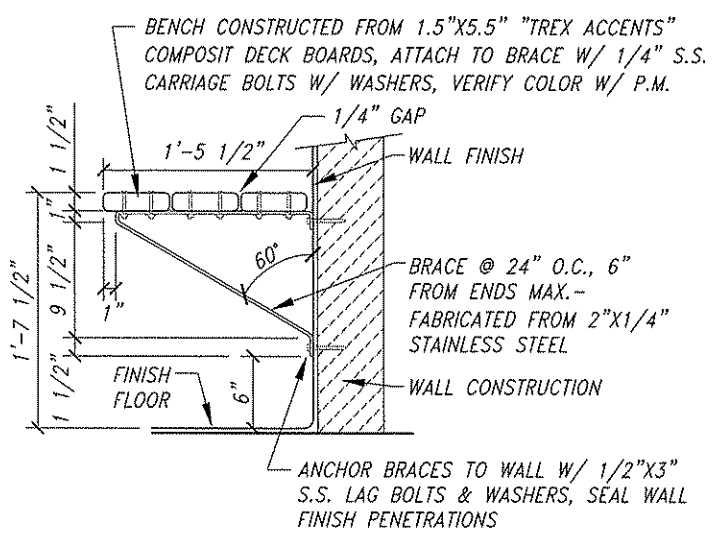
DETAIL-7
SCALE: 3/4"=1'-0"



DETAIL-8
SCALE: 3/4"=1'-0"



DETAIL-9
SCALE: 3/4"=1'-0"



DETAIL-10
SCALE: 3/4"=1'-0"

REGISTERED ARCHITECT
4481
STEVEN M. SMITH
Steven M. Smith
LAKE OSWEGO, OREGON
STATE OF OREGON

BY	
DATE	
REVISION	

APPROVED BY	
CHECKED BY	SMS
DESIGNED BY	SMS
DRAWN BY	
DATE	05-14-10

Nature
HISTORY
Discovery

OREGON STATE PARKS

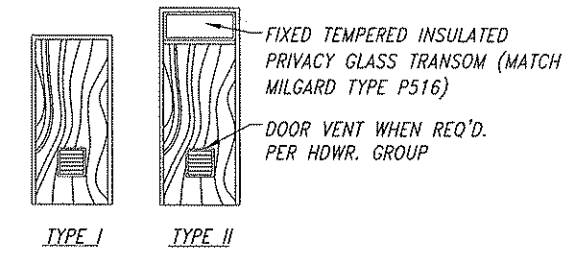
DETAILS
CAMPGROUND IMPROVEMENTS
HUMBURG MOUNTAIN STATE PARK
OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-13
FILE:	RR TYPE 6-4b ARCH.DWG

NOTE: ORIGINAL DRAWING SIZE IS 11"x17". ADJUST SCALE ACCORDINGLY IF PRINTED AT A DIFFERENT SIZE.

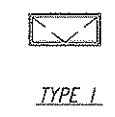
DOOR SCHEDULE **DOOR TYPES** **WINDOW SCHEDULE** **WINDOW TYPES**

DOOR MARK	OPENING SIZES W X H	TYPE	THICKNESS	FINISH	FACING CONSTRUCTION	CORE	GLASS	LABEL	FRAME	HARDWARE GROUP	REFER TO NOTES
①	3'-0" x 6'-8"	II	1-3/4"	FF	FG	IC	T	-	FG	1	1,2,3
②	3'-0" x 6'-8"	II	1-3/4"	FF	FG	IC	T	-	FG	1	1,2,3
③	3'-0" x 6'-8"	II	1-3/4"	FF	FG	IC	T	-	FG	2	1,2,3
④	3'-0" x 6'-8"	II	1-3/4"	FF	FG	IC	T	-	FG	3	1,2,3
⑤	3'-0" x 6'-8"	II	1-3/4"	FF	FG	IC	T	-	FG	3	1,2,3
⑥	3'-0" x 6'-8"	II	1-3/4"	FF	FG	IC	T	-	FG	3	1,2,3
⑦	3'-0" x 6'-8"	II	1-3/4"	FF	FG	IC	T	-	FG	3	1,2,3



- DOOR MATERIAL ABBREVIATIONS**
- AL ALUMINUM
 - AAL ANODIZED ALUMINUM
 - AMP ACRYLIC MODIFIED POLYESTER
 - FF FACTORY FINISH
 - FG FIBERGLASS
 - GST GALVANIZED STEEL
 - HM HOLLOW METAL
 - IC INSULATED CORE
 - P PAINT
 - SC SOLID CORE
 - SS STAINLESS STEEL
 - ST,C STAIN & CLEAR FINISH
 - T TEMPERED
 - WD WOOD
 - 20 20 MIN. LABEL

WINDOW MARKS	OPENING SIZES W X H	TYPE	CONSTRUCTION	FRAME FINISH	GLASS	REMARKS	REFER TO NOTES
Ⓐ	3'-0" x 1'-4"	I	VIN	FF	IPG	AWNING	1,2,3



- NOTES:**
- DIMENSIONS GIVEN ARE ROUGH OPENING. CONTRACTOR & MANUFACTURER TO FIELD MEASURE FOR ACTUAL SIZES ORDERED.
 - FRAME AND SASH COLOR: MILGARD "DESERT TAN"
 - PROVIDE STOPS THAT LIMIT WINDOW TO EXTEND NOT MORE THAN 6" OUT FROM WINDOW FRAME FACE.
- WINDOW MATERIAL ABBREVIATIONS**
- AL ALUMINUM
 - AAL ANODIZED ALUMINUM
 - FF FACTORY FINISH
 - IG INSULATED GLASS, LOW E
 - IPG INSULATED PRIVACY GLASS (MATCH MILGARD TYPE P516)
 - T TEMPERED
 - BA BRONZE ANODIZED
 - VIN VINYL

- NOTES:**
- REFER TO EXTERIOR AND INTERIOR ELEVATIONS FOR ADDITIONAL INFORMATION.
 - SEE SPECIFICATION SECTION 08710 FOR HARDWARE GROUPS.
 - VERIFY EXACT DOOR FRAME TYPE AND DIMENSIONS REQUIRED FOR SPECIFIC WALL CONSTRUCTION MATERIALS.

ROOM FINISH SCHEDULE

ROOM NAME	FLOOR		BASE		WALLS								CEILING		REMARKS
					NORTH		EAST		SOUTH		WEST				
	MAT.	FIN.	MAT.	FIN.	MAT.	FIN.	MAT.	FIN.	MAT.	FIN.	MAT.	FIN.	MAT.	FIN.	
MEN	CT	GS	CT	GS	M,PNL	CS,P	M,PNL	CS,P	M	CS,P	M,PNL	CS,P	PLN-1	P	SEE NOTE 1,2,3
WOMEN	CT	GS	CT	GS	M	CS,P	M,PNL	CS,P	M,PNL	CS,P	M,PNL	CS,P	PLN-1	P	SEE NOTE 1,2,3
ADA/FAMILY SHWR.	CT	GS	CT	GS	M,CT	CS,GS	M,CT	CS,GS	M	CS,GS	M,CT	CS,GS	PLN-2	F	SEE NOTE 1,2,3
SHWR.	CT	GS	CT	GS	M,CT	CS,GS	M,CT	CS,GS	M,CT	CS,GS	M,CT	CS,GS	PLN-2	F	SEE NOTE 1,2,3
DRES'G.	CT	GS	CT	GS	M	CS	M	CS	M	CS	M	CS	PLN-2	F	SEE NOTE 1,2,3
MECH./ELEC.	C	SH	C	SH	M	CS	M	CS	M	CS	M	CS	PLN-1	P	SEE NOTE 1,2,3

ROOM MATERIAL AND FINISH CODES

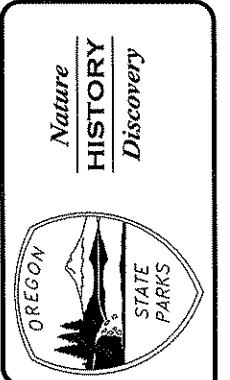
CODE	MATERIAL OR FINISH	CODE	MATERIAL OR FINISH
AFF	ACRYLIC FLOOR FINISH	M	MASONRY
C	CONCRETE	PLN-1	WOOD PANELING - SEE BUILDING SECTIONS AND INTERIOR ELEVATIONS
CT	CERAMIC TILE- VERIFY COLOR	PLN-2	PVC PANELING - SEE BUILDING SECTIONS AND INTERIOR ELEVATIONS
CMU	CONCRETE MASONRY UNITS	P	PAINT - VERIFY COLOR
CPT	CARPET	RB4, RB4.5, RB6	RUBBER BASE, RB4=4"H., RB4.5=4-1/2"H., RB6=6"H. - VERIFY COLOR
CS	CLEAR SEALER	S	STAIN - VERIFY COLOR
ES	EXPOSED STRUCTURE	ST,C	STAIN & CLEAR FINISH - VERIFY COLOR
F	FACTORY FINISH	SH	CHEMICAL SEALER/HARDENER
GS	GROUT SEALER	SV-1	SHEET VINYL - VERIFY COLOR
GWB(WR)	GYPSUM WALL BOARD (WATER RESISTANT)	SV-2	SHEET VINYL - VERIFY COLOR
		SV-2C	SHEET VINYL W/ INTEGRAL 6"H. COVE BASE- VERIFY COLOR

- NOTES:**
- SEE BUILDING SECTIONS & INTERIOR ELEVATIONS FOR OTHER MATERIALS NOT INDICATED.
 - ALL FLOOR, WALL AND CEILING FINISH MATERIALS TO BE CLASS C: FLAME SPREAD 76-200; SMOKE-DEVELOPED 0-450 AND CONFORM TO REQUIREMENTS OF O.S.S.C. CHAPTER 8.
 - SEE SPECIFICATION SECTION 09900 FOR PAINTING AND STAINING SCHEDULE



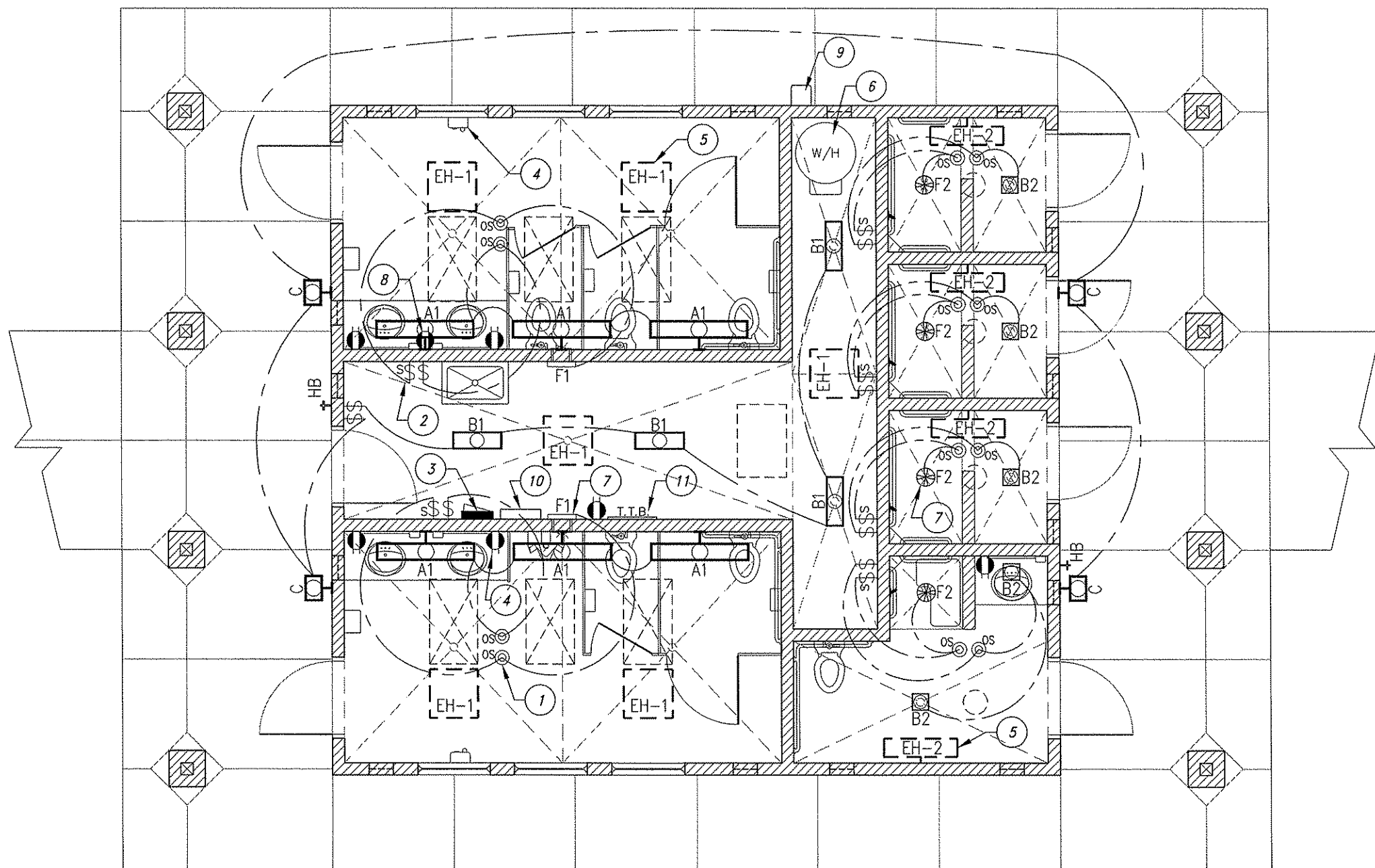
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DESIGNED BY	SMS
DRAWN BY	
DATE	05-14-10



DOOR, WINDOW AND ROOM FINISH SCHEDULES
CAMPGROUND IMPROVEMENTS
HUMBOLDT MOUNTAIN STATE PARK
OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-14
FILE:	
RR TYPE	6-4b ARCH.DWG



ELECTRICAL PLAN TYPE 6-4-b RESTROOM/SHOWER
 SCALE: 3/16"=1'-0" 0 1' 2' 4'

ELECTRICAL LEGEND & DEVICE MOUNTING HEIGHTS:

- | | | | |
|--------|--|---|--|
| — | ELECTRICAL CIRCUIT | Ⓢ | WALL SWITCH W/ SPEED CONTROL |
| ⊙ | CEILING MTD. LIGHT FIXTURE | Ⓛ | DUPLEX RECEPTACLE |
| ⊙ | WALL MTD. LIGHT FIXTURE | Ⓛ | GROUND FAULT INTERRUPT (GFI) DUPLEX RECEPTACLE |
| ⊙ | CEILING MTD. RECESSED LIGHT FIXTURE | Ⓛ | WEATHERPROOF DUPLEX RECEPTACLE |
| ⊙ | WALL MTD. FLUORESCENT LIGHT FIXTURE | Ⓛ | 220V RECEPTACLE |
| ⊙ | CEILING MTD. FLUORESCENT LIGHT FIXTURE | Ⓛ | OCCUPANCY SENSOR SWITCH |
| [EH-1] | ELECTRIC HEATER | Ⓛ | EXHAUST FAN- THROUGH WALL |
| Ⓢ | WALL SWITCH | Ⓛ | EXHAUST FAN- CEILING MOUNTED |
| Ⓢ | THREE-WAY WALL SWITCH | Ⓛ | ELECTRICAL PANEL |
| Ⓢ | WALL SWITCH W/ DIMMER | Ⓛ | TELEPHONE TERMINATION BOARD |

DEVICE MOUNTING HEIGHTS:
 1. INSTALL ELECTRICAL BOXES AT THE FOLLOWING ELEVATION A.F.F. TO CENTER OF BOX UNLESS OTHERWISE NOTED ON PLANS:

- A. CONTROL SWITCHES: 48"; 45" OVER COUNTERS
- B. DUPLEX RECEPTACLES: 18"; 45" OVER COUNTERS
- C. TELEPHONE OUTLETS: 18"; 44" OVER COUNTERS
- E. LIGHT FIXTURES: SEE PLANS AND NOTES

ELECTRICAL PLAN NOTES:
(TYPICAL U.N.O.)

1. CEILING MOUNTED OCCUPANCY SENSOR CONTROL CONNECTED TO MANUAL OVERRIDE SWITCH IN MECH./ELEC. ROOM SO THAT DEVICE MAY BE OPERATED IF MOTION SENSOR FAILS, LOCATE PER MFG.. INSTRUCTIONS AND BEST CONTROL OF CONNECTED DEVICES.
2. BROAN MODEL # 57V FAN ON/OFF AND SPEED CONTROL.
3. ELECTRICAL PANEL (SIZED BY DESIGN BUILD ELECTRICAL CONTRACTOR).
4. ALL CONDUCTORS FOR ELEC. EQUIP. AND DEVICES TO BE IN CONDUIT AND CONCEALED WITHIN BUILDING CONSTRUCTION. CONDUIT MAY BE SURFACE MOUNTED IN MECH/ELEC ROOM.
5. PROVIDE THERMOSTAT CONTROLS FOR EACH HEATED SPACE. LOCATED CONTROLS GROUPED TOGETHER IN MECH./ELEC. ROOM. PROVIDE TEMPERATURE PROBES TO SPACES IF REQUIRED.
6. WATER HEATER: RHEEM- RUUD ADVANTAGE PLUS GAS FIRED MODEL #HE119-119 WITH HORIZONTAL VENTING THROUGH SIDE WALL.
7. PROVIDE FLEXIBLE ALUMINUM DUCTING AND ACCESSORIES TO EXTERIOR WALL FOR EXHAUST FANS.
8. PROVIDE ADDITIONAL DUPLEX OUTLET IN WOMEN'S ROOM ONLY.
9. TELEPHONE BY OTHERS, G.C. TO PROVIDE 1"Ø CONDUIT W/ PULL ROPE BACK TO T.T.B., VERIFY LOCATION W/ P.M.
10. PUMP CONTROLS, SEE CIVIL PLANS, VERIFY MOUNTING LOCATION W/ P.M.
11. TELEPHONE TERMINATION BOARD, PROVIDE 2'x4'x3/4" PLYWD. W/ WHITE MELAMINE SURFACE & #6CU GROUND, COORDINATE REQUIREMENTS W/ UTILITY, VERIFY MOUNTING LOCATION W/ P.M.

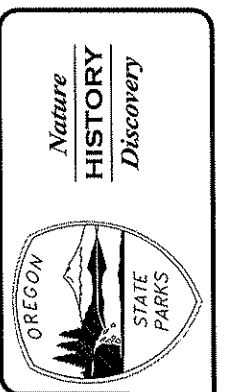
LIGHT FIXTURE, HEATER & FAN SCHEDULE:

- | | |
|--|--|
| <p>A1(NL)</p> <p>B1</p> <p>B2</p> <p>C</p> <p>[EH-1]</p> <p>[EH-2]</p> <p>F1</p> <p>F2</p> | <p>DESCRIPTION: LIGHT FIXTURE, WALL MOUNTED (HORIZONTAL)
 MFR.: WF HARRIS LIGHTING
 MODEL: 140-CP-32W FLT8-HPF-120V
 NOTE: PROVIDE W/: LAMPS, 0'F. BALLAST, MARINE GRADE ALUMINUM BASE PLATE, PROVIDE W/ 9W PL NIGHT LIGHT WHERE INDICATED (NL)</p> <p>DESCRIPTION: LIGHT FIXTURE, CEILING MOUNTED
 MFR.: WF HARRIS LIGHTING
 MODEL: 220-CP-2 17W FLT8-HPF-120V
 NOTE: PROVIDE W/: LAMPS, 0'F. BALLAST, MARINE GRADE ALUMINUM BASE PLATE</p> <p>DESCRIPTION: LIGHT FIXTURE, CEILING MOUNTED
 MFR.: WF HARRIS LIGHTING
 MODEL: 80-OW-26W PLT-HPF-120V
 NOTE: PROVIDE W/: LAMPS, 0'F. BALLAST, MARINE GRADE ALUMINUM BASE PLATE, WET LOCATION GASKET</p> <p>DESCRIPTION: LIGHT FIXTURE, WALL MOUNTED
 MFR.: WF HARRIS LIGHTING
 MODEL: 80-WP-1 32W PLT-HPF-120V
 NOTE: PROVIDE W/: LAMPS, 0'F. BALLAST, PHOTO CELL CONTROL, MARINE GRADE ALUMINUM BASE PLATE, WET LOCATION GASKET, TAMPERPROOF SCREWS</p> <p>DESCRIPTION: RADIANT ELECTRIC CEILING PANEL HEATER
 MFR.: QMARK/MARLEY
 MODEL: CP372, 240V (OR AS REQ'D.), 375 WATTS, 24"X24", SURFACE MOUNTED W/ MFR'S. 3" STAINLESS STEEL FRAME
 NOTE: PROVIDE LIQUID TIGHT CONDUIT & SILICON SEAL (BY MFR.)</p> <p>DESCRIPTION: RADIANT ELECTRIC COVE HEATER
 MFR.: QMARK/MARLEY
 MODEL: RCC4524C, 240V (OR AS REQ'D.), 450 WATTS, 34" LONG,
 NOTE: PROVIDE LIQUID TIGHT CONDUIT & SILICON SEAL (BY MFR.)</p> <p>DESCRIPTION: WALL MOUNTED EXHAUST FAN
 MFR.: GREENHECK
 MODEL: SP-B 200, 194 CFM, 3.5 SONES, PROVIDE W/ #WC-6 ALUMINUM HOODED WALL DISCHARGE W/ BIRD SCREEN AND DAMPER</p> <p>DESCRIPTION: CEILING MOUNTED EXHAUST FAN & LIGHT
 MFR.: GREENHECK
 MODEL: SP-B 110 FL, 110 CFM, 1.5 SONES, PROVIDE W/ WHITE DECORATIVE GRILLE, MOTION DETECTOR, FLUORESCENT LIGHT (2-13W BULBS), FROSTED LENS, #WC-6 ALUMINUM HOODED WALL DISCHARGE W/ BIRD SCREEN AND DAMPER</p> |
|--|--|



DATE	
REVISION	

APPROVED BY	CHECKED BY	DESIGNED BY	DRAWN BY
		SMS	SMS
			05-14-10



ELECTRICAL PLAN
 CAMPGROUND IMPROVEMENTS
 HUMBURG MOUNTAIN STATE PARK
 OREGON PARKS AND RECREATION DEPARTMENT

SHEET:	A-15
FILE:	RR TYPE 6-4b ARCH.DWG



**Lance Kessler
Construction Inc.**
PO Box 938
Brookings, OR 97415
ccb. 177733

Bid

Date	Estimate #
2/1/2018	1193

Name / Address
Boice cop park

P.O. No.
Bathroom remodel

Item	Description	Total
100	<p>This proposal is to demo down boice cope park bathroom to the foundations and rebuild.</p> <p>We are proposing to fill out and obtain building permit, demo building down to foundation, provide all building materials for framing and siding. build structure on existing foundation and same layout, as per contractors drawings add a 6' X 33' covered entry overhang with exposed cedar stained beams, black brackets, 3' high rock Wayne coat at entry and 4 column bases, all other siding to be board and baton 16" on center. Roofing will be standing seam 12" on center metal. interior will have all new wiring, light led fixtures, 2 bathroom heaters. New in wall plumbing new fixtures, reuse filtration system, and pressure tanks. Interior finished will have tile floors going up to a 3' Wayne coat on walls, walls to be plastic bathroom wall board, ceilings to be T1-11 painted. open studs in utility room, plywood walls in storage room. all walls and ceilings will be insulated. includes bathroom stalls, signs, levers. exterior patios add broom finish concrete patio from building to sidewalk 33' wide.</p> <p>Materials to be used</p> <p>Siding</p> <ul style="list-style-type: none"> -Allura fiber cement siding panels with 1 X 3 forest wood batons -hydro gap vapor barrier and window wraps -116 vulkem caulking -all exposed nails to be stainless steel all unexposed nails to be hot dipped galv. <p>Framing</p> <ul style="list-style-type: none"> -2 X 6 #2 fir exterior walls -2 X 4 #2 fir interior walls -1/2 CDX 5 ply wall and roof shear -2 X 12 #2 fir rafters -4 X 8 #2 fir door and window headers -6 X 10 select cedar entry beams 	150,000.00

		Total
--	--	--------------

Phone #	Fax #	E-mail
541-469-9616	541-469-9616	lancelaurenk@msn.com



**Lance Kessler
Construction Inc.**
PO Box 938
Brookings, OR 97415
ccb. 177733

Bid

Date	Estimate #
2/1/2018	1193

Name / Address
Boice cop park

P.O. No.
Bathroom remodel

Item	Description	Total
	-6 X 6 select cedar entry posts Roofing -ASC skyline 12" standing seam 26 ga metal roofing with eve, gable, and vented ridge metal -tiger paw underlayment Stone work eldorado stone groutless, with 4 column caps, and wainscot top Exterior doors fiberglass, with jam savers, no threshold, rubber sweep bottom, single bore, 6 panel with stainless steel locking levers Windows -Plygem white vinyl pro series, .30 UV, argon filled 8- 4'W X 1'6"H PIC, 4 4'W X 1'6"H Awning insulation R-21 exterior walls, R-11 interior walls, R-38 ceilings fiberglass batons Plumbing 1 - Kohler K-991-ET wall mount urinal 4 - Kohler K-2006-0 rectangular wall mount sinks 4 - symmons S-20-2-G single lever faucets chrome 5 - Kohler K-4325-L-O wall mount toilets Electrical 2 - ceiling mount heaters LED florescent ceiling mount lights LED wall mount flood lights Gutters 5" OG painted aluminum Paint Sherwin Williams super paint or equal Tile	

		Total
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Phone #	Fax #	E-mail
541-469-9616	541-469-9616	lancelaurenk@msn.com



**Lance Kessler
Construction Inc.**
PO Box 938
Brookings, OR 97415
ccb. 177733

Bid

Date	Estimate #
2/1/2018	1193

Name / Address
Boice cop park

P.O. No.
Bathroom remodel

Item	Description	Total
	<p>12 X 12 wall and floor tiles, priced at 3.50 per square foot, with backer board on walls, thinset, grout, sealer Hardware -Parts picked at all partitions and parts .com, powder coated steel 2 ADA stalls, 3 normal 36" stalls, one urinal area 4 - 18"W X 24"H mirrors with channel frame 4 - stainless steel soap dispensers 2 - royal sovereign hand dryers 5 - renown commercial twin tissue holders moen designer series grab bars 2 - his and hers bathroom signs</p> <p>Contractor shall be able to park travel trailers, and tool trailers on camp sites during construction, porta potty provided, park may need shut down during demo and rebuild until power can be turned back on. Contractor will turn in permit and after approval these specs will be revised if county building dept. required to meet codes. Payments will be 5 payment 25% percent down. 25% percent after framing, siding, roofing. 25% percent after all inspections from plumbing and electrical. 15% percent after tile. 10% after final inspection and completion.</p>	
Total		\$150,000.00

Phone #	Fax #	E-mail
541-469-9616	541-469-9616	lancelaurenk@msn.com

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: Lease property to Nesika Beach Ophir Water District

TIMELY FILED Yes No Acting Interim County Administrator authorization
If No, justification to include with next BOC Meeting

AGENDA DATE^a: JHuttl **DEPARTMENT:** BOC **TIME NEEDED:** 30 min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain: **Executive Session Not Public**

CONTACT PERSON: J Huttll **PHONE/EXT:** 3218 **TODAY’S DATE:** 02/09/2017

BRIEF BACKGROUND OR NOTE: (If no memo attached) Presentation by Carl King, Board Member of Nesika Beach Ophir Water District regarding county lease to district of property adjacent to district property where its water intake well is located. Goal is to protect district’s water source.

FILES ATTACHED:

- (1) Sample Lease
- (2)
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

- 1. Confirmed Submitting Department’s finance-related responses Yes No N/A
Comment:
- 2. Confirmed Submitting Department’s personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail) Discussion only

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS’ REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold Yes No
Commissioner Thomas Huxley Yes No

AFTER RECORDING RETURN TO:

Curry County
94235 Moore Street, Suite 122
Gold Beach, Oregon 97444

SEND TAX STATEMENTS TO:

Nesika Beach – Ophir Water District
32892 Nesika Road
Gold Beach, Oregon 97444

**Ground Lease for Nesika Beach – Ophir
Water District**

Date: _____

Parties: Curry County, a Political Subdivision of the State of Oregon, Lessor, 94235 Moore Street, Suite 122, Gold Beach, OR 97444, and Nesika Beach – Ophir Water District, Lessee, 32892 Nesika Road, Gold Beach, Oregon 97444

Recitals: 1) The area of this lease is a 1.94 acre parcel of County owned property legally described in Exhibit “A” of this lease document. The property is physically located on the North Bank Rogue River Road, known as the “Canfield Bar”. Exhibits “A” is incorporated herein by reference. The land that is leased pursuant to this document shall hereafter be referred to as the “Premises”.

2) Lessee wishes to utilize the Premises for the Water District’s use of the leased property to those that carry out the purposes of the water district.

Section 1. Agreement to Lease

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the Premises on the terms and conditions set forth below:

Section 2. Term/Renewal

A) The initial term of this lease shall begin on _____, 2018 and continue until _____, 2017 (60 years) unless it is terminated sooner or renewed as provided for in the lease.

B) If the lease is not in default, Lessee shall have the option to apply for a renewal. The option to renew shall be allowed so long as Lessee complies with the provisions of this section and signs an extension agreement, including any reasonable modifications consistent with the provisions of this lease.

C) The application to renew shall be exercised by giving written notice to Lessor at least 60 days, and not more than 180 days prior to the last day of the expiring term.

D) Any renewals of this lease shall be on substantially the same terms and conditions as the initial lease. However, within 30 days of receiving Lessee's written application for renewal, Lessor may submit to Lessee an extension agreement specifying any changes in the terms.

E) If Lessee agrees to the terms and wishes to renew the lease for another term, Lessee shall send to Lessor the signed extension agreement prior to the last day of the expiring term. The lease extension shall be binding when the extension agreement is fully executed by the parties.

F) If Lessee exercises the option to renew, but fails to sign the extension agreement prior to the last day of the lease term, this lease shall terminate on the last day of the current 5 year term.

Section 3. Rent and Consideration

Base rent shall be at the rate of \$1.00 per year for a total of \$60.00 payable up front at time of execution of Lease.

Section 4. Lessee's Use of the Premises

See Recital (2) above.

Section 5. Taxes and Assessments

Lessee shall pay before delinquency all real and personal property taxes, general and special assessments, and other charges of every description, if any, levied on or assessed against the Premises.

Section 6. Development and Maintenance

Lessee shall maintain the Premises in good condition and repair during the duration of the lease.

Section 7. Improvements

Lessee shall not install or place improvements on the Premises other than an indicated fence around a portion of the premises. All improvements constructed on the Premises by Lessee shall be owned by Lessee until expiration or sooner termination of this lease. All improvements located on the Premises at the expiration or sooner termination of this lease shall become the property of Lessor, free and clear of all claims of Lessee or anyone claiming under Lessee. It is understood that infrastructure improvements such as electrical poles need not be removed at the time of expiration of the lease.

Section 8. Assignment; Subletting; Financing

- A) Lessee shall not assign or otherwise transfer Lessees' interest in the lease or the estate created by this lease without the written consent of the Lessor.
- B) Lessee shall not sublet all or any part of the Premises or other improvements on the Premises without the written consent of the Lessor.
- C) Lessee may not subject the leasehold estate and the improvements, if any, to one or more mortgages or other liens as security for a loan or loans or other obligations of the Lessee.
- D) Lessor may assign its interest in this lease to another party.

Section 9. Insurance

A) Lessee agrees to maintain Comprehensive General Liability Insurance during the period of the lease and any extension thereof, in an amount not less than \$2 million for any one accident and shall furnish Lessor a certificate of such coverage adding Lessor as an additional insured and provide Lessor with a 30 day notice of any cancellation of coverage.

Section 10. Additional Lessee Rights and Obligations

A) Lessor grants Lessee permission to install a fence at Lessee's own

expense.

Section 11. Utilities

~~Lessee agrees that it will pay all charges and expenses for electricity, sewer and water and garbage used on the Premises during the term of the lease, and further agrees that it will not permit liens to be incurred or placed upon the Premises because of the non-payment of any such utility charges.~~

Section 12. Compliance with Laws

Lessee agrees to observe and obey all pertinent laws, ordinances and regulations pertinent to the occupancy of the premises during the term of the lease or any extension thereof.

Section 13. Remedies on Default

Should Lessee default on its obligations under the Lease, Lessor may give Lessee written notice of the default. Should Lessee fail to cure the stated default within 30 days, Lessor may terminate the Lease.

Section 14. Surrender and Termination

A) Upon expiration of the lease term, Lessee shall surrender possession of the Premises to Lessor, in good condition. All improvements of the Lessee must be removed from the Premises at the expiration or sooner termination of the lease, or they will become property of the Lessor, free and clear of all claims of the Lessee or anyone claiming under Lessee.

B) Failure by Lessee to vacate the Premises at the time specified in this lease shall not constitute a renewal or extension or give Lessee any rights in or to the Premises or any improvements.

Section 15. Miscellaneous Provisions

A) Waiver by either party of strict performance of any provision or term of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision or any other provision.

B) All notices under this lease shall be effective on the earlier of actual receipt or two days after deposit as registered or certified mail, return receipt requested, postage prepaid and addressed to Lessor or Lessee at the addresses stated below, or to such other address as either party may specify by notice to the other party:

LESSOR: 94235 Moore Street, Suite 123
Attn: County Counsel

LESSEE: Nesika Beach – Ophir Water District
32892 Nesika Road
Gold Beach, Oregon 97444

C) If suit or action is instituted in connection with any claim or controversy under this lease, each side will be responsible for their own attorney fees.

D) The invalidity or illegality of any provision of this lease shall not affect the remainder of the lease.

E) This lease and the party's rights under it shall be construed and regulated by the laws of the State of Oregon.

BOARD OF CURRY COUNTY COMMISSIONERS

Sue Gold, Chair Date

Thomas Huxley, Vice Chair Date

Court Boice, Commissioner Date

STATE OF OREGON)
) ss.
County of Curry)

Acknowledged before me this _____ day of _____, 2012,
by _____.

Notary Public for _____
My Commission expires _____

LESSEE: Nesika Beach – Ophir Water District

Dan Brattain (NAME)
Authorized Representative

Date: _____

Approved as to Form:

John Hutti
Curry County Legal Counsel

EXHIBIT "A"

Baap on the W bndry of said Lot 4, S 0° 15' E 854.5 ft from an iron pipe marking the NW cor of said Lot 4; th N 70° 43' E 1170.1 ft; th N 0° 15' W 300.0 ft to a pt approx. on the N side of the gravel bar; th SWly following the N edge of the gravel bar to a pt due E 435.0 ft from the W bndry of said Lot 4; th N 0° 15'; W 100 ft m/l to the S bndry of the County Road; th SWly following the Sly bndry of the County Road to the W bndry of said Lot 4; th S 0° 15'; E 350 ft m/l to the POB.

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO [BOC OFFICE@CO.CURRY.OR.US](mailto:BOC_OFFICE@CO.CURRY.OR.US)

PROPOSED AGENDA ITEM TITLE: Executive Session ORS 192.660(2)(a),(f)&(h)

TIMELY FILED Yes No Acting Interim County Administrator authorization
If No, justification to include with next BOC Meeting

AGENDA DATE^a: JHuttl **DEPARTMENT:** BOC **TIME NEEDED:** 20 min
(*Submit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain: **Executive Session Not Public**

CONTACT PERSON: J HuttI **PHONE/EXT:** 3218 **TODAY’S DATE:** 02/09/2017

BRIEF BACKGROUND OR NOTE: (If no memo attached) Continued Discussion from February 7, 2018, without labor negotiation discussion.

FILES ATTACHED:

- (1)
- (2)
- (3)

QUESTIONS:

1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

*Note: Most signed documents are filed/recorded with the Clerk per standard process.

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

1. Confirmed Submitting Department’s finance-related responses Yes No N/A
Comment:
2. Confirmed Submitting Department’s personnel-related materials Yes No N/A
Comment:
3. If job description, Salary Committee reviewed: Yes No N/A
4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR _____ BOC MEETING Not Approved for BOC Agenda because

LEGAL ASSESSMENT: Does this agenda item have a legal impact? Yes No
(If Yes, brief detail)

ASSIGNED TO:

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS’ REQUEST TO ADD TO AGENDA:

- Commissioner Sue Gold Yes No
Commissioner Thomas Huxley Yes No
Commissioner Court Boice Yes No



Board of Commissioners Final Staff Report

Meeting Date: February 14, 2018

Prepared by: Carolyn Johnson, Community Development Director

Agenda Item. Continuation of Board action on de novo appeal from a Planning Commission decision on Elk River Property Development's application for the analysis of alternatives routes for a pipeline and ancillary facilities to deliver recycled wastewater located for irrigation of a golf course on or over Assessor map 32-15-29C, lot numbers: 103, 104, 105, 106, 107, 108, 118, 120 and 121 and extend to the property commonly known as the Knapp Ranch. (Sections 19, 29 & 30 of Township 32 S., Range 15 W., W.M. Tax lot 4400, and Section 29c of Township 32 S., Range 15 W., W.M. Tax lot 500)

Summary. On January 17, 2018, the Board held an initial de novo hearing on the subject application and concluded with direction that the public hearing be closed but the record remain open until 5 PM on January 31, 2018. A rebuttal period to comments received by January 31 was also established by the Board, that period concluded at 5 PM on February 7. All testimony received has been posted on the County website and presented in this report. The Board should review the testimony referenced in this report; it supplements the information provided to the January 17, 2018 Board packet.

Because the public hearing has been closed, the Board cannot hear from any party. It may ask questions of staff.

The Board should also review final written arguments in support of the application provided by the applicant. Because the applicant had until February 14, 2018 to submit its final written closing argument, that document was not available by staff's publication deadline. Therefore staff is unable to make a recommendation based on the entire record, because it is not complete at this time.

Testimony and discussion. Written testimony received from January 17 to January 31 and related rebuttals received by February 7 are referenced below.

1. Planning Commission staff reports from September 21, October 19, and November 7, 2017. These reports were previously referenced but the physical copies were not included in the 01.27 BOC packet. They information is now included at attachment 1. No additional discussion on these reports is needed or provided.

2. Supplemental information, including:

An October 13, 2017 e-mail and letter from ODOT requiring ODOT authorization of ODOT permitting for reclaimed water lines; an October 18, 2017 letter from Bill Kloos; an October 19, 2017 letter and attachments from Sean Malone This information was referenced but not included in the 01.27 BOC packet. This information was previously referenced but the physical copies were not included in the 01.27 BOC packet. They information is now included at attachment 2. No additional analysis is needed or provided.

3. January 15, 2018 Wildland properties – expressed support for the Pacific Gales golf course and authorization of alternatives. See attachment 3. No analysis is needed or provided.

4. January 18, 2018 letter from ORCA to the Board. See attachment 4. The letter asserts the application must be denied and requests the Board affirm the Planning Commission denial decision. ORCA referenced previously submitted testimony to the County and additional new information.

Point one of the ORCA testimony notes:

“The applicant has not demonstrated why a variety of routes were not considered.” ORCA notes that fully utilizing highway 101 was not considered, and that route would be the most efficient and cluster development for the pipeline in an area that is already largely developed. Instead of heading directly to highway 101 from 12st. the pipeline works its way along Idaho Str. Working within the state right of way is reasonable, as it would avoid more sensitive districts or zone. In addition, the applicant has not explained why a route along Arizona St was not considered. Indeed such a route would appear to require the shortest distance. Moreover, the applicant has not demonstrated that the particular routes chosen is the least impactful route.”

The applicant has responded to this comment (attachment 5) with the following: *“We decided to avoid Highway 101 as much as possible, as this is the main street in the City and hence the most traffic. Mr. Malone also questions why we did not route the pipe up Arizona Street. The answer is very simple. The bridge crossing a portion of Garrison Lake is failing and it is in a zone district that would require a division of state lands permits. This testimony is submitted as evidence that Elk River Development Ilc has addressed alternatives submitted, and have for the reasons listed above chosen not to use them.*

Point two of the ORCA testimony notes:

“The final order approving the golf course alleged that a portion of the subject property is encumbered by the groundwater area potentially affected by the Port Orford Landfill site and that no development is proposed for that area. The current application calls into questions whether that area will be developed with facilities for reclaimed water, including the proposed reservoir.... ” The letter goes on to state that *“the applicant has not demonstrated why alternative means, including a transfer of water from Knapp*

Ranch and use of groundwater are no longer feasible alternatives to irrigating the now expired golf course.

Point three of the ORCA testimony notes:

The final order approving the golf course also alleges that it would irrigate consistent with a transfer of some of the Knapp Ranch's water rights. See Ex. A1 at 20 ("The Applicants ... have indicated that, in reaching a tentative agreement with the Knapp Ranch to transfer a portion of the ranch's water rights,"); id. at 21 ("A letter from the Water Resources Department, included along with the application submittal indicated that a portion of the Knapp Ranch's irrigation rights could be transferred to the golf course development area."); id. at 21 ("The Applicants have explained that, if the water rights transfer becomes unworkable, the Applicants will rely instead on new permits for groundwater or for storage of winter surface flows, to create a source of stored water for summer use. The applicants submitted well logs from recently drilled wells in the immediate vicinity, demonstrating that there is adequate supply and availability of groundwater, should the Applicant resort to that source."). Obviously, none of the theories for water upon which the applicant was approved are relevant anymore. The prior application – now expired – must be reviewed again in order to account for the ever-changing proposal.

This testimony from ORCA also asserts that the Pacific Golf Course approval has expired. The applicant submitted evidence into the January 17, 2018 BOC record that the the land use approval for the golf course has been vested with the start of construction and that Elk River Development LLC intends to continue and complete construction. The applicant has submitted a copy of a January 19, 2018 application for an extension of the existing land use approval for the golf course as a rebuttal ORCA's comments regarding the golf course. (attachment 6)

Point four of the ORCA testimony notes:

Finally, by its plain language, the above provision also requires that a DEQ approval be in place before the local government approval occurs. For example, ORS 215.246 requires the local government decision "relating to the land application of reclaimed water ... under a license, permit, or approval by the Department of Environmental Quality." ORS 215.246. The applicant does not have a license, permit or approval by the DEQ at this time. Nor can they receive one, as the golf course permit from Curry County is expired. The application must first obtain approval by the DEQ, because that is the process contemplated by statute.

Oregon Statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ. DEQ has indicated the processing of the Recycled Water Use Permit for the project cannot be completed without the County's review and authorization of the Alternatives analysis. Ranei Nomura, DEQ Water Quality Permitting and Compliance Manager, provided in his November 21, 2017 e-mail an excerpt from DEQ, DLCD, ODA and OHS requirements related to the order of sequence for issuance of permits from DEQ. The applicant is complying with this sequence and is at step 2 in the process noted below, requesting a land use review by the County:

Process for Land Application Proposals: As the State Agency that issues environmental approval for land application practices, DEQ has consulted with the DLCD, ODA, and Department of Human Services (DHS) to ensure that its process meets the intent of the new Act. The following steps described below apply to:

- New land application proposals (except those involving vehicle transport of biosolids).
 - Significant modifications to permits, approvals and permit renewals, e.g. use of additional lands.
1. The applicant obtains the required DEQ application and LUCS forms, and submits the LUCS to the county planning office for its review and approval.
 2. The county conducts its land use review process in accordance with the requirements under the Act.
 3. The county completes the LUCS form and returns it to the applicant with the attached findings:
 - The proposed activity constitutes land application for purposes of agricultural, horticultural, silviculture production, or for irrigation in connection with a use allowable in EFU zoned land under ORS 215.
 - Any proposed facilities necessary for the land application practice to occur on the subject site are accessory to and reasonably necessary as allowed by the Act.
 - Approval of the LUCS is subject to DEQ's issuance of the necessary environmental approvals or permits.
 4. The applicant submits the DEQ application and approved LUCS to DEQ for processing. DEQ processes the application and conducts a technical review in accordance with its rules. The review, depending on what material is applied to the land, may include the following:
 - Pollutant and nutrient testing
 - Determination of agronomic rate
 - Determination of agronomic or pollutant loading
 - Determination of water assimilation capacity
 - Site assessment and evaluation
 - Crop type and cropping system
 - Application methods and equipment requirements
 - Site access and harvest restrictions
 - Monitoring requirements
 - A written determination that the land application activity will not reduce the productivity of the land in question.
 5. DEQ submits all Reclaimed Water Reuse Plans to the DHS for comment (OAR 340-055-0015(2)), and consults with DHS on any effluent quality limitations (OAR 340-055-0015(4)).
 6. Applicants intending to land apply reclaimed water are required to submit a "Registration of Reclaimed Water Use" form (<http://wrđ.state.or.us/publication/pdfs/reclaimform96.pdf>) to the Water Resources Department (ORS 537.131, 537.132 and 537.610(h)). Either agency can supply applicants with this form, however it requires a DEQ signature.
 7. DEQ issues an approval or denial to the applicant, and provides a copy to the county planning office.

Conclusion. Board deliberations should conclude with direction to staff to prepare an Order with findings for Board action no later than February 28, 2108.

Attachments:

Written submittals received by 5 PM January 31, 2018

1. Planning Commission staff reports from September 21, October 19, and November 7, 2017.
2. Supplemental information, including: October 13, 2017 e-mail and letter from ODOT; October 18, 2017 letter from Bill Kloos; October 19, 2017 letter and attachments from Sean Malone.
3. January 15, 2018 Wildland properties
4. January 18, 2018 letter from ORCA to the Board.

Rebuttal material submittals received after January 31 & before 5 PM February 7

5. Received by e-mail February 7, 2018, January 19, 2018 letter from Bill Kloos (applicant)
6. February 7, 2018 letter from Jim Haley (applicant)

ATTACHMENT 1

Planning Commission staff reports from
September 21, October 19, and November 7, 2017.



Chair John Brazil
Vice Chair Bob Morrow
Commissioner Karen Kennedy

Commissioner Kevin McHugh
Commissioner Ted Freeman
Commissioner Diana St. Marie
Commissioner Shannon Pagano

**Planning Commission Meeting Agenda
Thursday, September 21, 2017 at 5:30 PM
County Annex, 94235 Moore Street/Blue Room, Gold Beach, Oregon**

- 1. Call to Order / Roll Call**
- 2. Pledge of Allegiance**
- 3. Acceptance of the Agenda**
- 4. Public Comment for items not on the Agenda**
- 5. Agenda:**
 - A. Application AD-1705: A request to develop a pipeline over multiple properties to deliver recycled wastewater, and a reservoir, in order to irrigate the Pacific Gales golf course. The pipeline could be located on land owned by multiple owners on property located on Assessor map 32-15-29C, lot numbers 103, 104, 105, 106, 107, 108, 118, 120 and 21; Applicant: Elk River Property Development LLC.
- 6. Commissioner Comments**
- 7. Director Comments**
- 8. Adjournment: no later than 8:30 PM**

Planning Commission Staff Report

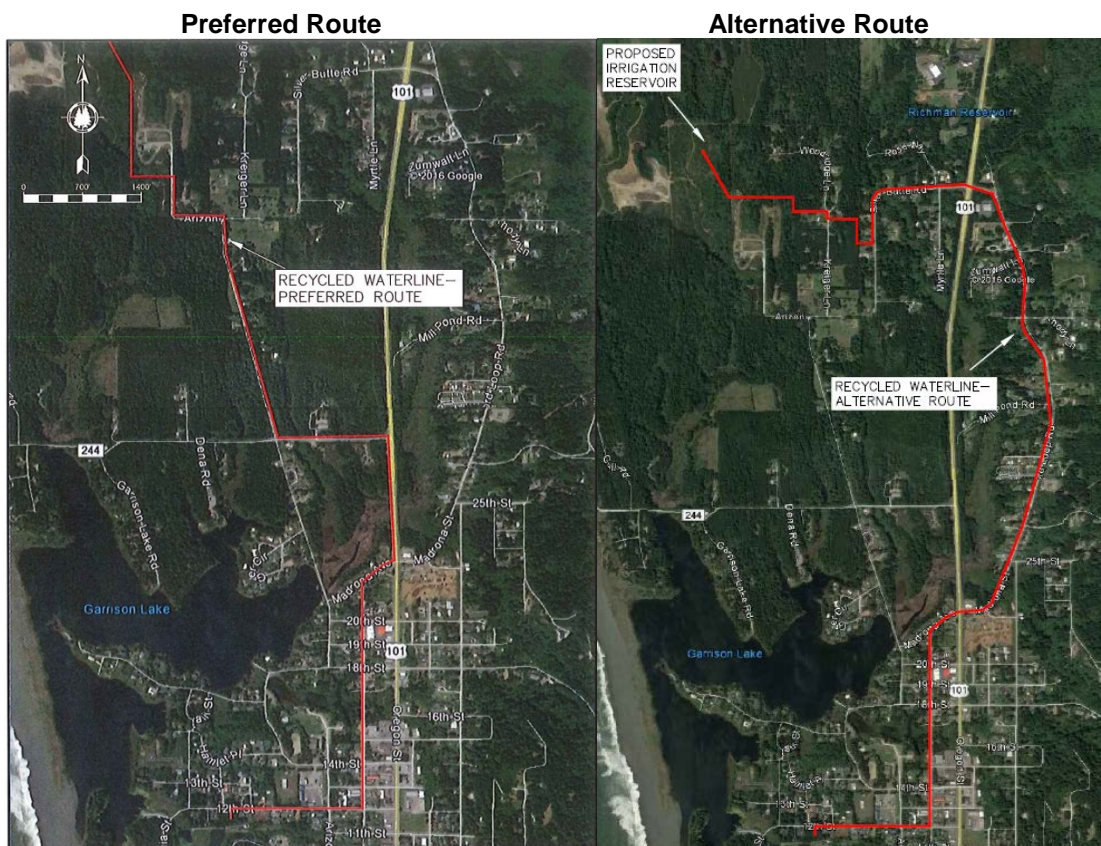
Prepared by Jacob Callister, Contract Senior Planner
Lane Council of Governments



Planning Commission Hearing Date: September 21, 2017

Agenda Item: Application AD-1705: A request to develop a pipeline over multiple properties to deliver recycled wastewater, and a reservoir, in order to irrigate the Pacific Gales golf course. The pipeline could be located on land owned by multiple owners on property located on Assessor map 32-15-29C, lot numbers 103, 104, 105, 106, 107, 108, 118, 120 and 21; Applicant: Elk River Property Development LLC.

Summary: The proposed pipeline would be developed inside public rights of way, and also on private property. There are two alternative routes under consideration. The reservoir will be developed on private property. The subject parcel is identified assessor map Sections 19, 29 & 30 of Township 32 S., Range 15 W., M. Tax lot 4400, and Section 29c of Township 32 S., Range 15., W., W. M. Tax lot 500, and additional property and public right of way, noted on figure maps¹ below and larger maps found in Attachment 2.



¹ prepared by Stuntzner Engineering

Requested Action:

- 1) Review application, staff report, proposed findings, resolution, and associated materials.
- 2) Review written, and hear oral testimony regarding the proposal.
- 3) Consider if applicant has shown, with substantial evidence, that its project fits within the statutory category of the project, and that it has followed the process and considered alternatives.
- 4) Evaluate alternatives and determine how to proceed. The Commission may:
 - a. Continue the hearing to another date certain.
 - b. Close the hearing but leave the record open to a date certain. Deliberate at a future meeting (date certain).
 - c. Close the hearing and record, deliberate and APPROVE the development by passing Resolution 2017-AD-1705 addressing findings and conditions for the development.
 - d. Close the hearing and record, deliberate and APPROVE the development based on additional findings and conditions to be added to Resolution 2017-AD-1705.

Staff Recommendation:

- 1) Based on the evidence in the record when this staff report was developed, a determination that the applicant has shown, with substantial evidence, that the project fits within the statutory category of the project, and that it has followed the process and is prepared to adequately consider public comment on the proposal(s).
- 2) Recognizing that the hearing will likely provide additional evidence, close the hearing on September 21, but leave the record open for seven days (or another specific period of time) for the submittal of additional evidence.
- 3) Any approval of the proposal include conditions as specified in Exhibit 1 of the proposed Planning Commission Resolution 2017-AD-1705

Summary: As noted in the written statement provided by the applicant and further expanded in Attachment 3:

“Elk River Property Development Property LLC is proposing to use recycled wastewater for irrigating a golf course on the property commonly known as Knapp Ranch, which is zoned Exclusive Farm Use (EFU). The use of recycled wastewater includes the development of a pipeline that originates at the City of Port Orford municipal wastewater treatment plant, the creation of a reservoir adjacent to the ultimate place of use (on Knapp Ranch), and development of ancillary facilities. As required by state statute the applicant requests the County to conduct a public process when uses of this nature are proposed.

Although the application of recycled water for irrigation is allowed outright in EFU zones, pursuant to ORS 215.283(1) (v), the statutory framework for this use includes a requirement for public comment and an analysis of alternatives.

The alternative analysis that the applicant is now proposing comes directly from ORS 215.246. There are no local regulations in Curry County code that implements this statute, therefore the statute is applied directly. This application will be reviewed by the Curry County Planning Commission pursuant to CCZO 2.060(2) (d), which provides that the Planning Commission has authority over “other land use actions” not specifically listed in adjacent code provisions.

In summary, ORS 215.246 requires the applicant to explain what it proposes, to consider public comment in response to the proposal, and to conduct an analysis of alternatives.

Although a portion of the proposed system development will be located inside the city limits of Port Orford (consisting of a pump and pipeline that originates at the city’s sewage treatment plant), this application is primarily focused on the portions of the irrigation system that will be developed in the county. The applicant has obtained separate development approval for portions of the project that will be located in areas inside the city of Port Orford’s jurisdiction.”

Citation of Applicable Criteria:

Curry County Zoning Ordinance: Section 2.060(2) (d). Article II. Procedures for Making Land Use Decisions. Application.

ORS 215.283(1): Uses allowed in any area zoned for exclusive farm use.

ORS 215.246: Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives.

Evaluation of Criteria: The evaluation of the applicable criteria is provided in the chart below and in the applicant’s written statement (Attachment 3).

Code Section	Discussion and Reccomended Findings
<p>CCZO Section 2.060(2)(d)</p>	<p>FINDING: Application will be reviewed by Curry County Planning Commission which has authority under this application per subheading (d) “other land use actions”.</p>
<p>ORS 215.283(1)(v) <i>Types of uses allowed outright as listed in ORS 215.283(1) include “the land application of reclaimed water.”</i></p>	<p>The use proposed in this instance can be described as the land application of reclaimed water and can be used for irrigation in connection with an allowed use in an EFU.</p> <p>Statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ.</p> <p>FINDING: DEQ review is being conducted concurrently with this County review. DEQ cannot issue its recycled wastewater use permit until the alternatives analysis has been completed. At the completion of the County’s review, development of the project requires the applicant to obtain all necessary permits, including those issued by DEQ. The following conditions of approval apply prior to pipeline construction:</p> <p>Condition of Approval 1: <i>Receive approval from the Oregon State Department of Environmental Quality.</i></p> <p>Condition of Approval 2: <i>Receive any and all local permits from the County with respect to installing facilites in County right-of-way.</i></p>

Code Section	Discussion and Recommended Findings
<p>ORS 215.246(1) & (3) <i>When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosoils under a license, permit or approval by the DEQ, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered, and if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosoils may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.</i></p>	<p>This statute requires an applicant to explain to the DEQ how public comments were addressed in the development of alternatives to the land application of reclaimed water were identified in public comments at the local land use hearing, and explain reasons for not using any identified (and adequately detailed) alternatives.</p> <p>It is noted that a land use decision relating to the land application of reclaimed water (etc.), may not be reversed or remanded unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.</p> <p>FINDING: After the public hearing, if the Planning Commission finds that the applicant has adequately considered public comment related to identified alternatives, then the applicant has satisfied this statutory requirement. No public comments have been received at the writing of this report. If public comments are received as a result of the notice and hearing, which introduce new evidence related to identified alternatives, these must be adequately considered and evaluated by the applicant.</p> <p>FINDING: ORS 215.246 (1)(b) requires that the applicant indicate that there are no additional statutes that apply. The applicant has indicated this. Recycled wastewater is not subject to other provisions of any listed statutes.</p>
<p>ORS 215.246(4)(a) <i>The uses allowed under this section include: The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;</i></p>	<p>In addition to the water treatment conducted at Port Orford sewage treatment plant, natural processes will lead to continued improvements in water quality such as exposure to UV light while the water is impounded in the pond at the golf course, and exposure to natural soil microbes that will digest nutrients and other substances found in trace amounts in the treated water.</p> <p>FINDING: This will amount to passive “treatment” of the reclaimed water that occurs as a result of land application.</p>

Code Section	Discussion and Recommended Findings
<p>ORS 215.246(4)(b) <i>The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;</i></p>	<p>Applicant is proposing improvements that will include a portion of the pipe that delivers treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment.</p> <p>FINDING: Improvements will be reasonably necessary for the use of recycled wastewater on the tract where the irrigation will occur.</p>
<p>ORS 215.246(4)(c) <i>The Establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosoils to the tract on which the land application occurs if the facilities are located within: (A) a public right of way; or (B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275(4); and (d) the transport by vehicle of reclaimed water on which the water will be applied.</i></p>	<p>Applicant is proposing ancillary facilities necessary for the use of recycled wastewater that will be developed on lands outside of the tract where irrigation will occur, primarily in right of way. In limited instances where pipeline is to cross land that is not within right of way, applicant understands “written consent” must be obtained from land owner.</p> <p>FINDING: For both preferred and alternate route, applicant has obtained easements with land owners where pipeline passes through private property (see Attachment 6).</p>
<p>ORS 215.246(5) <i>Uses not allowed under this section include: (a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosoils other than those treatment facilities related to the treatment that occurs as a result of the land application; or (b) the establishment and use</i></p>	<p>All water quality treatments will occur at existing Port Orford sewage treatment plant. Some degree of water quality improvement that is expected to occur incidentally to storing recycled water in the pond, and then applied to the golf course, where it will be exposed to soil microbes and other natural processes. Water currently being discharged from sewage treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean. The applicant strongly believes that it is more environmentally sustainable to use City’s effluent for irrigation, where any trace containments will be broken down by exposure to air and UV light</p>

Code Section	Discussion and Reccomended Findings
<p><i>of utility facility service lines allowed under ORS 215.213(1)(x) or 215.283(1)(u).</i></p>	<p>during the pond storage period, and by soil microbes after it is applied as irrigation, as opposed to discharging it directly into the marine environment.</p> <p>The pipeline delivering the recycled wastewater is not a “utility service line” within the meaning of this statute because it is one of the necessary “facilities for the transport of reclaimed water” as specifically allowed under ORS 283.246(4)(c).</p> <p>FINDING: Applicant is not proposing any utility facility service line. Current proposal involves delivery, storage and use of recycled wastewater, as specifically allowed under ORS 215.283(1)(v) and ORS 215.246(4)(c).</p>

ATTACHMENTS

- Attachment 1 – Planning Commission resolution 2017-AD-1705, including project conditions.
- Attachment 2 - Proposed preferred and alternative pipeline routes.
- Attachment 3 – Applicant’s written statement and detailed decription of alternative routes and plans.
- Attachment 4 - County Counsel Memo
- Attachment 5 – Public notice
- Attachment 6 – Project application
- Attachment 7 – Easement agreements

ATTACHMENT 1
Planning Commission Resolution AD-1705 Conditionally Approving the Proposal

Resolution 2017-AD-1705

A Resolution of the Curry County Planning Commission approving the Elk River Property Development LLC Application AD-1705 to develop a pipeline to deliver recycled wastewater in order to irrigate the Pacific Gales golf course. File #: AD-1705, Map/TL: Sections 19, 29 & 30 of Township 32 S., Range 15 W., M. Tax lot 4400, and Section 29c of Township 32 S., Range 15. W., W. M. Tax lot 500, and additional property and public right of way.

WHEREAS, the Curry County Planning Commission held a duly noticed public hearing on application AD-1705 filed by **Elk River Property Development LLC** for approval to develop a pipeline to deliver recycled wastewater in order to irrigate the Pacific Gales golf course.

WHEREAS, the Commission held the public hearing on September 21, 2017 at which time staff presented their report and the applicant’s findings. The Commission also received additional testimony at the hearing from interested parties.

NOW, THEREFORE, BE IT RESOLVED that the Curry County Planning Commission hereby approves the land use request of the proposed development of pipeline in order to irrigate Pacific Gales golf course based on the findings specified in the September 21, 2017 staff report, subject to the conditions attached to this resolution as Exhibit 1.

UPON THE MOTION of Planning Commissioner _____, seconded by Planning Commissioner _____, the foregoing Resolution is hereby approved and adopted the 21st day of September, 2017 by the following roll call, to wit:

AYES	NAYS	ABSTAIN	ABSENT

John Brazil
Planning Commission Chairperson

ATTEST

Carolyn Johnson
Community Development Director

EXHIBIT 1

APPROVAL OF ELK RIVER PROPERTY DEVELOPMENT LLC TO DEVELOP PIPELINE TO DELIVER RECYCLED WASTEWATER AND A RESERVOIR IN ORDER TO IRRIGATE THE PACIFIC GALES GOLF COURSE. FILE #: AD-1705, MAP/TL: SECTIONS 19, 29, &30 OF TOWNSHIP 32 S., RANGE 15 W., W. M. TAX LOT 4400 AND SECTION 29C OF TOWNSHIP 32 S., RANGE 15 W., W. M. TAX LOT 500, AND ADDITIONAL PROPERTY AND PUBLIC RIGHT OF WAY.

AUTHORIZATION: This land use request AD-1705 is hereby authorized subject to the conditions listed below. Approval is granted only for development to develop pipeline to deliver recycled wastewater and a reservoir in order to irrigate pacific gales golf course, to be developed inside public rights of way and also on private property. Any proposed changes to this land use request shall require further review by the Planning Commission.

EFFECTIVE DATE: September 21, 2017

ACCEPTANCE OF CONDITIONS OF APPROVAL: The property owner shall acknowledge receipt of these Conditions of Approval by signing and returning the statement below.

TRUE AND CORRECT AFFIRMATION AND COMPLIANCE AGREEMENT: I affirm that the information my agent or I submitted to the County that was used to review and authorize this proposal is true and correct to the best of my knowledge. I acknowledge that the County can revoke this land use authorization if it has been obtained under false pretenses.

I have read and understood, and I will comply with all applicable requirements of any law or agency of the State of Oregon, Curry County, and any other governmental entity that may have jurisdiction over this proposal. The duty of inquiry as to such requirements shall be my responsibility. I agree to defend, indemnify, and hold harmless Curry County and its agents, officers, and employees, from any claim, action, or proceeding against the County as a result of the action or inaction by the County, or from any claim to attack, set aside, void, or annul of this approval by the County of the project; or my failure to comply with conditions of approval. This agreement shall be binding on all successors and assigns of the subject property.

Jim Haley, Manager, Elk River Property Development LLC
Applicant

Date

Jeremy Knapp, President, Knapp Ranches Inc.
Property owner

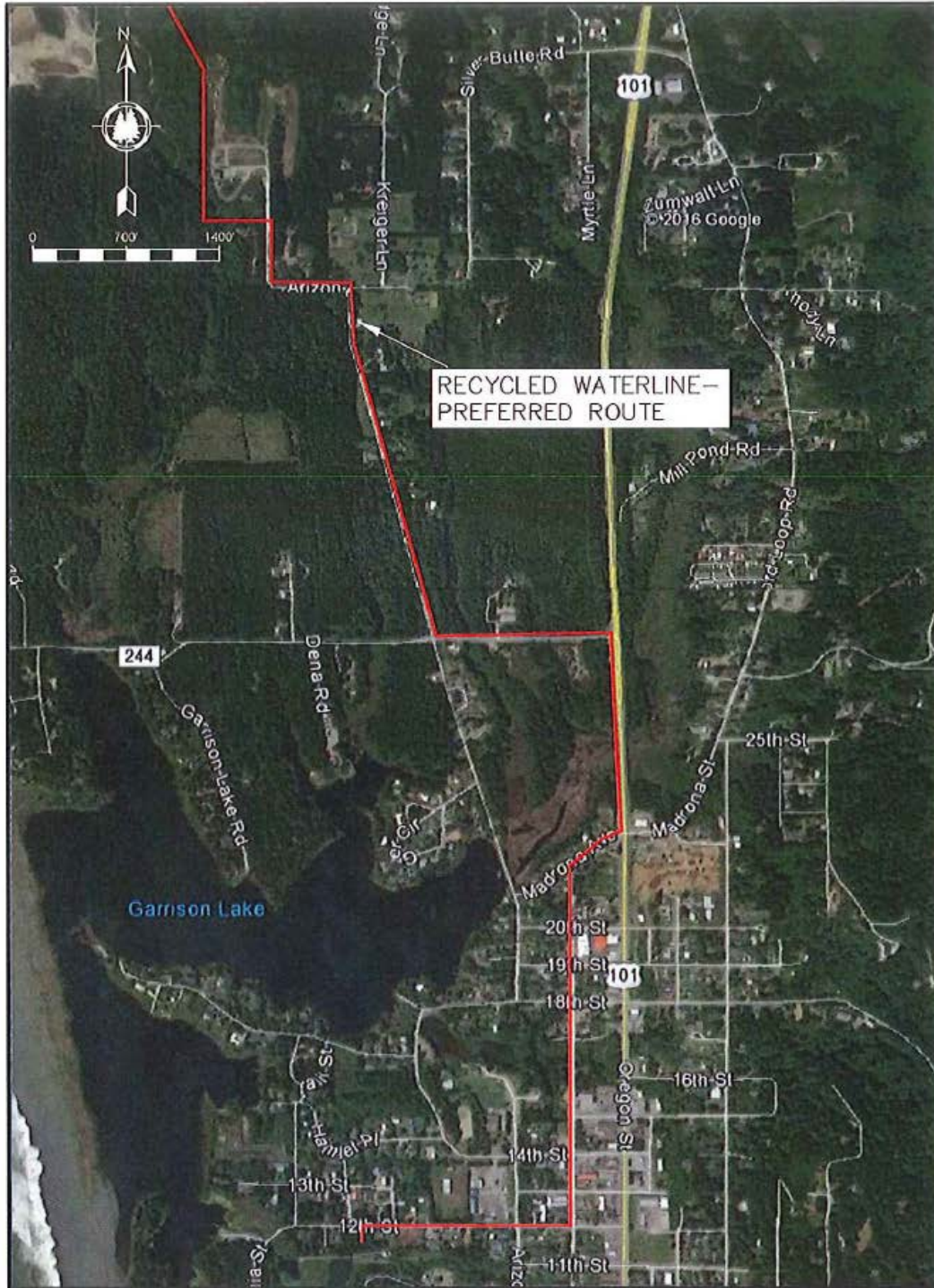
Date

AD-1705 Conditions of Approval

PRIOR TO CONSTRUCTION OF PIPELINE

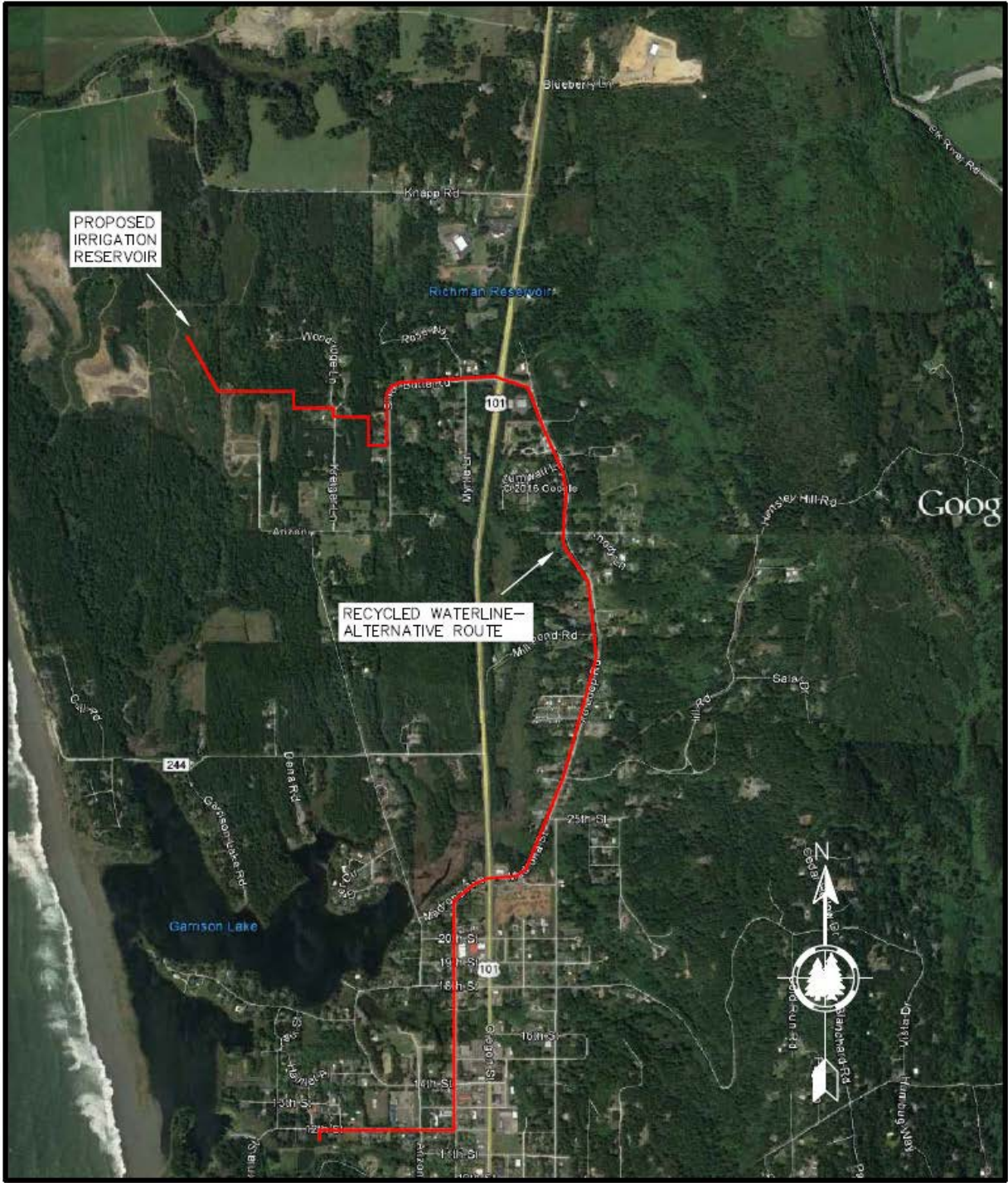
1. Receive approval from the Oregon State Department of Environmental Quality.
2. Receive any and all local permits from the County with respect to installing facilities in County right-of-way.

ATTACHMENT 2
PROPOSED PREFERRED AND ALTERNATIVE ROUTES OF PIPELINE



RECYCLED WATERLINE-PREFERRED ROUTE

 <p>Stuntzner Engineering & Forestry, LLC</p> <p>* COOS BAY * DALLAS * * FOREST GROVE *</p>	<p>Stuntzner Engineering & Forestry, LLC</p> <p>ENGINEERING • LAND SURVEYING • FORESTRY LAND PLANNING • WATER RIGHTS</p> <p>705 SOUTH 4TH STREET PHONE: (541) 287-2872 P.O. BOX 118 FAX: (541) 287-0558 COOS BAY, OREGON 97420 www.stuntzner.com</p>	<p>DESIGNED BY: CDH</p> <p>DRAWN BY: AER</p> <p>CHECKED BY: CDH</p> <p>DATE: NOV. 2016</p> <p>REVISED:</p> <p>JOB NAME: Project</p> <p>JOB NO: XX-X-XXX SHEET: 3 of 4</p>
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Stuntzner Engineering & Forestry, LLC
 ENGINEERING * LAND SURVEYING * FORESTRY
 LAND PLANNING * WATER RIGHTS

705 SOUTH 4TH STREET
 P.O. BOX 118
 COOS BAY, OREGON 97420
 PHONE: (541) 267-2872
 FAX: (541) 267-0588
 www.stuntzner.com

Aerial-Preferred Route	
JOB NAME: HIGHLAND GOLF	
DATE: APRIL 2017	
JOB NO: 116-042	DESIGN BY: CDH
PAGE: 2 OF 4	DRAWN BY: AER

**ATTACHMENT 3
APPLICANTS WRITTEN STATEMENT
AND
DETAILED DESCRIPTION OF ALTERNATIVE ROUTES AND PLANS**

WRITTEN STATEMENT

REQUEST SUMMARY:

Elk River Property Development, LLC (referred to hereafter as “ERPD”) is proposing to use recycled wastewater for irrigating a golf course on the property commonly known as the Knapp Ranch, which is zoned Exclusive Farm Use. The use of recycled wastewater includes the development of a pipeline that originates at the City of Port Orford municipal wastewater treatment plant, the creation of a reservoir adjacent to the ultimate place of use, and development of ancillary facilities, such as pumps. This application requests the county to conduct a public process required by statute when uses of this nature are proposed.

Although the application of recycled water for irrigation is allowed-outright in EFU zones, pursuant to ORS 215.283(1)(v), the statutory framework for this use includes a requirement for public comment and an analysis of alternatives.

The alternatives analysis that the applicant is now proposing comes directly from ORS 215.246, discussed in detail below. There are no local regulations in the Curry County code that implement this statute. Therefore, the statute will need to be applied directly. This application will be reviewed by the Curry County Planning Commission pursuant to CCZO 2.060(2)(d), which provides that the Planning Commission has authority over “other land use actions” not specifically listed in adjacent code provisions.

The entire text of ORS 215.246 is included below, but in summary, the statute requires the applicant to explain what it proposes, to consider public comment in response to the proposal, and to conduct a rigorous analysis of alternatives. The statute’s requirement for a robust alternatives analysis will ensure that the ultimate development has been rigorously evaluated.

The current proposal includes the placement of a pipe under public rights-of-way (with alternative routes to be considered), the development of a pond at the golf course that would contain the treated water at the golf course, the use of this water for irrigation during the appropriate seasons, and the development of ancillary components of the system, such as a pump station and valves. A detailed description of the proposed irrigation system and the alternative pipeline routes have been prepared, and are attached as components of Exhibit A.

Although a portion of the proposed system will be located inside the city limits of Port Orford (primarily consisting of a pump and pipeline that originates at the city’s sewage treatment plant) this application is primarily focused on the portions of the irrigation system that will be developed in the county. As noted above, the applicant has obtained separate development approval for portions of the project that will be located in areas inside the city of Port Orford’s jurisdiction.

Discussion of approval standards:

Approval standards are shown in *Italic* font. The applicant's response and proposed findings are labeled as such and shown in regular font.

ORS 215.283(1) The following uses may be established in any area zoned for exclusive farm use:

[...]

(v) *Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695 (License required to perform sewage disposal services), 459.205 (Permit required), 468B.050 (Water quality permit), 468B.053 (Alternatives to obtaining water quality permit) or 468B.055 (Plans and specifications for disposal, treatment and sewerage systems), or in compliance with rules adopted under ORS 468B.095 (Use of sludge on agricultural, horticultural or silvicultural land), and as provided in ORS 215.246 (Approval of land application of certain substances) to 215.251 (Relationship to other farm uses), the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.*

Applicant's response: the types of uses listed in ORS 215.283(1) are those uses allowed outright. Sub-section (v) includes "the land application of reclaimed water [...]". The use proposed in this instance can be described as the land application of reclaimed water "as provided in ORS 215.246." The statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ. The applicant is in the process of obtaining the necessary "recycled wastewater use permit," or "RWUP" from DEQ. This statute also makes reference to ORS 215.246, which imposes a requirement to conduct an alternatives analysis. DEQ cannot issue its RWUP until the alternatives analysis has been completed. The remainder of this narrative addresses the provisions of ORS 215.246, including the alternatives analysis.

ORS 215.246 Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

(a) Require a determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.

Applicant's response: DEQ is currently reviewing the ERPD's application for a Wastewater Pollution Control Facility Permit (WPCF) and a Recycled Water Use Permit (RWUP). The state agency review looks at the proposed application rate, site practices, water quality, and other criteria, and it will ensure the continued productivity of the land will not be harmed by this proposal. DEQ's review is being conducted concurrently with this county review. At the

completion of the county's review, development of the project requires the applicant to obtain all necessary permits, including those issued by DEQ. County completion of its review can be made explicitly contingent on the requirement for DEQ to grant its approvals before the applicant begins to develop or use its proposal for a recycled wastewater irrigation system.

(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS 215.274, 215.275 or 215.296.

Applicant's response: this provision requires the applicant to demonstrate that there are not additional statutes that apply to the proposal, or, if there are, that the proposal complies with them. As explained below, the proposed use of recycled wastewater is not "subject to other provisions" of any of the listed statutes.

ORS 215.213 does not apply in the current context, because it applies only in marginal lands counties, which Curry County is not.

ORS 215.283 applies to non-marginal lands counties, such as Curry County, and that statute includes a list of uses allowed outright in EFU-zoned lands, including "the land application of reclaimed water". The only "other provision" imposed on this type of use by ORS 215.283 is the review required under ORS 215.246. In this situation, ORS 215.283(1)(v) and ORS 215.246(1)(b) make circular references to each other. This land use application initiates the review required by ORS 215.246.

ORS 215.274 does not apply to the current application, as it deals solely with electrical transmission lines.

ORS 215.275 applies only to "utility facilities necessary for public service." Those types of utility facilities are specifically defined and regulated by ORS 215.283(1)(c)(A). These "utility facilities necessary for public service" do not include the private wastewater utility facility that is proposed in this instance, which is separately regulated by ORS 215.283(1)(v).

ORS 215.296 applies only to the uses that can be conditionally approved within the scope of ORS 215.283(2). The proposal is one of the uses allowed outright under ORS 215.283(1), and is not subject to ORS 215.283(2).

In summary, the statutes listed in section (1)(b) of the statute do not impose "other provisions" on the proposed use, aside from the provisions of ORS 215.246, which this application has been submitted to address.

(2) The use of a tract of land on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred under this section may not be changed to allow a different use unless:

[subsections (a) through (d) omitted for brevity.]

Applicant's response: ORS 215.246(2) applies only to lands where application of "reclaimed water, agricultural or industrial process water or biosolids" has already occurred, and where a change of use has subsequently been proposed for those lands. This standard is not applicable to the current situation. Instead, the applicant is proposing to begin irrigating the lands with reclaimed water.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

Applicant's response: This provision of the statute is the core substantive standard that must be addressed in this application. ORS 215.246(3) requires an applicant for this type of development to consider "alternatives identified in public comments." Implicit in that requirement is the assumption that the proposal will be noticed to the public, with an opportunity for the public to provide comment. Following that public comment period, the applicant is required to consider the alternatives proposed in the public comments. Following the applicant's analysis of alternatives, the county can issue a final decision on the proposal.

At the end of this three-step process, the statute clarifies that an application that has been subjected to this type of alternatives analysis cannot be reversed or remanded unless the applicant failed to consider any of the proposed alternatives or if it did an inadequate job in explaining why it did not use any of the proposed alternatives. This last provision imposes a procedural obligation for a specific type of analysis, and it is satisfied so long as that analysis is conducted correctly.

The applicant recognizes there will likely be benefit to performing this analysis. It is possible that the public comments will provide perspectives that the applicant had not considered, and it provides the applicant with the opportunity to incorporate those alternatives if they would make for a better proposal. This decision-making process involves a rigorous exploration of the alternatives proposed in the public comments, and gives the applicant the opportunity to incorporate any alternatives that will make for a better project.

At the end of this written narrative discussing the approval standards found in the statute, the applicant has provided Exhibit A, which includes a more detailed explanation of what it is proposing, and also relevant graphics.

The main proposal, described generally, involves the movement of recycled wastewater to the golf course, where it can be used for irrigation. However, the applicant realizes there are multiple variations on how that proposal can be achieved. In order to start out the conversation on alternatives, the applicant's materials include a proposed "preferred route" and an "alternative route."

The applicant expects that these diagrams and detailed explanation will set the stage for the alternatives analysis. Once the county has invited public comment on the proposal, the applicant will diligently review and respond to that public comment, and will incorporate public testimony in fine-tuning the proposal, as needed and appropriate. At the end of that process, the applicant understands the Planning Commission will render a decision that attests to the completion of the analysis required by statute.

(4) The uses allowed under this section include:

(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;

Applicant's response: ORS 215.246(4) lists the types of uses and developments fall within the scope of this process.

Pursuant to subsection (a), and in addition to the water quality treatments conducted at the Port Orford sewage treatment plant, natural processes will lead to continued improvements in water quality, such as exposure to UV light while the water is impounded in the pond at the golf course, and exposure to natural soil microbes that will digest nutrients and other substances found in trace amounts in the treated water. This will amount to passive "treatment" of the reclaimed water that occurs as a result of the land application.

(b) The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;

Applicant's response: Pursuant to subsection (b), the applicant is proposing improvements that will be necessary for the use of recycled wastewater on the tract where the irrigation will occur. These improvements will include a portion of the pipe that delivers the treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment.

(c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and

(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.

Applicant's response: Pursuant to subsection (c), the applicant is proposing ancillary facilities necessary for the use of recycled wastewater that will be developed on lands outside of the tract where the irrigation will occur, consisting primarily of the placement of a pipeline along public rights of way. In the limited instances where the pipeline is proposed to cross land that is not within a public right of way, the applicant understands that this statutory standard requires "written consent" from the land owner.

The proposed pipeline will also cross privately-owned land at the location between the wastewater treatment plant and the public right of way. Initially, the applicant obtained an easement to place its facilities on private lot between the treatment plant and the public right of way, but the applicant has subsequently purchased this lot, obviating the need for an easement.

The "alternative route" for the pipeline, depicted at Exhibit A, will also require the pipeline route to leave the public right of way and to cross private property. The applicant has the written authorization from the necessary private property owners, shown as Exhibit B.

(5) Uses not allowed under this section include:

(a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or

(b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x) or 215.283 (1)(u).

Applicant's response: as explained in response to ORS 215.246(4), above, all water quality treatments will occur at the existing site of the Port Orford sewage treatment plant. Some degree of water quality improvement that is expected to occur incidentally to storing the recycled water in the pond and then applying it to the golf course, where it will be exposed to soil microbes and other natural processes. In reality, the water that is currently being discharged from the City of Port Orford's treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean. Even though the reclaimed water coming from the treatment plant is treated to a high level, the applicant strongly believes that it is more environmentally sustainable to use the city's treated effluent for irrigation, where any trace contaminants will be broken down by the exposure to air and UV light during the pond storage period, and by soil microbes after it is applied as irrigation, as opposed to discharging it directly into the fragile marine environment.

In response to subsection (b), above, the applicant is not proposing any utility facility service lines. The current proposal involves the delivery, storage and use of recycled wastewater, as specifically allowed by ORS 215.283(1)(v) and ORS 283.246(3). The pipeline delivering the recycled wastewater is not a "utility service line" within the meaning of this statute because it is one of the necessary "facilities [...] for the transport of reclaimed water," specifically allowed under ORS 283.246(4)(c).

Conclusion

The statutory standards contained in ORS 215.246 have been addressed above. Attached as Exhibit A is a detailed description of the system that the applicant is proposing. It includes diagrams showing the proposed route and the alternative route, as well as a narrative section that explains the methods and materials of construction. If the county provides notice and an opportunity for public comment, the applicant will consider and respond to any alternatives that may be suggested, pursuant to ORS 215.246(3).

Exhibit A –

detailed description of proposal to develop and use a system for irrigating Pacific Gales Golf Course with recycled wastewater.

The applicant proposes to pipe recycled wastewater from the City of Port Orford wastewater treatment plant to the Pacific Gales Golf Course, and to use that water for irrigation. The proposed pipeline routes (including a preferred route and an alternative route) are shown on the diagrams attached to this exhibit. Only one of these two pipelines will be built.

The pipeline will primarily be placed using horizontal boring when it is located under city right of ways, in order to minimize surface disruption and impacts to tree roots. For portions of the pipe that are proposed to be located in the county, it will primarily be placed on the shoulder of the public right of way, using a standard trenching technique that will restore soil surface and paving surfaces to their original condition. The pipe will be placed using horizontal boring anywhere along the length of the pipeline when it is necessary to pass below certain existing utility facilities, such as cables or pipes.

The pipe material is 6" HDPE that will employ fused joints. A fusion-joined pipeline may be thought of as a continuous pipeline without joints. HDPE "DR11" pipe has an expected service life of 50-100 years. HDPE pipe has a fatigue life of 10,000,000 pump cycles, or in excess of 100 years. The combination of pipe and pump will be capable of moving 200 gpm. However, the pump that charges the pipeline will operate intermittently, as the wastewater treatment plant produces an average of 69.4 gpm. The recycled wastewater will be held in a 10,000 gallon accumulating tank located at tax lot 1011, adjacent to the treatment plant, until the quantity is sufficient to operate the pipeline.

The recycled water that will be obtained from the Port Orford treatment plant will be treated to DEQ Class C or higher. Despite the very high level of treatment already being conducted at the treatment plant, the water will undergo additional passive water quality improvements as it resides in the reservoir on the golf course, and again, as it percolates through the turf and soil.

At the northern terminus of the pipeline, it will discharge into an irrigation reservoir, as shown on page 2 of the attached irrigation plan. The reservoir is anticipated to cover an area of approximately seven acres, and will hold approximately 100 acre-feet. The reservoir will be designed and constructed according to the specifications established by the Water Resources Department's dam safety division.

The place of use for the recycled wastewater is shown on pages 1 and 2 of the attached irrigation plan. This plan shows the proposed irrigation system plumbing. In addition, the applicant proposes to use the water to grow and maintain turf and landscaping anywhere on the leased premises. The golf course management plan involves an adaptive system of monitoring soil moisture and applying irrigation as needed, given climatic conditions and growing season, in order to prevent erosion and maximize soil and landscaping health.

The total volume of recycled wastewater that is proposed to be pumped through the pipeline and

applied as golf course irrigation will likely not exceed 110 acre-feet per year, but that figure cannot yet be provided with certainty, as the applicant is still in discussions with the City of Port Orford to reach an agreement that will provide the applicant with recycled wastewater.



 <p>Stuntzner Engineering & Forestry, LLC</p> <p>* COOS BAY * DALLAS * * FOREST GROVE *</p>	<p>Stuntzner Engineering & Forestry, LLC</p> <p>ENGINEERING * LAND SURVEYING * FORESTRY LAND PLANNING * WATER RIGHTS</p>		<p>DESIGNED BY: CDH</p>
	<p>705 SOUTH 4TH STREET PHONE: (541) 267-2872 P.O. BOX 118 FAX: (541) 267-0588 COOS BAY, OREGON 97420 www.stuntzner.com</p>		<p>DRAWN BY: AER</p>
			<p>CHECKED BY: CDH</p>
			<p>DATE: NOV. 2016</p>
			<p>REVISED:</p>
			<p>JOB NAME: Project</p>
			<p>JOB NO: XX-X-XXX SHEET: 3 of 4</p>



**Stuntzner Engineering
& Forestry, LLC**

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LAND PLANNING * WATER RIGHTS

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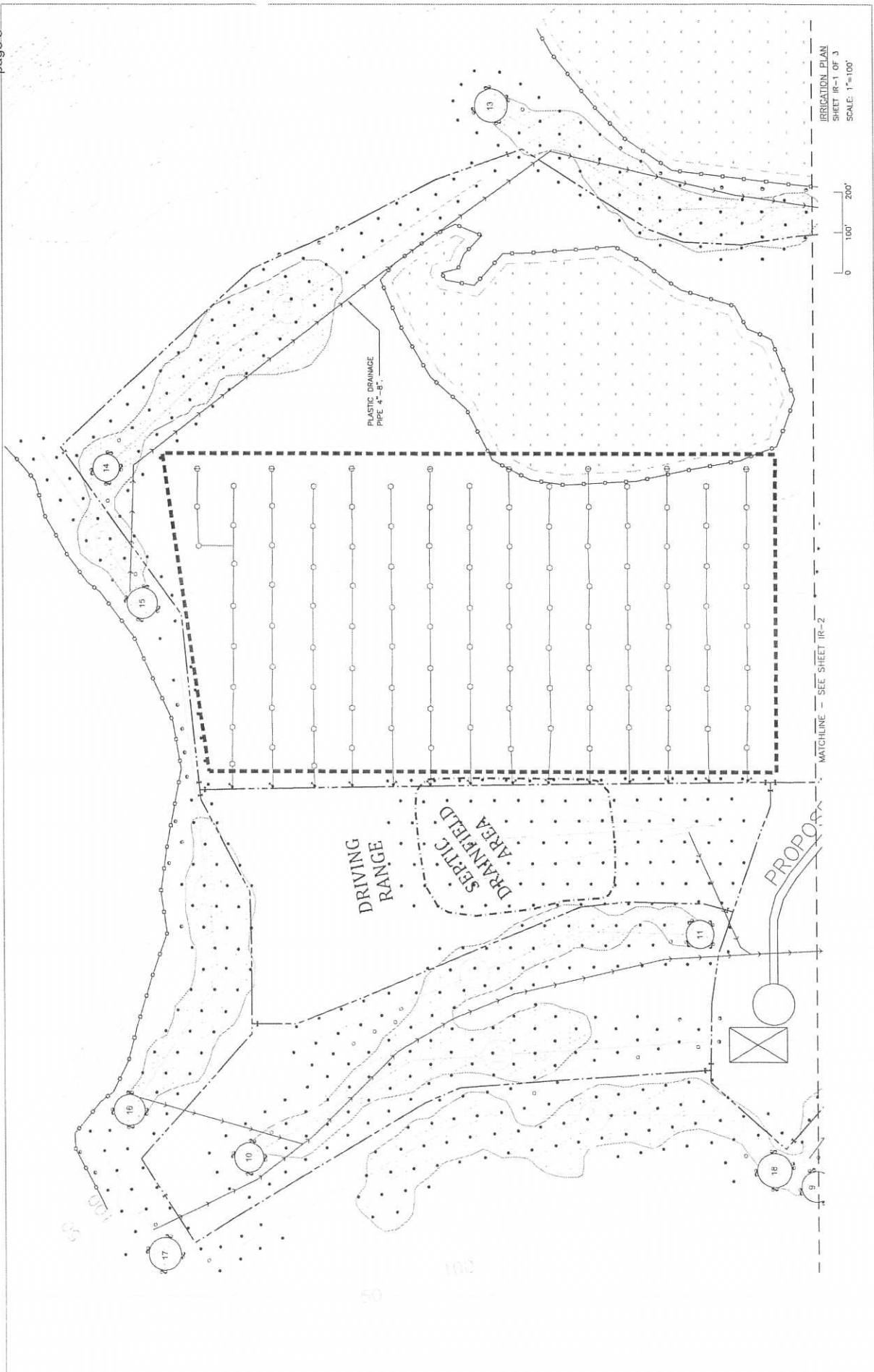
Aerial-Preferred Route

JOB NAME: HIGHLAND GOLF

DATE: APRIL 2017

JOB NO: 116-042 DESIGN BY: CDH

PAGE: 2 OF 4 DRAWN BY: AER



MATCHLINE - SEE SHEET IR-1

SED

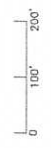
ROAD

MAINTENANCE
BLDG.
&
PARKING
AREA

SHEDDING PUMP

PROPOSED
IRRIGATION
POND

PLASTIC DRAINAGE
PIPE 4'-6"



IRRIGATION NOTES:

SOIL MOISTURE MONITORING: USING THE TORO, TUBE GUARD, WIRELESS SOIL MONITORING SYSTEM. THIS SYSTEM IS WIRELESS FROM THE MONITORING PROBES TO THE REPEATER, A DISTANCE OF UP TO 500 FEET. THE REPEATER IS WIRELESS TO THE MONITORING PROBES IN A CENTRAL COMPUTER. THE DATA RECEIVED AT THE CENTRAL COMPUTER CONSISTS OF SOIL TEMPERATURE, SOIL MOISTURE (VOLUMETRIC SOIL MOISTURE CONTENT) AND SALINITY BASED ON SOIL CONDUCTIVITY. THE MONITORING PROBES ARE PLACED IN THE CRITICAL ROOT ZONE LEVEL IN THE SOIL WITH A SECOND PROBE 5" LOWER. EACH LEVEL MONITORS HISTORICAL DATA AND ALSO DELIVERS CURRENT READINGS. COMPARES HISTORICAL DATA AND ALSO DELIVERS CURRENT READINGS. THE MONITORING PROBES ARE PLACED IN THE CRITICAL ROOT ZONE LEVEL IN THE SOIL WITH A SECOND PROBE 5" LOWER. EACH LEVEL MONITORS HISTORICAL DATA AND ALSO DELIVERS CURRENT READINGS. SENSOR READINGS ARE SENT BACK TO THE COMPUTER EVERY 5 MINUTES. WE HAVE ESTIMATED STARTING WITH 24 SENSORS INSTALLED ACROSS THE SITE.

IRRIGATION LEGEND:

SYMBOL	DESCRIPTION
●	FULL CIRCLE VALVE-IN-HEAD SPRINKLER 65' RADIUS
○	FULL CIRCLE VALVE-IN-HEAD SPRINKLER 40' RADIUS
◐	PART CIRCLE VALVE-IN-HEAD SPRINKLER 65' RADIUS
◑	FULL CIRCLE VALVE-IN-HEAD SPRINKLER 90' RADIUS
⊥	MAIN LINE GATE VALVE
—	MAIN LINE: (500 PSI) PURPLE PVC PLASTIC DIAMETER: 4" - 12"
—	LATERAL LINE: 40' PURPLE PVC PLASTIC SCHEDULE 80 FIELD SCHEDULE 80 PVC PLASTIC FITTINGS.
—	PLASTIC DRAINAGE PIPE

Agreement to convey easement for privately-owned water pipeline across Kreiger Lane

This agreement is between Jeffrey C. Loan, Richard Seagrave, Russell Gibson, Michael Shields, Duane Eckoff, Edward Cottor, James Johnson and Heather Barton ("Grantors") and Elk River Property Development, LLC ("ERPD"). Grantors are the joint owners of a private street known as Kreiger Lane in Curry County, Oregon. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantors agree to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. The pipeline will cross Kreiger Lane in the approximate area between Russell Gibson and Jeffrey Loan Property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will restore the road surface to a condition equal to, or better than its original, preconstruction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

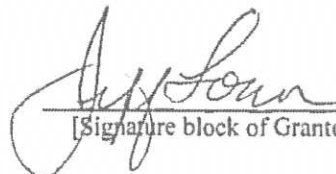
Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 15 day of FEB, 2017, by ERPD:

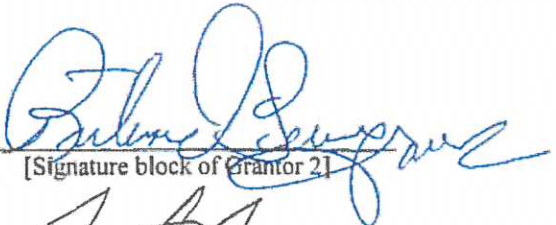

[Signature block for ERPD]

GRANTORS' ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.

Jeffery C. Loan
Lot 3215-29C #00103

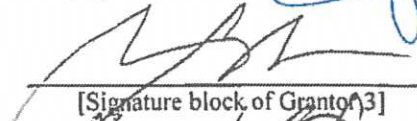

[Signature block of Grantor 1]

Richard Seagrave
Lot 3215-29C #00118



[Signature block of Grantor 2]

Russell A. Gibson
Lots 3215-29C # 00108 & 00120



[Signature block of Grantor 3]

Michael F. Shields
Lot 3215-29C # 00104



[Signature block of Grantor 4]

Duane K. Eckoff
Lot 3215-29C #00105



[Signature block of Grantor 5]

Edward A. Cottor
Lot 3215-29C #00106



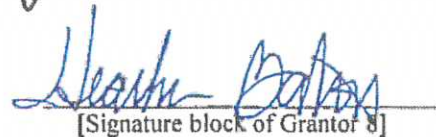
[Signature block of Grantor 6]

James Johnson
Lot 3215-29C #121



[Signature block of Grantor 7]

Heather Barton
Lot 3215-29C #00107



[Signature block of Grantor 8]



Stuntzner Engineering & Forestry, LLC

ENGINEERING * LAND SURVEYING * FORESTRY
LAND PLANNING * WATER RIGHTS

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www.stuntzner.com

PROPOSED WATERLINE

JOB NAME	Job Name		
DATE	NOVEMBER 2016		
JOB NO	XX-XXX	DESIGN BY	CDH
PAGE	1 OF 1	DRAWN BY	AER

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

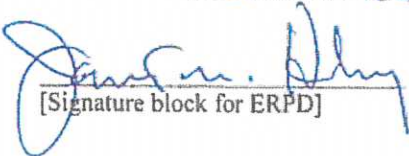
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

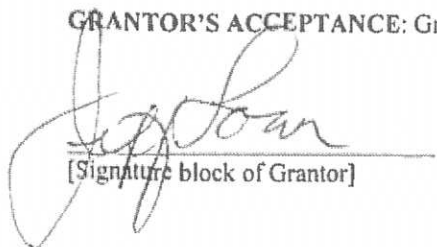
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

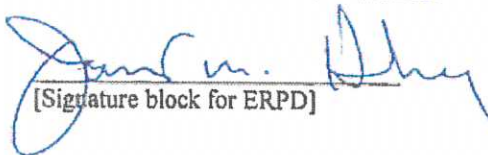
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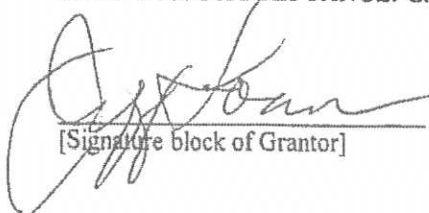
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between Russell A. Gibson and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00108. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

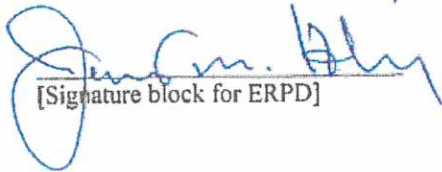
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

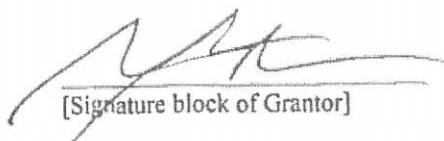
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 5 day of April 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 3 day of 31, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G O'Brien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as **3215-29D lot # 00621**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

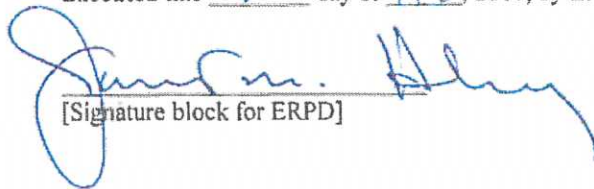
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of Feb, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G O'Brien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29D lot # 00621. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

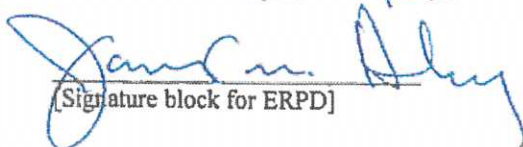
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of Feb, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]



CURRY COUNTY GROUNDWATER MONITORING AREA

PROPOSED CURRY COUNTY FIRE HYDRANT

32S15W29C

32S15W29C



Stuntzner Engineering & Forestry, LLC

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LAND PLANNING * WATER RIGHTS

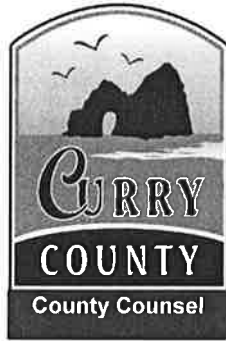
705 SOUTH 4TH STREET
P.O. BOX 118
COOS BAY, OREGON 97420

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

PROPOSED WATERLINE

JOB NAME: Job Name	
DATE: NOVEMBER 2016	
JOB NO: XX-XXX	DESIGN BY: CDH
PAGE 1 OF 1	DRAWN BY: AER

**ATTACHMENT 4
COUNTY COUNSEL MEMO**



MEMORANDUM

FROM John R. Huttli, Curry County Counsel

TO Curry County Planning Commission

RE: Elk River Property Development

DATE: July 2017

Introduction

This memorandum addresses the legal standards for processing the above referenced application.

It will describe the laws and ordinances that govern the Commission's analysis of the application, the process involved, and describe possible outcomes given the facts of the application as well as those that develop at the hearing.

Facts

The applicant proposes piping treated water from the Port Orford Municipal Wastewater Treatment Plant to the Knapp Ranch for purposes of irrigating a golf course development.

I. Applicable Law

Applications must meet applicable land use criteria, found in statewide Land Use Goals and statutes, as well as County comprehensive plans and ordinances.

Statewide land use goals and county comprehensive plan are carried out by the statutes and local ordinances. The local ordinance does not contain any provisions that apply to proposals to use treated water for irrigation. However, this type of use is allowed under state statute. Therefore we examine the state statutes.

A. Statutes

Two state statutes, ORS 215.283(1)(v) and ORS 215.246, inform the Commission's analysis.

///

1. ORS 215.283

ORS 215.283 explains

(1) The following uses may be established in any area zoned for exclusive farm use:

* * *

(v) Subject to issuance of a license, permit or other approval by the Department of environmental Quality under [list of statutes omitted for brevity], and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

Fairly summarized, reclaimed water can be used for irrigation in connection with an allowed use in an EFU.

Is this reclaimed water? Yes. The county does not have a definition of reclaimed water. The word is used in a state statute. ORS 537.131 describes reclaimed water as water that has been used for municipal purposes and has been treated in a treatment works and as a result of treatment is suitable for a direct beneficial purpose or controlled use that could otherwise not occur. Reclaimed water also known as recycled water by the DEQ is water that has been used for municipal purposes and treated in a municipal treatment plant.

The facts in the record show that water in this application is reclaimed water and we interpret that term to also include recycled water as used by the DEQ.

Is the proposed used for irrigation? Yes. The applicant proposes to use reclaimed water to irrigate the Pacific Gales golf course.

Is the golf course allowed in an EFU? Yes. The golf-course is an allowed use in the EFU zone, and has been approved by the County and affirmed by the Land Use Board of Appeals (LUBA). The County Board of Commissioners decision is found in Order 20255 (In the Matter of Remand Proceedings for Application AD-1411) and was affirmed by LUBA opinion Or LUBA 2015-080, January 27, 2016.

Therefore, the Commission can determine the use is allowed under ORS 215.283(1)(v).

2. ORS 215.246

ORS 215.246 requires an applicant to explain to the DEQ how alternatives to the land application of reclaimed water were identified in public comments at the local land use hearing, and explain reasons for not using identified alternatives.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons

for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

The last sentence of the statute is not an approval criteria for the County, other than it implies an applicant must show the County in the first instance how the applicant has considered identified alternatives. But to hear alternatives, we need to hold the public hearing. So the alternatives analysis is not included in the application, but will be submitted after the public hearing.

After the public hearing, if the Planning Commission finds that the applicant has considered identified alternatives, then the applicant has satisfied this statutory requirement.

The Commission's review standard is "substantial evidence." That is a lesser quantum of evidence than preponderance. Preponderance is a more-likely-than-not standard. The Commission would not be required to show any consideration by the applicant was more-likely-than-not, only that there is substantial evidence in the record to show the applicant considered alternatives.

Any reviewing authority would not need to agree with the Commission's decision. It would only look to see if there was substantial evidence presented to the Commission that the applicant has considered the range of identified alternatives.

Summary

As set forth above, the statutes in question primarily describe a procedural requirement more than a substantive requirement. If the applicant has shown with substantial evidence that its project fits within the statutory category of project, and that it has followed the process and considered alternatives, then the Commission can approve the application.

To the extent the Planning Commission decides it is required to find that the applicant must address substantively any issues regarding the impacts of the proposed use, and the Commission decides to approve the application, then the Commission should adopt and incorporate by reference the applicant's findings.

Lastly, any approval should be subject to the conditions that the applicant (1) receive approval from the Oregon State Department of Environmental Quality, as well as (2) receive any and all local permits from the County with respect to installing facilities in County right of way.

Let me know if you have any questions.



John R. Hutt
Curry County Counsel

**ATTACHMENT 5
PUBLIC NOTICE**

**Curry County Planning Commission
Notice of Planning Commission Hearing
Application AD-1705
You are receiving this notice of this
land use hearing pursuant to ORS
197.763(2)(a) and Curry County Zoning
Ordinance 2.070(1).**

Type of Proposed Land Use Action: Request for analysis of alternatives and approval of proposal to use recycled wastewater for irrigation of golf course, including the development of pipeline and ancillary facilities.

Applicable Criteria - Citation of criteria applicable to this application is Oregon Revised Statutes (ORS) section 215.246(3) which requires an applicant to consider proposal alternatives as follows: *(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.*

Applicant/Agent : Elk River Property Development, LLC/ Law Office of Bill Kloos, P.C.

Property and owner: The proposed development would occur on multiple properties, with multiple owners. The ultimate place of use of the recycled wastewater will occur on the property commonly known as the Knapp Ranch, located on Assessor's Map No. 32-15-00, Tax Lot 04400 and Map No. 32-15-29C, Tax Lot 00300.

Two alternate pipeline routes have been proposed. These routes are identified in the applicant's materials, and are shown on the map on the other side of this notice. The pipeline will primarily be located within public rights of way, owned by either Curry County or the Oregon Department of Transportation. Generally, both routes under consideration leave the Port Orford urban growth boundary on the north side of Port Orford, and travel northward to the golf course development site located on the property commonly known as

the Knapp Ranch. In addition, the pipeline and/or ancillary facilities are proposed to be developed on the following private parcels if the alternative route would be developed: Assessor map 32-15-29C, lot numbers: 103, 104, 105, 106, 107, 108, 118, 120 and 121.

Planning Commission Hearing: The Planning Commission will hold a public hearing on this land use proposal at 5:30 PM on September 21, 2017 in the Blue Room on the lower level of the of the Courthouse Annex in Gold Beach located at 94235 Moore Street. You are invited to attend and testify at the land use hearing or to submit written testimony regarding this proposal. The public hearing is being provided to solicit public commentary on alternatives that the applicant is considering. If you wish to testify in this process, you may find it helpful to review the applicant's proposal prior to submitting testimony.

Testimony, arguments, and evidence must be directed toward the criteria described in the Applicable Criteria section of this notice. You may submit written testimony prior to or at the hearing. Please include Application number AD-1705 on your written testimony. Testimony may be submitted via email, fax, or by USPS mail. Submission addresses and numbers are listed below.

Required Statutory Notice: ORS 197.763 (3)(e) states that failure to raise an issue either in person or by letter of failure to provide statements or evidence sufficient to allow the decision maker an opportunity to respond to the issue precludes appeal to a higher judicial review based on that issue.

Documents and Staff report:

See the project application, all documents and evidence relied upon by the applicant and applicable criteria at the Curry County Community Development Department website at: www.co.curry.or.us/departments/communitydevelopment.

The September 21, 2017 staff report may also be viewed on this website a minimum of seven (7) days (September 14) prior to the Planning Commission public hearing.

Your comments: Please contact Jake Callister at 541-682-4114 or callister@lcog.org to submit your comments; please put AD-1705 in the subject line. Comments may be also mailed to the Curry County Community Development Department, Curry County Annex, 94235 Moore St, Suite 113 Gold Beach, OR 97444. Attention: Carolyn Johnson

For your written comments to be included in the record prior to the hearing, they must be received by Noon (12 PM) on Wednesday, September 13, 2017. After that time your comments can be submitted but will be presented for the record at the September 21, 2017 Planning Commission hearing.

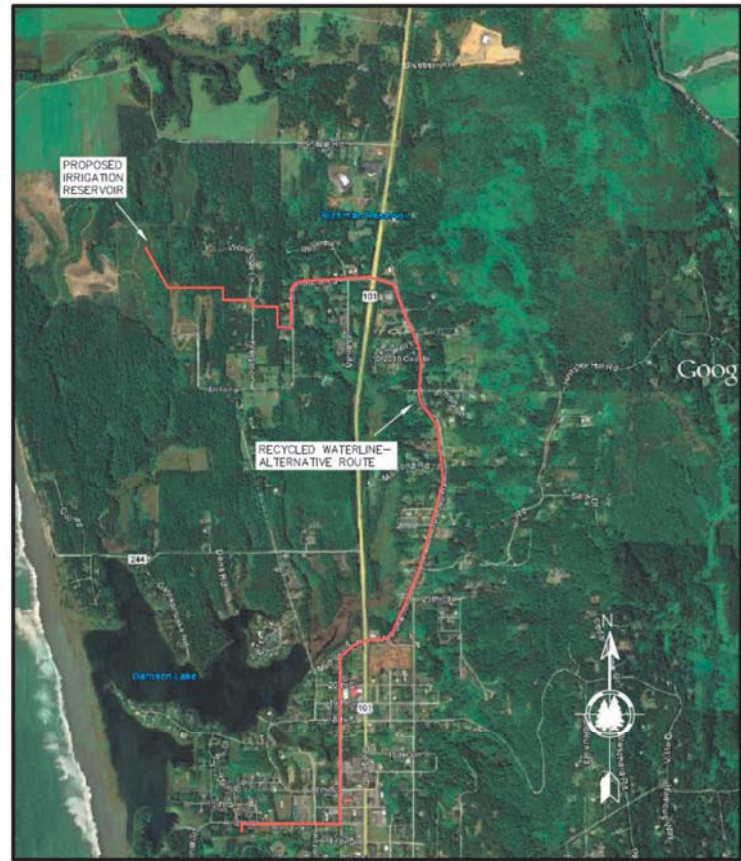


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705 SOUTH 4TH STREET P.O. BOX 118 COOS BAY, OREGON 97420
 PHONE: (541) 267-2872 FAX: (541) 267-0588
 www.stuntzner.com

* COOS BAY * DALLAS *
 * FOREST GROVE *

DESIGNED BY:	CDH
DRAWN BY:	AER
CHECKED BY:	CDH
DATE:	NOV, 2016
REVISED:	
JOB NAME:	Project
JOB NO.:	3063-3000
SHEET:	3 of 4



Stuntzner Engineering & Forestry, LLC
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 LAND PLANNING * WATER RIGHTS

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 PHONE: (541) 267-2872 FAX: (541) 267-0588
 www.stuntzner.com

Aerial-Preferred Route
 JOB NAME: HIGHLAND GOLF
 DATE: APRIL 2017
 JOB NO.: 116-042
 DESIGN BY: CDH
 DRAWN BY: AER
 PAGE: 2 OF 4

**ATTACHMENT 6
PROJECT APPLICATION**



CURRY COUNTY COMMUNITY DEVELOPMENT
94235 MOORE STREET, SUITE 113
GOLD BEACH, OREGON 97444

Carolyn Johnson
Planning Director

Phone (541) 247-3284
FAX (541) 247-4579

File # _____ Fee \$ _____ Receipt # _____ Accepted by _____

LAND USE DECISION APPLICATION FORM

Application Type (Check One)

- Comp Plan/Zone Change Conditional Use Variance Partition Subdivision
- Other

Application Date: _____ Hearing / Decision Date: _____

APPLICANT: Please complete all parts of this form. The attached application checklist will be marked by staff to reflect the information and supporting items required for this request. Please return this prepared checklist, the completed application form and required fee at the time of submission. Please note that your application cannot be reviewed or processed until all the required items have been provided.

1. PROPERTY OWNER OF RECORD

Name public right-of-way, owned by Curry County and ODOT, as shown on exhibit. Private property owned by Knapp Ranches, Inc.

Mailing Address: (for Knapp Ranches) 92373 Knapp Rd

City, State, ZIP: Port Orford, OR 97465

Telephone #: _____ E-Mail bknapp@2cj.com

2. AGENT (If Any)

Name: Nick Klingensmith, Law Office of Bill Kloos, P.C.

Mailing Address: 375 W. 4th Ave, suite 201,

City, State, ZIP: Eugene OR, 97401

Telephone # 541-912-5280 E-Mail nklingensmith@landuseoregon.com

3. BASIC PROPOSAL (Briefly describe your proposed land use)

The applicant proposes to develop a pipeline to deliver recycled wastewater, and a reservoir, in order to irrigate the Pacific Gales golf course. The pipeline will be developed inside public rights of way, and also on private property. There are two alternative routes under consideration. The reservoir will be developed on private property. Please see attached narrative that addresses relevant approval standards.

4. PROPERTY INFORMATION

Assessor Map # See attached narrative Tax Lot (s) _____

Zoning: _____ Total Acreage _____

5. PROPERTY LOCATION

Address (if property has a situs address) _____

Description of how to locate the property The two pipeline routes under consideration are depicted in attached exhibits. They can generally be described as (1) running north along Arizona St, and thence west and north across land owned by Knapp Ranches Inc.; and (2) running north along Madrona Ave., until travelling west (partially through private property, with the landowner's permission) to land owned by Knapp Ranches, Inc.

6. EXISTING LAND USE (briefly describe the present land use of the property)

Vacant Developed; Describe existing development The subject property is a mixture of vacant and developed. The public rights of way are developed with roadbed and pavement. Portions of the private property along both routes have varying degrees of existing low-density residential development. The property known as the Knapp Ranch is vacant, and is primarily used for cattle grazing.

7. SURROUNDING LAND USES (Briefly describe the land uses on adjacent property)

Land uses adjacent to the proposed pipeline include low-density residential uses, and vacant lands, as depicted in the attached exhibits.

8. SERVICE AND FACILITIES AVAILABLE TO THE PROPERTY

Please indicate what services and facilities are available to the property. If on-site sewage disposal and/or water source is proposed, a copy of the approved site evaluation or septic system permit and a copy of any water rights or well construction permit must be submitted with this application.

The proposed development is a pipeline that will carry recycled wastewater. None of the services and facilities in this list are needed for the use, and none of them are germane to relevant approval criteria.

Water Source _____

Sewage Disposal _____

Electrical Power _____

Telephone Service _____

Fire Department/District _____

School District _____

9. ROAD INFORMATION

Nearest Public Road See attached narrative

Private Roads Serving the Property See attached narrative

Road Condition _____

Legal Status _____

Ownership: I own the road Easement on others property Joint Owner

Please submit record of ownership (i.e. deeds, easement, plat dedication, etc)

Proposed New Roads/Driveways (Briefly describe any new road construction related to this application)

10. PHYSICAL DESCRIPTION OF THE SUBJECT PROPERTY

Topography (Briefly describe the general slope and terrain of the property)

The land where the proposed pipeline will be developed is relatively flat, for both routes under consideration, with a gentle upward slope as the pipeline advances to the north.

Vegetation (Briefly describe the vegetation on the property) For the portion of the pipeline that will be developed within public rights of way, there is no vegetation. For the portion of the pipeline that will be developed across the Knapp Ranch, the vegetation is a mix of low timber and scrub.

11. FINDINGS OF FACT

Oregon Statute and the zoning ordinance requires that land use decisions be supported by factual findings. The burden of proof is on the proponent therefore it is required that the application provide findings to support the request in this application. The standards and criteria that are relevant to this application will be provided by the staff and are considered to be a part of this application form. Please read the standards and criteria carefully and provide factual responses and evidence to address each standard. These findings must be sufficiently specific to allow the decision maker to determine whether your request meets the relevant standard. Please attach your written findings and supporting evidence to this application.

FAILURE TO PROVIDE THE REQUIRED FINDINGS WILL PREVENT THE APPLICATION FROM BEING PROCESSED AND IT WILL BE RETURNED AS BEING INCOMPLETE.

12. APPLICANT'S SIGNATURE AND STATEMENT OF UNDERSTANDING

(Please read the statement below *before* signing the signature blank)

I (We) _____ ;

_____ ; have filed this application for


With the Curry County Department of Community Development-Planning Division to be reviewed and processed according to State of Oregon and county ordinance requirements. My (our) signature (s) below affirms that I (we) have discussed the application with the staff, and that I (we) acknowledge the following disclosures:

- (a) I (we are stating all information and documentation submitted with this application is true and correct to the best of my (our) knowledge.

- (b) I (we) understand that if false information and documentation has been submitted and the decision is based on that evidence, the decision may be nullified and the county may seek all legal means to have the action reversed.
- (c) I (We) understand any representations, conclusions or opinions expressed by the staff in pre-application review of this request do not constitute final authority or approval, and I (we) am (are) not entitled to rely on such expressions in lieu of formal approval of my (our) request.
- (d) I (We) understand that I (we) may ask questions and receive input from staff, but acknowledge that I (we) am (are) ultimately responsible for all information or documentation submitted with this application. I (We) further understand staff cannot legally bind the county to any fact or circumstance which conflicts with State of Oregon or local ordinance, and in event a conflict occurs, the statement or agreement is null and void.
- (e) I (We) understand that I (we) have the burden of proving that this request meets statutory and Ordinance requirements, and I (we) must address all of the criteria that may apply to the decision being made. The criteria for approving or denying this request have been provided to me (us) as a part of the application form.
- (f) I (We) understand the staff is entitled to request additional information or documentation any time after the submission of this application if it is determined as such information is needed for review and approval.
- (g) I (We) understand this application will be reviewed by the Oregon Department of Land Conservation & Development (DLCD) and possibly other state agencies as part of the statewide land use coordination process. I (We) understand that agencies that participate in the review process have the legal right to appeal the approval of the request.
- (h) I (We) understand that it is my (our) responsibility, and not the county's, to respond to any appeal and to prepare the legal defense of the county's approval of my (our) request. I (We) further realize it is not the county's function to argue the case at any appeal hearing.
- (i) I (We) understand that I (we) am (are) entitled to have a lawyer or land use consultant represent me (us) regarding my application and to appear with me (or for me) at any appointment, conference or hearing relating to it. In light of the complexity and technical nature of most land use decisions, I (we) understand that it may be in my best interests to seek professional assistance in preparation of this application.
- (j) The undersigned are the owner (s) of record for the property described as:

Assessor Map(s) _____
 and Tax Lot(s) _____
 in the records of Curry County.

This application MUST BE SIGNED BY ALL PROPERTY OWNERS OF RECORD, or you must submit a notarized document signed by each owner of record who has not signed the application form, stating that the owner has authorized this application.

- (1) Signature 
 Print Name Nick Klingensmith, attorney for Elk River Property Development, LLC
- (2) Signature _____

(3) Signature _____

Print Name _____

(4) Signature _____

Print Name _____

ADDITIONAL NOTES:

All fees must be paid at the time your application is filed. Staff will examine the application when filed to check for completeness and will not accept it if required items are missing. A final completeness check will be made prior to doing public notice regarding the pending decision. If it is determined to be incomplete or the findings are insufficient you will be notified and you must provide the required information in a timely manner to avoid denial of the request.

ORS 215.427 required the county to take final action on a land use application (except for plan/zone changes) including all local appeals within 120 days if inside an Urban Growth Boundary (UGB) or 150 days if outside a UGB once the application is deemed complete.

PLOT PLANS:

All applications require that a plot plan of the subject property be included with the application form. The plot plan is an understandable map of your property and its relationship to adjacent properties. The plot plan must show certain essential information that is needed for the staff and the decision makers in the evaluation of your request. The plot plan is also incorporated into the public notice sent to adjacent property owners and affected agencies. The plot plan should be prepared on a single sheet of paper (preferable 8 ½ x 11”) so copies can easily be reproduced for review.

An example plot plan is attached to this form to give you an idea of what information should be included on your plan and how it should be drawn. The plot plan **does not** have to be prepared by a surveyor or engineer, and can generally be prepared by the applicant from the Assessor map of the property. The dimensional information included on the plot plan must be accurate and drawn to scale so that the plot plan reasonably represents the subject property and any development therein. If your application is for a land partition or subdivision Oregon Statute required that plat maps must be prepared by a surveyor licensed by the state.

Application to conduct analysis pursuant to ORS 215.246

July 6, 2017

Property Location: Sections 19, 29 & 30 of Township 32 S., Range 15 W., W.M.
Tax lot 4400, *and*
Section 29c of Township 32 S., Range 15 W., W.M.
Tax lot 500, *and*
Additional property and public right of way, as depicted on
Exhibit A

Owners: Knapp Ranches, Inc.
92373 Knapp Rd
Port Orford, OR 97465

Applicants: Elk River Property Development
P.O. Box 790
Port Orford, OR 97465

Applicant's
Representative: Law Office of Bill Kloos, PC
375 W. 4th Ave., Suite 204
Eugene, OR 97401

Contact: Nick Klingensmith
Phone: (541) 912-5280
Email: nklingensmith@landuseoregon.com

WRITTEN STATEMENT

REQUEST SUMMARY:

Elk River Property Development, LLC (referred to hereafter as “ERPD”) is proposing to use recycled wastewater for irrigating a golf course on the property commonly known as the Knapp Ranch, which is zoned Exclusive Farm Use. The use of recycled wastewater includes the development of a pipeline that originates at the City of Port Orford municipal wastewater treatment plant, the creation of a reservoir adjacent to the ultimate place of use, and development of ancillary facilities, such as pumps. This application requests the county to conduct a public process required by statute when uses of this nature are proposed.

Although the application of recycled water for irrigation is allowed-outright in EFU zones, pursuant to ORS 215.283(1)(v), the statutory framework for this use includes a requirement for public comment and an analysis of alternatives.

The alternatives analysis that the applicant is now proposing comes directly from ORS 215.246, discussed in detail below. There are no local regulations in the Curry County code that implement this statute. Therefore, the statute will need to be applied directly. This application will be reviewed by the Curry County Planning Commission pursuant to CCZO 2.060(2)(d), which provides that the Planning Commission has authority over “other land use actions” not specifically listed in adjacent code provisions.

The entire text of ORS 215.246 is included below, but in summary, the statute requires the applicant to explain what it proposes, to consider public comment in response to the proposal, and to conduct a rigorous analysis of alternatives. The statute’s requirement for a robust alternatives analysis will ensure that the ultimate development has been rigorously evaluated.

The current proposal includes the placement of a pipe under public rights-of-way (with alternative routes to be considered), the development of a pond at the golf course that would contain the treated water at the golf course, the use of this water for irrigation during the appropriate seasons, and the development of ancillary components of the system, such as a pump station and valves. A detailed description of the proposed irrigation system and the alternative pipeline routes have been prepared, and are attached as components of Exhibit A.

Although a portion of the proposed system will be located inside the city limits of Port Orford (primarily consisting of a pump and pipeline that originates at the city’s sewage treatment plant) this application is primarily focused on the portions of the irrigation system that will be developed in the county. As noted above, the applicant has obtained separate development approval for portions of the project that will be located in areas inside the city of Port Orford’s jurisdiction.

Discussion of approval standards:

Approval standards are shown in *Italic* font. The applicant's response and proposed findings are labeled as such and shown in regular font.

ORS 215.283(1) *The following uses may be established in any area zoned for exclusive farm use:*

[...]

(v) *Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695 (License required to perform sewage disposal services), 459.205 (Permit required), 468B.050 (Water quality permit), 468B.053 (Alternatives to obtaining water quality permit) or 468B.055 (Plans and specifications for disposal, treatment and sewerage systems), or in compliance with rules adopted under ORS 468B.095 (Use of sludge on agricultural, horticultural or silvicultural land), and as provided in ORS 215.246 (Approval of land application of certain substances) to 215.251 (Relationship to other farm uses), the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.*

Applicant's response: the types of uses listed in ORS 215.283(1) are those uses allowed outright. Sub-section (v) includes "the land application of reclaimed water [...]". The use proposed in this instance can be described as the land application of reclaimed water "as provided in ORS 215.246." The statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ. The applicant is in the process of obtaining the necessary "recycled wastewater use permit," or "RWUP" from DEQ. This statute also makes reference to ORS 215.246, which imposes a requirement to conduct an alternatives analysis. DEQ cannot issue its RWUP until the alternatives analysis has been completed. The remainder of this narrative addresses the provisions of ORS 215.246, including the alternatives analysis.

ORS 215.246 Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives. (1) *The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):*

(a) *Require a determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.*

Applicant's response: DEQ is currently reviewing the ERPD's application for a Wastewater Pollution Control Facility Permit (WPCF) and a Recycled Water Use Permit (RWUP). The state agency review looks at the proposed application rate, site practices, water quality, and other criteria, and it will ensure the continued productivity of the land will not be harmed by this proposal. DEQ's review is being conducted concurrently with this county review. At the

completion of the county's review, development of the project requires the applicant to obtain all necessary permits, including those issued by DEQ. County completion of its review can be made explicitly contingent on the requirement for DEQ to grant its approvals before the applicant begins to develop or use its proposal for a recycled wastewater irrigation system.

(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS 215.274, 215.275 or 215.296.

Applicant's response: this provision requires the applicant to demonstrate that there are not additional statutes that apply to the proposal, or, if there are, that the proposal complies with them. As explained below, the proposed use of recycled wastewater is not "subject to other provisions" of any of the listed statutes.

ORS 215.213 does not apply in the current context, because it applies only in marginal lands counties, which Curry County is not.

ORS 215.283 applies to non-marginal lands counties, such as Curry County, and that statute includes a list of uses allowed outright in EFU-zoned lands, including "the land application of reclaimed water". The only "other provision" imposed on this type of use by ORS 215.283 is the review required under ORS 215.246. In this situation, ORS 215.283(1)(v) and ORS 215.246(1)(b) make circular references to each other. This land use application initiates the review required by ORS 215.246.

ORS 215.274 does not apply to the current application, as it deals solely with electrical transmission lines.

ORS 215.275 applies only to "utility facilities necessary for public service." Those types of utility facilities are specifically defined and regulated by ORS 215.283(1)(c)(A). These "utility facilities necessary for public service" do not include the private wastewater utility facility that is proposed in this instance, which is separately regulated by ORS 215.283(1)(v).

ORS 215.296 applies only to the uses that can be conditionally approved within the scope of ORS 215.283(2). The proposal is one of the uses allowed outright under ORS 215.283(1), and is not subject to ORS 215.283(2).

In summary, the statutes listed in section (1)(b) of the statute do not impose "other provisions" on the proposed use, aside from the provisions of ORS 215.246, which this application has been submitted to address.

(2) The use of a tract of land on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred under this section may not be changed to allow a different use unless:

[subsections (a) through (d) omitted for brevity.]

Applicant's response: ORS 215.246(2) applies only to lands where application of "reclaimed water, agricultural or industrial process water or biosolids" has already occurred, and where a change of use has subsequently been proposed for those lands. This standard is not applicable to the current situation. Instead, the applicant is proposing to begin irrigating the lands with reclaimed water.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

Applicant's response: This provision of the statute is the core substantive standard that must be addressed in this application. ORS 215.246(3) requires an applicant for this type of development to consider "alternatives identified in public comments." Implicit in that requirement is the assumption that the proposal will be noticed to the public, with an opportunity for the public to provide comment. Following that public comment period, the applicant is required to consider the alternatives proposed in the public comments. Following the applicant's analysis of alternatives, the county can issue a final decision on the proposal.

At the end of this three-step process, the statute clarifies that an application that has been subjected to this type of alternatives analysis cannot be reversed or remanded unless the applicant failed to consider any of the proposed alternatives or if it did an inadequate job in explaining why it did not use any of the proposed alternatives. This last provision imposes a procedural obligation for a specific type of analysis, and it is satisfied so long as that analysis is conducted correctly.

The applicant recognizes there will likely be benefit to performing this analysis. It is possible that the public comments will provide perspectives that the applicant had not considered, and it provides the applicant with the opportunity to incorporate those alternatives if they would make for a better proposal. This decision-making process involves a rigorous exploration of the alternatives proposed in the public comments, and gives the applicant the opportunity to incorporate any alternatives that will make for a better project.

At the end of this written narrative discussing the approval standards found in the statute, the applicant has provided Exhibit A, which includes a more detailed explanation of what it is proposing, and also relevant graphics.

The main proposal, described generally, involves the movement of recycled wastewater to the golf course, where it can be used for irrigation. However, the applicant realizes there are multiple variations on how that proposal can be achieved. In order to start out the conversation on alternatives, the applicant's materials include a proposed "preferred route" and an "alternative route."

The applicant expects that these diagrams and detailed explanation will set the stage for the alternatives analysis. Once the county has invited public comment on the proposal, the applicant will diligently review and respond to that public comment, and will incorporate public testimony in fine-tuning the proposal, as needed and appropriate. At the end of that process, the applicant understands the Planning Commission will render a decision that attests to the completion of the analysis required by statute.

(4) The uses allowed under this section include:

(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;

Applicant's response: ORS 215.246(4) lists the types of uses and developments fall within the scope of this process.

Pursuant to subsection (a), and in addition to the water quality treatments conducted at the Port Orford sewage treatment plant, natural processes will lead to continued improvements in water quality, such as exposure to UV light while the water is impounded in the pond at the golf course, and exposure to natural soil microbes that will digest nutrients and other substances found in trace amounts in the treated water. This will amount to passive "treatment" of the reclaimed water that occurs as a result of the land application.

(b) The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;

Applicant's response: Pursuant to subsection (b), the applicant is proposing improvements that will be necessary for the use of recycled wastewater on the tract where the irrigation will occur. These improvements will include a portion of the pipe that delivers the treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment.

(c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and

(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.

Applicant's response: Pursuant to subsection (c), the applicant is proposing ancillary facilities necessary for the use of recycled wastewater that will be developed on lands outside of the tract where the irrigation will occur, consisting primarily of the placement of a pipeline along public rights of way. In the limited instances where the pipeline is proposed to cross land that is not within a public right of way, the applicant understands that this statutory standard requires "written consent" from the land owner.

The proposed pipeline will also cross privately-owned land at the location between the wastewater treatment plant and the public right of way. Initially, the applicant obtained an easement to place its facilities on private lot between the treatment plant and the public right of way, but the applicant has subsequently purchased this lot, obviating the need for an easement.

The "alternative route" for the pipeline, depicted at Exhibit A, will also require the pipeline route to leave the public right of way and to cross private property. The applicant has the written authorization from the necessary private property owners, shown as Exhibit B.

(5) Uses not allowed under this section include:

(a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or

(b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x) or 215.283 (1)(u).

Applicant's response: as explained in response to ORS 215.246(4), above, all water quality treatments will occur at the existing site of the Port Orford sewage treatment plant. Some degree of water quality improvement that is expected to occur incidentally to storing the recycled water in the pond and then applying it to the golf course, where it will be exposed to soil microbes and other natural processes. In reality, the water that is currently being discharged from the City of Port Orford's treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean. Even though the reclaimed water coming from the treatment plant is treated to a high level, the applicant strongly believes that it is more environmentally sustainable to use the city's treated effluent for irrigation, where any trace contaminants will be broken down by the exposure to air and UV light during the pond storage period, and by soil microbes after it is applied as irrigation, as opposed to discharging it directly into the fragile marine environment.

In response to subsection (b), above, the applicant is not proposing any utility facility service lines. The current proposal involves the delivery, storage and use of recycled wastewater, as specifically allowed by ORS 215.283(1)(v) and ORS 283.246(3). The pipeline delivering the recycled wastewater is not a "utility service line" within the meaning of this statute because it is one of the necessary "facilities [...] for the transport of reclaimed water," specifically allowed under ORS 283.246(4)(c).

Conclusion

The statutory standards contained in ORS 215.246 have been addressed above. Attached as Exhibit A is a detailed description of the system that the applicant is proposing. It includes diagrams showing the proposed route and the alternative route, as well as a narrative section that explains the methods and materials of construction. If the county provides notice and an opportunity for public comment, the applicant will consider and respond to any alternatives that may be suggested, pursuant to ORS 215.246(3).

Exhibit A –

detailed description of proposal to develop and use a system for irrigating Pacific Gales Golf Course with recycled wastewater.

The applicant proposes to pipe recycled wastewater from the City of Port Orford wastewater treatment plant to the Pacific Gales Golf Course, and to use that water for irrigation. The proposed pipeline routes (including a preferred route and an alternative route) are shown on the diagrams attached to this exhibit. Only one of these two pipelines will be built.

The pipeline will primarily be placed using horizontal boring when it is located under city right of ways, in order to minimize surface disruption and impacts to tree roots. For portions of the pipe that are proposed to be located in the county, it will primarily be placed on the shoulder of the public right of way, using a standard trenching technique that will restore soil surface and paving surfaces to their original condition. The pipe will be placed using horizontal boring anywhere along the length of the pipeline when it is necessary to pass below certain existing utility facilities, such as cables or pipes.

The pipe material is 6" HDPE that will employ fused joints. A fusion-joined pipeline may be thought of as a continuous pipeline without joints. HDPE "DR11" pipe has an expected service life of 50-100 years. HDPE pipe has a fatigue life of 10,000,000 pump cycles, or in excess of 100 years. The combination of pipe and pump will be capable of moving 200 gpm. However, the pump that charges the pipeline will operate intermittently, as the wastewater treatment plant produces an average of 69.4 gpm. The recycled wastewater will be held in a 10,000 gallon accumulating tank located at tax lot 1011, adjacent to the treatment plant, until the quantity is sufficient to operate the pipeline.

The recycled water that will be obtained from the Port Orford treatment plant will be treated to DEQ Class C or higher. Despite the very high level of treatment already being conducted at the treatment plant, the water will undergo additional passive water quality improvements as it resides in the reservoir on the golf course, and again, as it percolates through the turf and soil.

At the northern terminus of the pipeline, it will discharge into an irrigation reservoir, as shown on page 2 of the attached irrigation plan. The reservoir is anticipated to cover an area of approximately seven acres, and will hold approximately 100 acre-feet. The reservoir will be designed and constructed according to the specifications established by the Water Resources Department's dam safety division.

The place of use for the recycled wastewater is shown on pages 1 and 2 of the attached irrigation plan. This plan shows the proposed irrigation system plumbing. In addition, the applicant proposes to use the water to grow and maintain turf and landscaping anywhere on the leased premises. The golf course management plan involves an adaptive system of monitoring soil moisture and applying irrigation as needed, given climatic conditions and growing season, in order to prevent erosion and maximize soil and landscaping health.

The total volume of recycled wastewater that is proposed to be pumped through the pipeline and

applied as golf course irrigation will likely not exceed 110 acre-feet per year.

**ATTACHMENT 7
EASEMENT AGREEMENTS**

Agreement to convey easement for privately-owned water pipeline across Kreiger Lane

This agreement is between Jeffrey C. Loan, Richard Seagrave, Russell Gibson, Michael Shields, Duane Eckoff, Edward Cottor, James Johnson and Heather Barton ("Grantors") and Elk River Property Development, LLC ("ERPD"). Grantors are the joint owners of a private street known as Kreiger Lane in Curry County, Oregon. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantors agree to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. The pipeline will cross Kreiger Lane in the approximate area between Russell Gibson and Jeffrey Loan Property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will restore the road surface to a condition equal to, or better than its original, preconstruction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 15 day of FEB, 2017, by ERPD:

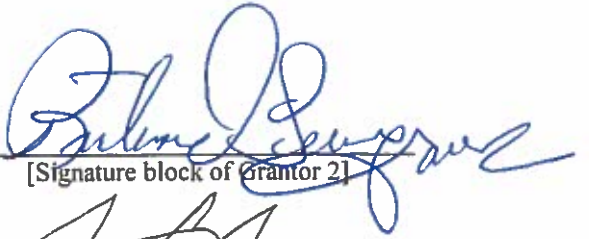

[Signature block for ERPD]

GRANTORS' ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.

Jeffery C. Loan
Lot 3215-29C #00103

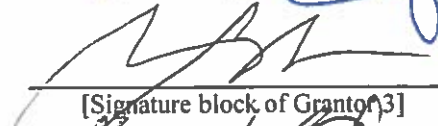

[Signature block of Grantor 1]

Richard Seagrave
Lot 3215-29C #00118



[Signature block of Grantor 2]

Russell A. Gibson
Lots 3215-29C # 00108 & 00120



[Signature block of Grantor 3]

Michael F. Shields
Lot 3215-29C # 00104



[Signature block of Grantor 4]

Duane K. Eckoff
Lot 3215-29C #00105



[Signature block of Grantor 5]

Edward A. Cottor
Lot 3215-29C #00106



[Signature block of Grantor 6]

James Johnson
Lot 3215-29C #121



[Signature block of Grantor 7]

Heather Barton
Lot 3215-29C #00107



[Signature block of Grantor 8]



Stuntzner Engineering & Forestry, LLC

ENGINEERING * LAND SURVEYING * FORESTRY
LAND PLANNING * WATER RIGHTS

705 SOUTH 4TH STREET
P.O. BOX 118
COOS BAY, OREGON 97420

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

PROPOSED WATERLINE

JOB NAME: Job Name	
DATE: NOVEMBER 2016	
JOB NO: XX-XXX	DESIGN BY: CDH
PAGE: 1 OF 1	DRAWN BY: AER

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

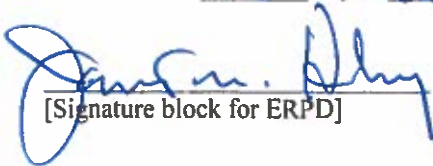
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

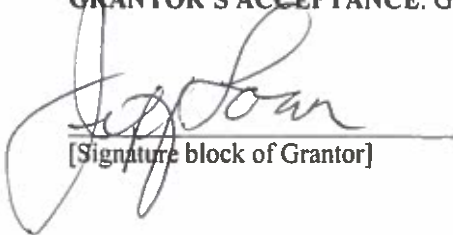
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

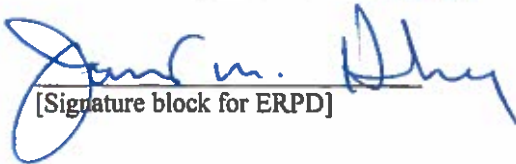
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

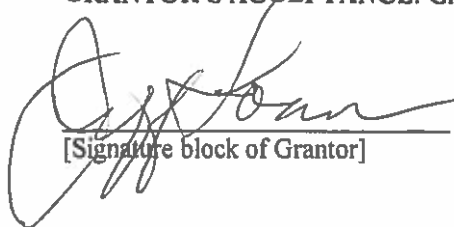
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Russell A. Gibson and Elk River Property Development, LLC ("ERPD")**. Grantor is the owner of property in Curry County, Oregon, known as **3215-29C lot # 00108**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

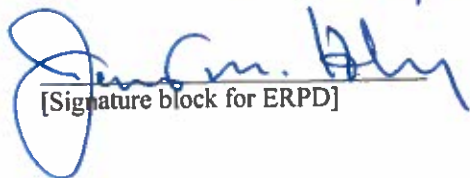
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

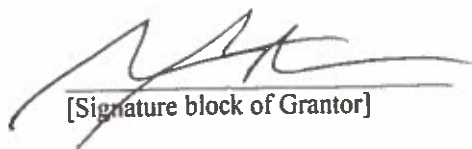
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 5 day of April 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 3 day of 31, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G Obrien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as **3215-29D lot # 00621**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

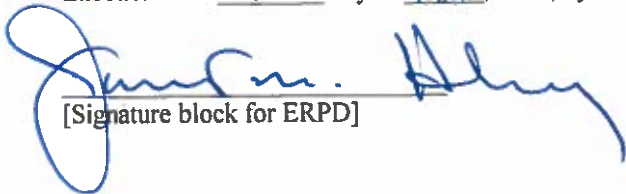
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of Feb, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G Obrien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as **3215-29D lot # 00621**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

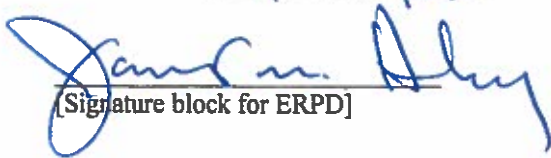
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

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Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of FEB, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]



CURRY COUNTY
GROUNDWATER
MONITORING AREA



**Stuntzner Engineering
& Forestry, LLC**

ENGINEERING * LAND SURVEYING * FORESTRY
LAND PLANNING * WATER RIGHTS

705 SOUTH 4TH STREET
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PROPOSED WATERLINE

JOB NAME: Job Name	
DATE: NOVEMBER 2016	
JOB NO: XX-XXX	DESIGN BY: CDH
PAGE: 1 OF 1	DRAWN BY: AER



Chair John Brazil
Vice Chair Bob Morrow
Commissioner Karen Kennedy

Commissioner Kevin McHugh
Commissioner Ted Freeman
Commissioner Diana St. Marie
Commissioner Shannon Pagano

Planning Commission Meeting Agenda
Thursday, October 19, 2017 at 5:00 PM
County Annex, 94235 Moore Street/Blue Room, Gold Beach, Oregon

- 1. Call to Order / Roll Call**
- 2. Pledge of Allegiance**
- 3. Acceptance of the Agenda**
- 4. Public Comment for items not on the Agenda**
- 5. Agenda:**
 - A. Application AD-1705: Continued public hearing from September 21, 2017 for a request to develop a pipeline over multiple properties to deliver recycled wastewater, and a reservoir, in order to irrigate the Pacific Gales golf course. The pipeline could be located on land owned by multiple owners on property located on Assessor map 32-15-29C, lot numbers 103, 104, 105, 106, 107, 108, 118, 120 and 21; Applicant: Elk River Property Development LLC.
- 6. Commissioner Comments**
- 7. Director Comments**
- 8. Adjournment: no later than 8:30 PM**

Planning Commission Staff Report

Prepared by Carolyn Johnson, Community Development Director



Planning Commission Hearing Date: October 19, 2017
(continued from September 21, 2017)

Audio of September 21, 2017 Planning Commission meeting:

<https://files.acrobat.com/a/preview/4a2a7d9a-19a9-4078-99c0-c70aa5e1317a>

Agenda Item: Continued public hearing from September 21, 2017 - Application AD-1705: A request to develop a pipeline over multiple properties to deliver recycled wastewater, and a reservoir, in order to irrigate the Pacific Gales golf course. The pipeline could be located on land owned by multiple owners on property located on Assessor map 32-15-29C, lot numbers 103, 104, 105, 106, 107, 108, 118, 120 and 21; Applicant: Elk River Property Development LLC.

Background: The Planning Commission reviewed the subject proposal on September 21, 2017, continued the public hearing and kept the public record open to October 19, 2017.

The Planning Commission asked whether a time extension had been filed for the Conditional Use Permit AD-1411 related to the Pacific Gales Golf course. The answer to that question is no. The applicant's representative will be present at the Planning Commission meeting to address the question of the CUP validity.

Commissioner McHugh asked to see e-mails between staff and DLCD staff. See attachment 8 for these e-mails.

The Commission discussed whether action could be taken on Application AD-1705 absent Commission clarity on the life of Conditional Use Permit AD-1411. The answer to this question is yes; application AD-1705, pursuant to **ORS 215.283(1)(v)** is one of "*Types of uses allowed outright as listed in ORS 215.283(1) include "the land application of reclaimed water."*

A Planning Commission decision on AD-1705 is not predicated on the status of AD-1411, nor do the findings for authorization of AD-1705 need to include a reference to the location or purpose of the reclaimed water recycled wastewater, and reservoir referenced in AD-1705. As noted in the chart in the September 21, 2017 staff report and repeated later in this report, "*The use proposed in this instance can be described as the land application of reclaimed water and can be used for irrigation in connection with an allowed use in an EFU. The statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ.*

The application was deemed complete August 4, 2017. Action on the application by the County, including appeals, is required within 150 days, or March 4, 2018. If County action is not completed by that time, the project will be considered approved. The applicant and the County can agree to extend the time for County review, not to exceed 215 days from the day the application was deemed completed. (May 21, 2018.)

County Counsel has provided additional information that can be found on Attachment 10.

The Commission is also advised that:

- Two hundred twenty eight (228) notices were mailed to property owners surrounding the proposed pipeline locations.
- At the time of the October 19, 2017 Planning Commission packet preparation, one letter was received from the public. (Attachment 9)

Planning Commission Requested Action:

- 1) Review application, staff report, proposed findings, resolution, and associated materials.
- 2) Review written, and hear oral testimony regarding the proposal.
- 3) Consider if applicant has shown, with substantial evidence, that its project fits within the statutory category of the project, and that it has followed the process and considered alternatives.
- 4) Evaluate alternatives and determine how to proceed. The Commission may:
 - a. Continue the hearing to another date certain.
 - b. Close the hearing but leave the record open to a date certain. Deliberate at a future meeting (date certain).
 - c. Close the hearing and record, deliberate and APPROVE the development by passing Resolution 2017-AD-1705 addressing findings and conditions for the development.
 - d. Close the hearing and record, deliberate and APPROVE the development based on additional findings and conditions to be added to Resolution 2017-AD-1705.

Staff Recommendation:

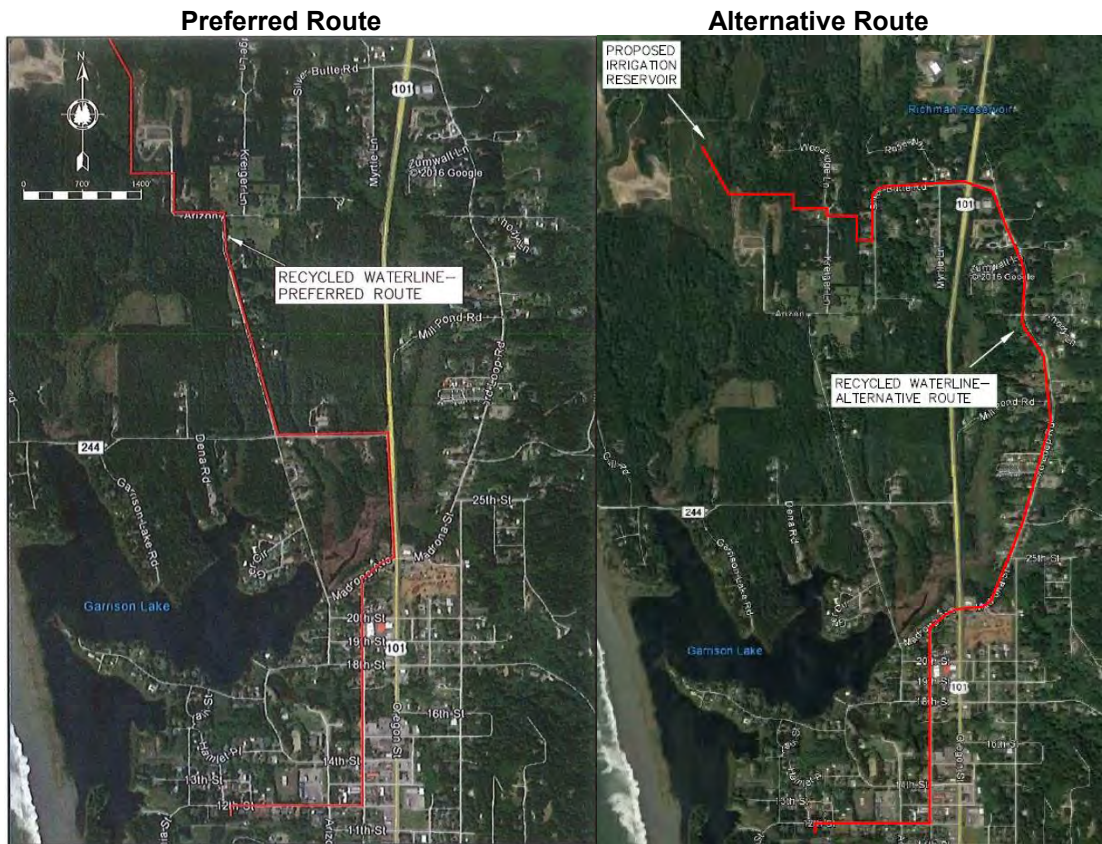
- 1) Based on the evidence in the record when this staff report was developed, a determination that the applicant has shown, with substantial evidence, that the project fits within the statutory category of the project, and that it has followed the process and is prepared to adequately consider public comment on the proposal(s).
- 2) Any approval of the proposal include conditions as specified in Exhibit 1 of the proposed Planning Commission Resolution 2017-AD-1705

Balance of the staff report

The rest of the information in this report is reflective of the September 21, 2017 staff report prepared by Jake Callister of LCOG.

Summary: The proposed pipeline would be developed inside public rights of way, and also on private property. There are two alternative routes under consideration. The reservoir will be developed on private property. The subject parcel is identified assessor map Sections 19, 29 & 30 of Township 32 S., Range 15 W., M. Tax lot 4400, and Section 29c of Township 32 S.,

Range 15., W., W. M. Tax lot 500, and additional property and public right of way, noted on figure maps¹ below and larger maps found in Attachment 2.



¹ prepared by Stuntzner Engineering

Summary: As noted in the written statement provided by the applicant and further expanded in Attachment 3:

“Elk River Property Development Property LLC is proposing to use recycled wastewater for irrigating a golf course on the property commonly known as Knapp Ranch, which is zoned Exclusive Farm Use (EFU). The use of recycled wastewater includes the development of a pipeline that originates at the City of Port Orford municipal wastewater treatment plant, the creation of a reservoir adjacent to the ultimate place of use (on Knapp Ranch), and development of ancillary facilities. As required by state statute the applicant requests the County to conduct a public process when uses of this nature are proposed.

Although the application of recycled water for irrigation is allowed outright in EFU zones, pursuant to ORS 215.283(1) (v), the statutory framework for this use includes a requirement for public comment and an analysis of alternatives.

The alternative analysis that the applicant is now proposing comes directly from ORS 215.246. There are no local regulations in Curry County code that implements this statute, therefore the statute is applied directly. This application will be reviewed by the Curry County Planning Commission pursuant to CCZO 2.060(2) (d), which provides that the Planning Commission has authority over “other land use actions” not specifically listed in adjacent code provisions.

In summary, ORS 215.246 requires the applicant to explain what it proposes, to consider public comment in response to the proposal, and to conduct an analysis of alternatives.

Although a portion of the proposed system development will be located inside the city limits of Port Orford (consisting of a pump and pipeline that originates at the city’s sewage treatment plant), this application is primarily focused on the portions of the irrigation system that will be developed in the county. The applicant has obtained separate development approval for portions of the project that will be located in areas inside the city of Port Orford’s jurisdiction.”

Citation of Applicable Criteria:

Curry County Zoning Ordinance: Section 2.060(2) (d). Article II. Procedures for Making Land Use Decisions. Application.

ORS 215.283(1): Uses allowed in any area zoned for exclusive farm use.

ORS 215.246: Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives.

Evaluation of Criteria: The evaluation of the applicable criteria is provided in the chart below and in the applicant’s written statement (Attachment 3).

Code Section	Discussion and Recommended Findings
<p>CCZO Section 2.060(2)(d)</p>	<p>FINDING: Application will be reviewed by Curry County Planning Commission which has authority under this application per subheading (d) “other land use actions”.</p>
<p>ORS 215.283(1)(v): <i>Types of uses allowed outright as listed in ORS 215.283(1) include “the land application of reclaimed water.”</i></p>	<p>The use proposed in this instance can be described as the land application of reclaimed water and can be used for irrigation in connection with an allowed use in an EFU.</p> <p>Statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ.</p> <p>FINDING: DEQ review is being conducted concurrently with this County review. DEQ cannot issue its recycled wastewater use permit until the alternatives analysis has been completed. At the completion of the County’s review, development of the project requires the applicant to obtain all necessary permits, including those issued by DEQ. The following conditions of approval apply prior to pipeline construction:</p> <p>Condition of Approval 1: <i>Receive approval from the Oregon State Department of Environmental Quality.</i></p> <p>Condition of Approval 2: <i>Receive any and all local permits from the County with respect to installing facilities in County right-of-way.</i></p>
<p>ORS 215.246(1) & (3): <i>When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosoils under a license, permit or approval by the DEQ, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered, and if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosoils may not be reversed or remanded under</i></p>	<p>This statute requires applicant explanation to the DEQ how public comments were addressed in the development of alternatives to the land application of reclaimed water were i at the local land use hearing, and explain reasons for not using any identified (and adequately detailed) alternatives.</p> <p>A land use decision for a land application of reclaimed water (etc.), may not be reversed or remanded unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.</p> <p>FINDING: After the public hearing and a Planning Commission finding the applicant has adequately considered public comment related to identified alterantives, then the applicant has satisfied this statutory requirement. Two public comments have been received at the writing of this report. Public comments received as a result of the notice and hearing introducing new evidence related to identified alternatives must be adequately considered and evaluated by the applicant.</p> <p>FINDING: ORS 215.246 (1)(b) requires that the applicant indicate that there are no additional statutes that apply. The applicant has indicated this. Recycled wastewater is not subject to other provisions of any listed statutes.</p>

Code Section	Discussion and Recommended Findings
<p><i>this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.</i></p>	
<p>ORS 215.246(4)(a): <i>The uses allowed under this section include: The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;</i></p>	<p>In addition to Port Orford water treatment sewage treatment plant processing, natural processes will lead to continued improvements in water quality, like exposure to UV light while the water is impounded in the pond at the golf course, exposure to natural soil microbes digesting nutrients and other substances found in trace amounts in the treated water.</p> <p>FINDING: This will amount to passive “treatment” of the reclaimed water that occurs as a result of land application.</p>
<p>ORS 215.246(4)(b): <i>The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;</i></p>	<p>Applicant is proposing equipment that includes a portion of the pipe that delivers treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment.</p> <p>FINDING: Improvements will be reasonably necessary for the use of recycled wastewater on the tract where the irrigation will occur.</p>

Code Section	Discussion and Recommended Findings
<p>ORS 215.246(4)(c) <i>The Establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosoils to the tract on which the land application occurs if the facilities are located within: (A) a public right of way; or (B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275(4); and (d) the transport by vehicle of reclaimed water on which the water will be applied.</i></p>	<p>Applicant is proposing ancillary facilities necessary for the use of recycled wastewater that will be developed on lands outside of the tract where irrigation will occur, primarily in right of way. In limited instances where pipeline is to cross land that is not within right of way, applicant understands “written consent” must be obtained from land owner.</p> <p>FINDING: For both preferred and alternate route, applicant has obtained easements with land owners where pipeline passes through private property (see Attachment 6).</p>
<p>ORS 215.246(5) <i>Uses not allowed under this section include: (a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosoils other than those treatment facilities related to the treatment that occurs as a result of the land application; or (b) the establishment and use of utility facility service lines allowed under ORS 215.213(1)(x) or 215.283(1)(u).</i></p>	<p>All water quality treatments will occur at existing Port Orford sewage treatment plant. Some degree of water quality improvement that is expected to occur incidentally to storing recycled water in the pond, and then applied to the golf course, where it will be exposed to soil microbes and other natural processes. Water currently being discharged from sewage treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean. The applicant strongly believes that it is more environmentally sustainable to use City’s effluent for irrigation, where any trace contaminants will be broken down by exposure to air and UV light during the pond storage period, and by soil microbes after it is applied as irrigation, as opposed to discharging it directly into the marine environment.</p> <p>The pipeline delivering the recycled wastewater is not a “utility service line” within the meaning of this statute because it is one of the necessary “facilities for the transport of reclaimed water” as specifically allowed under ORS 283.246(4)(c).</p> <p>FINDING: Applicant is not proposing any utility facility service line. Current proposal involves delivery, storage and use of recycled wastewater, as specifically allowed under ORS 215.283(1)(v) and ORS 215.246(4)(c).</p>

ATTACHMENTS

- Attachment 1 – Planning Commission resolution 2017-AD-1705, including project conditions.
- Attachment 2 - Proposed preferred and alternative pipeline routes.
- Attachment 3 – Applicant’s written statement and detailed description of alternative routes and plans.
- Attachment 4 - County Counsel Memo
- Attachment 5 – Public notice
- Attachment 6 – Project application
- Attachment 7 – Easement agreements
- Attachment 8 - E-mails to/from DLCD requested by Commissioner McHugh
- Attachment 9 - Public CommentsPublic comment from Betty Walters
- Attachment 10 - October 11, 2017 memo from County Counsel

ATTACHMENT 1
Planning Commission Resolution AD-1705 Conditionally Approving the Proposal

Resolution 2017-AD-1705

A Resolution of the Curry County Planning Commission approving the Elk River Property Development LLC Application AD-1705 to develop a pipeline to deliver recycled wastewater in order to irrigate the Pacific Gales golf course. File #: AD-1705, Map/TL: Sections 19, 29 & 30 of Township 32 S., Range 15 W., M. Tax lot 4400, and Section 29c of Township 32 S., Range 15. W., W. M. Tax lot 500, and additional property and public right of way.

WHEREAS, the Curry County Planning Commission held a duly noticed public hearing on application AD-1705 filed by **Elk River Property Development LLC** for approval to develop a pipeline to deliver recycled wastewater in order to irrigate the Pacific Gales golf course.

WHEREAS, the Commission held the public hearing on September 21 and October 19,, 2017 at which time staff presented their report and the applicant’s findings. The Commission also received additional testimony at the hearing from interested parties.

NOW, THEREFORE, BE IT RESOLVED that the Curry County Planning Commission hereby approves the land use request of the proposed development of pipeline in order to irrigate Pacific Gales golf course based on the findings specified in the September 21, 2017 staff report, subject to the conditions attached to this resolution as Exhibit 1.

UPON THE MOTION of Planning Commissioner _____, seconded by Planning Commissioner _____, the foregoing Resolution is hereby approved and adopted the 19th day of October, 2017 by the following roll call, to wit:

AYES	NAYS	ABSTAIN	ABSENT

John Brazil
Planning Commission Chairperson

ATTEST

Carolyn Johnson
Community Development Director

EXHIBIT 1

APPROVAL OF ELK RIVER PROPERTY DEVELOPMENT LLC TO DEVELOP PIPELINE TO DELIVER RECYCLED WASTEWATER AND A RESERVOIR IN ORDER TO IRRIGATE THE PACIFIC GALES GOLF COURSE. FILE #: AD-1705, MAP/TL: SECTIONS 19, 29, &30 OF TOWNSHIP 32 S., RANGE 15 W., W. M. TAX LOT 4400 AND SECTION 29C OF TOWNSHIP 32 S., RANGE 15 W., W. M. TAX LOT 500, AND ADDITIONAL PROPERTY AND PUBLIC RIGHT OF WAY.

AUTHORIZATION: This land use request AD-1705 is hereby authorized subject to the conditions listed below. Approval is granted only for development to develop pipeline to deliver recycled wastewater and a reservoir in order to irrigate pacific gales golf course, to be developed inside public rights of way and also on private property. Any proposed changes to this land use request shall require further review by the Planning Commission.

EFFECTIVE DATE: October 19, 2017

ACCEPTANCE OF CONDITIONS OF APPROVAL: The property owner shall acknowledge receipt of these Conditions of Approval by signing and returning the statement below.

TRUE AND CORRECT AFFIRMATION AND COMPLIANCE AGREEMENT: I affirm that the information my agent or I submitted to the County that was used to review and authorize this proposal is true and correct to the best of my knowledge. I acknowledge that the County can revoke this land use authorization if it has been obtained under false pretenses.

I have read and understood, and I will comply with all applicable requirements of any law or agency of the State of Oregon, Curry County, and any other governmental entity that may have jurisdiction over this proposal. The duty of inquiry as to such requirements shall be my responsibility. I agree to defend, indemnify, and hold harmless Curry County and its agents, officers, and employees, from any claim, action, or proceeding against the County as a result of the action or inaction by the County, or from any claim to attack, set aside, void, or annul of this approval by the County of the project; or my failure to comply with conditions of approval. This agreement shall be binding on all successors and assigns of the subject property.

Jim Haley, Manager, Elk River Property Development LLC
Applicant

Date

Jeremy Knapp, President, Knapp Ranches Inc.
Property owner

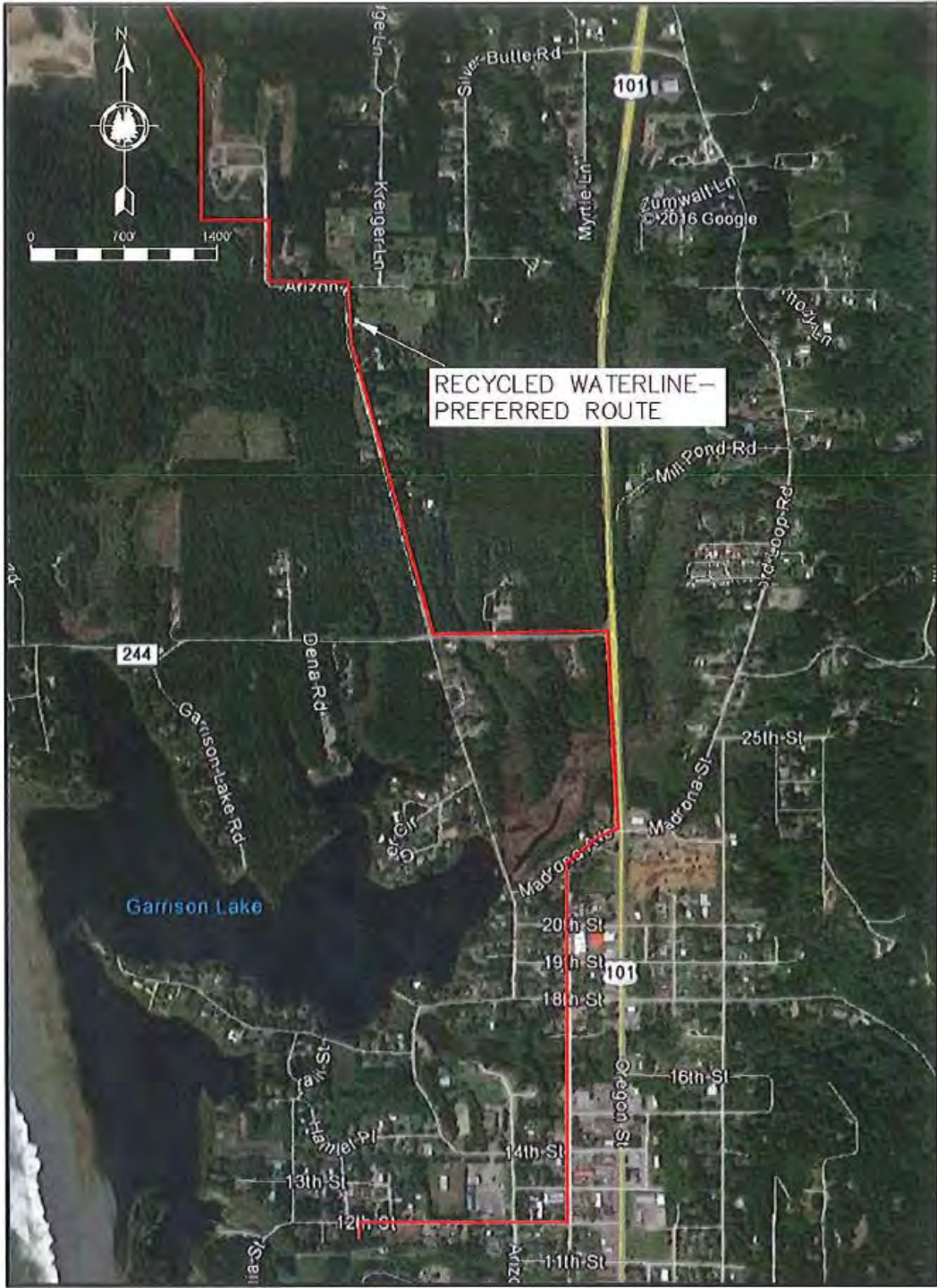
Date

AD-1705 Conditions of Approval

PRIOR TO CONSTRUCTION OF PIPELINE

1. Receive approval from the Oregon State Department of Environmental Quality.
2. Receive any and all local permits from the County with respect to installing facilities in County right-of-way.

ATTACHMENT 2
PROPOSED PREFERRED AND ALTERNATIVE ROUTES OF PIPELINE



RECYCLED WATERLINE-PREFERRED ROUTE



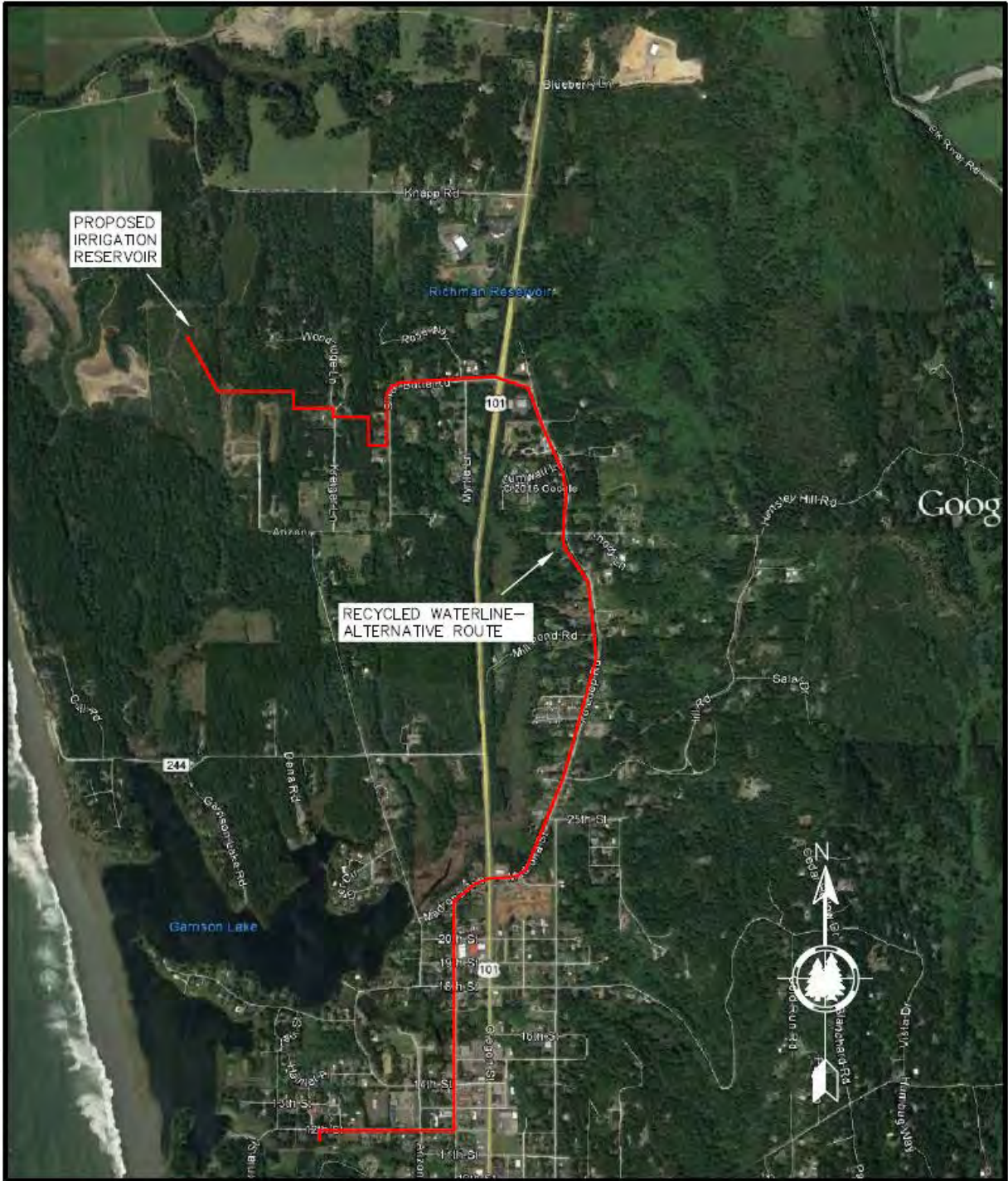
* COOS BAY * DALLAS *
* FOREST GROVE *

Stuntzner Engineering & Forestry, LLC

ENGINEERING * LAND SURVEYING * FORESTRY
LAND PLANNING * WATER RIGHTS

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DESIGNED BY:	CDH
DRAWN BY:	AER
CHECKED BY:	CDH
DATE:	NOV. 2016
REVISED:	
JOB NAME:	Project
JOB NO:	XX-X-XXX
SHEET:	3 of 4



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Aerial-Preferred Route

JOB NAME: HIGHLAND GOLF

DATE: APRIL 2017

JOB NO: 116-042

DESIGN BY: CDH

PAGE: 2 OF 4

DRAWN BY: AER

**ATTACHMENT 3
APPLICANTS WRITTEN STATEMENT
AND
DETAILED DESCRIPTION OF ALTERNATIVE ROUTES AND PLANS**

WRITTEN STATEMENT

REQUEST SUMMARY:

Elk River Property Development, LLC (referred to hereafter as “ERPD”) is proposing to use recycled wastewater for irrigating a golf course on the property commonly known as the Knapp Ranch, which is zoned Exclusive Farm Use. The use of recycled wastewater includes the development of a pipeline that originates at the City of Port Orford municipal wastewater treatment plant, the creation of a reservoir adjacent to the ultimate place of use, and development of ancillary facilities, such as pumps. This application requests the county to conduct a public process required by statute when uses of this nature are proposed.

Although the application of recycled water for irrigation is allowed-outright in EFU zones, pursuant to ORS 215.283(1)(v), the statutory framework for this use includes a requirement for public comment and an analysis of alternatives.

The alternatives analysis that the applicant is now proposing comes directly from ORS 215.246, discussed in detail below. There are no local regulations in the Curry County code that implement this statute. Therefore, the statute will need to be applied directly. This application will be reviewed by the Curry County Planning Commission pursuant to CCZO 2.060(2)(d), which provides that the Planning Commission has authority over “other land use actions” not specifically listed in adjacent code provisions.

The entire text of ORS 215.246 is included below, but in summary, the statute requires the applicant to explain what it proposes, to consider public comment in response to the proposal, and to conduct a rigorous analysis of alternatives. The statute’s requirement for a robust alternatives analysis will ensure that the ultimate development has been rigorously evaluated.

The current proposal includes the placement of a pipe under public rights-of-way (with alternative routes to be considered), the development of a pond at the golf course that would contain the treated water at the golf course, the use of this water for irrigation during the appropriate seasons, and the development of ancillary components of the system, such as a pump station and valves. A detailed description of the proposed irrigation system and the alternative pipeline routes have been prepared, and are attached as components of Exhibit A.

Although a portion of the proposed system will be located inside the city limits of Port Orford (primarily consisting of a pump and pipeline that originates at the city’s sewage treatment plant) this application is primarily focused on the portions of the irrigation system that will be developed in the county. As noted above, the applicant has obtained separate development approval for portions of the project that will be located in areas inside the city of Port Orford’s jurisdiction.

Discussion of approval standards:

Approval standards are shown in *Italic* font. The applicant's response and proposed findings are labeled as such and shown in regular font.

ORS 215.283(1) The following uses may be established in any area zoned for exclusive farm use:

[...]

(v) *Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695 (License required to perform sewage disposal services), 459.205 (Permit required), 468B.050 (Water quality permit), 468B.053 (Alternatives to obtaining water quality permit) or 468B.055 (Plans and specifications for disposal, treatment and sewerage systems), or in compliance with rules adopted under ORS 468B.095 (Use of sludge on agricultural, horticultural or silvicultural land), and as provided in ORS 215.246 (Approval of land application of certain substances) to 215.251 (Relationship to other farm uses), the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.*

Applicant's response: the types of uses listed in ORS 215.283(1) are those uses allowed outright. Sub-section (v) includes "the land application of reclaimed water [...]". The use proposed in this instance can be described as the land application of reclaimed water "as provided in ORS 215.246." The statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ. The applicant is in the process of obtaining the necessary "recycled wastewater use permit," or "RWUP" from DEQ. This statute also makes reference to ORS 215.246, which imposes a requirement to conduct an alternatives analysis. DEQ cannot issue its RWUP until the alternatives analysis has been completed. The remainder of this narrative addresses the provisions of ORS 215.246, including the alternatives analysis.

ORS 215.246 Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

(a) Require a determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.

Applicant's response: DEQ is currently reviewing the ERPD's application for a Wastewater Pollution Control Facility Permit (WPCF) and a Recycled Water Use Permit (RWUP). The state agency review looks at the proposed application rate, site practices, water quality, and other criteria, and it will ensure the continued productivity of the land will not be harmed by this proposal. DEQ's review is being conducted concurrently with this county review. At the

completion of the county's review, development of the project requires the applicant to obtain all necessary permits, including those issued by DEQ. County completion of its review can be made explicitly contingent on the requirement for DEQ to grant its approvals before the applicant begins to develop or use its proposal for a recycled wastewater irrigation system.

(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS 215.274, 215.275 or 215.296.

Applicant's response: this provision requires the applicant to demonstrate that there are not additional statutes that apply to the proposal, or, if there are, that the proposal complies with them. As explained below, the proposed use of recycled wastewater is not "subject to other provisions" of any of the listed statutes.

ORS 215.213 does not apply in the current context, because it applies only in marginal lands counties, which Curry County is not.

ORS 215.283 applies to non-marginal lands counties, such as Curry County, and that statute includes a list of uses allowed outright in EFU-zoned lands, including "the land application of reclaimed water". The only "other provision" imposed on this type of use by ORS 215.283 is the review required under ORS 215.246. In this situation, ORS 215.283(1)(v) and ORS 215.246(1)(b) make circular references to each other. This land use application initiates the review required by ORS 215.246.

ORS 215.274 does not apply to the current application, as it deals solely with electrical transmission lines.

ORS 215.275 applies only to "utility facilities necessary for public service." Those types of utility facilities are specifically defined and regulated by ORS 215.283(1)(c)(A). These "utility facilities necessary for public service" do not include the private wastewater utility facility that is proposed in this instance, which is separately regulated by ORS 215.283(1)(v).

ORS 215.296 applies only to the uses that can be conditionally approved within the scope of ORS 215.283(2). The proposal is one of the uses allowed outright under ORS 215.283(1), and is not subject to ORS 215.283(2).

In summary, the statutes listed in section (1)(b) of the statute do not impose "other provisions" on the proposed use, aside from the provisions of ORS 215.246, which this application has been submitted to address.

(2) The use of a tract of land on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred under this section may not be changed to allow a different use unless:

[subsections (a) through (d) omitted for brevity.]

Applicant's response: ORS 215.246(2) applies only to lands where application of "reclaimed water, agricultural or industrial process water or biosolids" has already occurred, and where a change of use has subsequently been proposed for those lands. This standard is not applicable to the current situation. Instead, the applicant is proposing to begin irrigating the lands with reclaimed water.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

Applicant's response: This provision of the statute is the core substantive standard that must be addressed in this application. ORS 215.246(3) requires an applicant for this type of development to consider "alternatives identified in public comments." Implicit in that requirement is the assumption that the proposal will be noticed to the public, with an opportunity for the public to provide comment. Following that public comment period, the applicant is required to consider the alternatives proposed in the public comments. Following the applicant's analysis of alternatives, the county can issue a final decision on the proposal.

At the end of this three-step process, the statute clarifies that an application that has been subjected to this type of alternatives analysis cannot be reversed or remanded unless the applicant failed to consider any of the proposed alternatives or if it did an inadequate job in explaining why it did not use any of the proposed alternatives. This last provision imposes a procedural obligation for a specific type of analysis, and it is satisfied so long as that analysis is conducted correctly.

The applicant recognizes there will likely be benefit to performing this analysis. It is possible that the public comments will provide perspectives that the applicant had not considered, and it provides the applicant with the opportunity to incorporate those alternatives if they would make for a better proposal. This decision-making process involves a rigorous exploration of the alternatives proposed in the public comments, and gives the applicant the opportunity to incorporate any alternatives that will make for a better project.

At the end of this written narrative discussing the approval standards found in the statute, the applicant has provided Exhibit A, which includes a more detailed explanation of what it is proposing, and also relevant graphics.

The main proposal, described generally, involves the movement of recycled wastewater to the golf course, where it can be used for irrigation. However, the applicant realizes there are multiple variations on how that proposal can be achieved. In order to start out the conversation on alternatives, the applicant's materials include a proposed "preferred route" and an "alternative route."

The applicant expects that these diagrams and detailed explanation will set the stage for the alternatives analysis. Once the county has invited public comment on the proposal, the applicant will diligently review and respond to that public comment, and will incorporate public testimony in fine-tuning the proposal, as needed and appropriate. At the end of that process, the applicant understands the Planning Commission will render a decision that attests to the completion of the analysis required by statute.

(4) The uses allowed under this section include:

(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;

Applicant's response: ORS 215.246(4) lists the types of uses and developments that fall within the scope of this process.

Pursuant to subsection (a), and in addition to the water quality treatments conducted at the Port Orford sewage treatment plant, natural processes will lead to continued improvements in water quality, such as exposure to UV light while the water is impounded in the pond at the golf course, and exposure to natural soil microbes that will digest nutrients and other substances found in trace amounts in the treated water. This will amount to passive "treatment" of the reclaimed water that occurs as a result of the land application.

(b) The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;

Applicant's response: Pursuant to subsection (b), the applicant is proposing improvements that will be necessary for the use of recycled wastewater on the tract where the irrigation will occur. These improvements will include a portion of the pipe that delivers the treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment.

(c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and

(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.

Applicant's response: Pursuant to subsection (c), the applicant is proposing ancillary facilities necessary for the use of recycled wastewater that will be developed on lands outside of the tract where the irrigation will occur, consisting primarily of the placement of a pipeline along public rights of way. In the limited instances where the pipeline is proposed to cross land that is not within a public right of way, the applicant understands that this statutory standard requires "written consent" from the land owner.

The proposed pipeline will also cross privately-owned land at the location between the wastewater treatment plant and the public right of way. Initially, the applicant obtained an easement to place its facilities on private lot between the treatment plant and the public right of way, but the applicant has subsequently purchased this lot, obviating the need for an easement.

The "alternative route" for the pipeline, depicted at Exhibit A, will also require the pipeline route to leave the public right of way and to cross private property. The applicant has the written authorization from the necessary private property owners, shown as Exhibit B.

(5) Uses not allowed under this section include:

(a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or

(b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x) or 215.283 (1)(u).

Applicant's response: as explained in response to ORS 215.246(4), above, all water quality treatments will occur at the existing site of the Port Orford sewage treatment plant. Some degree of water quality improvement that is expected to occur incidentally to storing the recycled water in the pond and then applying it to the golf course, where it will be exposed to soil microbes and other natural processes. In reality, the water that is currently being discharged from the City of Port Orford's treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean. Even though the reclaimed water coming from the treatment plant is treated to a high level, the applicant strongly believes that it is more environmentally sustainable to use the city's treated effluent for irrigation, where any trace contaminants will be broken down by the exposure to air and UV light during the pond storage period, and by soil microbes after it is applied as irrigation, as opposed to discharging it directly into the fragile marine environment.

In response to subsection (b), above, the applicant is not proposing any utility facility service lines. The current proposal involves the delivery, storage and use of recycled wastewater, as specifically allowed by ORS 215.283(1)(v) and ORS 283.246(3). The pipeline delivering the recycled wastewater is not a "utility service line" within the meaning of this statute because it is one of the necessary "facilities [...] for the transport of reclaimed water," specifically allowed under ORS 283.246(4)(c).

Conclusion

The statutory standards contained in ORS 215.246 have been addressed above. Attached as Exhibit A is a detailed description of the system that the applicant is proposing. It includes diagrams showing the proposed route and the alternative route, as well as a narrative section that explains the methods and materials of construction. If the county provides notice and an opportunity for public comment, the applicant will consider and respond to any alternatives that may be suggested, pursuant to ORS 215.246(3).

Exhibit A –

detailed description of proposal to develop and use a system for irrigating Pacific Gales Golf Course with recycled wastewater.

The applicant proposes to pipe recycled wastewater from the City of Port Orford wastewater treatment plant to the Pacific Gales Golf Course, and to use that water for irrigation. The proposed pipeline routes (including a preferred route and an alternative route) are shown on the diagrams attached to this exhibit. Only one of these two pipelines will be built.

The pipeline will primarily be placed using horizontal boring when it is located under city right of ways, in order to minimize surface disruption and impacts to tree roots. For portions of the pipe that are proposed to be located in the county, it will primarily be placed on the shoulder of the public right of way, using a standard trenching technique that will restore soil surface and paving surfaces to their original condition. The pipe will be placed using horizontal boring anywhere along the length of the pipeline when it is necessary to pass below certain existing utility facilities, such as cables or pipes.

The pipe material is 6" HDPE that will employ fused joints. A fusion-joined pipeline may be thought of as a continuous pipeline without joints. HDPE "DR11" pipe has an expected service life of 50-100 years. HDPE pipe has a fatigue life of 10,000,000 pump cycles, or in excess of 100 years. The combination of pipe and pump will be capable of moving 200 gpm. However, the pump that charges the pipeline will operate intermittently, as the wastewater treatment plant produces an average of 69.4 gpm. The recycled wastewater will be held in a 10,000 gallon accumulating tank located at tax lot 1011, adjacent to the treatment plant, until the quantity is sufficient to operate the pipeline.

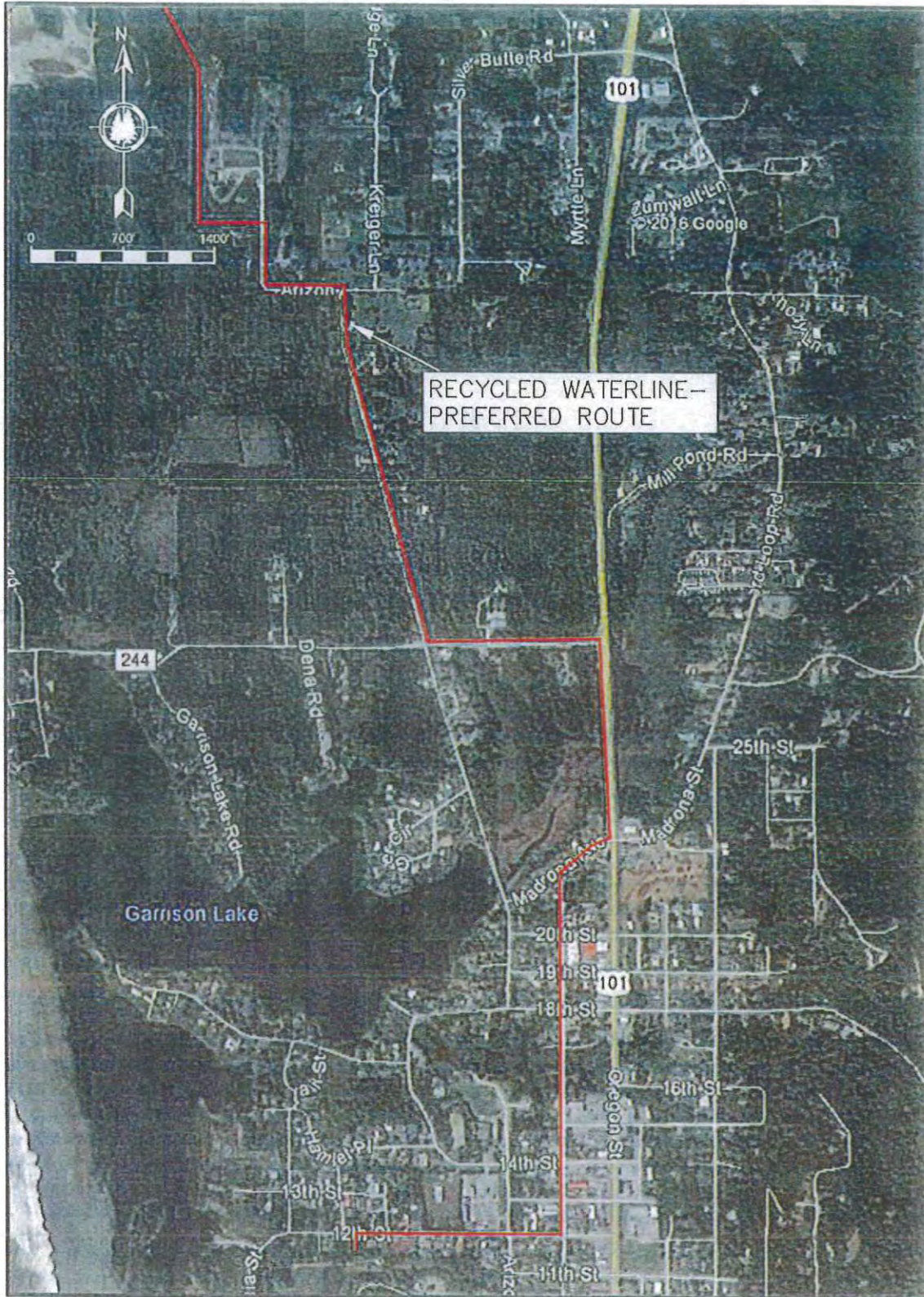
The recycled water that will be obtained from the Port Orford treatment plant will be treated to DEQ Class C or higher. Despite the very high level of treatment already being conducted at the treatment plant, the water will undergo additional passive water quality improvements as it resides in the reservoir on the golf course, and again, as it percolates through the turf and soil.

At the northern terminus of the pipeline, it will discharge into an irrigation reservoir, as shown on page 2 of the attached irrigation plan. The reservoir is anticipated to cover an area of approximately seven acres, and will hold approximately 100 acre-feet. The reservoir will be designed and constructed according to the specifications established by the Water Resources Department's dam safety division.

The place of use for the recycled wastewater is shown on pages 1 and 2 of the attached irrigation plan. This plan shows the proposed irrigation system plumbing. In addition, the applicant proposes to use the water to grow and maintain turf and landscaping anywhere on the leased premises. The golf course management plan involves an adaptive system of monitoring soil moisture and applying irrigation as needed, given climatic conditions and growing season, in order to prevent erosion and maximize soil and landscaping health.

The total volume of recycled wastewater that is proposed to be pumped through the pipeline and

applied as golf course irrigation will likely not exceed 110 acre-feet per year, but that figure cannot yet be provided with certainty, as the applicant is still in discussions with the City of Port Orford to reach an agreement that will provide the applicant with recycled wastewater.



 <p>Stuntzner Engineering & Forestry, LLC</p> <p>* COOS BAY * DALLAS * * FOREST GROVE *</p>	<p>Stuntzner Engineering & Forestry, LLC</p> <p>ENGINEERING * LAND SURVEYING * FORESTRY LAND PLANNING * WATER RIGHTS</p> <p>705 SOUTH 4TH STREET PHONE: (541) 267-2872 P.O. BOX 118 FAX: (541) 267-0588 COOS BAY, OREGON 97420 www.stuntzner.com</p>	DESIGNED BY: CDH
		DRAWN BY: AER
		CHECKED BY: CDH
		DATE: NOV. 2016
		REVISED:
		JOB NAME: Project
		JOB NO: XX-X-XXX SHEET: 3 of 4



**Stuntzner Engineering
& Forestry, LLC**

ENGINEERING * LAND SURVEYING * FORESTRY
LAND PLANNING * WATER RIGHTS

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COOS BAY, OREGON 97420

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

Aerial-Preferred Route

JOB NAME: HIGHLAND GOLF

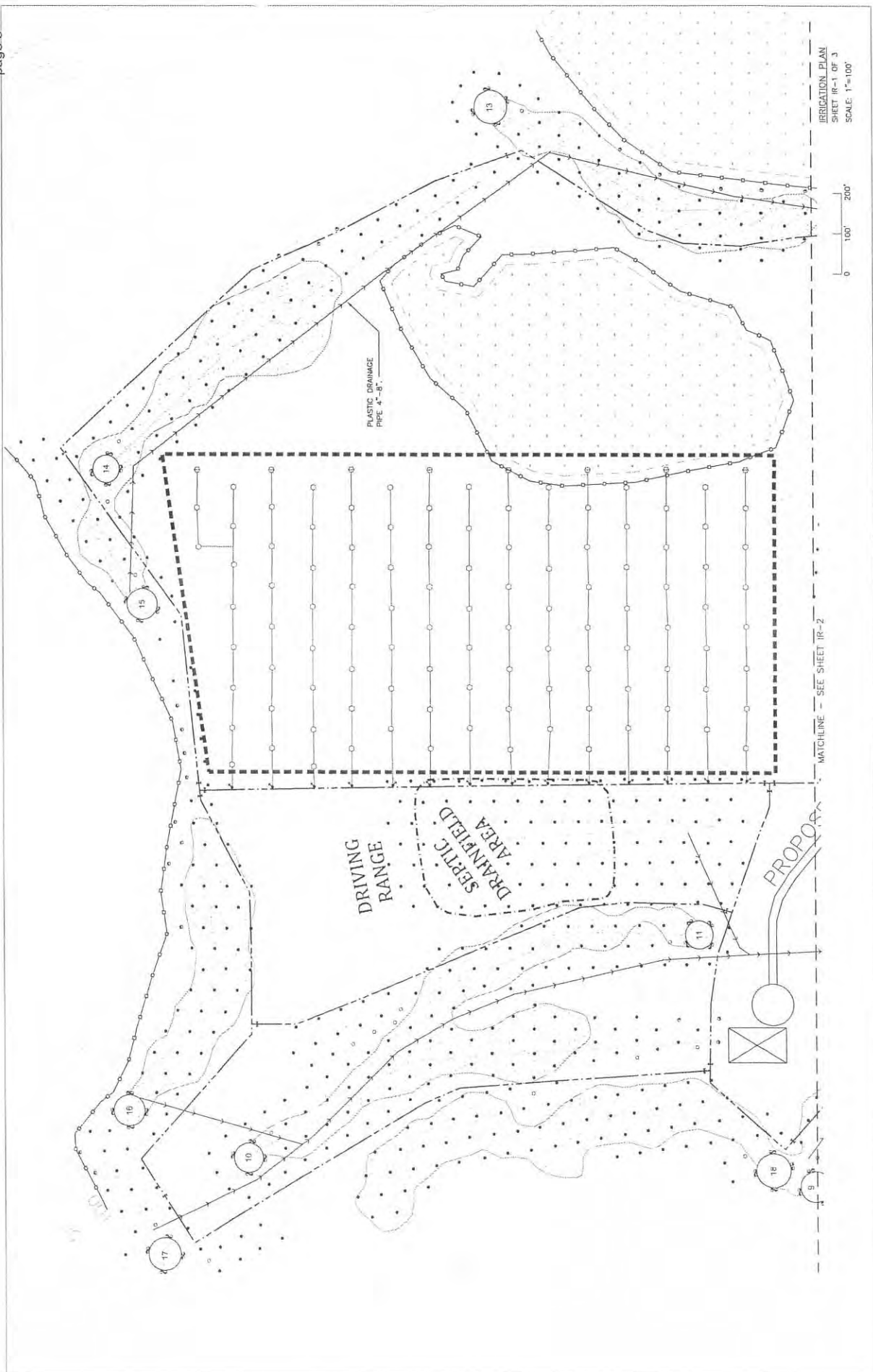
DATE: APRIL 2017

JOB NO: 116-042

DESIGN BY: CDH

PAGE: 2 OF 4

DRAWN BY: AER





IRRIGATION NOTES:

SOIL MOISTURE MONITORING: USING THE TORO, TUBE GUARD, WIRELESS SOIL MONITORING SYSTEM. THIS SYSTEM IS WIRELESS FROM THE MONITORING PROBES TO THE REPEATER, A DISTANCE OF UP TO 500 FEET. THE REPEATER IS WIRELESS TO THE MONITORING PROBES IN A CENTRAL COMPUTER. THE DATA RECEIVED AT THE CENTRAL COMPUTER CONSISTS OF SOIL TEMPERATURE, SOIL MOISTURE (VOLUMETRIC SOIL MOISTURE CONTENT) AND SALINITY BASED ON SOIL CONDUCTIVITY. THE MONITORING PROBES ARE PLACED IN THE CRITICAL ROOT ZONE LEVEL IN THE SOIL WITH A SECOND PROBE 5" LOWER. EACH LEVEL MONITORING PROBE IS PLACED IN THE CRITICAL ROOT ZONE. COMPARES HISTORICAL DATA AND ALSO DELIVERS CURRENT READINGS. THE MONITORING PROBES ARE PLACED IN THE CRITICAL ROOT ZONE LEVEL IN THE SOIL WITH A SECOND PROBE 5" LOWER. EACH LEVEL MONITORING PROBE IS PLACED IN THE CRITICAL ROOT ZONE. SENSOR READINGS ARE SENT BACK TO THE COMPUTER EVERY 5 MINUTES. WE HAVE ESTIMATED STARTING WITH 24 SENSORS INSTALLED ACROSS THE SITE.

IRRIGATION LEGEND:

SYMBOL	DESCRIPTION
●	FULL CIRCLE VALVE-IN-HEAD SPRINKLER 65' RADIUS
○	FULL CIRCLE VALVE-IN-HEAD SPRINKLER 40' RADIUS
◐	PART CIRCLE VALVE-IN-HEAD SPRINKLER 65' RADIUS
◑	FULL CIRCLE VALVE-IN-HEAD SPRINKLER 90' RADIUS
⊥	MAIN LINE GATE VALVE
—	MAIN LINE: (500 PSI) PURPLE PVC PLASTIC DIAPHRAGM GATE IRON FITTINGS. SIZES - 4"-12"
—	LATERAL LINE: 40' PURPLE PVC PLASTIC SCHEDULE 80 FIELD SCHEDULE 80 PVC PLASTIC FITTINGS.
—	PLASTIC DRAINAGE PIPE

Agreement to convey easement for privately-owned water pipeline across Kreiger Lane

This agreement is between Jeffrey C. Loan, Richard Seagrave, Russell Gibson, Michael Shields, Duane Eckoff, Edward Cottor, James Johnson and Heather Barton ("Grantors") and Elk River Property Development, LLC ("ERPD"). Grantors are the joint owners of a private street known as Kreiger Lane in Curry County, Oregon. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantors agree to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. The pipeline will cross Kreiger Lane in the approximate area between Russell Gibson and Jeffrey Loan Property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will restore the road surface to a condition equal to, or better than its original, preconstruction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 15 day of FEB, 2017, by ERPD:

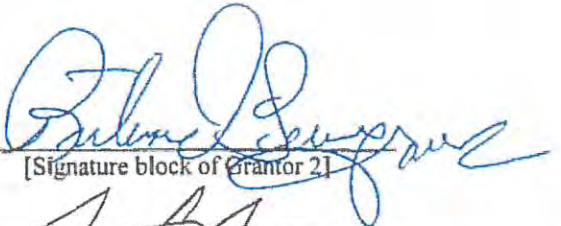

[Signature block for ERPD]

GRANTORS' ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.

Jeffery C. Loan
Lot 3215-29C #00103

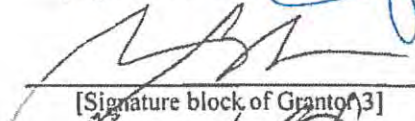

[Signature block of Grantor 1]

Richard Seagrave
Lot 3215-29C #00118



[Signature block of Grantor 2]

Russell A. Gibson
Lots 3215-29C # 00108 & 00120



[Signature block of Grantor 3]

Michael F. Shields
Lot 3215-29C # 00104



[Signature block of Grantor 4]

Duane K. Eckoff
Lot 3215-29C #00105



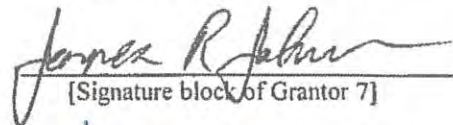
[Signature block of Grantor 5]

Edward A. Cottor
Lot 3215-29C #00106



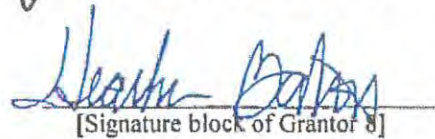
[Signature block of Grantor 6]

James Johnson
Lot 3215-29C #121



[Signature block of Grantor 7]

Heather Barton
Lot 3215-29C #00107



[Signature block of Grantor 8]



Stuntzner Engineering & Forestry, LLC

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PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

PROPOSED WATERLINE

JOB NAME	Job Name		
DATE	NOVEMBER 2016		
JOB NO	XX-XXX	DESIGN BY	CDH
PAGE	1 OF 1	DRAWN BY	AER

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

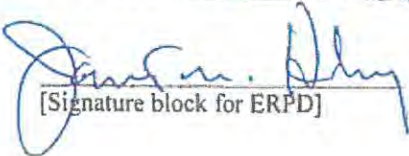
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

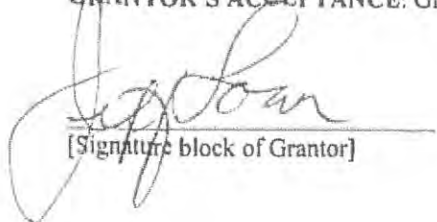
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

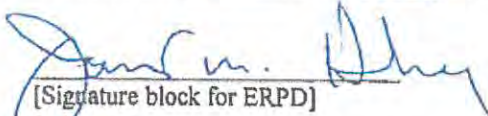
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.


Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between Russell A. Gibson and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00108. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

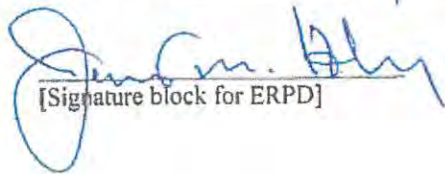
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

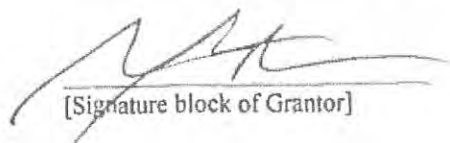
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 5 day of April 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 3 day of 31, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G Obrien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as **3215-29D lot # 00621**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

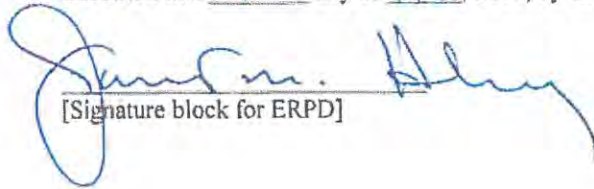
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of Feb, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G O'Brien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29D lot # 00621. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

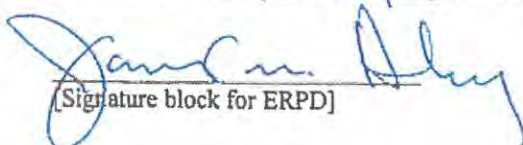
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of Feb, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]



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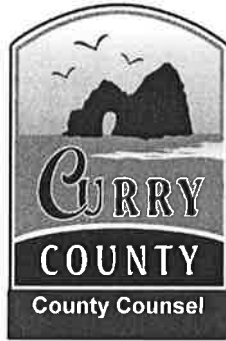
705 SOUTH 4TH STREET
P.O. BOX 118
COOS BAY, OREGON 97420

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

PROPOSED WATERLINE

JOB NAME: Job Name	
DATE: NOVEMBER 2016	
JOB NO: XX-XXX	DESIGN BY: CDH
PAGE 1 OF 1	DRAWN BY: AER

**ATTACHMENT 4
COUNTY COUNSEL MEMO**



MEMORANDUM

FROM John R. Hutt, Curry County Counsel

TO Curry County Planning Commission

RE: Elk River Property Development

DATE: July 2017

Introduction

This memorandum addresses the legal standards for processing the above referenced application.

It will describe the laws and ordinances that govern the Commission's analysis of the application, the process involved, and describe possible outcomes given the facts of the application as well as those that develop at the hearing.

Facts

The applicant proposes piping treated water from the Port Orford Municipal Wastewater Treatment Plant to the Knapp Ranch for purposes of irrigating a golf course development.

I. Applicable Law

Applications must meet applicable land use criteria, found in statewide Land Use Goals and statutes, as well as County comprehensive plans and ordinances.

Statewide land use goals and county comprehensive plan are carried out by the statutes and local ordinances. The local ordinance does not contain any provisions that apply to proposals to use treated water for irrigation. However, this type of use is allowed under state statute. Therefore we examine the state statutes.

A. Statutes

Two state statutes, ORS 215.283(1)(v) and ORS 215.246, inform the Commission's analysis.

///

1. ORS 215.283

ORS 215.283 explains

(1) The following uses may be established in any area zoned for exclusive farm use:

* * *

(v) Subject to issuance of a license, permit or other approval by the Department of environmental Quality under [list of statutes omitted for brevity], and as provided in ORS 215.246 to 215.251, the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

Fairly summarized, reclaimed water can be used for irrigation in connection with an allowed use in an EFU.

Is this reclaimed water? Yes. The county does not have a definition of reclaimed water. The word is used in a state statute. ORS 537.131 describes reclaimed water as water that has been used for municipal purposes and has been treated in a treatment works and as a result of treatment is suitable for a direct beneficial purpose or controlled use that could otherwise not occur. Reclaimed water also known as recycled water by the DEQ is water that has been used for municipal purposes and treated in a municipal treatment plant.

The facts in the record show that water in this application is reclaimed water and we interpret that term to also include recycled water as used by the DEQ.

Is the proposed used for irrigation? Yes. The applicant proposes to use reclaimed water to irrigate the Pacific Gales golf course.

Is the golf course allowed in an EFU? Yes. The golf-course is an allowed use in the EFU zone, and has been approved by the County and affirmed by the Land Use Board of Appeals (LUBA). The County Board of Commissioners decision is found in Order 20255 (In the Matter of Remand Proceedings for Application AD-1411) and was affirmed by LUBA opinion Or LUBA 2015-080, January 27, 2016.

Therefore, the Commission can determine the use is allowed under ORS 215.283(1)(v).

2. ORS 215.246

ORS 215.246 requires an applicant to explain to the DEQ how alternatives to the land application of reclaimed water were identified in public comments at the local land use hearing, and explain reasons for not using identified alternatives.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons

for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

The last sentence of the statute is not an approval criteria for the County, other than it implies an applicant must show the County in the first instance how the applicant has considered identified alternatives. But to hear alternatives, we need to hold the public hearing. So the alternatives analysis is not included in the application, but will be submitted after the public hearing.

After the public hearing, if the Planning Commission finds that the applicant has considered identified alternatives, then the applicant has satisfied this statutory requirement.

The Commission's review standard is "substantial evidence." That is a lesser quantum of evidence than preponderance. Preponderance is a more-likely-than-not standard. The Commission would not be required to show any consideration by the applicant was more-likely-than-not, only that there is substantial evidence in the record to show the applicant considered alternatives.

Any reviewing authority would not need to agree with the Commission's decision. It would only look to see if there was substantial evidence presented to the Commission that the applicant has considered the range of identified alternatives.

Summary

As set forth above, the statutes in question primarily describe a procedural requirement more than a substantive requirement. If the applicant has shown with substantial evidence that its project fits within the statutory category of project, and that it has followed the process and considered alternatives, then the Commission can approve the application.

To the extent the Planning Commission decides it is required to find that the applicant must address substantively any issues regarding the impacts of the proposed use, and the Commission decides to approve the application, then the Commission should adopt and incorporate by reference the applicant's findings.

Lastly, any approval should be subject to the conditions that the applicant (1) receive approval from the Oregon State Department of Environmental Quality, as well as (2) receive any and all local permits from the County with respect to installing facilities in County right of way.

Let me know if you have any questions.



John R. Hutt
Curry County Counsel

**ATTACHMENT 5
PUBLIC NOTICE**

**Curry County Planning Commission
Notice of Planning Commission Hearing
Application AD-1705**

**You are receiving this notice of this
land use hearing pursuant to ORS
197.763(2)(a) and Curry County Zoning
Ordinance 2.070(1).**

Type of Proposed Land Use Action: Request for analysis of alternatives and approval of proposal to use recycled wastewater for irrigation of golf course, including the development of pipeline and ancillary facilities.

Applicable Criteria - Citation of criteria applicable to this application is Oregon Revised Statutes (ORS) section 215.246(3) which requires an applicant to consider proposal alternatives as follows: *(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.*

Applicant/Agent : Elk River Property Development, LLC/ Law Office of Bill Kloos, P.C.

Property and owner: The proposed development would occur on multiple properties, with multiple owners. The ultimate place of use of the recycled wastewater will occur on the property commonly known as the Knapp Ranch, located on Assessor's Map No. 32-15-00, Tax Lot 04400 and Map No. 32-15-29C, Tax Lot 00300.

Two alternate pipeline routes have been proposed. These routes are identified in the applicant's materials, and are shown on the map on the other side of this notice. The pipeline will primarily be located within public rights of way, owned by either Curry County or the Oregon Department of Transportation. Generally, both routes under consideration leave the Port Orford urban growth boundary on the north side of Port Orford, and travel northward to the golf course development site located on the property commonly known as

the Knapp Ranch. In addition, the pipeline and/or ancillary facilities are proposed to be developed on the following private parcels if the alternative route would be developed: Assessor map 32-15-29C, lot numbers: 103, 104, 105, 106, 107, 108, 118, 120 and 121.

Planning Commission Hearing: The Planning Commission will hold a public hearing on this land use proposal at 5:30 PM on September 21, 2017 in the Blue Room on the lower level of the of the Courthouse Annex in Gold Beach located at 94235 Moore Street. You are invited to attend and testify at the land use hearing or to submit written testimony regarding this proposal. The public hearing is being provided to solicit public commentary on alternatives that the applicant is considering. If you wish to testify in this process, you may find it helpful to review the applicant's proposal prior to submitting testimony.

Testimony, arguments, and evidence must be directed toward the criteria described in the Applicable Criteria section of this notice. You may submit written testimony prior to or at the hearing. Please include Application number AD-1705 on your written testimony. Testimony may be submitted via email, fax, or by USPS mail. Submission addresses and numbers are listed below.

Required Statutory Notice: ORS 197.763 (3)(e) states that failure to raise an issue either in person or by letter of failure to provide statements or evidence sufficient to allow the decision maker an opportunity to respond to the issue precludes appeal to a higher judicial review based on that issue.

Documents and Staff report:

See the project application, all documents and evidence relied upon by the applicant and applicable criteria at the Curry County Community Development Department website at: www.co.curry.or.us/departments/communitydevelopment.

The September 21, 2017 staff report may also be viewed on this website a minimum of seven (7) days (September 14) prior to the Planning Commission public hearing.

Your comments: Please contact Jake Callister at 541-682-4114 or callister@lcog.org to submit your comments; please put AD-1705 in the subject line. Comments may be also mailed to the Curry County Community Development Department, Curry County Annex, 94235 Moore St, Suite 113 Gold Beach, OR 97444. Attention: Carolyn Johnson

For your written comments to be included in the record prior to the hearing, they must be received by Noon (12 PM) on Wednesday, September 13, 2017. After that time your comments can be submitted but will be presented for the record at the September 21, 2017 Planning Commission hearing.



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 FAX: (541) 267-0586
 www.stuntzner.com

* COOS BAY * DALLAS *
 * FOREST GROVE *

DESIGNED BY: CDH
 DRAWN BY: AER
 CHECKED BY: CDH
 DATE: NOV. 2015
 REVISION:
 JOB NAME: Project
 NORTH: 1003.3000 SHEET: 3 of 4

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 FAX: (541) 267-0586
 www.stuntzner.com

Aerial-Preferred Route
 JOB: HIGHLAND GOLF
 DATE: APRIL 2017
 JOB NO: 115-042
 SHEET: CDH
 DRAWN BY: AER
 PAGE: 2 OF 4

**ATTACHMENT 6
PROJECT APPLICATION**



CURRY COUNTY COMMUNITY DEVELOPMENT
94235 MOORE STREET, SUITE 113
GOLD BEACH, OREGON 97444

Carolyn Johnson
Planning Director

Phone (541) 247-3284
FAX (541) 247-4579

File # _____ Fee \$ _____ Receipt # _____ Accepted by _____

LAND USE DECISION APPLICATION FORM

Application Type (Check One)

- Comp Plan/Zone Change Conditional Use Variance Partition Subdivision
- Other

Application Date: _____ Hearing / Decision Date: _____

APPLICANT: Please complete all parts of this form. The attached application checklist will be marked by staff to reflect the information and supporting items required for this request. Please return this prepared checklist, the completed application form and required fee at the time of submission. Please note that your application cannot be reviewed or processed until all the required items have been provided.

1. PROPERTY OWNER OF RECORD

Name public right-of-way, owned by Curry County and ODOT, as shown on exhibit. Private property owned by Knapp Ranches, Inc.

Mailing Address: (for Knapp Ranches) 92373 Knapp Rd

City, State, ZIP: Port Orford, OR 97465

Telephone #: _____ E-Mail bknapp@2cj.com

2. AGENT (If Any)

Name: Nick Klingensmith, Law Office of Bill Kloos, P.C.

Mailing Address: 375 W. 4th Ave, suite 201,

City, State, ZIP: Eugene OR, 97401

Telephone # 541-912-5280 E-Mail nklingensmith@landuseoregon.com

3. BASIC PROPOSAL (Briefly describe your proposed land use)

The applicant proposes to develop a pipeline to deliver recycled wastewater, and a reservoir, in order to irrigate the Pacific Gales golf course. The pipeline will be developed inside public rights of way, and also on private property. There are two alternative routes under consideration. The reservoir will be developed on private property. Please see attached narrative that addresses relevant approval standards.

4. PROPERTY INFORMATION

Assessor Map # See attached narrative Tax Lot (s) _____

Zoning: _____ Total Acreage _____

5. PROPERTY LOCATION

Address (if property has a situs address) _____

Description of how to locate the property The two pipeline routes under consideration are depicted in attached exhibits. They can generally be described as (1) running north along Arizona St, and thence west and north across land owned by Knapp Ranches Inc.; and (2) running north along Madrona Ave., until travelling west (partially through private property, with the landowner's permission) to land owned by Knapp Ranches, Inc.

6. EXISTING LAND USE (briefly describe the present land use of the property)

Vacant Developed; Describe existing development The subject property is a mixture of vacant and developed. The public rights of way are developed with roadbed and pavement. Portions of the private property along both routes have varying degrees of existing low-density residential development. The property known as the Knapp Ranch is vacant, and is primarily used for cattle grazing.

7. SURROUNDING LAND USES (Briefly describe the land uses on adjacent property)

Land uses adjacent to the proposed pipeline include low-density residential uses, and vacant lands, as depicted in the attached exhibits.

8. SERVICE AND FACILITIES AVAILABLE TO THE PROPERTY

Please indicate what services and facilities are available to the property. If on-site sewage disposal and/or water source is proposed, a copy of the approved site evaluation or septic system permit and a copy of any water rights or well construction permit must be submitted with this application.

The proposed development is a pipeline that will carry recycled wastewater. None of the services and facilities in this list are needed for the use, and none of them are germane to relevant approval criteria.

Water Source _____

Sewage Disposal _____

Electrical Power _____

Telephone Service _____

Fire Department/District _____

School District _____

9. ROAD INFORMATION

Nearest Public Road See attached narrative

Private Roads Serving the Property See attached narrative

Road Condition _____

Legal Status _____

Ownership: I own the road Easement on others property Joint Owner

Please submit record of ownership (i.e. deeds, easement, plat dedication, etc)

Proposed New Roads/Driveways (Briefly describe any new road construction related to this application)

10. PHYSICAL DESCRIPTION OF THE SUBJECT PROPERTY

Topography (Briefly describe the general slope and terrain of the property)

The land where the proposed pipeline will be developed is relatively flat, for both routes under consideration, with a gentle upward slope as the pipeline advances to the north.

Vegetation (Briefly describe the vegetation on the property) For the portion of the pipeline that will be developed within public rights of way, there is no vegetation. For the portion of the pipeline that will be developed across the Knapp Ranch, the vegetation is a mix of low timber and scrub.

11. FINDINGS OF FACT

Oregon Statute and the zoning ordinance requires that land use decisions be supported by factual findings. The burden of proof is on the proponent therefore it is required that the application provide findings to support the request in this application. The standards and criteria that are relevant to this application will be provided by the staff and are considered to be a part of this application form. Please read the standards and criteria carefully and provide factual responses and evidence to address each standard. These findings must be sufficiently specific to allow the decision maker to determine whether your request meets the relevant standard. Please attach your written findings and supporting evidence to this application.

FAILURE TO PROVIDE THE REQUIRED FINDINGS WILL PREVENT THE APPLICATION FROM BEING PROCESSED AND IT WILL BE RETURNED AS BEING INCOMPLETE.

12. APPLICANT'S SIGNATURE AND STATEMENT OF UNDERSTANDING

(Please read the statement below *before* signing the signature blank)

I (We) _____ ;

_____ ; have filed this application for


With the Curry County Department of Community Development-Planning Division to be reviewed and processed according to State of Oregon and county ordinance requirements. My (our) signature (s) below affirms that I (we) have discussed the application with the staff, and that I (we) acknowledge the following disclosures:

- (a) I (we are stating all information and documentation submitted with this application is true and correct to the best of my (our) knowledge.

- (b) I (we) understand that if false information and documentation has been submitted and the decision is based on that evidence, the decision may be nullified and the county may seek all legal means to have the action reversed.
- (c) I (We) understand any representations, conclusions or opinions expressed by the staff in pre-application review of this request do not constitute final authority or approval, and I (we) am (are) not entitled to rely on such expressions in lieu of formal approval of my (our) request.
- (d) I (We) understand that I (we) may ask questions and receive input from staff, but acknowledge that I (we) am (are) ultimately responsible for all information or documentation submitted with this application. I (We) further understand staff cannot legally bind the county to any fact or circumstance which conflicts with State of Oregon or local ordinance, and in event a conflict occurs, the statement or agreement is null and void.
- (e) I (We) understand that I (we) have the burden of proving that this request meets statutory and Ordinance requirements, and I (we) must address all of the criteria that may apply to the decision being made. The criteria for approving or denying this request have been provided to me (us) as a part of the application form.
- (f) I (We) understand the staff is entitled to request additional information or documentation any time after the submission of this application if it is determined as such information is needed for review and approval.
- (g) I (We) understand this application will be reviewed by the Oregon Department of Land Conservation & Development (DLCD) and possibly other state agencies as part of the statewide land use coordination process. I (We) understand that agencies that participate in the review process have the legal right to appeal the approval of the request.
- (h) I (We) understand that it is my (our) responsibility, and not the county's, to respond to any appeal and to prepare the legal defense of the county's approval of my (our) request. I (We) further realize it is not the county's function to argue the case at any appeal hearing.
- (i) I (We) understand that I (we) am (are) entitled to have a lawyer or land use consultant represent me (us) regarding my application and to appear with me (or for me) at any appointment, conference or hearing relating to it. In light of the complexity and technical nature of most land use decisions, I (we) understand that it may be in my best interests to seek professional assistance in preparation of this application.
- (j) The undersigned are the owner (s) of record for the property described as:

Assessor Map(s) _____
 and Tax Lot(s) _____
 in the records of Curry County.

This application MUST BE SIGNED BY ALL PROPERTY OWNERS OF RECORD, or you must submit a notarized document signed by each owner of record who has not signed the application form, stating that the owner has authorized this application.

- (1) Signature 
 Print Name Nick Klingensmith, attorney for Elk River Property Development, LLC
- (2) Signature _____

(3) Signature _____

Print Name _____

(4) Signature _____

Print Name _____

ADDITIONAL NOTES:

All fees must be paid at the time your application is filed. Staff will examine the application when filed to check for completeness and will not accept it if required items are missing. A final completeness check will be made prior to doing public notice regarding the pending decision. If it is determined to be incomplete or the findings are insufficient you will be notified and you must provide the required information in a timely manner to avoid denial of the request.

ORS 215.427 required the county to take final action on a land use application (except for plan/zone changes) including all local appeals within 120 days if inside an Urban Growth Boundary (UGB) or 150 days if outside a UGB once the application is deemed complete.

PLOT PLANS:

All applications require that a plot plan of the subject property be included with the application form. The plot plan is an understandable map of your property and its relationship to adjacent properties. The plot plan must show certain essential information that is needed for the staff and the decision makers in the evaluation of your request. The plot plan is also incorporated into the public notice sent to adjacent property owners and affected agencies. The plot plan should be prepared on a single sheet of paper (preferable 8 ½ x 11”) so copies can easily be reproduced for review.

An example plot plan is attached to this form to give you an idea of what information should be included on your plan and how it should be drawn. The plot plan **does not** have to be prepared by a surveyor or engineer, and can generally be prepared by the applicant from the Assessor map of the property. The dimensional information included on the plot plan must be accurate and drawn to scale so that the plot plan reasonably represents the subject property and any development therein. If your application is for a land partition or subdivision Oregon Statute required that plat maps must be prepared by a surveyor licensed by the state.

Application to conduct analysis pursuant to ORS 215.246

July 6, 2017

Property Location: Sections 19, 29 & 30 of Township 32 S., Range 15 W., W.M.
Tax lot 4400, *and*
Section 29c of Township 32 S., Range 15 W., W.M
Tax lot 500, *and*
Additional property and public right of way, as depicted on
Exhibit A

Owners: Knapp Ranches, Inc.
92373 Knapp Rd
Port Orford, OR 97465

Applicants: Elk River Property Development
P.O. Box 790
Port Orford, OR 97465

Applicant's
Representative: Law Office of Bill Kloos, PC
375 W. 4th Ave., Suite 204
Eugene, OR 97401

Contact: Nick Klingensmith
Phone: (541) 912-5280
Email: nklingensmith@landuseoregon.com

WRITTEN STATEMENT

REQUEST SUMMARY:

Elk River Property Development, LLC (referred to hereafter as “ERPD”) is proposing to use recycled wastewater for irrigating a golf course on the property commonly known as the Knapp Ranch, which is zoned Exclusive Farm Use. The use of recycled wastewater includes the development of a pipeline that originates at the City of Port Orford municipal wastewater treatment plant, the creation of a reservoir adjacent to the ultimate place of use, and development of ancillary facilities, such as pumps. This application requests the county to conduct a public process required by statute when uses of this nature are proposed.

Although the application of recycled water for irrigation is allowed-outright in EFU zones, pursuant to ORS 215.283(1)(v), the statutory framework for this use includes a requirement for public comment and an analysis of alternatives.

The alternatives analysis that the applicant is now proposing comes directly from ORS 215.246, discussed in detail below. There are no local regulations in the Curry County code that implement this statute. Therefore, the statute will need to be applied directly. This application will be reviewed by the Curry County Planning Commission pursuant to CCZO 2.060(2)(d), which provides that the Planning Commission has authority over “other land use actions” not specifically listed in adjacent code provisions.

The entire text of ORS 215.246 is included below, but in summary, the statute requires the applicant to explain what it proposes, to consider public comment in response to the proposal, and to conduct a rigorous analysis of alternatives. The statute’s requirement for a robust alternatives analysis will ensure that the ultimate development has been rigorously evaluated.

The current proposal includes the placement of a pipe under public rights-of-way (with alternative routes to be considered), the development of a pond at the golf course that would contain the treated water at the golf course, the use of this water for irrigation during the appropriate seasons, and the development of ancillary components of the system, such as a pump station and valves. A detailed description of the proposed irrigation system and the alternative pipeline routes have been prepared, and are attached as components of Exhibit A.

Although a portion of the proposed system will be located inside the city limits of Port Orford (primarily consisting of a pump and pipeline that originates at the city’s sewage treatment plant) this application is primarily focused on the portions of the irrigation system that will be developed in the county. As noted above, the applicant has obtained separate development approval for portions of the project that will be located in areas inside the city of Port Orford’s jurisdiction.

Discussion of approval standards:

Approval standards are shown in *Italic* font. The applicant's response and proposed findings are labeled as such and shown in regular font.

ORS 215.283(1) The following uses may be established in any area zoned for exclusive farm use:

[...]

(v) *Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695 (License required to perform sewage disposal services), 459.205 (Permit required), 468B.050 (Water quality permit), 468B.053 (Alternatives to obtaining water quality permit) or 468B.055 (Plans and specifications for disposal, treatment and sewerage systems), or in compliance with rules adopted under ORS 468B.095 (Use of sludge on agricultural, horticultural or silvicultural land), and as provided in ORS 215.246 (Approval of land application of certain substances) to 215.251 (Relationship to other farm uses), the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.*

Applicant's response: the types of uses listed in ORS 215.283(1) are those uses allowed outright. Sub-section (v) includes "the land application of reclaimed water [...]". The use proposed in this instance can be described as the land application of reclaimed water "as provided in ORS 215.246." The statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ. The applicant is in the process of obtaining the necessary "recycled wastewater use permit," or "RWUP" from DEQ. This statute also makes reference to ORS 215.246, which imposes a requirement to conduct an alternatives analysis. DEQ cannot issue its RWUP until the alternatives analysis has been completed. The remainder of this narrative addresses the provisions of ORS 215.246, including the alternatives analysis.

ORS 215.246 Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

(a) Require a determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.

Applicant's response: DEQ is currently reviewing the ERPD's application for a Wastewater Pollution Control Facility Permit (WPCF) and a Recycled Water Use Permit (RWUP). The state agency review looks at the proposed application rate, site practices, water quality, and other criteria, and it will ensure the continued productivity of the land will not be harmed by this proposal. DEQ's review is being conducted concurrently with this county review. At the

completion of the county's review, development of the project requires the applicant to obtain all necessary permits, including those issued by DEQ. County completion of its review can be made explicitly contingent on the requirement for DEQ to grant its approvals before the applicant begins to develop or use its proposal for a recycled wastewater irrigation system.

(b) Are not subject to other provisions of ORS 215.213 or 215.283 or to the provisions of ORS 215.274, 215.275 or 215.296.

Applicant's response: this provision requires the applicant to demonstrate that there are not additional statutes that apply to the proposal, or, if there are, that the proposal complies with them. As explained below, the proposed use of recycled wastewater is not "subject to other provisions" of any of the listed statutes.

ORS 215.213 does not apply in the current context, because it applies only in marginal lands counties, which Curry County is not.

ORS 215.283 applies to non-marginal lands counties, such as Curry County, and that statute includes a list of uses allowed outright in EFU-zoned lands, including "the land application of reclaimed water". The only "other provision" imposed on this type of use by ORS 215.283 is the review required under ORS 215.246. In this situation, ORS 215.283(1)(v) and ORS 215.246(1)(b) make circular references to each other. This land use application initiates the review required by ORS 215.246.

ORS 215.274 does not apply to the current application, as it deals solely with electrical transmission lines.

ORS 215.275 applies only to "utility facilities necessary for public service." Those types of utility facilities are specifically defined and regulated by ORS 215.283(1)(c)(A). These "utility facilities necessary for public service" do not include the private wastewater utility facility that is proposed in this instance, which is separately regulated by ORS 215.283(1)(v).

ORS 215.296 applies only to the uses that can be conditionally approved within the scope of ORS 215.283(2). The proposal is one of the uses allowed outright under ORS 215.283(1), and is not subject to ORS 215.283(2).

In summary, the statutes listed in section (1)(b) of the statute do not impose "other provisions" on the proposed use, aside from the provisions of ORS 215.246, which this application has been submitted to address.

(2) The use of a tract of land on which the land application of reclaimed water, agricultural or industrial process water or biosolids has occurred under this section may not be changed to allow a different use unless:

[subsections (a) through (d) omitted for brevity.]

Applicant's response: ORS 215.246(2) applies only to lands where application of "reclaimed water, agricultural or industrial process water or biosolids" has already occurred, and where a change of use has subsequently been proposed for those lands. This standard is not applicable to the current situation. Instead, the applicant is proposing to begin irrigating the lands with reclaimed water.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

Applicant's response: This provision of the statute is the core substantive standard that must be addressed in this application. ORS 215.246(3) requires an applicant for this type of development to consider "alternatives identified in public comments." Implicit in that requirement is the assumption that the proposal will be noticed to the public, with an opportunity for the public to provide comment. Following that public comment period, the applicant is required to consider the alternatives proposed in the public comments. Following the applicant's analysis of alternatives, the county can issue a final decision on the proposal.

At the end of this three-step process, the statute clarifies that an application that has been subjected to this type of alternatives analysis cannot be reversed or remanded unless the applicant failed to consider any of the proposed alternatives or if it did an inadequate job in explaining why it did not use any of the proposed alternatives. This last provision imposes a procedural obligation for a specific type of analysis, and it is satisfied so long as that analysis is conducted correctly.

The applicant recognizes there will likely be benefit to performing this analysis. It is possible that the public comments will provide perspectives that the applicant had not considered, and it provides the applicant with the opportunity to incorporate those alternatives if they would make for a better proposal. This decision-making process involves a rigorous exploration of the alternatives proposed in the public comments, and gives the applicant the opportunity to incorporate any alternatives that will make for a better project.

At the end of this written narrative discussing the approval standards found in the statute, the applicant has provided Exhibit A, which includes a more detailed explanation of what it is proposing, and also relevant graphics.

The main proposal, described generally, involves the movement of recycled wastewater to the golf course, where it can be used for irrigation. However, the applicant realizes there are multiple variations on how that proposal can be achieved. In order to start out the conversation on alternatives, the applicant's materials include a proposed "preferred route" and an "alternative route."

The applicant expects that these diagrams and detailed explanation will set the stage for the alternatives analysis. Once the county has invited public comment on the proposal, the applicant will diligently review and respond to that public comment, and will incorporate public testimony in fine-tuning the proposal, as needed and appropriate. At the end of that process, the applicant understands the Planning Commission will render a decision that attests to the completion of the analysis required by statute.

(4) The uses allowed under this section include:

(a) The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;

Applicant's response: ORS 215.246(4) lists the types of uses and developments fall within the scope of this process.

Pursuant to subsection (a), and in addition to the water quality treatments conducted at the Port Orford sewage treatment plant, natural processes will lead to continued improvements in water quality, such as exposure to UV light while the water is impounded in the pond at the golf course, and exposure to natural soil microbes that will digest nutrients and other substances found in trace amounts in the treated water. This will amount to passive "treatment" of the reclaimed water that occurs as a result of the land application.

(b) The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;

Applicant's response: Pursuant to subsection (b), the applicant is proposing improvements that will be necessary for the use of recycled wastewater on the tract where the irrigation will occur. These improvements will include a portion of the pipe that delivers the treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment.

(c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and

(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.

Applicant's response: Pursuant to subsection (c), the applicant is proposing ancillary facilities necessary for the use of recycled wastewater that will be developed on lands outside of the tract where the irrigation will occur, consisting primarily of the placement of a pipeline along public rights of way. In the limited instances where the pipeline is proposed to cross land that is not within a public right of way, the applicant understands that this statutory standard requires "written consent" from the land owner.

The proposed pipeline will also cross privately-owned land at the location between the wastewater treatment plant and the public right of way. Initially, the applicant obtained an easement to place its facilities on private lot between the treatment plant and the public right of way, but the applicant has subsequently purchased this lot, obviating the need for an easement.

The "alternative route" for the pipeline, depicted at Exhibit A, will also require the pipeline route to leave the public right of way and to cross private property. The applicant has the written authorization from the necessary private property owners, shown as Exhibit B.

(5) Uses not allowed under this section include:

(a) The establishment and use of facilities, including buildings or equipment, for the treatment of reclaimed water, agricultural or industrial process water or biosolids other than those treatment facilities related to the treatment that occurs as a result of the land application; or

(b) The establishment and use of utility facility service lines allowed under ORS 215.213 (1)(x) or 215.283 (1)(u).

Applicant's response: as explained in response to ORS 215.246(4), above, all water quality treatments will occur at the existing site of the Port Orford sewage treatment plant. Some degree of water quality improvement that is expected to occur incidentally to storing the recycled water in the pond and then applying it to the golf course, where it will be exposed to soil microbes and other natural processes. In reality, the water that is currently being discharged from the City of Port Orford's treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean. Even though the reclaimed water coming from the treatment plant is treated to a high level, the applicant strongly believes that it is more environmentally sustainable to use the city's treated effluent for irrigation, where any trace contaminants will be broken down by the exposure to air and UV light during the pond storage period, and by soil microbes after it is applied as irrigation, as opposed to discharging it directly into the fragile marine environment.

In response to subsection (b), above, the applicant is not proposing any utility facility service lines. The current proposal involves the delivery, storage and use of recycled wastewater, as specifically allowed by ORS 215.283(1)(v) and ORS 283.246(3). The pipeline delivering the recycled wastewater is not a "utility service line" within the meaning of this statute because it is one of the necessary "facilities [...] for the transport of reclaimed water," specifically allowed under ORS 283.246(4)(c).

Conclusion

The statutory standards contained in ORS 215.246 have been addressed above. Attached as Exhibit A is a detailed description of the system that the applicant is proposing. It includes diagrams showing the proposed route and the alternative route, as well as a narrative section that explains the methods and materials of construction. If the county provides notice and an opportunity for public comment, the applicant will consider and respond to any alternatives that may be suggested, pursuant to ORS 215.246(3).

Exhibit A –

detailed description of proposal to develop and use a system for irrigating Pacific Gales Golf Course with recycled wastewater.

The applicant proposes to pipe recycled wastewater from the City of Port Orford wastewater treatment plant to the Pacific Gales Golf Course, and to use that water for irrigation. The proposed pipeline routes (including a preferred route and an alternative route) are shown on the diagrams attached to this exhibit. Only one of these two pipelines will be built.

The pipeline will primarily be placed using horizontal boring when it is located under city right of ways, in order to minimize surface disruption and impacts to tree roots. For portions of the pipe that are proposed to be located in the county, it will primarily be placed on the shoulder of the public right of way, using a standard trenching technique that will restore soil surface and paving surfaces to their original condition. The pipe will be placed using horizontal boring anywhere along the length of the pipeline when it is necessary to pass below certain existing utility facilities, such as cables or pipes.

The pipe material is 6" HDPE that will employ fused joints. A fusion-joined pipeline may be thought of as a continuous pipeline without joints. HDPE "DR11" pipe has an expected service life of 50-100 years. HDPE pipe has a fatigue life of 10,000,000 pump cycles, or in excess of 100 years. The combination of pipe and pump will be capable of moving 200 gpm. However, the pump that charges the pipeline will operate intermittently, as the wastewater treatment plant produces an average of 69.4 gpm. The recycled wastewater will be held in a 10,000 gallon accumulating tank located at tax lot 1011, adjacent to the treatment plant, until the quantity is sufficient to operate the pipeline.

The recycled water that will be obtained from the Port Orford treatment plant will be treated to DEQ Class C or higher. Despite the very high level of treatment already being conducted at the treatment plant, the water will undergo additional passive water quality improvements as it resides in the reservoir on the golf course, and again, as it percolates through the turf and soil.

At the northern terminus of the pipeline, it will discharge into an irrigation reservoir, as shown on page 2 of the attached irrigation plan. The reservoir is anticipated to cover an area of approximately seven acres, and will hold approximately 100 acre-feet. The reservoir will be designed and constructed according to the specifications established by the Water Resources Department's dam safety division.

The place of use for the recycled wastewater is shown on pages 1 and 2 of the attached irrigation plan. This plan shows the proposed irrigation system plumbing. In addition, the applicant proposes to use the water to grow and maintain turf and landscaping anywhere on the leased premises. The golf course management plan involves an adaptive system of monitoring soil moisture and applying irrigation as needed, given climatic conditions and growing season, in order to prevent erosion and maximize soil and landscaping health.

The total volume of recycled wastewater that is proposed to be pumped through the pipeline and

applied as golf course irrigation will likely not exceed 110 acre-feet per year.

**ATTACHMENT 7
EASEMENT AGREEMENTS**

Agreement to convey easement for privately-owned water pipeline across Kreiger Lane

This agreement is between Jeffrey C. Loan, Richard Seagrave, Russell Gibson, Michael Shields, Duane Eckoff, Edward Cottor, James Johnson and Heather Barton ("Grantors") and Elk River Property Development, LLC ("ERPD"). Grantors are the joint owners of a private street known as Kreiger Lane in Curry County, Oregon. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantors agree to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. The pipeline will cross Kreiger Lane in the approximate area between Russell Gibson and Jeffrey Loan Property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will restore the road surface to a condition equal to, or better than its original, preconstruction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 15 day of FEB, 2017, by ERPD:

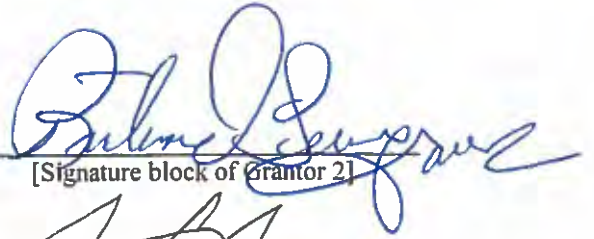

[Signature block for ERPD]

GRANTORS' ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.

Jeffery C. Loan
Lot 3215-29C #00103

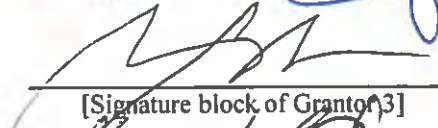

[Signature block of Grantor 1]

Richard Seagrave
Lot 3215-29C #00118



[Signature block of Grantor 2]

Russell A. Gibson
Lots 3215-29C # 00108 & 00120



[Signature block of Grantor 3]

Michael F. Shields
Lot 3215-29C # 00104



[Signature block of Grantor 4]

Duane K. Eckoff
Lot 3215-29C #00105



[Signature block of Grantor 5]

Edward A. Cottor
Lot 3215-29C #00106



[Signature block of Grantor 6]

James Johnson
Lot 3215-29C #121



[Signature block of Grantor 7]

Heather Barton
Lot 3215-29C #00107



[Signature block of Grantor 8]



Stuntzner Engineering & Forestry, LLC

ENGINEERING * LAND SURVEYING * FORESTRY
LAND PLANNING * WATER RIGHTS

705 SOUTH 4TH STREET
P.O. BOX 118
COOS BAY, OREGON 97420

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

PROPOSED WATERLINE

JOB NAME Job Name	
DATE NOVEMBER 2016	
JOB NO XX-XXX	DESIGN BY CDH
PAGE 1 OF 1	DRAWN BY AER

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

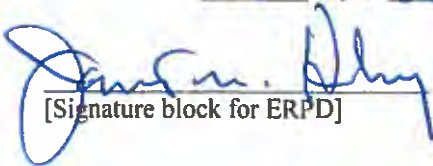
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

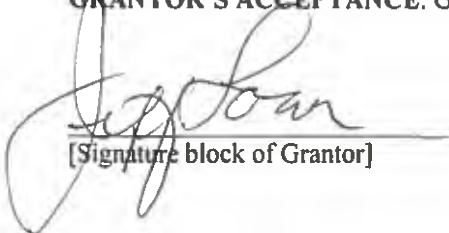
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between Jeffery C. Loan and Elk River Property Development, LLC ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as 3215-29C lot # 00103. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

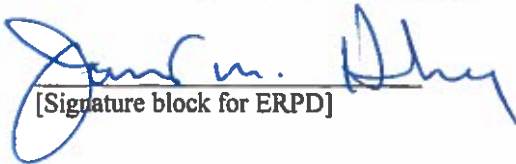
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

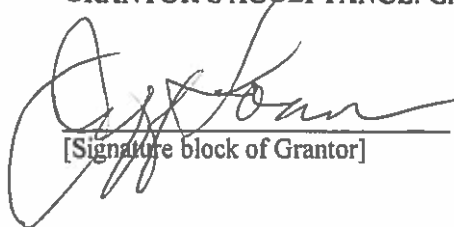
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 12 day of FEB 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 12 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Russell A. Gibson and Elk River Property Development, LLC ("ERPD")**. Grantor is the owner of property in Curry County, Oregon, known as **3215-29C lot # 00108**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

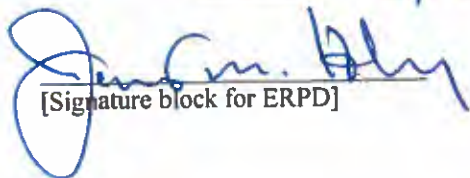
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

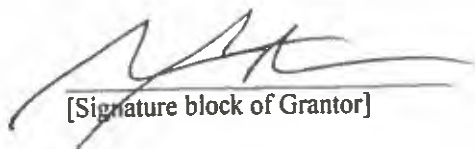
Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 5 day of April, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 3 day of 31, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G Obrien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as **3215-29D lot # 00621**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

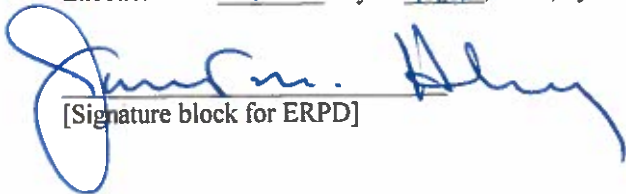
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

Location of easement and pipeline. The exact location of the pipeline will be recorded in easement prior to construction. In general, the parties agree that the pipeline will be placed as close as possible to property lines, in order to minimize interference with Grantor's other uses of the property. During construction, a temporary 20-foot wide easement will be required to allow for access to the construction area. After the pipeline is complete, the permanent easement will be limited to an area 10 feet wide. The pipeline will be placed at a depth at least 3 feet below native grade of the soil.

Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of Feb, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]

Agreement to convey easement for privately-owned water pipeline

This agreement is between **Bret C. & Dalia G Obrien** ("Grantor") and **Elk River Property Development, LLC** ("ERPD"). Grantor is the owner of property in Curry County, Oregon, known as **3215-29D lot # 00621**. This agreement will provide a route for a private water pipe that will deliver treated wastewater from the City of Port Orford wastewater treatment facility to the Pacific Gales Golf Course, for purposes of irrigation.

Agreement limited to private water pipeline. The utility easement described in this agreement will be used only for a private water pipeline. This agreement specifically does not authorize construction of any other public or private utilities, or any use of the subject property beyond the specific terms contained herein.

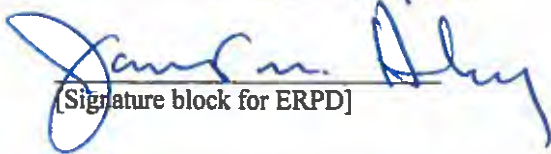
Agreement will result in recorded easement. After ERPD obtains all permits necessary to being installation of the pipeline, and prior to commencing any physical construction, Grantor agrees to grant an easement, consistent with the terms contained herein, which will be recorded in the deeds and records of Curry County, Oregon. If ERPD is unable to obtain necessary permits within 12 months of the execution of this agreement, this agreement will automatically expire and will be thereafter null and void. Should that occur, the parties to this agreement may negotiate an extension to this agreement, or a replacement to this agreement

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Method of construction. The pipeline that is authorized under this agreement will be installed by method of horizontal boring, which is intended to minimize disturbance of the surface of the soil. If any soil disturbance is required, ERPD will restore the soil surface to a reasonable approximation of its original, pre-construction condition. ERPD will minimize disturbance or removal of existing vegetation, and will restore or replace vegetation to a condition that closely approximates the original condition.

Brokers. No licensed real estate brokers have represented any parties in this transaction. The parties to this agreement are not liable for any brokerage fees or commissions. This Agreement has been prepared by ERPD.

Executed this 4 day of FEB, 2017, by ERPD:


[Signature block for ERPD]

GRANTOR'S ACCEPTANCE: Grantor accepts the ERPD's offer this 4 day of Feb, 2017.


[Signature block of Grantor]



CURRY COUNTY
GROUNDWATER
MONITORING AREA

PROPOSED CURRY
COUNTY FIRE HYDRANT
32S 15W 29C

32S 15W 29C

**Stuntzner Engineering
& Forestry, LLC**

ENGINEERING * LAND SURVEYING * FORESTRY
LAND PLANNING * WATER RIGHTS

705 SOUTH 4TH STREET
P.O. BOX 118
COOS BAY, OREGON 97420

PHONE: (541) 267-2872
FAX: (541) 267-0588
www.stuntzner.com

PROPOSED WATERLINE

JOB NAME: Job Name	
DATE: NOVEMBER 2016	
JOB NO: XX-XXX	DESIGN BY: CDH
PAGE: 1 OF 1	DRAWN BY: AER

ATTACHMENT 8

E-mail communication with DLCD requested by Commissioner McHugh

From: Perry, Dave
To: [Carolyn Johnson](#)
Subject: Pacific Gales GC
Date: Monday, March 20, 2017 1:41:18 PM

Carolyn,

I understand that the Pac. Gales GC developers now have an agreement with Port Orford to accept their treated effluent for land application.

Have you talked with the Pac. Gales folks any further about a land use approval?

Dave Perry | South Coast Regional Representative
Community Services Division | Coastal Services Center
Oregon Dept. of Land Conservation and Development
810 SW Alder Street, Suite B | Newport, OR 97365
Office: (541) 574-1584 | Cell: (541) 270-3279 | Fax: (541) 574-4514
dave.perry@state.or.us | www.oregon.gov/LCD

From: [Carolyn Johnson](#)
To: ["Perry, Dave"](#)
Subject: RE: Pacific Gales
Date: Tuesday, January 31, 2017 2:47:00 PM

Hi Dave,

Not yet, they have to go through the entitlement process and alternative analysis.

I'll keep you posted.

Thanks,

Carolyn

From: Perry, Dave [mailto:dave.perry@state.or.us]
Sent: Monday, January 30, 2017 3:28 PM
To: Carolyn Johnson
Subject: Pacific Gales

Carolyn,

What is the status of the Pacific Gales GC project. Did they get their DEQ permit for application of treated effluent?

Dave Perry | South Coast Regional Representative
Community Services Division | Coastal Services Center
Oregon Dept. of Land Conservation and Development
810 SW Alder Street, Suite B | Newport, OR 97365
Office: (541) 574-1584 | Cell: (541) 270-3279 | Fax: (541) 574-4514
dave.perry@state.or.us | www.oregon.gov/LCD

From: Perry, Dave
To: [Carolyn Johnson](#)
Subject: FW: Port Orford Effluent/Knapp Ranch Golf Course
Date: Thursday, April 28, 2016 11:58:19 AM

Carolyn,

Apparently, you and your legal counsel spoke with Katherine Daniels about the planning process to review the application of treated wastewater effluent on the proposed Pacific Gales golf course.

How did you decide to proceed? Would the County be holding a public hearing, or did you come up with an alternative review process?

Thank you.

Dave Perry | South Coast Regional Representative
Community Services Division | Coastal Services Center
Oregon Dept. of Land Conservation and Development
810 SW Alder Street, Suite B | Newport, OR 97365
Office: (541) 574-1584 | Cell: (541) 270-3279 | Fax: (541) 574-4514
dave.perry@state.or.us | www.oregon.gov/LCD

From: Perry, Dave
Sent: Wednesday, March 23, 2016 11:50 AM
To: 'Carolyn Johnson (johnsonc@co.curry.or.us)' <johnsonc@co.curry.or.us>;
'pclark@portorford.org' <pclark@portorford.org>
Subject: RE: Port Orford Effluent/Knapp Ranch Golf Course

Carolyn and Patty,

I wanted to follow-up on this for clarification. We read ORS 215.246 and 215.247 to require the county planning commission to hold a public hearing on the proposed land application of wastewater in this case, including the proposed force main. This is because ORS 215.246(3) requires the applicant to explain in writing "how alternatives identified in public comments" were considered, because public comments are normally provided in the context of a public hearing, and because this use involves a land use decision (as opposed to a ministerial action). Only land application of wastewater transported by a vehicle under ORS 215.247 is exempted from this requirement and is not considered to involve a land use decision.

Dave Perry | South Coast Regional Representative
Community Services Division | Coastal Services Center
Oregon Dept. of Land Conservation and Development
810 SW Alder Street, Suite B | Newport, OR 97365
Office: (541) 574-1584 | Cell: (541) 270-3279 | Fax: (541) 574-4514
dave.perry@state.or.us | www.oregon.gov/LCD

From: Perry, Dave

Sent: Wednesday, March 23, 2016 10:41 AM

To: Carolyn Johnson (johnsonc@co.curry.or.us) <johnsonc@co.curry.or.us>; pclark@portorford.org

Subject: FW: Port Orford Effluent/Knapp Ranch Golf Course

Carolyn and Patty,

Please read the response below by Katherine Daniels to Cameron LaFollette regarding the proposed use of treated effluent to irrigate the proposed Pacific Gales golf course. Just so you know, the proposal requires review and approval by the County. I wasn't sure if the City or applicant was aware of this, so I wanted to pass this along. Katherine is very knowledgeable about the regulations, so I am confident that her comments are spot on.

Dave Perry | South Coast Regional Representative
Community Services Division | Coastal Services Center
Oregon Dept. of Land Conservation and Development
810 SW Alder Street, Suite B | Newport, OR 97365
Office: (541) 574-1584 | Cell: (541) 270-3279 | Fax: (541) 574-4514
dave.perry@state.or.us | www.oregon.gov/LCD

From: Daniels, Katherine
Sent: Wednesday, March 23, 2016 10:20 AM
To: 'Cameron La Follette' <cameron@oregoncoastalliance.org>
Cc: Perry, Dave <dperry@dlcd.state.or.us>
Subject: RE: Port Orford Effluent/Knapp Ranch Golf Course

Hi Cameron,

After reading your email and the attached documents as well as relevant statute, I believe that the proposed irrigation of the golf course with wastewater from the city is an allowed use under ORS 215.283(1)(v) and 215.246. However, the latter at section (3) requires that there be a land use decision and opportunity for public comment, including applicant response to public comment. If this is not happening, it should be, whether or not the statutory requirements are in local code. To be sure of my interpretation, I reviewed this with Rob Hallyburton, our Community Services Division manager, and Jim Johnson at ODA, who concur. I had initially understood you to mean that a wastewater treatment plant was proposed to treat effluent generated at the golf course, to be piped into the city; that would require an exception and arguably be an urban use. It was late in the day and I was probably not listening well.

Katherine

Katherine Daniels, AICP | Farm and Forest Lands Specialist
Community Services Division
Oregon Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540
Direct: (503) 934-0069 | Main: (503) 373-0050 | Fax: (503) 378-5518
katherine.daniels@state.or.us | www.oregon.gov/LCD

**ATTACHMENT 9
LETTER FROM PUBLIC**

Beverly Walters

P. O. Box 262
Sixes, OR 97476
(541)332-2914

September 5, 2017

Curry County Community Development Department
Curry County Annex
94235 Moore Street, Suite 113
Gold Beach, OR 97444

Subject: AD-1705

Attention: Carolyn Johnson

Dear Ms. Johnson,

I wish to express support for approval of the pipeline infrastructure construction to transport reclaimed wastewater from the Port Orford treatment facility to the property known as the Knapp Ranch. Both proposed routes pass directly by property owned my family trust; it would appear the shorter more direct route would be the better choice of the two proposals.

Use of reclaimed wastewater on land for irrigation is a far better alternative than dumping the treated wastewater into the ocean.

Sincerely yours,


Beverly Walters



ATTACHMENT 10
10.11.2017 COUNTY COUNSEL MEMO



MEMORANDUM

FROM John R. Huttel, Curry County Counsel

TO Curry County Planning Commission AD 1705

RE: Treated Water Use and Pipeline Application Follow Up

DATE: October 11, 2017

Introduction

This memorandum provides analysis to assist the Planning Commission answer questions raised at the September 21, 2017 public hearing on the above-referenced application.

Briefly, County legal counsel is not of the opinion that the Board needs to find that a valid CUP exists for the underlying use before it can decide the question on the application to land-apply treated water on the property. Second, while the applicant is not proposing a public utility, that does not prevent the state law from requiring utility-related standards from applying to the applicant's proposed pipeline.

Discussion

1. Whether a valid CUP must exist

For the first question, whether a valid CUP permit must exist in order for the Planning Commission to decide whether it can approve the application to land-apply treated water for golf course purposes, it is important to look at the statute, and consider rules for interpreting statutes.

The applicant is requesting approval to apply treated water to land for the purpose of irrigating a golf course. To do so, per ORS 215.246, they need a local land use decision after a public comment period. ORS 215.246 refers to ORS 215.283(1)(v) which requires the treated water be used:

for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.

The applicant proposes using the treated water for irrigating a golf course. The question was whether the uses described in ORS 215.283(1)(v) needed to have a valid Conditional Use Permit before the Planning Commission could consider approving the permit requested in AD-1705.

My opinion is that a valid existing CUP for a golf course is not required for the Commission to approve the current permit request in AD-1705.

First, the law understands that more than one permit may be required to complete development. Therefore it is not required to have a valid permit when applying for another permit.

Second, because the statute only speaks of allowed uses in the zone, and not “existing uses” or more specifically “currently permitted uses” it is improper to require such when considering this application. The rules for interpreting statutes are that the courts do not insert language that is not in the statute, nor do they omit language that is in the statutes.

174.010 General rule for construction of statutes. In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.

In this matter, the applicant proposes to establish a use – “the land application of reclaimed water” “for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.”

The applicant proposes to irrigate a golf course. The statute does not say that a use must exist, or that a permit for the use be valid, only that it be allowed. The Commission is on notice that a golf course is allowed in the zone. Therefore the Commission can conclude that the land application of the treated water satisfies ORS 215.283(1)(v).

2. Use of utility standards for non-utility pipeline.

ORS 215.246, which talks about land application of reclaimed water, explains that other facilities are allowed to enable use of reclaimed water for land application purposes.

(4) The uses allowed under this section include:

(a) * * *

(b) * * *

(c) The establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosolids to the tract on which the land application occurs if the facilities are located within:

(A) A public right of way; or

(B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275 (4); and

(d) The transport by vehicle of reclaimed water or agricultural or industrial process water to a tract on which the water will be applied to land.

The Board can find from the consent documents in the file that the applicant has complied with the statutory requirement for written consent.

Second, ORS 215.275(4), states:

The owner of a utility facility approved under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.

By its terms, it speaks to utility facilities approved in a different section of statutes, so it does not apply to this action. Another rule for statutory construction is that when a statute uses two different words, it means two different things. Because ORS 215.246 does not use the word “utility” when explaining that uses allowed include “facilities,” the Commission can conclude that, notwithstanding the reference to ORS 215.275 (“Utility facilities necessary for public service; criteria; rules; mitigating impact of facility”), it should not interpret the requirement that the pipeline is a public utility.

Also, by referring to utility facilities, it does turn applicant’s proposed pipeline into a utility. Further, even if that statutory subsection turned applicant’s pipeline into a utility, ORS 215.275(4) requires the applicant to restore agricultural land that gets damaged. The land that the pipeline is passing on is not agricultural land as contemplated in that statute. So ORS 215.275(4) does not provide a basis to deny or condition this application.

Lastly, the Commission’s decision interpreting any state law will not be given any deference by the reviewing authority.

If you have any questions, please let me know.

/s/ John

John R. Hutt
Curry County Counsel



Planning Commission Staff Report

Meeting Date: November 7, 2017

Prepared by: Carolyn Johnson, Community Development Director

Planning Commission Meeting Date: November 7, 2017
(continued from October 19, 2017)

A. **Agenda Item:** Application AD-1705: The Public hearing is closed but Planning Commission deliberations were continued from September 21 and October 19, 2017 for a request to develop a pipeline over multiple properties to deliver recycled wastewater, and a reservoir, in order to irrigate the Pacific Gales golf course. The pipeline could be located on land owned by multiple owners on property located on Assessor map 32-15-29C, lot numbers 103, 104, 105, 106, 107, 108, 118, 120 and 21; Applicant: Elk River Property Development LLC.

Recommendation: Deliberate and approve application AD-1705 by adopting Resolution 2017-AD-1705 with findings and conditions.

Background: The Planning Commission reviewed and accepted public comments on the subject proposal on September 21 and October 19, 2017. On October 19, 2017 the Planning Commission closed the public hearing and continued their deliberations to November 7, 2017.

Additional information from County Counsel is provided on Attachment 2 dated October 24, 2017.

As noted on October 19, 2017, action can be taken on Application AD-1705 absent Commission clarity on the life of AD-1411 (Pacific Gales golf course) because the land application of reclaimed water is a type is an outright permitted use as listed in ORS 215.283(1). Further, a Planning Commission decision on AD-1705 is not predicated on the status of AD-1411 and the findings for authorization of AD-1705 do not need to include a reference to the location or purpose of the reclaimed water. Additionally, *The use proposed in this instance can be described as the land application of reclaimed water and can be used for irrigation in connection with an allowed use in an EFU. The statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ.* The Planning Commission can take action on application AD-1705.

Finally, Application AD-1705 was deemed complete August 4, 2017. Action on the application by the County, including appeals, is required within 150 days, or March 4, 2018. If County action is not completed by that time, the project will be considered approved. The applicant and the County can agree to extend the time for County review, not to exceed 215 days from the day the application was deemed completed. (May 21, 2018)

Planning Commission Requested Action:

- 1) Review application, staff report, proposed findings, resolution, and associated materials.
- 2) Consider if the applicant has shown, with substantial evidence, that Project AD-1705 fits within the statutory category referenced in ORS 215.283 (1) (v), has followed the public review process and has considered alternatives.
- 3) Evaluate alternatives and determine how to proceed.

Planning Commission Options:

The Commission may:

- a. Deliberate and continue action to another date certain. The following dates are available for continued deliberation: November 20 – 22; 27-30; December 4-7, 11-14, and January 18.
- b. Deliberate and Approve application AD-1705 by adopting Resolution 2017-AD-1705 as found on exhibit 1.

Staff Recommendation:

- 1) Deliberate and Approve application AD-1705 by adopting Resolution 2017-AD-1705 (Attachment 1).
- 2) If direction is provided to continue the meeting to a date certain to bring back a resolution for denial, the Planning Commission must identify findings for denial for inclusion in the resolution.

ATTACHMENTS

Attachment 1 – Planning Commission resolution 2017-AD-1705, including project conditions.

Attachment 2 - County Counsel October 24, 2017 memo.

ATTACHMENT 1
Planning Commission Resolution AD-1705 Conditionally Approving the Proposal

Resolution 2017-AD-1705

A Resolution of the Curry County Planning Commission approving the Elk River Property Development LLC Application AD-1705 to develop a pipeline to deliver recycled wastewater in order to irrigate the Pacific Gales golf course. File #: AD-1705, Map/TL: Sections 19, 29 & 30 of Township 32 S., Range 15 W., M. Tax lot 4400, and Section 29c of Township 32 S., Range 15. W., W. M. Tax lot 500, and additional property and public right of way.

WHEREAS, the Curry County Planning Commission held a duly noticed public hearing on application AD-1705 filed by **Elk River Property Development LLC** for approval to develop a pipeline to deliver recycled wastewater in order to irrigate the Pacific Gales golf course; and

WHEREAS, the Commission held the public hearing on September 21 and October 19, 2017 at which time staff presented their report and the applicant’s findings. The Commission also received additional testimony at the hearing from interested parties; and

WHEREAS, the Commission closed the public hearing on October 19, 2017; and

WHEREAS, the Commission deliberated on the subject application on November 7, 2017.

NOW, THEREFORE, BE IT RESOLVED that the Curry County Planning Commission hereby approves Elk River Property Development LLC Application AD-1705 to develop a pipeline to deliver recycled wastewater in order to irrigate the Pacific Gales golf course over Map/TL: Sections 19, 29 & 30 of Township 32 S., Range 15 W., M. Tax lot 4400, and Section 29c of Township 32 S., Range 15. W., W. M. Tax lot 500, and additional property and public right of way based on the findings specified in the September 21, 2017 staff report, subject to the conditions attached to this resolution as Exhibit 1.

UPON THE MOTION of Planning Commissioner _____, seconded by Planning Commissioner _____, the foregoing Resolution is hereby approved and adopted the 7th day of November, 2017 by the following roll call, to wit:

AYES	NAYS	ABSTAIN	ABSENT

John Brazil
Planning Commission Chairperson

ATTEST

Carolyn Johnson
Community Development Director

EXHIBIT 1

APPROVAL OF ELK RIVER PROPERTY DEVELOPMENT LLC TO DEVELOP PIPELINE TO DELIVER RECYCLED WASTEWATER AND A RESERVOIR IN ORDER TO IRRIGATE THE PACIFIC GALES GOLF COURSE. FILE #: AD-1705, MAP/TL: SECTIONS 19, 29, &30 OF TOWNSHIP 32 S., RANGE 15 W., W. M. TAX LOT 4400 AND SECTION 29C OF TOWNSHIP 32 S., RANGE 15 W., W. M. TAX LOT 500, AND ADDITIONAL PROPERTY AND PUBLIC RIGHT OF WAY.

AUTHORIZATION: This land use request AD-1705 is hereby authorized subject to the conditions listed below. Approval is granted only for development to develop pipeline to deliver recycled wastewater and a reservoir in order to irrigate the Pacific Gales golf course, to be developed inside public rights of way and also on private property. Any proposed changes to this land use request shall require further review by the Planning Commission.

EFFECTIVE DATE: November 7, 2017

ACCEPTANCE OF CONDITIONS OF APPROVAL: The property owner shall acknowledge receipt of these Conditions of Approval by signing and returning the statement below.

TRUE AND CORRECT AFFIRMATION AND COMPLIANCE AGREEMENT: I affirm that the information my agent or I submitted to the County that was used to review and authorize this proposal is true and correct to the best of my knowledge. I acknowledge that the County can revoke this land use authorization if it has been obtained under false pretenses.

I have read and understood, and I will comply with all applicable requirements of any law or agency of the State of Oregon, Curry County, and any other governmental entity that may have jurisdiction over this proposal. The duty of inquiry as to such requirements shall be my responsibility. I agree to defend, indemnify, and hold harmless Curry County and its agents, officers, and employees, from any claim, action, or proceeding against the County as a result of the action or inaction by the County, or from any claim to attack, set aside, void, or annul of this approval by the County of the project; or my failure to comply with conditions of approval. This agreement shall be binding on all successors and assigns of the subject property.

Jim Haley, Manager, Elk River Property Development LLC
Applicant

Date

Jeremy Knapp, President, Knapp Ranches Inc.
Property owner

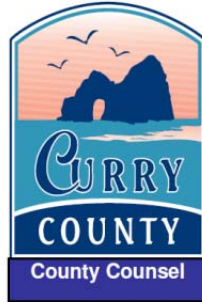
Date

AD-1705 Conditions of Approval

PRIOR TO CONSTRUCTION OF PIPELINE

1. Receive approval from the Oregon State Department of Environmental Quality.
2. Receive any and all local permits from the County with respect to installing facilities in County right-of-way.
3. Applicant shall secure all necessary permits for all pipeline locations within state right-of-way, from ODOT.
4. Applicant shall submit to and secure from ODOT regarding all locations, and construction means and methods (i.e.plans reviews), prior to construction.

ATTACHMENT 2
October 24, 2017 memo from County Counsel



MEMORANDUM

FROM: John R. Hutt, Curry County Counsel

TO: Curry County Planning Commission AD 1705

RE: Staff Response to ORCA submittal

DATE: October 24, 2017

Introduction

On October 18, 2017, ORCA submitted documents to the Planning Commission arguing three points. First, that the language “in connection with” required an existing or approved use; second, that a permit from the Oregon Department of Environmental Control was required before the Planning Commission could consider the application; and third, that the Conditional Use Permit required an amendment before the Planning Commission can consider the application.

As set forth below, the Board can reject all of ORCA’s arguments.

Discussion

1. Whether a valid CUP must exist given statutory language “in connection with”

In a memorandum to the Board, I advised that the language of ORS 215.283(1) did not require that an existing golf course or even a valid approved golf course was required before the Planning Commission could consider the application to consider alternatives to using treated water to irrigate a golf course.

ORCA’s position is that the language in the statute “in connection with” requires an existing or otherwise validly permitted allowed use in the zone, and that I was remiss in some way in omitting that language from my memorandum.

I was aware of that language when I wrote my memorandum, and considered that language immaterial to my analysis, and therefore did not include it as it does not change my analysis.

The Planning Commission ultimately decides whether the language is material and its meaning and effect on this application.

In the alternative, if the Planning Commission decides that a valid permit is required, the applicant has submitted documentation and argument as to why it has satisfied the requirement to commence development activities as contemplated by our code. If it determines that a valid approval must be in effect, the Planning Commission can accept applicant's arguments, or provide reasons why it declines to do so.

2. Whether the statute requires approval by the Department of Environmental Quality (DEQ) before it can consider the application.

ORCA argues that the language of ORS 215.246 requires that the DEQ must approve the use before the Planning Commission can consider the application. The statute says, in pertinent part:

215.246 Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives. (1) The uses allowed under ORS 215.213 (1)(y) and 215.283 (1)(v):

(a) Require a determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.

* * *

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

On its face, the statute contemplates approval by both the DEQ and the County before treated water can be applied to lands for uses allowed in the zone. The statute could do a better job of describing the timing of the two approvals.

Nevertheless, when looking at subsection (3), an applicant to the DEQ is required to tell the DEQ what alternatives were considered at the local level. Therefore a reasonable reading of the statute allows that the local government decision be made first.

The Planning Commission ultimately decides the language and its meaning and effect on this application.

3. Whether the previously approved conditional use permit requires a revision to approve the activity described in this current application.

ORCA submitted with its correspondence the previously-approved Conditional Use Permit as approved by the Curry County Board of Commissioners. That decision approved irrigation using existing water rights or some other source. Because this application proposes irrigation, it does not deviate from the condition in the prior approval. Also, because the prior approval allowed alternative sources for the irrigation, and this application is an alternative source, the Planning Commission can determine that a revision to the previously-approved CUP is not required.

Conclusion

As set forth above, the Planning Commission can decline to adopt the arguments made in ORCA's October 18, 2017 submittal. The Commission's decision interpreting any state law one way or the other will not be given any deference by any reviewing authority.

If you have any questions, please let me know.

/s/ John

John R. Hutt
Curry County Counsel

ATTACHMENT 2

Supplemental information, including:

An October 13, 2017 e-mail and letter from ODOT requiring ODOT authorization of ODOT permitting for reclaimed water lines; October 18, 2017 letter from Bill Kloos; October 19, 2017 letter and attachments from Sean Malone.

Supplemental Information

<u>Page</u>	<u>Description</u>
1 – 2	E-mail dated October 13, 2017 and attached letter from ODOT
3 – 7	Letter dated October 18, 2017 from Law Office of Bill Kloos
8 – 54	E-mail and attachments dated October 19, 2007 from Sean T. Malone

Nancy Chester

From: MCDONALD John <John.MCDONALD@odot.state.or.us>
Sent: Friday, October 13, 2017 2:10 PM
To: Nancy Chester
Subject: RE: PC Meeting - 10-19-2017 Packet
Attachments: AD 1705 Letter.pdf

Nancy,

Left you a voice mail about the attached letter. May we request it be entered into the record and the conditions added?

Sincerely,

John McDonald
Development Review Planner
ODOT Southwestern Region
541-957-3688

From: Nancy Chester [<mailto:ChesterN@co.curry.or.us>]
Sent: Thursday, October 12, 2017 10:51 AM
To: A Vileisis -2; Ann Vilisis; Bob Morrow; Cameron LaFollette; Courtney Johnson; PERRY Dave; Diana StMarie (dstmarie65@gmail.com); John Brazil ; MCDONALD John; Karen Kennedy (goldbeachkaren@gmail.com); Kevin McHugh; Kim Hall; Lyn Boniface (bonilyn@hughes.net); Peg Reagan; Ted Freeman; Tyler Krug
Subject: PC Meeting - 10-19-2017 Packet

The packet can also be viewed on our web page

<http://co.curry.or.us/Departments/Community-Development/Planning-Commission>

Nancy Chester – Planner
Curry County Community Development
Planning Division
94235 Moore Street, Suite 113
Gold Beach, Or 97444
541 247-3284

*It's nice to be important, but it is more important to be nice.
~Author Unknown~*



Oregon

Kate Brown, Governor

Department of Transportation
Region 3 Planning and Programming Unit
3500 NW Stewart Parkway
Roseburg, OR 97470
Phone: (541) 580-6178

Nancy Chester
Curry County Community Development
94235 Moore Street, Suite 113
Gold Beach, OR 97444

RE: AD-1705 Elk River Property Development LLC

Dear Mrs. Chester,

Please enter this letter into the record.

We request the following conditions of approval for AD-1705:

- Applicant shall secure all necessary permits, for all pipeline locations within state right-of-way, from ODOT; and
- Applicant shall submit to and secure approval from ODOT regarding all locations, and construction means and methods (i.e. plans reviews), prior to construction.

Please contact me if you have any questions.

Sincerely,

John McDonald
Development Review Planner

October 18, 2017

Curry County Planning Director
Curry County Annex
94235 Moore St, Suite 113
Gold Beach, OR 97444

Submitted via email to: Carolyn Johnson at johnsonc@co.curry.or.us

Re: AD-1705; alternatives analysis to use recycled wastewater at Pacific Gales
Supplemental testimony for continued hearing

Dear Ms. Johnson:

This letter is submitted on behalf of the applicant, Elk River Property Development, LLC. It contains supplemental testimony for the Planning Commission. Please provide this letter to the Planning Commissioners, and have it entered into the record.

Introduction

There were two topics that were discussed at the public hearing of September 21, 2017 where the Planning Commission had some questions. The first topic involved the timeline for development of the Pacific Gales golf course, approved by the County Board in decision AD-1411 on January 15, 2015. The second topic involves the extent to which the statutory standards being applied in this alternatives analysis incorporate standards applicable to “utility facilities,” which are regulated by additional statutes. These topics are addressed in turn.

The CUP approval in AD-1411 is alive and valid, but that’s not relevant to the approval standards that are applicable here.

The approval for the golf course is alive, and the land use entitlements are secure, because the applicant initiated development within the one-year period following the approval of the conditional use permit. The golf course that was approved in AD-1411 constitutes a “A discretionary decision approving development on agricultural or forest outside an Urban Growth Boundary,” and, as such, is regulated by the timelines imposed by CCZO 7.050(4). That code provision says, in relevant part:

“A discretionary decision approving development on agricultural or forest outside an Urban Growth Boundary (UGB) is void two years from the date of the final decision if the development is not initiated in that period.”

This provision typically gives permit-holders two years to initiate development, but, in this case, the decision approving the CUP included a condition of approval that gave the applicant only one year. Accordingly, in keeping with the requirements of CCZO 7.050(4) that say a permit will expire if development activity is not initiated within the timeframe, the applicant initiated development within the one-year period following the approval of the permit. The term “Development activity” is defined by CCZO 1.030(34) as:

“Development Activity. Any use or proposed use of land that requires disturbance of the vegetation or soils or which requires action of the Planning Division or Building Division to allow the construction or modification of structures or other improvements or to allow the division of the land.”

In this instance, the applicant initiated the development activity on the subject property when it started removing the invasive gorse from the site, as proposed in the land use application. The primary work of removing large swaths of invasive gorse from the subject property occurred from February 2015 to August 2016. Jim Haley, the managing partner of Elk River Property Development, LLC estimates that, his company spent more than \$16,000 on site improvement activities (primarily invasive species removal) during the one-year period following the issuance of the CUP approval on January 15, 2015. The attached email provides more detail on these expenses. Removal of the vast expanse of invasive gorse was an activity described in the CUP application, and it was a necessary first step before many parts of the subject property could even be accessed by surveyors and golf course designers. The applicant also has financial records to show that it was involved in forestry management activities during this period, in order to prepare the site for subsequent golf course build-out. This activities constitute “development activity,” within the meaning of CCZO 7.050(4).

In sum, CCZO 7.050(4) and the conditional use approval required development activity to be initiated within one year of the approval, and that development was initiated within the one year timeline. Development of the project has not yet been completed, but neither the zoning code or the conditions of approval impose a date by which construction is required to be completed. Site design and vegetation management activities continue on the property, and the final build-out of the project will take some additional time. Therefore, it would be a mistake for anyone to think that the applicant would now need to ask for a permit extension, as the development was timely initiated, development activities continue to proceed, and an extension was not needed.

ORS 215.283 and ORS 215.246 do not inquire into the status of underlying land use approvals; they only ask if the use of reclaimed water is “in connection with a use allowed” in an EFU zone.

Despite the explanation above that shows the development was initiated within the required timeframe, the status of the land use approvals is not relevant to the approval standards imposed by ORS 215.283(1)(v) or ORS 215.246. These statutes governing the use of reclaimed wastewater on EFU-zoned land do not establish any standards that ask about the status of the underlying land use approvals. ORS 215.283(1)(v) simply states that (in addition to DEQ review) the land application of reclaimed water is allowed “for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.”

There is no doubt that a golf course, approved in a manner consistent with ORS 215.283(2)(f), is “a use allowed in an EFU zone.” That is exactly what the county approved in AD-1411. Because golf courses are uses allowed in the EFU zone, the proposal to use reclaimed water there is consistent with ORS 215.283(1)(v).

Consider, for instance, if the applicant had combined its initial application for land use approval with this request for alternatives analysis to use reclaimed water for irrigation. The two applications would be processed at the local level simultaneously, and neither would have an

approval in place until the local process was completed. The Planning Commission would be conducting this alternatives analysis for reclaimed water use with no golf course approval in place – at least not yet. There is nothing to suggest that doing so would be inconsistent with the statute. In that situation, the Planning Commission could simply find that a golf course is one of the many uses allowed in an EFU zone, and review the applications simultaneously.

In sum, if the Planning Commission adopts any findings on the status of the underlying land use approvals for the golf course as part of this alternatives analysis, they would simply be surplus findings, going beyond the scope of any approval standard found in the statutes that the Planning Commission is currently applying.

The reference to ORS public utility standards in ORS 215.275 is not applicable to the current application.

It also appears that the Planning Commission discussed the question of whether standards applicable to public utilities need to be addressed in this alternatives analysis, due to the fact that ORS 215.246(4)(c)(B) makes reference to ORS 215.275(4). As a threshold issue, the answer is no, because that would involve conflating two different use categories that are each allowed in EFU zones under different sets of approval standards – ORS 215.283(1)(v) and ORS 215.246 regulate use of reclaimed water, whereas public facilities are regulated by ORS 215.283(1)(c) and ORS 215.275. They are distinct uses, and the simple fact that the law regulating use of reclaimed water incorporates one of the standards from the statutes applicable to public facilities does not convert a proposal to use reclaimed water into a proposal for a public utility.

But on an even more basic level, the individual standard that the reclaimed water statute borrows from the public utility statutes isn't applicable in our current circumstances, as, by its own terms, that standard applies only to agricultural land.

To paraphrase, ORS 215.246(4) says, in addition to using reclaimed wastewater, it's also ok to establish facilities, including buildings and equipment (in our case, that would be the pipeline) that are not on the tract on which the reclaimed water will be used, so long as those facilities are located in public rights of way or other land, or so long as the owner of "other land" provides written consent, and so long as the owner of the facility complies with ORS 215.275(4). It's that last statute that comes from the laws pertaining to public utilities. However, ORS 215.275(4) only applies to agricultural lands, according to its own terms. It says, in relevant part:

“The owner of a utility facility approved under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(c)(A) or 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility.” (emphasis added.)

In the current application, there is no instance where the pipeline would cross "other lands" (*i.e.*, lands that would require landowner consent for the pipeline to cross) that are agricultural. The only place where the proposed pipeline would leave the public right of way and cross into land

requiring landowner consent is on the northern portion of the “alternative route,” which is entirely comprised of residential lands.

Therefore, because ORS 215.275(4) applies only to agricultural lands, and because the proposal would not cross “other lands” that are agricultural, it’s not applicable to the current application.

Conclusion

Hopefully this analysis clears up the issues that the Planning Commission was discussing in September. We look forward to answering any questions you may have at the continued hearing.

Best regards,

A handwritten signature in black ink, appearing to read "Nick Klingensmith". The signature is fluid and cursive, with a prominent initial "N" and a stylized "K".

Nick Klingensmith

From: [Jim Haley](#)
To: [Nick Klingensmith](#)
Subject: development costs
Date: Wednesday, October 18, 2017 11:31:09 AM
Attachments: [ATT00001.htm](#)

Nick,

Further to our conversation regarding costs associated with gorse clearance at Pacific Gales., after a quick review of checks written between 1/15/2015 and 1/15/2016 there was at least \$16,000 dollars spent on fuel and additional labor.

There are no equipment costs associated with this number, nor my own time, as I own my equipment and had it hauled to the site from Wenatchee, WA, were it was being stored. There where also additional costs for transportation and lodging, flights between Omaha, Ne and Eugene, OR and vacation rentals, those will take some time to hunt down as those were billed to a credit card.

Jim Haley
219-670-4224



Total Control Panel

[Login](#)

To: [Remove](#) this sender from my allow list
nickklingensmith@landuseoregon.com
From: jmhaley@aol.com

You received this message because the sender is on your allow list.

From: [Carolyn Johnson](#)
To: [Sean Malone](#)
Subject: FW: ORCA testimony for AD-1705, request to develop pipeline
Date: Thursday, October 19, 2017 7:52:00 AM

Mr. Malone,

Received. Your transmittal will be added to the public record for the October 19, 2017 Planning Commission meeting.

Sincerely,

Carolyn Johnson

Carolyn Johnson
Community Development Director
Curry County Oregon
541-247-3228

From: Sean Malone [mailto:seanmalone8@hotmail.com]
Sent: Thursday, October 19, 2017 7:29 AM
To: Carolyn Johnson; Cameron La Follette
Subject: ORCA testimony for AD-1705, request to develop pipeline

Ms. Johnson,

Please find attached testimony, as well as exhibits A through C for File No. AD-1705. Please respond indicating you've received this material and that it has been added to the record.

Thank you,

Sean Malone
Attorney at Law
259 E. Fifth Ave.
Suite 200-C
Eugene, OR 97401
ph. 303.859.0403
seanmalone8@hotmail.com

From: Sean Malone
To: [Carolyn Johnson](#); [Cameron La Follette](#)
Subject: ORCA testimony for AD-1705, request to develop pipeline
Date: Thursday, October 19, 2017 7:31:48 AM
Attachments: [Ex. A-1403 - AD-1411 PacGales Final Order.pdf](#)
[Ex. B - confirmation with county.pdf](#)
[Ex. C - Knapp Ranch BOC Approval Final Order Oct 15.pdf](#)
[Malone to Curry County re knapp 10.19.17 - Final.pdf](#)

Ms. Johnson,

Please find attached testimony, as well as exhibits A through C for File No. AD-1705. Please respond indicating you've received this material and that it has been added to the record.

Thank you,

Sean Malone
Attorney at Law
259 E. Fifth Ave.
Suite 200-C
Eugene, OR 97401
ph. 303.859.0403
seanmalone8@hotmail.com

Sean T. Malone

Attorney at Law

259 E. Fifth Ave.,
Suite 200-G
Eugene, OR 97401

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

October 19, 2017

Via Email

Carolyn Johnson: johnsonc@co.curry.or.us

Curry County
Planning Commission
94235 Moore St
Gold Beach OR 97444



Re: ORCA Post-Hearing Testimony for Application AD-1705, a request to develop a pipeline over multiple properties to deliver effluent and a reservoir to irrigate a proposed golf course.

Please accept this testimony on behalf of Oregon Coast Alliance (ORCA) on the above-referenced application. As demonstrated below and in prior testimony, the application must be denied.

- I. The golf course approval has expired and therefore the subject application cannot be approved

Condition of approval 1 from the January 2015 approval stated that “[t]his conditional use permit approval is valid for one (1) year unless the Applicant applies for and receives an extension of this approval.” See Exhibit A at 25. Because the golf course approval has long-since expired, and no request for extension has been requested, see Exhibit B, the current application is speculative. Notably, on remand, the October 6, 2015, approval does not amend condition of approval 1, only condition of approval 3. See Exhibit C at 12 (“The original conditions of approval that the Board adopted in Order 20127 remain in effect for the approved application with the exception of Condition No. 3, which pertained to the subject of ‘design capacity.’”). Until the applicant re-applies and receives approval, the current application to develop a pipeline is not anchored in any approved use of land. It is a pipeline to nowhere.

County counsel has taken the position in a memo to the Board of Commissioners that it is not necessary to find that a valid CUP exists for the underlying use before it can issue a decision for application to apply treated water on the property. The memo ignores the requirement under both ORS 215.246 and 215.283(1)(v) that requires that the DEQ review an approval. *See* ORS 215.246(1)(a) (“Require a determination by the Department of Environmental Quality, in conjunction with the department’s review of a license, permit, or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.”). DEQ’s inquiry is intertwined with the underlying permit for the golf course. DEQ cannot satisfy that inquiry absent some existing approval for a use of the land, and ORS 215.246 is contingent upon that DEQ approval. ORS 215.283(1)(v) is no different, requiring: “Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality” Again, the DEQ approval is critical to the approval under both ORS 215.246 and 215.283(1)(v).

ORS 215.283(1)(v) also expressly provides that the land application of reclaimed water for irrigation would be “in connection with a use allowed in an exclusive farm use zone under this chapter.” While a golf course may be an abstract use allowed in the zone, there is no current valid authorization for that particular use. The County counsel memo is ignoring that the use must be “in connection with” the base use (i.e., the golf course), which, at this time, is purely theoretical. The memo violates ORS 174.010 because it reads out of the statute the phrase “in connection with.” The County must give effect to all the words in the statute. More importantly, that base use (i.e., the golf course) dictates numerous factors, including how much reclaimed water is necessary, what the carrying capacity of the land may be, and so forth. These issues cannot be accurately identified without an existing approval. Again, the proposed use before the County in this application is not anchored to any actual approval. Therefore, the County must require that the base application for the proposed use be approved, at the very least, concurrently, or before an application for land application of reclaimed water can be approved.

Even if the permit for the golf course had not yet expired, a necessary change to that application would be necessary. The expired application requested groundwater for irrigation. Now that the applicant has abandoned that use of water, the expired application was, therefore, premised on faulty information. The criteria contained in the base application (i.e., the golf course) never contemplated that such a use of reclaimed water would occur on the subject property, and, therefore, was not considered during that

application process (regardless of the fact that it is now expired). *See* Ex. A at 20 (“The Applicants, on the other hand, have indicated that, in reaching a tentative agreement with the Knapp Ranch to transfer a portion of the ranch’s water rights, the Applicant will assist the Knapp Ranch in upgrading its existing irrigation system, which will allow the Knapps to continue to irrigate in a much the same fashion as they have previously, albeit more economically and with fewer stoppages from equipment malfunction.”); *id.* at 21 (“The Applicants have explained that, if the water rights transfer becomes unworkable, the Applicants will rely instead on new permits for groundwater or for storage of winter surface flows, to create a source of stored water for summer use.”). The allegations of using groundwater and surface water were simply wrong and therefore the expired approval rested on unfounded statements. The applicant’s change in course, therefore, dramatically changes the initial approval. Moreover, the application to use reclaimed water now includes a pond that was never contemplated in the first application. Therefore, regardless of its expiration, and certainly in the wake of it, the applicant is obligated to seek a new approval from the County to address the changed circumstances.

II. The DEQ determination is a necessary part of the application and cannot be deferred by a condition of approval

The DEQ determination is a necessary part of the application that cannot be deferred as part of a condition of approval. Because that determination requires a finding of the “continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract,” it is very likely that the applicant could not satisfy this requirement. It is a discretionary criterion, and, therefore, it cannot simply be relegated to a condition of approval.

Conditions of approval are not findings. They cannot substitute for, or be used to avoid, demonstrating compliance with approval criteria/standards. If a condition were imposed that effectively postpones satisfaction of these requirements, then the County must provide for a further land use Hearing with notice and an opportunity for public comment. *See, Stockwell v. Benton County*, 38 Or LUBA 621 (2000) (deferred findings of compliance must observe statutory notice and hearing requirements).

The requirement for a further Hearing must be incorporated as a Condition of approval. Absent such a condition – one that requires a notice and an opportunity to be heard – the application cannot be approved because the Condition “ignores the possibility that the applicant actually might not be able to comply with [the criteria] and preclude[s] other interested persons from establishing precisely that fact” *Hodge Oregon Properties, LLC v. Lincoln County*, 194 Or App 50, 55, 93 P.3d 93 (2004); *Gould v.*

Deschutes County, 216 Or App 150, 161-163, 171 P.3d 1017 (2007) (conclusion that it was feasible to prepare a wildlife mitigation plan was not sufficient to conclude that the plan would actually result in adequate mitigation). Moreover, “feasibility” means that “substantial evidence supports findings that solutions to certain problems ... are possible, likely and reasonably certain to succeed.” *Meyer v. Portland*, 67 Or App 274, 280 n.6, 678 P.2d 741, *rev. den.* 297 Or 82 (1984). Here, there has been no demonstration by the applicant of the “continued agricultural, horticultural or silvicultural production” or that the productivity of the tract would not be reduced. Therefore, much like the first issue presented above, the applicant must first obtain the DEQ approval first, and then proceed with the subject application. There is simply no way of satisfying these the criteria for the DEQ application without knowing basic information related to the base use (i.e., the proposed but expired golf course).

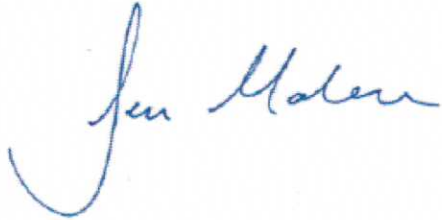
III. An exception to Goal 11 is necessary

The definition of public facilities includes “water, sewer, and transportation facilities.” This application is a water facility that is extended from the City of Port Orford into Curry County. As a result, the applicant will be required to obtain an exception goal 11. See *Foland v. Jackson County*, 61 Or LUBA 264, 314 (2010), *aff’d* 239 Or App 60, 243 P.3d 830 (2010) (explaining that an exception to Goals 3, 11, and 14 would be required to place public facilities with urban levels of use on farmland); *Foland v. Jackson County*, __ Or LUBA __ (LUBA No. 2013-082, January 30, 2014); *Foland v. Jackson County*, 64 Or LUBA 265 (2011) (if a particular urban use of rural land authorized under an exception to Goal 14 does not require urban levels or sources of water, it is consistent with Goal 11 to allow the urban use to be served with non-urban levels or sources of water, and no exception to Goal 11 is required; where the extension of a water system onto rural lands is proposed to facilitate an urban use of that land, the extension is prohibited without an exception to Goal 11). Here, the applicant has not demonstrated that the amount of reclaimed water at issue is not indicative of urban levels of water use. The applicant has not pointed to any provision that waives the overarching requirements imposed by the Statewide Planning Goals, and, therefore, the applicant must take an exception to Goal 11 before an application is approved. Indeed, the applicant has not yet demonstrated that a Goal 11 exception is also not necessary for the proposed use. For service of water to rural lands, whether the applicant attempts to characterize the utility as private or public is irrelevant. See 660-011-0065(1)(1).

IV. Conclusion

For the foregoing reasons, I respectfully request that the Planning Commission deny the applications.

Sincerely,

A handwritten signature in blue ink that reads "Sean T. Malone". The signature is written in a cursive style with a large, looping initial "S".

Sean T. Malone
Attorney for ORCA

Cc:
Client

Enclosures: Exhibits A, B, C

BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON

In the matter of Planning Commission file)
AD-1411 for conditional use approval to)
develop an 18-hole golf course with accessory)
uses on a portion of property having a zoning)
designation of Exclusive Farm Use (EFU))
and identified on the Curry County Assessor's)
Map No. 32-15-00, Tax Lot 04400 and Map)
No. 32-15-29C, Tax Lot 00300 filed by)
Chris Hood, Stuntzner Engineering)
& Forestry, LLC, on behalf of Elk River)
Property Development LLC and Knapp)
Ranches, Inc.)

ORDER No. 20127

This matter came before the County on an application by Elk River Property Development, LLC and Knapp Ranches, Inc., seeking approval of a Conditional Use Permit to develop an 18-hole golf course, together with accessory uses, on a property with zoning designation of Exclusive Farm Use (EFU), identified as Curry County Assessor's Map No. 32-15-00; Tax Lot 04400 and Assessor's Map No. 32-15-29C-00300. The Applicant was represented by Stuntzner Engineering & Forestry, LLC and the Law Office of Bill Kloos, PC.

Following procedures as required by law, the Planning Commission approved the application on October 23, 2014, and on November 3, 2014, a Notice of Appeal was filed by Sean Malone, Attorney at Law, on behalf of Oregon Coast Alliance ("ORCA"). Thereafter, the matter was taken up on appeal by the Board of Curry County Commissioners. Following appropriate notice as required by law, the Board held a *de novo* hearing on December 11, 2014 and provided additional opportunities for parties to submit testimony to the record. On January 7, 2015, the Board orally approved the application and continued the matter until January 15, 2014, for adoption of a final written order.

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDERS that Application File No. AD-1411 is approved, and the appeal in File No. A-1403 is denied, based on the findings outlined in Exhibit "A" and the conditions outlined in Exhibit "B" that are attached hereto and incorporated by reference.

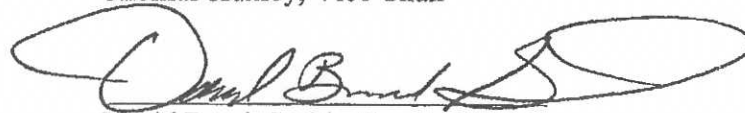
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Dated this 15th day of January, 2015.

CURRY COUNTY BOARD OF COMMISSIONERS


Susan Brown, Chair

Abstained
Thomas Huxley, Vice Chair


David Brock Smith, Commissioner

Approved as to Form:

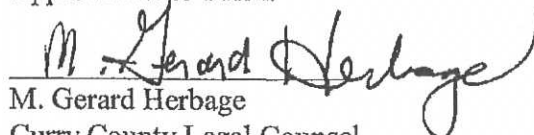

M. Gerard Herbage
Curry County Legal Counsel

EXHIBIT A**CURRY COUNTY BOARD OF COMMISSIONERS
FINDINGS OF FACT AND CONCLUSIONS****AD-1411: REQUEST FOR A CONDITIONAL USE PERMIT TO DEVELOP 18-HOLE GOLF
COURSE TOGETHER WITH ACCESSORY USES ON A PORTION OF THE PROPERTY
WITH ZONING DESIGNATION OF EXCLUSIVE FARM USE.****I. INTRODUCTION**

This document supports the decision of the Curry County Board of Commissioners in File Nos. A-1403 and AD-1411, approving the Conditional Use Permit for an 18-hole golf course on EFU-zoned land.

The Board finds that the proposed golf course will enhance and diversify the outdoor recreational activities offered in the County, on one of Southern Oregon's most scenic locations. It will create numerous employment opportunities and will contribute to the economic growth in the region. The Board further finds that the golf course will be a leader in environmental sustainability and will not have adverse impacts on farming, forestry practices or on environmental and natural resources in the area. In order to ensure compliance with applicable approval criteria, the Board utilizes conditions of approval, where appropriate.

Except for instances where this decision modifies or departs from the findings, analysis and conditions of approval contained in the decision of the Planning Commission, the staff report, and the Applicant's submittals, are hereby adopted as supporting findings, and are incorporated into this decision by reference.

II. APPLICANT.

The Applicant is Elk River Property Development, LLC. The subject property is owned by Knapp Ranches, Inc.

III. DESCRIPTION OF SITE AND PROPOSAL

The subject property consists of approximately 354 acres of a 1,008 acre tract of land owned by Knapp Ranches, Inc. which is located between US Hwy 101 to the east and the Pacific Ocean to

the west and Port Orford to the south. The Applicant is requesting conditional use approval to allow the development of an 18-hole golf course on an approximately 198 acre portion of the subject property. The proposed development area has an EFU zoning designation. In addition to the golf course, the development will include a clubhouse, equipment storage and office facility, restaurant, lounge, parking lots, and water improvements (irrigation).

The subject property is identified as Curry County Assessor's Map No. 32-15-00; Tax Lot 04400 and Assessor's Map No. 32-15-29C; Tax Lots 00300 and 500. Although Assessor's Map No. 32-15-29C; Tax lot 00500 is part of the subject property, it is not within the proposed golf course development area. This parcel consists of approximately 1.52 acres; is zoned Residential Two (R-2); and is located within the Port Orford Urban Growth Boundary.

The subject property abuts the City of Port Orford Urban Growth Boundary along its south and east boundaries, the Pacific Ocean along its west boundary and the remainder of the Knapp ownership along its north boundary.

The subject property is situated on a bench that is elevated approximately 100 feet above the adjacent resource land to the north, the Pacific Ocean to the west and a forested area to the south.

The northeasterly portion of the subject property contains approximately 111 acres of pasture and forest land that are relatively flat with a south/southeast slope of less than one percent. There is a sand dune formation approximately 500 feet in width that extends north and south along the westerly portion of the subject property. The dune formation ascends westerly from the pasture for approximately 50 feet at an average slope of 50 percent and then descends westerly as a partially solidified rolling formation with an overall average slope of 12 to 15 percent. The southerly area was historically forestland that was logged approximately 6 years ago.

IV. COUNTY PROCEDURES

The application for Conditional Use approval was filed pursuant to Curry County Zoning Ordinance ("CCZO") Section 3.072(25), governing golf courses on EFU-zoned land. This application initially came before the Curry County Planning Commission as an application for a conditional use approval in accordance with CCZO Section 2.060(2) (c).

On September 11, 2014, a public hearing was held before the Planning Commission as a matter duly set upon the agenda of its regular meeting after giving public notice to affected property owners and publication in the local newspaper.

After receiving public testimony on September 11, 2014, the hearing portion of the proceedings was closed and the Planning Commission voted to reconvene on October 23, 2014, for deliberation only. The written record was left open until 5:00 pm on September 29, 2014, for submission of new testimony/material; until 5:00 pm, October 6, 2014, for rebuttal testimony from anyone on material submitted that was submitted in the prior two week period; and until

October 13, 2014, for submission of final arguments by the Applicant.

On October 23, 2014, after consideration and discussion of the evidence and testimony, the Planning Commission voted to approve the request. The Final Order of the Planning Commission, which was based on decision criteria, findings of fact and conclusions of law, was signed on October 23, 2014.

On November 3, 2014, a Notice of Appeal of the Planning Commission decision was filed by Sean Malone, Attorney at Law, on behalf of Oregon Coast Alliance ("ORCA"). Pursuant to CCZO 2.170, the matter was taken up on appeal by the Board of Curry County Commissioners. Following appropriate notice as required by law, the Board held a *de novo* hearing on December 11, 2014 and provided additional opportunities for parties to submit testimony to the record. On January 7, 2015, the Board orally approved the application and continued the matter until January 15, 2015, for adoption of a final written order.

V. APPLICABLE STANDARDS AND CRITERIA

This application involves siting and development of a golf course on EFU-zoned property. Under Oregon's land use statutes and goals, the application must be found to comply with Curry County land use standards and criteria, including the following:

STATUTES

ORS 215.283 - Uses permitted in exclusive farm use zones in nonmarginal lands; rules.

ORS 215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards.

OREGON ADMINISTRATIVE RULES (OAR)

OAR 660-033-0120

OAR 660-033-0130

Curry County Comprehensive Plan

Section 6.4.1 Existing Disposal Sites (Solid Waste)

Section 6.6 Plan Policies for Air, Land, Water Resource Quality

Curry County Zoning Ordinance

Section 3.070 Exclusive Farm Use Zone (EFU).

Section 3.072 Conditional Uses Subject to Administrative Approval by the Director

Section 3.073 High-Value Farm Land.

Section 3.252 Development in Areas of Geologic Hazards

Section 7.040 Standards Governing Conditional Uses

Section 7.050 Time Limit on a Permit for Conditional Uses

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Additional standards may have previously been addressed in this proceeding. If any additional applicable standards were addressed that were not among those standards listed above, the Board adopts the findings, analysis and conditions of approval contained in the decision of the Planning Commission, the staff report, and the Applicant's submittals.

VI. ANALYSIS OF APPLICABLE STANDARDS AND CRITERIA AND FINDINGS OF COMPLIANCE

1. STATUTES

ORS 215.283 - Uses permitted in exclusive farm use zones in nonmarginal lands; rules.

(2) The following non-farm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(f) Golf courses on land determined not to be high-value farmland, as defined in ORS 195.300.

FINDING: This statute applies because Curry County is a non-marginal lands county and the subject property is zoned EFU. ORS 195.300(10) defines high-value farmland as including, in relevant part:

"Land that is in an exclusive farm use zone or a mixed farm and forest zone and that on June 28, 2007, is:

"(A) Within the place of use for a permit, certificate or decree for the use of water for irrigation issued by the Water Resources Department;"

FINDING: Appellant testified that the application could not be approved because a portion of the development site had been depicted as within the place of use for an irrigation permit. The Applicant has demonstrated that its site plan for the proposed development would avoid the area on the subject property that had been depicted as a "place of use" for irrigation. Exhibit A to the application, titled "PROPOSED COURSE LAYOUT" includes an area titled "excluded area," which excludes from the golf course development site the acreage that was illustrated as being within the place of use for irrigation by Permit S-53648. The Applicant explained in its application narrative that the 27 acre "excluded area" was never developed with irrigation within the timeframe required by the permit, with the result that this portion of the of the ranch did not appear to have been "within the place of use" for an irrigation permit that was effective on June 28, 2007. Nonetheless, the Applicant's narrative explained that it "has chosen to avoid that area with the proposed golf course and leave the land available for farm use."

Because the proposed development would avoid the area that might have arguably been within the place of use for an irrigation permit, none of the proposed golf course is within “high value farmland,” as that term is defined by ORS 215.283(2)(f).

The opponents of the proposed golf course have also argued that the entire tract must be considered high value farmland if any portion of that tract includes high value farmland. See, e.g., the Appellant’s filing of November 3, 2014, arguing that “the entire tract is high value farmland.” The Appellant looks to ORS 215.705 for this expansive definition of “high value farmland.” That statute governs dwellings in farm and forest zones. By their own terms, the statutes governing farm and forest dwellings expressly limit the context in which they apply. ORS 215.710(1) provides: “[f]or purposes of ORS 215.705, high-value farmland is land in a tract composed predominantly of soils that, at the time of the dwelling...”

In this case, the application is not for a dwelling in farm or forest zones, and for purposes of conditional uses allowed in EFU zones, the applicable definition of “high value farmlands” comes from under ORS 215.283, not ORS 215.705. Therefore, the Board is not persuaded to import an inapplicable statute when the applicable statute is clear: under ORS 215.283(2)(f), high value farmland is measured according to specific locations of certain soil types and the “place of use” of irrigation. The extent of “high value farmland” in the current context is not measured by tract or property ownership boundaries.

Therefore, because the proposed golf course is not on “high value farmland,” this application can be approved, pursuant to ORS 215.283(2)(f).

ORS 215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards.

(1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An Applicant for a use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

FINDING: Pursuant to ORS 215.283(1)(2)(F), a golf course is a permitted use in the exclusive farm use zone on land determined not to be high-value farmland, as defined in ORS 195.300, subject the standards found at ORS 215.296. The provisions of ORS 215.296 are implemented by CCZO 7.040(16), and are therefore addressed under that section below.

2. OREGON ADMINISTRATIVE RULES

OAR 660-033-0120 - Uses Authorized on Agricultural Lands

FINDING: As explained in the staff report and Applicant's submittals, OAR 660-033-0120 separates uses allowed on high-value farmland (HV farmland) and those lands determined not to be high-value farmland (All Others). Because the subject property does not include the soil types designated as high-value farmland, and because the development area does not involve any "place of use" for an irrigation permit, the proposal does not include "high value farmland." A golf course can be approved on agricultural lands after notice and the opportunity for a hearing, and after demonstrating compliance with the provisions of 660-033-0130 (2), (5) and (20) addressed below.

The Board finds that, pursuant to administrative rule, the proposed golf course is not on high-value farmland, and can therefore be approved pursuant to the procedural requirements and the minimum standards found at OAR 660-033-0130.

660-033-0130 - Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

(2)(a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

FINDING: Generally, the Appellant has argued that "design capacity" means the maximum number of people who could fit in the building at once, equivalent to "maximum occupancy," as the term is used in building and fire codes. The Applicants, on the other hand, have explained that the Rule would have simply used the term "maximum occupancy" if that is what it had meant, and that by using the term "design capacity," the drafters of the rule must have intended a concept of how many people the building was designed to accommodate, in light of the overall use proposed.

Throughout the local proceedings, the Appellant and the Applicant have exhaustively analyzed

this ambiguous Rule, and the Board is tasked with choosing which of these interpretations is most consistent with the Rule and the statute it implements. The Board concludes the interpretation proposed by the Applicants is reasonable, practical, and consistent with the Rule, whereas the alternative interpretation proposed by the Appellant leads to absurd results that would effectively prohibit this type of use from ever being developed in farm zones, contrary to a statute that says the use is permissible.

The Applicants have explained that the number of people who could be in the clubhouse is necessarily limited by the number of people who are playing the golf course, as the clubhouse will only be open to patrons of the golf course. Given that the 18-hole golf course has a finite capacity for the number of golfers who will be using the course at any time, the nature of the larger use places a practical limit on the number of people who could be expected to be in the buildings at any time. The Applicant has explained its numerical projections for the number of people on the golf course, the number of players who would be expected to be using the clubhouse before and after a game of golf, and the number of staff necessary to support these operations. This analysis is provided on page 8 of the application narrative, and is elaborated in the Applicant's rebuttal testimony of January 2, 2015. The Board is particularly persuaded by the explanation on page 2 of the Applicant's submittal from January 2, 2015, where the Applicant describes typical flow of golfers through the golf course and through the building, illustrating that when the building is viewed in context of the larger use, it will be designed to have a capacity of no more than 100 persons. The Board views the estimated square footage for the different rooms in the proposed buildings (as described at page 10 and 11 of the application narrative) to be a reasonable and persuasive illustration of a building that is designed to accommodate fewer than 100 persons in its projected operations.

The Rule requires the cumulative capacity of all buildings to be accounted for. The Applicant has explained that, aside from the main clubhouse, the proposed accessory buildings are either designed to provide very small capacity (such as a reception facility at the entrance road that will have one or two staff persons, and a refreshment stand that will have one or two staff persons) or they will not be designed to provide "capacity" for persons at all (such as extensive storage areas within the clubhouse for golf carts, patio furniture, etc., and a large equipment and maintenance building that will, at times, have one or two mechanics working in it.) The Board agrees with the characterization of the maintenance/storage building as a space that, in context of the larger proposed use, would not be designed for "capacity" within the meaning of this Rule.

In review of the Appellant's alternative theory, the Board is not persuaded because this approach would necessarily lead to absurd results, and the Board assumes the drafters of this Rule did not intend for the Rule to lead to a result where a very small building might accommodate 100 people, if every room is filled to the Fire Marshall's maximum occupancy. The Appellant has argued that the number of people who could fit in every room inside the buildings must be tallied, and that number must always be below 100. In the words of the Appellant, this means counting the people who could fit in a "two-story clubhouse, workshop, restaurant, kitchen, equipment storage, office facility, locker rooms with showers, pro-shop, administrative offices

for a chef, golf pro, and manager, reception (check-in), mechanic's shop, maintenance facility, repair shop, storage facility and banquet area for tournaments, and accessory facility."

If "design capacity" is read to mean the same thing as "maximum occupancy", a single maintenance building may have enough space for 100 persons. It is the Board's view that a maintenance building/equipment barn is not an optional structure for a golf course; without the ability to protect fragile greenskeeping equipment, bags of fertilizer, and other sensitive supplies, a golf course would simply not be able to operate. Under the Appellant's theory, the maintenance building/equipment barn would likely consume the entire allotment for 100 person capacity, and foreclose the possibility of developing the other buildings and accessory uses that are specifically allowed for by the Rule. An interpretation of the Rule that would make it impossible to develop the types of buildings that are essential for operation of a golf courses would have the practical result of prohibiting golf courses. This would be contrary to statute, as ORS 215.283(2)(f) generally allows golf courses in farm zones, subject to certain conditions. The Board believes it must interpret this Rule in a manner that is consistent with the statute.

The meaning of the term is a question of state law, and there appears to be a shortage of caselaw that could guide the Board's analysis of this issue. Both parties have raised the example of ORS 420.005(1), which also uses the term "design capacity" in the same context of building design. In ORS 420.005(1), the term is used to measure the number of inmates that can be housed in correctional facilities, as opposed to size of structures for conditional uses allowed in EFU zones.. *Capps v. Atiyeh*, 495 F. Supp. 802 (1980) is a case that both parties have also raised, and it appears to be the only case to have construed "design capacity" in the general context of how many people a building or buildings are designed to accommodate. The Board is persuaded that *Capps* supports the Applicant's proposed interpretation, as that case looked to "design capacity" as the number of people the buildings were designed to accommodate in terms of cells or bunks. For the reasons explained by the Applicant in its filings of December 23, 2014, and January 2, 2015, it would have defeated the purpose of the statute if "design capacity" had meant the number of people who could potentially squeeze into every room in the building all at once. The Board specifically adopts the following analysis from Applicant's submittal of January 2, 2015:

"So, if the current application involved a prison, instead of a clubhouse, and if it was prohibited from having a 'design capacity' that exceeded 100 people, the *Capps* metric would allow between 5,500 and 8,000 square feet of cell space. But that's just for the cells. That doesn't count the cafeteria, the kitchen, the bathrooms, and any recreational space that prisoners might be afforded. A 10,000 square foot prison for 100 prisoners starts to look pretty cramped in this light. Under *Capps*, 10,000 square feet might be closer to the *minimum* size that could accommodate 100 people.

Finally, while the Board has endeavored to correctly interpret this ambiguous rule, the Board recognizes it will not be afforded deference on interpretations of state law. The Board has concluded that "design capacity" is intended to invoke a more flexible concept than "maximum

occupancy,” and the Applicant has demonstrated that, under normal operation, the buildings will not be used to accommodate more than 100 people at any given time. However, if LUBA or some other appellate review authority determines that the Board has not correctly interpreted this rule, and that “design capacity” should instead be interpreted to be synonymous with “maximum occupancy,” the Board hereby adopts an additional, contingent condition of approval, intended to anticipate and resolve this scenario in advance, so as to avoid having the issue resolved in multiple rounds of appeals.

Therefore, if the Board’s findings and analysis supporting its interpretation of “design capacity” are not upheld on appeal, the Board hereby approves the conditional use permit under the contingent condition of approval that the golf course’s enclosed structures are to have a cumulative *maximum occupancy* of no more than 100 persons, as determined by uniform building and fire codes.

(20) "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:

(a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;

(b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;

(c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;

FINDING: The Board finds that the proposed golf course is consistent with the standards found in this Administrative Rule. Specifically, the Board finds that the description of an 18-hole golf course found at OAR 660-033-0130(20)(a) is illustrative of a typically-sized regulation golf course, and does not establish a strict maximum size limit. The Rule uses flexible terms such as “generally characterized by” and “a site of about 120 to 150 acres of land.” The approximate description contained in this rule is flexible enough to include the natural “links style” course

that has been proposed here, which has been described as including an approximate 198 acre development area within a larger leased property of 354 acres.

In the document labeled "GOLF COURSE SIZE DISCUSSION," attached to the Applicant's initial application submittal, the Applicant's golf course designer explained that the industry standard for existing modern 18-hole golf courses on the Southern Oregon coast is between 225 and 305 acres. The Applicant further explained that unique site features, such as existing topography and vegetation, can require a particular course layout in order to ensure a safe, functional course. In light of the additional evidence in the record about the steep slopes and the Applicant's commitment to avoid impacts to wetlands, and in light of the condition the Board is imposing that will require the Applicant to keep golfers away from bluff areas, the Board finds that the proposed 198 acre development area is entirely consistent with the flexible definitions provided by 660-033-0130(20)(a).

OAR 660-033-0130(20) [continued]

(d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:

(A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;

(B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and

(C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

FINDING: The Board finds that the accessory uses proposed are consistent with this rule. As the Applicant has stated, accessory commercial uses are allowed, so long as they provide goods or services customarily provided to golfers, and that they do not serve the non-golfing public. The Applicant has explained that only customers who pay for golfing privileges will be able to proceed farther into the site than the small reception building. The clubhouse and other amenities will not be open to the non-golfing public.

Food and beverage service is included in the Rule as an example of this type of permitted use. In addition, the Rule specifically provides that "Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse." (emphasis added). Therefore, the small refreshments stand is an accessory use that is allowed outright.

3. CURRY COUNTY COMPREHENSIVE PLAN

The Applicant submitted findings regarding conformance with the Curry County Comprehensive Plan – Section 6.4.1 Existing Disposal Sites (Solid Waste) and Section 6.6 Plan Policies for Air, Land, Water Resource Quality

FINDING: According to the Applicant, a portion of the subject property (Tax Lot 300 Section 29C) is encumbered by the groundwater area potentially affected by the Port Orford Landfill Site. No development is proposed within the Port Orford groundwater area. A map is attached to the Applicant's supplemental exhibits showing that the boundary of the golf course development area is located approximately 600 feet north of the Groundwater Area Boundary. Therefore, The Curry County Comprehensive Plan Ground Water Hazard Policies do not apply to the golf course development area. As explained in the Applicant's submittal of December 10, the current application is not the type of application that would trigger direct application of this Plan Policy, as it applies to development proposals that propose development within a mapped groundwater monitoring area, or extraction of groundwater within that groundwater monitoring area. The Board finds the proposed development site avoids the groundwater monitoring area, as depicted by the diagram labeled "PORTION OF GOLF COURSE DEVELOPMENT AREA WITHIN TAX LOT 300" included with the Applicant's initial application materials.

Appellant has raised issues related to additional Plan Policies. Although they have limited relevance to the application at issue here, they are addressed below.

In their submittal of November 3, 2014, the Appellant alleged that the application fails to comply with Comprehensive Plan Policy 15, specifically policies that apply in "beaches and dunes" areas. The Applicants explain in its submittal of December 10, 2014 that provisions of Plan Policy 15 cited by the Appellant apply only applies to "Coastal shorelands – beaches and dunes,"

and that the development area is not within a “beaches and dunes” area relevant to Goals 17 and 18. Section 15.3 of the Curry County Comprehensive Plan defines the Coastal Shorelands Boundary. The boundary for the Coastal shorelands in the vicinity of the development area is called “Segment 6” in Section 15.3 of the Comprehensive Plan and is defined as: “The shoreline boundary in this segment is defined as following the top of the cliff to the northerly end of the Lake Garrison spit;” Because the development area is easterly of “top of the cliff,” it is outside of the Coastal shorelands area, and the plan policies that apply to this area do not apply to the subject application.

Likewise, the Appellant advanced an argument based on Comprehensive Plan policies that apply to “beaches and dunes,” but the Board also finds that the subject property is not within a “beaches and dunes” area. Comprehensive Plan Policy 15.7 provides a description of beaches, and Comprehensive Plan Policy 15.8 provides a description of dune areas. Based on these descriptions, the Board finds that there are dunes and beaches to the west of the development site, but the development site itself contains no beaches or dunes to which these Plan Policies might apply. Further, the Board finds that Comprehensive Plan Policy 15.10(15) (cited by the appellants) does not apply directly to quasi-judicial applications, and that it has been implemented by policies in the Curry County zoning code, including Section 7.040(13). That code section applies to development applications in the Beaches and Dunes Conservation (CON) zone, which does not apply to the subject property, as demonstrated by the Curry County Zoning Map.

4. CURRY COUNTY ZONING ORDINANCE

Section 3.070. Exclusive Farm Use Zone (EFU).

Purpose of Classification: The purpose of the zone is to encourage the preservation of farm use lands in the county where the land owner desires the protection of Exclusive Farm Use Zoning under the provisions of ORS 215.203. The intent of this zone is to implement the requirements of the Curry County Comprehensive Plan and Statewide Planning Goal 3 with respect to agricultural lands in the county.

FINDING: The relevant approval criteria implementing this purpose statement are addressed below.

Section 3.072 Conditional Uses Subject to Administrative Approval by the Director

25. Golf Courses except on high-value farm land (16a,b)

FINDING: As explained above in context of ORS 215.283 and ORS 195.300, the subject property does not include high-value farmland. A golf course may therefore be approved on EFU lands if the application demonstrates compliance with the standards for Conditional Uses.

Section 3.252 Development in Areas of Geologic Hazards

Those areas identified as geologic hazard areas shall be subject to the following requirements at such time as a development activity application is submitted to the Director.

1. *The Applicant shall present a geologic hazard assessment prepared by a geologist at the Applicant's expense that identifies site specific geologic hazards, associated levels of risk and the suitability of the site for the development activity in view of such hazards. The geologic hazard assessment shall include an analysis of the risk of geologic hazards on the subject property, on contiguous and adjacent property and on upslope and downslope properties that may be at risk from, or pose a risk to, the development activity. The geologic hazard assessment shall also assess erosion and any increase in storm water runoff and any diversion or alteration of natural storm water runoff patterns resulting from the development activity. The geologic hazard assessment shall include one of the following:*
 - a) *A certification that the development activity can be accomplished without measures to mitigate or control the risk of geologic hazard to the subject property or to adjacent properties resulting from the proposed development activity.*
 - b) *A statement that there is an elevated risk posed to the subject property or to adjacent properties by geologic hazards that requires mitigation measures in order for the development activity to be undertaken safely and within the purposes of Section 3.250.*
2. *If the assessment provides a certification pursuant to Section 3.252 (1) (a), the development activity may proceed without further requirements of this Section*
3. *If the assessment provides a statement pursuant to Section 3.252 (1) (b), the Applicant must apply for and receive an Administrative Decision prior to any disturbance of the soils or construction.*

FINDINGS: The Applicant commissioned A "Geologic Hazard Assessment Letter Report." As a threshold matter, the Board finds that the Applicant may have gone beyond what was required of it in this instance, as these standards apply to "areas identified as geologic hazard areas," and the subject property is not identified as a natural hazard area by the Curry County Comprehensive

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Plan.

In addition, assuming that these standards might apply to the current application, the geologic hazard assessment report states that the subject property "is suitable for the proposed development activity and that development can be accomplished without measures to mitigate or control the risk of geologic hazards to the subject property or to adjacent properties." The report includes detailed geologic investigation. The Board finds this evidence and the report's conclusion persuasive. Accordingly, the proposed development complies with CCZO 3.252(1)(a), in that it has been certified that the development activity can be accomplished without measures to mitigate or control the risk of geologic hazard to the subject property or to adjacent properties resulting from the proposed development activity.

The Appellant of the proposed golf course has argued that the best practices outlined in the report (such as monitoring irrigation, ground saturation, and prohibiting golfers from approaching the cliff's edge) must be viewed as "mitigation measures," in the meaning of CCZO 3.252(1)(b), and that the presence of "mitigation measures" establishes that the geologic hazard assessment report implicitly includes a "statement that there is an elevated risk posed to the subject property or to adjacent properties." However, the Board does not interpret its code in the manner proposed by Appellant. There is no statement in the geologic hazard assessment report that the proposal would lead to an elevated risk, and including a description of best practices as part of a thorough geologic hazards report is not the equivalent of a statement that there is an elevated risk.

In addition, CCZO 3.252(1)(a) speaks of mitigating or controlling the risk of geologic hazard to the subject property or to adjacent properties *resulting from* the proposed development activity. This standard does not require geologic hazard to be measured according to an absolute value; it requires measurement of the relative change in geologic hazard. In other words, would the proposed development result in the situation becoming more or less safe than it was to begin with? In light of the Applicant's geologic report, the pre-development situation includes actively eroding sea cliff, embayments, and erosion-aggravating invasive gorse plants, and these existing conditions are likely to present greater geologic hazards than will exist on the property after the proposed management strategies are implemented, including re-vegetation with native plants, careful monitoring of irrigation saturation, and installation of bioswale to detain surface runoff and discharge it in a controlled, non-erosive manner. The Board finds that the proposed development activity will result in a lower geologic hazard than currently exists on the subject property.

Finally, the Board notes that the Appellant submitted a Geologist's opinion to critique the Applicant's Geologic Hazards Assessment. The Appellant's geologist refers to the Applicant's proposed management strategies as "mitigation" for the Applicant's development impacts. As explained above, the Board has concluded the overall result of the proposed development would be a reduction in geological hazard, as opposed to an elevated risk, and the Board declines to adopt the Appellant's view that the proposed land management practices necessarily amount to "mitigation," within the meaning of CCZO 3.252(1)(b).

In summary, the Board's initial conclusion is this standard does not apply because the development site is not within an identified geologic hazard areas. In addition, the Board finds that the Applicant's Geologic Hazard Report would constitute "a certification that the development activity can be accomplished without measures to mitigate or control the risk of geologic hazard."

The Board also notes that the Applicant's initial submittal included a letter from the Ocean Shores Coordinator at the Oregon Parks and Recreation Department. In regard to "coastal hazard awareness and responsible oceanfront development," this letter was generally supportive of the proposal. The Board finds this analysis leads to a conclusion that is consistent with the board's interpretation of CCZO 3.252.

Section 7.040 - Standards Governing Conditional Uses

In addition to the standards of the zone in which the conditional use is located and the other standards in this ordinance, conditional uses must meet the following standards:

1. Conditional Uses Generally

- a) The County may require property line set-backs or building height restrictions other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land use.*

FINDINGS: The board finds that all structural development that is subject to setbacks will exceed the requirements of the Curry County Zoning Ordinance and Comprehensive Plan. The primary structure/clubhouse will be located approximately 400 feet from shoreline of the Pacific Ocean. None of the other proposed structures will be adjacent to property boundaries, natural features or uses that will require setbacks to achieve compatibility. The setbacks associated with Riparian Vegetation in CCZO 4.011 do not apply to non-riparian, isolated wetlands.

- b) The County may require access to the property, off-street parking, additional lot area, or buffering requirements other than those specified in Article IV in order to render the proposed conditional use compatible with surrounding land uses.*

FINDINGS: The Board finds that sufficient parking for the proposed golf course will be located conveniently on the subject property at the entrance to the course. The parking area will not be located near other non-compatible uses on adjacent lands.

- c) The County may require that the development be constructed to standards more restrictive than the Uniform Building Code or the general codes in*

order to comply with the specific standards established and conditions imposed in granting the conditional use permit for the proposed use.

FINDINGS: The proposed structures are necessary for the successful operation of the golf course. The structures and the proposed uses contained within those structures are described throughout the application. All structures will be designed and engineered as needed to meet uniform standards for public health and safety.

- d) *If the proposed conditional use involves development that will use utility services; the Applicant shall provide statements from the affected utilities that they have reviewed the Applicant's proposed plans. These statements shall explicitly set forth the utilities' requirements, terms and conditions providing or expanding service to the proposed development and shall be adopted by the Commission or Director as part of the conditional use permit.*

FINDINGS: According to the Applicant, the proposed conditional use does not involve development that will use utility services other than Coos-Curry Electric Cooperative, Inc. which already serves the subject property. The required site evaluation permit from the Curry County Sanitarian has been submitted along with letters from Coos-Curry Electric Cooperative, the Oregon Department of Transportation and the Curry County Road Department. Therefore, this standard is satisfied.

- e) *If the proposed conditional use involves the development or expansion of a community or non-community public water system, the Applicant shall submit a water right permit(s) or documentation that a permit is not required from the Oregon Water Resources Department which indicates that the Applicant has the right to divert a sufficient quantity of water from the proposed source to meet the projected need for the proposed use for next twenty year planning period.*

FINDINGS: There are no proposals for the expansion of a community water system. This standard does not apply.

- f) *If the proposed conditional use involves the development or expansion of a community or non-community public water system, the Applicant shall install a raw water supply flow monitoring device (flow meter) on the water system and shall record the quantity of water used in the system on a monthly basis. The monthly record of water usage shall be reported to the Curry County Department of Public Services-Planning Division and Health Department Sanitarian on an annual basis.*

FINDINGS: There are no proposals for the creation or expansion of a community or non-

community public water system. This standard does not apply.

- g) *If the proposed conditional use included the development or expansion of a community or non-community public water system and the use is located within the service area of a city or special district water system the Applicant shall utilize the city or special district water system rather than developing an independent public water system. An independent community or non-community public water system can be developed for the use if the Applicant can prove that it would be physically or economically not feasible to connect to the city or special district water system. The city or special district must concur in the conclusion that connection of the proposed use is not feasible.*

FINDINGS: The proposed development of the subject property for an 18 hole golf course does not involve the development or expansion of a community or non-community public water system. This standard does not apply.

5. **Section 7.040 (16) Uses on resource land.**

- a) *The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agricultural or forest land.*

FINDINGS: The subject property located south and east of the proposed golf course is within the Urban Growth boundary for the City of Port Orford. Urban Growth boundaries are exempt from the requirements of Goal 3 agricultural and Goal 4 forest. Conversely, farm and forest uses in that district are not a consideration. West of the proposed golf course is a beach area, followed by the Pacific Ocean, which are also exempt with regard to farm and forest uses.

The land to the North is zoned Exclusive Farm Use and is currently in farm production. That farmland to the north is owned in common with the land upon which the golf course is proposed. The owner currently utilizes the land north of the golf course for hay production and cattle grazing.

The area proposed for the golf course has been described as sitting atop a bench that is elevated approximately 100 feet above the farm land to the north. The farmland, excluding the proposed golf course, contains approximately 650 acres and abuts Elk River to the north, the Pacific Ocean to the west, and the Port Orford Urban Growth Boundary to both the south and east. There is an operational rock quarry located centrally within the bottomland pasture and continuing farmland stretching easterly through the Elk River valley.

Because the proposed golf course will be elevated a considerable distance above the existing farm use, that natural buffer will separate the two uses and eliminate conflicts associated with

direct contact. The activities associated with a golf course such as mowing, watering, vehicular and pedestrian traffic and golfing in general will not inhibit standard farm practices such as irrigating, mowing, baling, fencing and grazing cattle. The natural separation will also assure that the farm use will not conflict with the use of the golf course.

The development site is a leaseholding within the larger Knapp Ranch. The Knapp Ranch is the only adjacent neighbor to the golf course. Based on the Board's review of the Curry County Zoning Map, the Knapp Ranch appears to be the only property that is in the immediate vicinity of the Golf Course that is zoned for farm or forest uses. There is more EFU-zoned land to the north of the Elk River, but it would be insulated from any potential impacts by this geographic separation. Land to the east and south of the Knapp Ranch is primarily committed to rural residential use, with small commercial zones adjacent to Hwy 101. Therefore, the Board finds that, in the current situation, this standard primarily requires analysis of the potential impacts to the farming practices and farming costs on the portion of the Knapp Ranch that will remain in farm use. The Board finds that the most persuasive evidence on the question of potential impacts to farming comes directly from the representative of Knapp Ranches, Inc., in the form of a letter included with the application submittal. The Board notes this letter analyses a range of potential impacts to farming. It observes that the land management activities of growing grass for a golf course and growing hay for cattle involve more similarities than differences. It concludes that even with an increased presence of people on the golf course, the topography of the site creates a natural separation between the golf course and the portion of the ranch where most farming activities occur.

Appellant argued that the use would need to transfer existing water rights from the lower Knapp Ranch in order to irrigate the golf course place of use. Appellant believes this would inevitably force a change to farm use, as a portion of the water right previously in use on the ranch would no longer be available for ranching. The Board finds that argument overly speculative. The Appellant has not submitted any evidence to illustrate its assertion that a partial transfer of the Knapp Ranch's irrigation or mining rights would necessarily result in "a significant change in, or significantly increase the cost" of farming practices.

The Applicants, on the other hand, have indicated that, in reaching a tentative agreement with the Knapp Ranch to transfer a portion of the ranch's water rights, the Applicant will assist the Knapp Ranch in upgrading its existing irrigation system, which will allow the Knapps to continue to irrigate in much the same fashion as they have previously, albeit more economically and with fewer stopages from equipment malfunction. This conclusion is supported by the letter from Knapp Ranches, Inc., which states

"Although the availability of water for irrigation will be somewhat decreased, Elk River Property Development has agreed to assist Knapp Ranches to improve the efficiency of our existing irrigation system. It is well known that technical advances in highly efficient irrigation systems can actually improve pasture production while conserving water. We therefore anticipate that there will be no

negative impacts with regard to our ability to farm or with regard to the cost of farming as a result of the proposed golf course.”

A letter from the Water Resources Department, included along with the application submittal, indicated that a portion of the Knapp Ranch’s irrigation rights could be transferred to the golf course development area. The Applicants have also explained in their letter of December 23, 2014, that the proposed transfer of the Knapp Ranch is not even certain to occur, as it may prove too slow and burdensome to complete the administrative process at the Department of Water Resources. As reflected by the joint letters submitted in this hearing from the Appellant and from an organization called “WaterWatch,” the Board notes that the Appellant in this case is also currently opposing the Knapp Ranch’s application at the Water Resources Department for an extension of time for perfecting existing water rights permits. It appears to the Board that the one factor in this dispute that may actually lead to increased farming costs is the Appellant’s opposition to the irrigation permit extension, and not the proposed golf course.

The Applicants have explained that, if the water rights transfer becomes unworkable, the Applicants will rely instead on new permits for groundwater or for storage of winter surface flows, to create a source of stored water for summer use. The Applicants submitted well logs from recently drilled wells in the immediate vicinity, demonstrating that there is adequate supply and availability of groundwater, should the Applicant resort to that source.

In summary, the Board finds that the similarities between managing a golf course and managing cattle pastures will prevent impacts on the surrounding agricultural lands. Further, the golf course development area and the area where farming activities are concentrated will be separated by adequate physical and geographic separation to prevent impacts to agricultural lands. Finally, if the Applicant transfers a portion of the water allowed under the water rights permit for irrigation use, it will be done so in a way that avoids impacts or increased costs to the farm. The appellants’ argument merely speculates that this would bring a change or an increased cost to farming, without elaborating how.

Further, as there are no commercial forest uses occurring on adjacent lands, there will be no forest related impacts associated with the golf course. Therefore, this standard is satisfied.

b) The proposed use will not significantly increase fire suppression costs or significantly increase the risks to fire suppression personnel.

FINDINGS: The application describes a Scottish style golf course, consisting of land that is contoured and seeded with various grasses that are maintained at various lengths. The property will be easily accessible and will be fully equipped with an underground irrigation system. Because the course will be lightly irrigated through the summer months and will be mowed, there will be no dry grass to fuel a potential fire. There will be a pond with direct access that can be utilized to assist with fire suppression within the subject property or on adjacent lands. There is currently a gorse infestation on portions of the property and gorse is known to be a fire threat.

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Upon completion of the golf course, the gorse will have either been completely eradicated or isolated and controlled in small quantities. The Applicant's *Management Plan for Water, Nutrients and Pesticides* includes gorse management. The conditions of approval include a fire safety protection plan. With consideration given to the fact that the golf course will provide an overall reduction in fuel loads, fuel-free fire breaks, access to water, and potential fire access to adjacent lands, the Board concludes that costs of fire suppression and the risks to fire suppression personnel will be significantly decreased by the proposal, relative to the preexisting condition.

- c) *A written statement be recorded with the deed or written contract with the county or its equivalent shall be obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and related Oregon Administrative Rules for uses authorized in Section 3.042 (8), (12), (13), (14), (15), (16), (21) and Section 3.052 (8), (12), (13), (14), (16), (17), (22).*

FINDINGS: The Applicant has agreed to record the applicable Curry County Waiver of Right to object to standard farm and forest practices.

6. **Section 7.050 (4) Time Limit on a Permit for Conditional Uses**

1. *Authorization of a conditional use, in general, shall become null and void after one year unless substantial construction has taken place or an extension has been granted under Section 7.050 (4). Substantial construction in this case means obtaining all necessary permits required by governmental agencies to commence construction of any structures or to commence the principal activity permitted by the conditional use permit.*

FINDINGS: the Applicant must have initiated substantial construction on the approved use within one year of the date of this approval unless the Property Owner/Applicant applies for and receives an extension of this approval. Therefore, as a condition of approval, the conditional use permit approval is valid for one (1) year unless the Applicant applies for and receives an extension of this approval.

VII. ISSUES RAISED IN OPPOSITION TESTIMONY

The following is a summary of issues based on written and oral comments opposing the application that were addressed during the public hearing process. In addition, the Board notes the majority of comments received were in favor of the proposed development. Further, the Board notes that the primary opponent of the proposal and the appellant of the Planning Commission decision provided voluminous testimony and evidence, some of which had only questionable relevance to the proposal or the relevant approval criteria. This was burdensome for all parties, and is difficult to respond to.

1. Impacts to the Elk River and Unnamed Tributary, particularly in regard to salmon

The Board reviewed testimony that was concerned with possible impacts the proposed golf course could have on the nearby Elk River watershed. The Appellant has included significant documentation on the status of Oregon Coastal Coho salmon, which is a federally protected species. The Board appreciates that Section 9 of the Endangered Species Act prevents any person (including local governments) from engaging in activity that results in "take." Despite the vast amount of biological background material introduced into the record by the Appellant, the Appellant has not attempted to explain why this approval would, in fact result in take, or that it would even present the likely risk of take. The evidence in the record suggests otherwise: the proposal involves a continuation of the primary activity already being conducted on the property: growing grass. The proposal would likely lead to the relocation of "the place of use" for a portion of irrigation water, but it would not lead to increases of the amount of water that is already permitted to be diverted from the "unnamed tributary of the Elk River." The proposal, with its emphasis on gorse management and native grass establishment, would lead to *decreased* erosion, relative to the status quo. The proposal has self-imposed a *Management Plan for Water, Nutrients and Pesticides* that includes restrictions on pesticide application that are certainly more restrictive than are currently allowed on a cattle ranch. In short, with the exception of the Appellant's speculation, the vast majority of the evidence suggests the overall impact of the golf course development would be a net improvement for the wellbeing of the salmon.

Finally, ORS 215.416(8)(a) requires the county to base its decisions on applicable approval standards. Even if the Appellant had gone beyond merely speculating that take would occur, the Appellant has not indicated which approval standard would be relevant in this instance.

2. Impacts to water quality

The Board reviewed testimony that raised concerns with water quality, nutrient loading, and infiltration into groundwater. The Board notes that the Applicant's proposal includes bioswale catch-basins, which are intended to detain stormwater (thereby reducing erosion) and to allow for sediment collection and bio-filtration of pollutants (thereby reducing discharge of pollutants.) As reflected in the conditions of approval, the Applicant has agreed to construct a bioswale on the southwest portion of the site to manage erosion and water quality associated with stormwater that will discharge toward the beach. The Board further notes that the Applicant has committed to follow its *Management Plan for Water, Nutrients and Pesticides*, which calls for a natural landscape, use of native, drought-hardy grasses, and minimal applications of pesticides and fertilizers. The Board further notes that current agricultural practices are likely to

involve the application of fertilizer and other agrichemicals, raising the risk of nutrient-loading and other water quality issues, without the benefit of a comprehensive stormwater systems utilizing bio-swales. For these reasons, the Board finds that the proposed golf course will be compatible with surrounding uses, and will have minimal impacts in regard to water quality.

3. Wildlife impacts

The Board believes that the wildlife concerns, including the specific concerns raised in the letter from Kalmiopsis Audubon Society, dated September 11, 2014, submitted to the Planning Commission, have been addressed, primarily through the voluntary actions of the Applicant. The Applicant agreed to the use of "dark sky" lighting systems, and has agreed to amend its *Management Plan* to include rodent- and bear-, and wind-proof trash containers, and to generally include methods to avoid animal disturbance and fugitive trash. The Applicant's proposed methods to resolve these concerns are consistent with the "Best Management Practices" outlined in the letter from the Oregon Department of Fish and Wildlife, dated November 20, 2013, included with the application submittal. For these reasons, the Board finds that the proposed golf course will be compatible with surrounding uses, and will have minimal impacts on wildlife.

4. Generalized concerns about water availability

Both the Appellant and the Applicant have engaged in extensive discussion about the availability of water, and the potential ramification of the Appellant's opposition to the application for extension of time to complete certification of the Knapp Ranch's water use permit. The Board believes this discussion should be reined in somewhat, and re-focused toward the specific approval criteria that apply to this application. The Board believes the question of water supply is relevant to the discussion of complying with CCZO Section 7.040 (16)(a) and (b), which look at potential impacts of the proposal to farming costs and practices, and the potential impacts to fire suppression costs and risks. The Board has considered the issue of water availability in regard to those standards, above. Finally, it appears to the Board that the chances of the Applicant successfully obtaining a partial transfer of the Knapp Ranch's irrigation rights seem reasonably likely to succeed, and, if that effort fails, the Board has reviewed the well logs the Applicant has provided, and has concluded that there are adequate secondary sources of water available to serve the proposed development.

EXHIBIT B

CONDITIONS OF APPROVAL APPROVED BY THE
CURRY COUNTY BOARD OF COMMISSIONERS.**CONDITIONS OF APPROVAL**

1. *This conditional use permit approval is valid for one (1) year unless the Applicant applies for and receives an extension of this approval.*
2. *The 18-hole golf course development site shall be limited to the EFU zoned portion of the subject property, consisting of approximately 198 acres, and shall exclude the County "Ground Water Monitoring Area" and the slopes below the top of bluff along the Northerly and Westerly portions of the subject property.*
3. *The Board has concluded that "design capacity" is intended to invoke a more flexible concept than "maximum occupancy," and the Applicant has demonstrated that, under normal operation, the buildings will not be used to accommodate more than 100 people at any given time. However, if LUBA or some other appellate review authority determines that the Board has not correctly interpreted this rule, and that "design capacity" should instead be interpreted to be synonymous with "maximum occupancy," the Board hereby adopts an additional, alternative condition of approval, intended to anticipate and resolve this scenario in advance.*

Therefore, if the Board's findings and analysis supporting its interpretation of "design capacity" are not upheld on appeal, the Board hereby approves the conditional use permit under the condition of approval that the golf course's enclosed structures are to have a cumulative maximum occupancy of no more than 100 persons, as determined by uniform building and fire codes.

4. *An erosion control and sediment prevention plan will be developed by a specialist in erosion control in conjunction with greens personnel. Consistent with the Management Plan for Water, Nutrients and Pesticides, the area along the bluff and ephemeral drainages shall be planted in a manner that*

- emphasizes native vegetation and erosion prevention. The area shall not be developed with structures.*
- 5. There shall be no playable golf surface or walkable areas within 25 feet of the bluff edge or the edge of ephemeral drainages. Barriers shall be constructed and warning signs shall be posted along these areas.*
 - 6. Areas of potential instability shall be monitored by a professional geologist prior to and during construction. The geologist shall assist in developing a bluff monitoring procedure and training guide.*
 - 7. Areas of potential instability shall be regularly monitored by a trained golf course attendant weekly and after high surf or high precipitation events. Training shall be in accordance with a bluff monitoring procedure and training guide developed by a professional geologist.*
 - 8. Irrigation along bluff edges shall be closely monitored to prevent excessive absorption and weakening of the hardpan layer along the bluff per the monitoring procedure and training guide.*
 - 9. Geotechnical analysis shall be conducted in conjunction with all structural development on the subject property.*
 - 10. An onsite inspection by a qualified wetland consultant shall be conducted prior to ground disturbing activities and site development to determine if the proposed project may impact wetlands. Where wetlands are present, wetland delineation is needed to determine precise wetland boundaries and setbacks.*
 - 11. The wetland delineation report shall be submitted to Department of State Lands (DSL) for review and approval.*
 - 12. The services of a professional archaeologist shall be engaged to conduct an archaeological survey of the property.*
 - 13. The archaeologist shall consult with the affected tribes (Coquille, Siletz) to decide the appropriate archaeological investigation to determine site boundaries and characterization.*
 - 14. The Applicant shall work in good faith with the affected tribes and the State Historical Preservation Office (SHPO) to develop an archaeological mitigation and monitoring plan.*
 - 15. The principles and practices of operation as set forth in the Management Plan/or Water, Nutrients, and Pesticides shall be followed and include twice-per-year water quality monitoring in spring and fall to assure that goals are actually met. A copy of water quality reports shall be provided to the county.*

16. *A bioswale shall be designed and constructed on the southwestern portion of the site to detain and filter chemicals used to maintain the golf course. A culvert at the outlet of this bioswale shall be used, if necessary to ensure that the discharge does not occur on the most erosion-prone portions of the slope.*
17. *The Management Plan shall be amended to specify principles for careful trash management, which should include the commitment to keep trash stored in rodent- and bear-, and wind- proof containers, and provisions for strict maintenance to avoid the problems of animal disturbance or trash blowing in the wind.*
18. *Any outdoor light shall be shielded to illuminate downward.*
19. *A preliminary fire safety protection plan shall be adopted that, at a minimum, includes the following:*
- a. *Proposed fire prevention measures;*
 - b. *Preliminary location of fire safe area(s) in which golfers and their guests can gather in the event of a fire, and proposed measures to maintain such areas;*
 - c. *A fire evacuation plan; and*
 - d. *Proposed on-site pre-suppression and suppression measures, which must include a provision for trained personnel capable of operating all fire suppression equipment during designated periods of fire danger. This requirement may be waived if the golf course is within a fire district that provides structural fire protection and the fire district indicates in writing that on-site fire suppression is not needed.*
20. *The Management Plan shall be amended to include recommendations from ODFW regarding:*
- a. *Intake pumps meeting fish screening criteria;*
 - b. *Retention of native vegetation wherever possible; and*
 - c. *A golf course design that integrates wildlife habitat and connectivity.*
21. *A gorse management plan shall be developed by an invasive plant specialist that will include control of spread during site development, eradication methods and chemical control, and monitoring for long term effectiveness. Native vegetation and a diverse population of native grasses will be emphasized in area of gorse removal.*

EXHIBIT B

From: Carolyn Johnson <johnsonc@co.curry.or.us>

Subject: return on your call and e-mails - time extension application filed for AD-1411.

Date: October 10, 2017 at 3:54:40 PM PDT

To: Cameron La Follette <cameron@oregoncoastalliance.org>

Cc: Nancy Chester <ChesterN@co.curry.or.us>

Hello Cameron,

I received your October 5 and 9 e-mails and your phone message today with the question: "Did ERPD, Stuntzner and Knapp Ranches LLC apply for, and receive, an extension from Curry County for AD-1411 on or before January 15, 2016?"

There has not been a time extension application filed for AD-1411.

Sincerely,
Carolyn

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR THE COUNTY OF CURRY, OREGON

In the matter of remand proceedings for)
application AD-1411 for conditional use approval)
to develop an 18-hole golf course with accessory)
uses on a portion of property having a zoning)
designation of Exclusive Farm Use (EFU))
and identified on the Curry County Assessor's)
Map No. 32-15-00, Tax Lot 04400 and Map)
No. 32-15-29C, Tax Lot 00300 filed by)
Chris Hood, Stuntzner Engineering)
& Forestry, LLC, on behalf of Elk River)
Property Development LLC.)

ORDER No. 20255

This matter came before the Board of County Commissioners following a decision from the Land Use Board of Appeals ("LUBA") which remanded the county's earlier decision that had approved an application by Elk River Property Development, LLC, seeking approval of a Conditional Use Permit to develop an 18-hole golf course, together with accessory uses, on a property with zoning designation of Exclusive Farm Use (EFU), identified as Curry County Assessor's Map No. 32-15-00; Tax Lot 04400 and Assessor's Map No. 32-15-29C; Tax Lot 00300. The Applicant was represented by Stuntzner Engineering & Forestry, LLC and the Law Office of Bill Kloos, PC.

The application was originally approved by the Board on January 15, 2015, by Order No. 20127. Earlier procedural history for this application can be found in that Order. Following the Board's approval of the application, the Oregon Coast Alliance ("ORCA") appealed the county decision to LUBA on January 21, 2015. ORCA initially raised five assignments of error, but withdrew one of its assignments of error at oral argument before LUBA on April 16, 2015. On May 15, 2015, LUBA issued Order No. 2015-006, which affirmed the county decision on three of the remaining four assignments of error, and remanded for further proceedings on one assignment of error, pertaining to the county's findings of compliance with OAR 660-033-0130(2)(a). As explained below, this administrative rule applies to certain buildings within three miles of an urban growth boundary, and it imposes on these buildings a limitation of the "design capacity" of 100 people. Following LUBA's remand, the applicant submitted supplemental testimony on July 27, 2015. This testimony included architectural renderings, an architect's analysis of how the building designs related to the legal standard of "design capacity," and legal analysis from the applicant's attorney explaining LUBA's construction of the approval standard. ORCA, the original appellant, submitted testimony to dispute the applicant's conclusions. On August 31, 2015, the Board held a public hearing, limited in scope to the remand issue of "design capacity" in OAR 660-033-0130(2)(a). Additional testimony, both written and oral, was

Order on Remand _____ Elk River Property Development LLC

Page 1 of 12

October 06, 2015

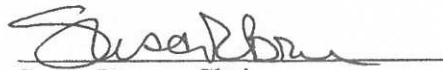
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received at this hearing. The Board left the record open for written materials rebutting new testimony received prior to and during the hearing, until September 4, 2015. On September 9, 2015, the Board orally approved the application, subject to conditions of approval, and continued the matter for adoption of a final written order.

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS HEREBY ORDERS that Application File No. AD-1411 is approved, based on the findings outlined in Exhibit "A" and the conditions outlined in Exhibit "B" that are attached hereto and incorporated by reference.

Dated this 10-6-, 2015.

CURRY COUNTY BOARD OF COMMISSIONERS


Susan Brown, Chair

[abstained]
Thomas Huxley, Vice Chair


David Brock Smith, Commissioner

Approved as to Form:

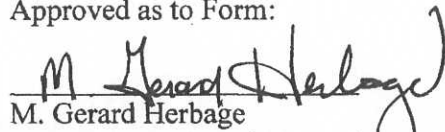

M. Gerard Herbage
Curry County Legal Counsel

EXHIBIT A

**CURRY COUNTY BOARD OF COMMISSIONERS
FINDINGS OF FACT AND CONCLUSIONS ON REMAND
AD-1411: REQUEST FOR A CONDITIONAL USE PERMIT TO DEVELOP 18-HOLE GOLF
COURSE TOGETHER WITH ACCESSORY USES ON A PORTION OF THE PROPERTY
WITH ZONING DESIGNATION OF EXCLUSIVE FARM USE.**

I. INTRODUCTION

This document supports the decision of the Curry County Board of Commissioners in File No. AD-1411, approving the Conditional Use Permit for an 18-hole golf course on EFU-zoned land.

Except for instances where this decision modifies or departs from the findings, analysis and proposed conditions of approval contained in the staff report and the Applicant's submittals, those documents are hereby adopted as supporting findings, and are incorporated into this decision by reference. In order to ensure compliance with applicable approval criteria, the Board utilizes conditions of approval, where appropriate.

II. APPLICANT.

The Applicant is Elk River Property Development, LLC. The subject property is owned by Knapp Ranches, Inc.

III. DESCRIPTION OF SITE AND PROPOSAL

The subject property and larger proposal were summarized in Board Order 20127. In this remand proceeding, the scope is limited to the "design capacity" of the proposed buildings, as explained below. As described by the applicant's materials, the proposal includes four buildings: a clubhouse that is slightly smaller than 10,000 square feet, a maintenance/shop building, a refreshment kiosk located mid-course, and a reception office at the parking lot near the entrance.

IV. COUNTY PROCEDURES

The procedures followed in the initial processing of this application are summarized in Board Order 20127. Following LUBA's remand of that decision in LUBA order 2015-006, the applicant and other parties submitted written testimony to the county. On August 31, 2015, the Curry County Board of Commissioners held an evidentiary hearing, during which additional testimony was received. Following the hearing, the Board held the record open, for rebuttal purposes only, until September 4, 2015. On September 9, 2015, the Board orally approved the application, subject to conditions of approval, and continued the matter for adoption of a final written order.

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V. APPLICABLE STANDARDS AND CRITERIA

The sole standard applicable to this remand proceeding is OAR 660-033-0130(2)(a), as it has been construed in LUBA Order No. 2015-006.

VI. ANALYSIS OF APPLICABLE STANDARDS AND CRITERIA AND FINDINGS OF COMPLIANCE

OAR 660-033-0130 - Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

(2)(a) No enclosed structure with a “design capacity” greater than 100 people, or group of structures with a total “design capacity” of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

FINDINGS:

The applicant has described its proposed buildings as including a clubhouse, a shop, a small concession kiosk, and a reception stand. The clubhouse, which was the only enclosed structure intended to be occupied by golfers, was described as a two-story, 10,000-square-foot building that would include a restaurant, lounge, pro shop, locker rooms, administrative offices and storage for golf carts, etc.

Initially, the applicant explained that the “design capacity” standard should be viewed in context of the larger use, and the playable capacity of the golf course would function to restrict the number of people who would use the building. At that point, the Board agreed that the “bottleneck” created by the playable capacity of the golf course was sufficient to demonstrate compliance with this standard. The appellant, on the other hand, argued that “design capacity” required the applicant to provide designs of the proposed buildings and an accounting of the theoretical maximum number of people who could fit inside all of the buildings. On appeal, LUBA did not agree with either of these interpretations.

LUBA reviewed the legislative history surrounding the original drafting of the “design capacity” rule. Among other points, this legislative history led LUBA to conclude that the applicant needed to make a specific showing that the buildings would not be designed to accommodate more than 100 people, and the applicant’s initial description of the number of people anticipated under normal circumstances was not sufficient. The key elements of LUBA’s ruling can be summarized as:

- Design capacity and maximum occupancy are separate concepts. LUBA Op. at pg. 16, line 15; pg. 20, line 1.
- A building that has a maximum occupancy calculated according to building and fire codes that exceeds 100 people can still comply with the “design capacity” standard, so long as the “design capacity” does not exceed 100 people. LUBA Op. at pg. 20, line 1.
- An applicant under this standard will likely have to provide architectural drawings or other testimony from a design professional demonstrating that the specific buildings proposed will actually be designed to accommodate no more than 100 people. LUBA Op. at pg. 20, line 7.
- Portions of the buildings that are not designed primarily for human occupancy or assembly do not need to be included in “design capacity” calculations. LUBA Op. at pg. 21, line 18.
- A condition of approval may be necessary to ensure that no more than 100 people occupy a building or collection of buildings in situations where the maximum occupancy may be greater than 100 people. LUBA Op. at pg. 19, line 8.

Following LUBA’s ruling on this matter, the applicant hired a commercial architect who prepared preliminary drawings of the proposed clubhouse, and who provided a narrative explanation of the methodology behind the calculations of design capacity. The drawings and narrative show the clubhouse has a “design capacity” of 92 people. The concessions kiosk and reception stand have a “design capacity” of a single staff person per building. The maintenance building is described as having a “design capacity” of two staff people. The applicant did not provide a drawing of the maintenance building, but the applicant has been candid that this building will be mostly devoted to an open floor plan that could potentially fit a greater number of people. Therefore, the applicant has proposed a condition of approval that would limit the number of people allowed inside this building, as well as the other buildings. This condition of approval is discussed in more detail below.

The applicant’s testimony is consistent with LUBA’s instructions that only portions of the buildings designed primarily for human occupancy or assembly are to be included in the “design capacity” calculations. As explained in the applicant’s attorney’s testimony from July 27, 2015, the areas of the clubhouse that have been included in the “design capacity” calculation consist of the dining area, the lounge/seating area, the bar, the kitchen, the golf shop, the business office, the staff office, the reception counter, and locker rooms. The applicant has not included areas in this calculation if they are not primarily designed for human occupancy or assembly, including the hallways, storage areas, and restrooms. Collectively, the testimony from the applicant’s architect and attorney constitute substantial evidence showing that the buildings have been designed to accommodate less than 100 people. The appellant submitted conflicting evidence on this point, which the Board finds to be unpersuasive and primarily focused on the inapplicable standard of “maximum occupancy.” As the LUBA decision made clear, “maximum occupancy” is not the appropriate method for determining “design capacity.”

The applicant's architect used the amount of planned seating as the primary metric for counting "design capacity" for most of the areas designed for human occupancy. In its submittal of July 27, 2015, the applicant explained that the spacious layout of the clubhouse, including the layout of the seating in the restaurant, lounge and bar area, is essential to providing the level of comfort and ambiance that are to be central characteristics of this facility. The applicant has been frank in its acknowledgements that these spaces could potentially be populated by more furniture and smaller furniture than what has been depicted in the drawings. The Board is aware that furniture could be moved, more seats could be provided, and additional guests could be provided with "standing room only," such that the actual number of people that might theoretically fit in these spaces could be higher than these spaces have initially been designed to accommodate. For this reason, the applicant has proposed a condition of approval that will limit the total number of people allowed inside the four proposed buildings to be no greater than 100 people at any time. Because the approval standard is so subjective and could be circumvented simply by rearranging furniture, a condition of approval that limits the number of people allowed inside the buildings is the best and most practical way to provide certainty that the buildings will actually be used in the manner originally proposed.

The appellant's letter of August 27, 2015 objects to the feasibility of the proposed condition of approval that would limit the cumulative occupancy of the buildings to 100 people. The appellant merely speculates that the condition is unfeasible, without explaining why it believes that to be the case. The Board agrees with the applicant's response on this subject from its letter of August 31, 2015, which explains that conditions of approval limiting the number of people allowed in buildings (or in specific rooms in buildings) are commonly used, are routinely enforced, and are entirely feasible.

The appellant's letter of September 4, 2015 reiterates the opinion that it would be impossible for the applicant to keep track of the number of guests in the building. The applicant has explained that specific employees would be tasked with maintaining head-counts for guests within designated portions of the building. The applicant also indicated there were technological solutions for maintaining these head counts. Regardless of the method the applicant employs to keep track of the number of building occupants, the Board finds this condition operates in a manner that is essentially no different from a "maximum occupancy" rating. Compliance with this condition is entirely feasible.

The Board also notes that the legislative history LUBA relied on in construing this standard addresses this issue and establishes that a condition of approval of this sort is an appropriate mechanism for ensuring compliance with the standard. LUBA characterized this legislative history as follows:

"The advisory committee also discussed circumstances where maximum occupancy under fire and safety codes may differ from 'design capacity,' and noted that a condition of approval may be necessary to limit occupancy to 'design capacity' in circumstances where actual or permitted occupancy may be greater

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than 100 persons.”

LUBA op. at pg. 19 line 6-10.

The Board notes that the applicant’s letter of July 27, 2015 suggested the 100 person limit could be apportioned among the buildings, with specific fractions of the total design capacity assigned to each building. The Board views this additional requirement as unnecessary and overly complicated. There may be times when the applicant needs to have more than two employees inside the maintenance shop, such as during meetings of grounds-keeping staff. Doing so would be acceptable, so long as it did not cause the cumulative number of occupants in all buildings at that time to rise above 100. The Board is ultimately confident that the applicant will be capable of maintaining an accurate cumulative “head count” of the number of people inside the buildings, and the Board declines to impose this additional restriction on how those people are to be distributed amongst the buildings.

The Board further notes that the appellant’s submittals have taken contradictory approaches to the relationship between “design capacity” and “maximum occupancy.” In its letter of August 27, 2015, the appellant objected to the fact that the applicant and the staff report had previously characterized the appellant’s position as arguing that “design capacity” is synonymous with “maximum occupancy.” However, in its letter of August 31, 2015, the appellant argued that “design capacity” is synonymous with “maximum occupancy.”

To support this argument, the appellant included testimony from a design consultant who measured the “maximum occupancy” of the proposed clubhouse, according to the occupant load factors found in the Oregon Structural and Specialty Code. However, the Board cannot consider the appellant’s argument that “design capacity” is to be measured by the building code’s occupant load factors, because LUBA has already ruled against the appellant on this issue. LUBA held that “design capacity” and “maximum occupancy” are similar, but distinct concepts. LUBA Op. at pg. 20, line 1-2. LUBA further explained:

“In sum, we agree with the county and intervenor that ‘design capacity’ as that term is used in OAR 660-033-0130(2)(a) is not equivalent to ‘maximum occupancy’ as that term is used in building and fire codes. To the extent petitioner argues otherwise under this assignment of error, we reject those arguments.”

LUBA Op. at Pg. 22, beginning at line 25.

Therefore, as stated in the Applicant’s letter of September 4, 2015, the appellant is precluded by the “law of the case” from revisiting arguments that LUBA has already decided.

The Board also notes that in the appellant’s renewed efforts to argue that “design capacity” should be synonymous with “maximum occupancy,” the appellant altered a quotation of the relevant legislative history in its letter of August 31, 2015. As explained in the applicant’s letter of September 4, 2015, this alteration to the quoted text had the effect of misrepresenting what the

quotation meant in its original context. However, despite that misrepresentation, the Board finds this testimony (including the supporting letter from the appellant's design consultant) to be entirely focused on "maximum occupancy," and "occupant load factors" derived from the building code. As explained above, those concepts are not the applicable standards in this instance. Therefore, this testimony is not relevant to applicable approval standard.

As noted above, LUBA instructed that only spaces designed primarily for human occupancy or assembly were to be included in the "design capacity" calculations. The applicant views storage areas, hallways, and bathrooms as areas that are not primarily designed for human occupancy or assembly.

The Board agrees with the applicant that storage areas are clearly a type of interior space designed for purposes other than human occupancy or assembly. As noted repeatedly in the applicant's materials, the remote location and the seasonal nature of the use require ample storage for items such as golf carts, patio furniture, food, wine, linens and other supplies.

The Board also agrees with the applicant that bathrooms play a supporting, ancillary role to the primary occupied areas (such as dining rooms and lounges) and they are not primarily designed for human occupancy or assembly. For example, the Board agrees with the applicant that the capacity of the restaurant cannot be increased by shuffling diners through the bathrooms.

The Board further agrees with the applicant that hallways are "conduits for pedestrian transit" from one part of the building to the other, and they do not increase the total number of people the building is designed to accommodate. The Board agrees with the applicant's observation in its September 4, 2015 letter that the portions of the hallways labeled "view areas" are simply hallways that happen to be arranged in a way that maximizes the views of the coast and mountains, to enhance the experience for people walking down the hallways, and that nothing in the floorplan indicates these areas are designed for people to linger or assemble there.

The Board disagrees with the appellant's testimony of August 27, 2015 that argues hallways and bathrooms are primarily intended for human occupancy and assembly and must be included in the "design capacity" calculations. The Board further disagrees with the testimony of the appellant's attorney and the appellant's design consultant from September 4, 2015, which takes issue with the proportion of the clubhouse dedicated to hallways and corridors. The appellant objects to the lack of a condition of approval that would prevent the placement of furniture in the hallways. Because these spaces will be operating under the overarching condition of approval that limits the cumulative occupancy of all of the buildings to no more than 100 people, there is no basis to require such a specific condition. Because the architect's drawings do not show the hallways playing any role in providing occupancy or assembly, there is no basis to conclude that these spaces must be individually accounted for in the "design capacity" calculations.

The Board is reminded of the testimony provided by the applicant's architect during the public hearing, where the design of a hypothetical school building was discussed. The architect

explained that if a school building had an enrollment of 100 students, it would need a design capacity of 100. There would likely be four classrooms with a design capacity of twenty five students for each room. However, the school would also need a cafeteria/multi-purpose room and it would need to accommodate all 100 students for lunch. While the addition of a cafeteria might have the practical result of doubling the "maximum occupancy" of the building, it is clear that a school with an enrollment of 100 students is *designed for* 100 students when it has both adequate classroom space for those students, and adequate cafeteria space. This example underscores the need to consider the underlying purpose for which the building is designed as part of calculating "design capacity." This example as illustrates the flawed reasoning in conflating "design capacity" with "maximum occupancy."

On the other hand, the Board agrees with the applicant that the locker rooms do need to be included in the "design capacity" calculation, as they may conceivably be in use by golfers at the same time the restaurant and bar are operating at "full house." The Board agrees with the explanations provided by the applicant's architect and its attorney that each of the locker rooms is designed to accommodate a standard "foursome" of golfers. The small benches depicted in each locker room could not plausibly accommodate more than four golfers at a time. The appellant argued in its letter of August 27, 2015 that the number of lockers depicted in each room should be viewed as the indicator of how many people each room is designed to accommodate. As noted by the applicant in its testimony of August 31, 2015, the appellant's argument is premised on the idea that every locker will be in use simultaneously, with dozens of golfers changing clothes at once. It should be obvious from both the drawings and the larger context of the proposed use that small groups of golfers will transit through the locker rooms, and that these rooms have been designed accordingly.

The Board understands LUBA's instructions on this point preclude the Board from looking at the applicant's projected number of people expected to use the spaces under normal operations, and to instead look at how many people the spaces are actually designed to accommodate. That is, however, a different exercise than what the appellant has proposed, which asks how many people could theoretically fit into the locker room, standing shoulder-to-shoulder. The appellant's argument that the room has a "design capacity" that exceeds the seating on the benches is no different than if appellant were arguing that the "design capacity" for the restaurant space should be measured as if that area were entirely occupied by people in a "standing room only" situation. While that is theoretically a possibility, it misses the point of *the purpose for which this space has been designed*. Based on the small benches and the proposed purpose of the locker rooms, the Board finds that each locker room is designed to accommodate no more than four people.

The Board notes that the LUBA opinion left open the question as to whether employees are to be accounted for in the "design capacity" calculation. The applicant has elected to include employees in the calculation. The Board views this as a conservative and sensible approach that is consistent with the language of the standard that speaks only of "people," and that does not distinguish between staff and guests.

The appellant's letter of August 27, 2015 also objects to the possibility that the applicant may need to resort to temporary non-enclosed structures, such as tents, if the applicant were to host an event with more than 100 people. The appellant's argument is based on the premise that the applicant will inevitably enclose these tents, despite the fact that the applicant's discussion of temporary structures specifically provided they would be non-enclosed. Nonetheless, the Board will require a condition that any temporary structures the applicant may deploy must remain non-enclosed.

Additionally, in its letter of August 27, 2015, the appellant objects to the possibility that the applicant might provide a shuttle service for its guests. As a threshold matter, the Board finds this argument to be outside the scope of the remand, which is limited solely to establishing the "design capacity" of the proposed buildings. Further, as noted by the applicant's testimony of August 31, 2015, the shuttle service had been mentioned in a previous submittal. Although there was only passing mention of this service in the original application, it was sufficient to give appellant reasonable notice of this aspect of the proposed use, and the appellant has failed to preserve any objection to this issue.

The appellant has also objected in its letter of August 27, 2015 to the fact that the applicant's original description of the clubhouse proposed an office for a golf pro, but the drawings submitted in these remand proceedings do not provide that office. The appellant argues this amounts to a modified application that must be filed anew. The Board finds this minor revision to the plans to be inconsequential, and it views both the clubhouse and the larger proposed use of the golf course to be substantially unchanged from what was originally proposed, despite the fact that the applicant is now considering that it might not hire a golf pro after all, or, if it does, that the golf pro will have to endure without her own office.

The appellant raised additional arguments in its testimony of August 27, 2015 that go beyond the scope of the applicable standards in this remand proceeding. These arguments, concerning the applicant's inquiries into the possible use of reclaimed wastewater, and the applicant's discussions with the county over a separate piece of property for a different potential development proposal, are unrelated to the "design capacity" of the proposed buildings for the golf course.

The Board notes that the applicant has been candid that the drawings it provided are preliminary, and that it likely will need to retain the flexibility to make minor modifications to these plans before they can be finalized for building permit approval. In the applicant's submittal of July 27, 2015, it explained:

"Given that the building designs may need to be modified slightly in response to site-specific engineering reports, and given that aesthetic considerations may still need to be 'fine tuned,' the applicant would accept a condition that requires the interior square footage of the clubhouse to be no greater than the square footage depicted in this conceptual design."

That condition would limit the overall size of the clubhouse to no more than 10,000 square feet.

Continuing on this subject, the applicant orally proposed an additional condition of approval during the hearing of September 4, 2015. The new condition was in recognition that only the portion of the clubhouse primarily intended for human occupancy and assembly is being analyzed under the "design capacity" standard, and that area must be fixed in size in order to ensure continued compliance with this standard. The applicant's new condition provided that the interior area in the clubhouse that is designed primarily for human occupancy or assembly shall be no larger than what is illustrated and listed by the architect in the conceptual drawings and the "design capacity" table that were submitted as part of this proceeding. Specifically, this area includes the dining room, the lounge/sitting areas, the kitchen, the bar seating area, the golf shop, the office areas, the reception area, and the lower floor locker rooms. Collectively, these areas comprise less than half, or approximately 4,500 square feet of the total building area. The applicant's proposed condition would require that final plans submitted for building permit review must clearly identify these areas in a manner that corresponds with the architectural drawings submitted as part of the Conditional Use Permit remand proceedings.

With this additional condition of approval, minor revisions may be made to the design, and the spaces designed primarily for human occupancy or assembly (as listed above) may be rearranged or reconfigured, but the amount of building space devoted to these areas will be no larger than the areas illustrated in the conceptual design drawings and listed in the "design capacity" table.

The Board recognizes this standard requires the applicant to demonstrate a subjective "design capacity" before the building has been completed and assigned a maximum occupancy by the fire marshal or other building official. This condition of approval will provide the applicant with the flexibility needed to finalize its building design without falling out of compliance with the "design capacity" standard.

53

EXHIBIT B

CONDITIONS OF APPROVAL APPROVED BY THE
CURRY COUNTY BOARD OF COMMISSIONERS.

**CONDITIONS OF APPROVAL
RELATING TO "DESIGN CAPACITY"**

The original conditions of approval that the Board adopted in Order 20127 remain in effect for the approved application, with the exception of Condition No. 3, which pertained to the subject of "design capacity." Condition #3 is replaced and superceded by the following conditions of approval:

- 22. Cumulatively, the four proposed buildings (clubhouse, maintenance shop, refreshment kiosk, and reception stand) shall have no more than 100 people allowed inside at one time, regardless of post-construction "occupant loads" that may be assigned by the fire marshal or other building official.*
- 23. The clubhouse shall include no more than 10,000 square feet of enclosed interior space.*
- 24. Collectively, the interior spaces in the clubhouse that are designed primarily for human occupancy or assembly shall be no larger than what has been illustrated and listed by the applicant's architect in the drawings and the "design capacity" table submitted during Conditional Use Permit remand proceedings. Specifically, these areas include the dining room, the lounge/sitting areas, the kitchen, the bar seating area, the golf shop, the office areas, the reception area, and the lower floor locker rooms. These areas comprise approximately 4,500 square feet of the total building area. Final plans submitted for building permit review must clearly identify these areas in a manner that corresponds with the architectural drawings submitted as part of the Conditional Use Permit remand proceedings.*
- 25. If the applicant uses any additional, temporary structures (such as tents) for a golf tournament or any other reason, those structures are to remain non-enclosed.*
- 26. All non-enclosed areas depicted in the applicant's drawings, such as patios, are required to remain non-enclosed.*

ATTACHMENT 3
January 15, 2018 Wildland properties

Wildland Properties

929 N. Oregon St, Port Orford, OR 97465

P.O. Box 1287 Port Orford, OR 97465

wildlandproperties@live.com

Phone: (541) 366-2117

Fax: (541) 366-2069

January 15, 2018

CURRY COUNTY BOARD OF COMMISSIONERS

94235 Moore Street

Gold Beach, OR 97444

RE: Curry County Board of Commissioners Special Meeting for Board Review Wednesday January 17, 2018 at 2:30 PM / Letter in Support of Pacific Gales Golf Course Project

Dear Commissioners,

This letter is to inform the Commissioners that we enthusiastically support the Pacific Gales Golf Course project. Pacific Gales Golf Course will enhance development and economic growth for Port Orford and Curry County. The many positive aspects of this project include more local jobs, it promotes visitors to the Southern Oregon Coast, enhances tax revenue and importantly, addresses in an environmentally responsible way the handling of the Port Orford's effluent water.

We endorse and agree with the Curry County Counsel and Staff recommendation for approval of Land Use Application AD-1705.

As Curry County landowners, business owners and private citizens we would encourage the County Commissioners to consider all the aspects of this issue and render a positive decision so that plans may proceed in the development of the Pacific Gales Golf Course.



Name



Address

Name

Address

RECEIVED

JAN 22 2018

**Board of Commissioners
Curry County, Oregon**

ATTACHMENT 4

January 18, 2018 letter from ORCA to the Board

Sean T. Malone

Attorney at Law

259 E. Fifth Ave.,
Suite 200-G
Eugene, OR 97401

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

January 31, 2018

Via Email

Curry County Board of Commissioners
94235 Moore St., Ste 122
Gold Beach OR 97444

Tom Huxley: huxleyt@co.curry.or.us
Sue Gold: gold@co.curry.or.us
Court Boice: boicec@co.curry.or.us
John Hutt: huttj@co.curry.or.us
Administration: [bc_office@co.curry.or.us](mailto:boc_office@co.curry.or.us)
Carolyn Johnson: johnsonc@co.curry.or.us

Re: ORCA Post-Hearing Testimony for Application AD-1705, a request to develop a pipeline over multiple properties to deliver effluent and a reservoir to irrigate a proposed golf course.

Dear Commissioners,

Please accept this testimony on behalf of Oregon Coast Alliance (ORCA) on the above-referenced application. As demonstrated below and in prior testimony, the application must be denied.

In addition to other testimony submitted in the course of this appeal, including all testimony and exhibits submitted before the Planning Commission, which ORCA incorporates by reference here, ORCA sets forth other independent bases for denying the appeal and affirming the Planning Commission's decision.

State law requires that "[w]hen a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial

process water or biosolids under a license permit or approval by the Department of Environmental Quality, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered and, if the alternatives are not used, explain in writing the reasons for not using the alternatives.” ORS 215.426. The applicant has not demonstrated why a variety of routes were not considered. For example, the applicant has not explained why the route did not fully utilize highway 101. Such a route would be most efficient and cluster development for the pipeline in an area that is already largely developed. Instead of heading directly to highway 101 from 12th street, the pipeline works its way along Idaho St. Working within the state right-of-way is reasonable, as it would avoid more sensitive districts or zones.

In addition, the applicant has not explained why a route along Arizona St. was not considered. Indeed, such a route would appear to require the shortest distance. Moreover, the applicant has not demonstrated that the particular routes chosen is the least impactful route.

The final order approving the golf course alleged that a portion of the subject property is encumbered by the groundwater area potentially affected by the Port Orford Landfill Site and that no development is proposed for that area. The current application calls into question whether that area will be developed with facilities for reclaimed water, including the proposed reservoir.

The above cited provision (ORS 215.246) also contemplates alternatives to the use of the reclaimed water. The applicant has not explained why it will no longer use water provided by wells onsite, as was maintained in the now-expired application for the golf course. The applicant has not demonstrated why alternative means, including a transfer of water from Knapp Ranch and use of groundwater are no longer feasible alternatives to irrigating the now-expired golf course.

The final order approving the golf course also alleges that it would irrigate consistent with a transfer of some of the Knapp Ranch’s water rights. *See* Ex. A¹ at 20 (“The Applicants ... have indicated that, in reaching a tentative agreement with the Knapp Ranch to transfer a portion of the ranch’s water rights, ...”); *id.* at 21 (“A letter from the Water Resources Department, included along with the application submittal indicated that a portion of the Knapp Ranch’s irrigation rights could be transferred to the golf course development area.”); *id.* at 21 (“The Applicants have explained that, if the water rights transfer becomes unworkable, the Applicants will rely instead on new

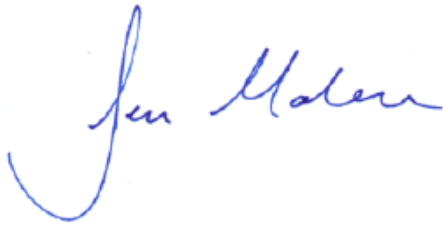
¹ Exhibit A was submitted during prior testimony and is incorporated herein.

permits for groundwater or for storage of winter surface flows, to create a source of stored water for summer use. The applicants submitted well logs from recently drilled wells in the immediate vicinity, demonstrating that there is adequate supply and availability of groundwater, should the Applicant resort to that source.”). Obviously, none of the theories for water upon which the applicant was approved are relevant anymore. The prior application – now expired – must be reviewed again in order to account for the ever-changing proposal.

Finally, by its plain language, the above provision also requires that a DEQ approval be in place before the local government approval occurs. For example, ORS 215.246 requires the local government decision “relating to the land application of reclaimed water ... *under a license, permit, or approval* by the Department of Environmental Quality.” ORS 215.246. The applicant does not have a license, permit or approval by the DEQ at this time. Nor can they receive one, as the golf course permit from Curry County is expired. The application must first obtain approval by the DEQ, because that is the process contemplated by statute.

For the foregoing reasons, ORCA respectfully requests that the City affirm the Planning Commission’s decision and deny the appeal.

Sincerely,



Sean T. Malone
Attorney for ORCA

Cc:
Client

ATTACHMENT 5

Received by e-mail February 7, 2018, January 19, 2018 letter from Bill Kloos (applicant)

ATTACHMENT 6

February 7, 2018 letter from Jim Haley (applicant)

Elk River Property Development

2/7/2018

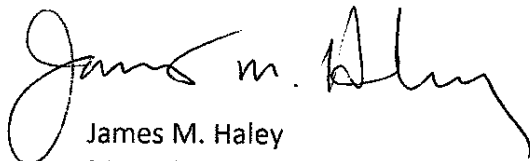
Curry county Board of Commissioners
94235 Moore St. Ste 122
Gold Beach, Or 97444

Re: Elk River Property Development llc. Post-Hearing Testimony for Application AD-1705, a request to develop a pipeline over multiple properties to deliver effluent to irrigate Pacific Gales golf course.

Shawn Malone and the Oregon Coast Alliance in testimony submitted 31 January 2018, He states; "The applicant has not explained why the route did not fully utilize highway 101." We decided to avoid Highway 101 as much as possible, as this is the main street in the City and hence the most traffic. Mr. Malone also questions why we did not route the pipe up Arizona Street. The answer is very simple. The bridge crossing a portion of Garrison Lake is failing and it is in a zone district that would require a division of state land permits.

This testimony is submitted as evidence that Elk River Property Development llc. Has addressed alternatives submitted, and have for the reasons listed above chosen not to use them.

Sincerely,



James M. Haley
Managing Partner
Elk River Property Development llc

John Huttli

From: Carolyn Johnson
Sent: Wednesday, February 07, 2018 5:09 PM
To: John Huttli
Subject: FW: Additional Testimony from ORCA re AD-1705 Appeal
Attachments: Application for CUP Extension 1.19.2018.pdf

For us to discuss tomorrow.

From: Bill Kloos [<mailto:billkloos@landuseoregon.com>]
Sent: Wednesday, February 07, 2018 4:51 PM
To: Carolyn Johnson; Jim Haley (jmhaley@aol.com)
Cc: Nick Klingensmith; Bill Kloos; Chris Hood (hoodc@stuntzner.com)
Subject: RE: Additional Testimony from ORCA re AD-1705 Appeal

Carolyn –

The Malone testimony you forwarded makes, several times, a generalized assertion that the Pacific Gales land use approval has expired. It is not clear to me whether this allegation is a summary restatement of what ORCA has argued previously, or whether this is a new theory. We already have in the record evidence that the land use approval has vested with the start of construction, and that the applicant intends, of course, to continue and complete construction.

However, as a precautionary response to ORCA's expired permit theory, I am including a copy of our application for an extension of the existing land use approval, which was filed with the county on January 19..

Thank you.

Bill Kloos
Law Office of Bill Kloos PC
375 W. 4th Ave., Suite 204
Eugene, OR 97401
Phone: 541-343-8596
Email: BillKloos@LandUseOregon.com
Web: www.LandUseOregon.com

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From: Carolyn Johnson [<mailto:johnsonc@co.curry.or.us>]
Sent: Thursday, February 01, 2018 9:03 AM
To: Jim Haley (jmhaley@aol.com)
Cc: Bill Kloos; Nick Klingensmith
Subject: FW: Additional Testimony from ORCA re AD-1705 Appeal

-----Original Message-----

From: Cameron La Follette [<mailto:cameron@oregoncoastalliance.org>]

Sent: Wednesday, January 31, 2018 10:21 AM

To: Thomas Huxley; Sue Gold; Court Boice; John Huttli; Carolyn Johnson; BOC Office

Cc: Sean Malone

Subject: Additional Testimony from ORCA re AD-1705 Appeal

Dear Members of the Board of Commissioners, Ms. Johnson and Mr. Huttli,

Attached please find additional testimony from Oregon Coast Alliance in the matter of the appeal of AD-1705, a request to develop a pipeline to deliver effluent and create a reservoir to irrigate a proposed golf course. Please let me know that this was received, the attachment opened and entered into the record.

Thank you,

Cameron

-

Cameron La Follette

Executive Director

Oregon Coast Alliance

P.O. Box 857

Astoria, OR 97103

(503) 391-0210

cameron@oregoncoastalliance.org

www.oregoncoastalliance.org

LAW OFFICE OF BILL KLOOS, PC

OREGON LAND USE LAW

375 W. 4TH AVE, SUITE 204
EUGENE, OR 97401
TEL: (541) 912-5280
FAX: (541) 343-8702
E-MAIL: BILLKLOOS@LANDUSEOREGON.COM

January 19, 2018

Carolyn Johnson
Curry County Community Development Director
94235 Moore Street, Suite 113
Gold Beach, OR 97444

Re: Conditional Use Approval; AD-1411
Application for Administrative one-year extension

Dear Carolyn:

Please accept this letter as an application for a one-year extension of the county approval above. This filing is made on behalf of Elk River Property Development, LLC and Jim Haley.

If there is a city application form and fee that apply to this request, please provide that information, and I will get that to you promptly.

This application requests “administrative” approval of a one-year extension, as authorized by OAR 660-033-0140(2) and CCZO 7050.5. Copies of each of these regulations are attached to this letter. Each of these sections applies to discretionary permits that are issued for uses on agricultural land, which describes the approval at issue here.

This is a precautionary filing only. The construction of the golf course approved under AD-1411 has been initiated in the meaning of the code and the rule. However, the full development of this land use has been a contentious matter, with litigation having been initiated by opponents at the city, county, and state levels. Therefore, the applicant is requesting the one-year extension provided for in county and state law as a safety net. The intention is to secure an extension to deflect future challenges that an extension should have been but was not secured.

This application is timely. The original approval by the County Board was dated January 15, 2015. That approval was appealed to LUBA and remanded. The County Board approved the use a second time on October 6, 2015. That approval was appealed to LUBA, which affirmed the approval in its opinion dated January 27, 2016. This application is filed within two years of the conclusion of the litigation over the final County Board approval.

Under both the state rule and the county code, this extension request is to be treated as an “administrative” action and not as a “land use decision” that is subject to appeal. OAR 660-033-0140(3) provides: “Approval of an extension granted under this rule is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.” Similarly, the zoning code explains similarly at CCZC 7050.7.: “Approval of an extension granted under this section is not a land use decision and is not subject to appeal as a land use decision.”

It is important to note that the applicant is entitled to an administrative decision that is not made as a land use decision, is not noticed as a land use decision, and is not appealable as a land use decision. The state rule provides for an “administrative” decision, and it does not require any notice of the application or the decision. The zoning code provision also treats the decision as administrative. I do not believe that the code requires notice of the application or the decision, based on my review of the code language.

The applicant asserts the following facts as relevant to the decision under the state rule and the county code.

Fully developing the approved use requires about 27 million dollars of private investment. Securing that funding, and ensuring that it can be released for expenditure, requires that regulatory entitlements are in hand and are secure -- that is, beyond legal challenge.

Development of the approved use has been initiated on site. The details have been documented in the context of the pending litigation over the developer’s application to apply reclaimed water to the golf course site.

Opponents of the golf course appealed the county’s conditional use permit twice to the Land Use Board of Appeals, with the second appeal being resolved in favor of the approval on January 27, 2016.

Opponents of the golf course have challenged issuance of water right related to development of the use; that appeal is pending at the state level.

Opponents of the golf course have challenged city, county and state approval of the developer’s request to apply reclaimed wastewater to the golf course site. Those appeals also are in process.

Opponents of this development also have used direct communications and social media in a focused attempt to interfere with the permit holder’s business relationships with prospective investors, by spreading false information about the status of regulatory permitting.

Despite all of the above, the holder of the conditional use permit has aggressively sought and secured required regulatory approvals needed to fully develop the use, and it is defending issued permits in appeals that have been filed at the city, county and state levels. Resolution of appeals is a basic requirement of securing the funding needed to complete this development.

The substantive standards in the state rule and the zoning code for issuing an extension are similar but not identical.

With respect to the standards in the zoning code, the Director should determine: The approved development has been initiated in the meaning of CCZC 7050.4. Therefore, an extension is not needed. If, for any reason, the development were not considered to be initiated in the meaning of the code, the applicant is entitled to an extension, which has been timely requested. The litigation initiated by opponents challenging city, county and state entitlements, which impairs the ability to secure development funding, is a reasonable explanation for why the applicant is not responsible for the failure to initiate development.

With respect to the standards in the state rule, the Director should determine that: The approved development has been initiated in the meaning of CCZC 7050.4. Therefore, an extension is not needed to initiate development. If, for any reason, the development were not considered to be initiated in the meaning of the code, the applicant is entitled to an extension, which has been timely requested, to initiate and continue development. The litigation initiated by opponents challenging city, county and state entitlements, which impairs the ability to secure development funding, is a reasonable explanation for why the applicant is not responsible for the delay in initiating and continuing development.

Thank you for your consideration.

Sincerely,

Bill Kloos

Bill Kloos

cc: Jim Haley, Elk River Property Development LLC



CURRY COUNTY BOARD OF COMMISSIONERS

SPECIAL MEETING

Wednesday, January 17, 2018 at 2:30PM Commissioners'

Hearing Room, Courthouse Annex

94235 Moore Street, Gold Beach, Oregon

www.co.curry.or.us

AGENDA

Items may be taken out of sequence to accommodate staff availability and the public.

For public comment, a completed speaker's slip must be submitted.

**** Please note – The Special Meeting begins at 2:30PM ****

1. CALL TO ORDER

2. de novo PUBLIC HEARING

A de novo public hearing for Board review, public comment and Board action on an appeal of a Planning Commission decision to deny an Elk River Property Development, (land use application AD-1705) for the analysis of alternative routes for a pipeline and ancillary facilities to deliver recycled wastewater located for irrigation of a golf course.

- A. Identify and follow the hearing procedure specified in Zoning Ordinance 2.140(2a-d)
- B. Receive the staff report
- C. Accept testimony from parties in favor of the application
- D. Accept testimony from other parties
- E. Allow the parties to offer rebuttal evidence and testimony
- F. If requested by the Board, continue the hearing to a date certain no later than January 31, 2018.
- G. Conclude the hearing; the Board should determine whether to leave the record open.
- H. Deliberate among the Board of Commissioners and, if desired, direct questions to County staff.
- I. Discuss findings and direct staff to bring back a final order no later than January 31, 2018.

3. ADJOURN

Curry County does not discriminate against individuals with disabilities and all public meetings are held in accessible locations. Auxiliary aids will be provided upon request with 48 hours advance notification. Please call 541-247-3296 if you have questions regarding this notice.

CURRY COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM ROUTING SLIP
FORM 10-001.1 Rev. 1-5-2018

PART I – SUBMITTING DEPARTMENT: RETURN TO BOC_OFFICE@CO.CURRY.OR.US

PROPOSED AGENDA ITEM TITLE: A de novo public hearing for Board review, public comment and Board action on an appeal of a Planning Commission decision to deny an Elk River Property Development, (land use application AD-1705) for the analysis of alternative routes for a pipeline and ancillary facilities to deliver recycled wastewater located for irrigation of a golf course on or over Assessor map 32-15-29C, lot numbers: 103, 104, 105, 106, 107, 108, 118, 120 and 121 and extending to the property commonly known as the Knapp Ranch. (Sections 19, 29 & 30 of Township 32 S., Range 15 W., W.M. Tax lot 4400, and Section 29c of Township 32 S., Range 15 W., W.M. Tax lot 500)

TIMELY FILED Yes No

If No, justification to include with next BOC Meeting

AGENDA DATE^a: January 17, 2018 **DEPARTMENT:** Community Development

TIME NEEDED: 1.5 hours

(^aSubmit by seven days prior to the next General Meeting (eight days if a holiday falls within that seven day period))

MEMO ATTACHED Yes No If no memo, explain:

CONTACT PERSON: Carolyn Johnson **PHONE/EXT:** 3228

TODAY'S DATE: January 5, 2018

BRIEF BACKGROUND OR NOTE: See attached memo

FILES ATTACHED:

- (1) Staff report
- (2) Eleven Exhibits
- (3)

QUESTIONS:

- 1. Would this item be a departure from the Annual Budget if approved? Yes No
(If Yes, brief detail)
- 2. Does this agenda item impact any other County department? Yes No
(If Yes, brief detail)
- 3. Does Agenda Item impact County personnel resources? Yes No
(If Yes, brief detail)

INSTRUCTIONS ONCE SIGNED:

No Additional Activity Required

OR

File with County Clerk

Name:

Send Printed Copy to:

Address:

Email a Digital Copy to:

City/State/Zip:

Other

Phone:

***Note: Most signed documents are filed/recorded with the Clerk per standard process.**

PART III - FINANCE DEPARTMENT REVIEW

EVALUATION CRITERIA 1-4:

- 1. Confirmed Submitting Department's finance-related responses Yes No N/A
Comment:
- 2. Confirmed Submitting Department's personnel-related materials Yes No N/A
Comment:
- 3. If job description, Salary Committee reviewed: Yes No N/A
- 4. If hire order requires a Personnel Action Form (PAF)? Pending N/A No HR

PART IV – COUNTY ADMINISTRATOR REVIEW

APPROVED FOR ___01/17/18___ BOC MEETING Not Approved for BOC Agenda
because

LEGAL ASSESSMENT: Does this agenda item have a legal impact?

Yes No

(If Yes, brief detail)

ASSIGNED TO: ORDER

PART V – BOARD OF COMMISSIONERS AGENDA APPROVAL

COMMISSIONERS' REQUEST TO ADD TO AGENDA:

Commissioner Sue Gold Yes No

Commissioner Thomas Huxley Yes No

Commissioner Court Boice Yes No

BOARD OF COMMISSIONERS PUBLIC HEARING PUBLIC NOTICE

Notice is hereby given that the Curry County Board of Commissioners (Board) will hold a special de novo public hearing on Wednesday, January 17, 2018 at 2:30 PM in the Commissioners' Hearing Room at the Curry County Courthouse Annex Building located at 94235 Moore Street, Gold Beach, Oregon pursuant to ORS 197.763(2)(a) and Curry County Zoning Ordinance 2.070(1). The hearing purpose is for Board review, public comment and Board action on an appeal of a Planning Commission decision to deny an Elk River Property Development application (submitted pursuant to ORS 215.246) for the analysis of alternatives routes for a pipeline and ancillary facilities to deliver recycled wastewater located for irrigation of a golf course on or over Assessor map 32-15-29C, lot numbers: 103, 104, 105, 106, 107, 108, 118, 120 and 121. The proposed alternatives are primarily within Curry County and Oregon Department of Transportation public rights of way leaving the northerly Port Orford urban growth boundary and extending to the a golf course development site located on the property commonly known as the Knapp Ranch. (Sections 19, 29 & 30 of Township 32 S., Range 15 W., W.M. Tax lot 4400, and Section 29c of Township 32 S., Range 15 W., W.M. Tax lot 500)

State your comments to the Board at the public hearing and/or submit your comments for the record by e-mail to johnsonc@co.curry.or.us (with A-1701 in the subject line) or United States Postal Service to the Curry County Community Development Department, Curry County Annex, 94235 Moore St, Suite 113 Gold Beach, OR 97444, Attention: Carolyn Johnson. For written comments to be included in the Board packet, they must be received by 3 PM on Wednesday, January 3, 2018. Written comments received after that time will be presented for the record at the Board's January 17, 2018 public hearing. A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available now for viewing and download at no cost at: www.co.curry.or.us/departments/Community-Development/Planning-Commission and are located at 94235 Moore St, Suite 113 Gold Beach Oregon for purchase at reasonable cost. The Board of Commissioners staff report will be available after 5 p.m. on Friday, January 5, 2018 at <http://www.co.curry.or.us/Board-of-Commissioners>.

Should the action of the Board be appealed, the appeal shall be limited to the application materials, evidence and other documentation, and specific issues raised in the comments by interested parties leading up to the Board's action. Failure to provide sufficient specificity to afford the Board an opportunity to respond to an issue that is raised precludes appeal to Oregon Land Use Board of Appeals based on that issue.



Board of Commissioners Staff Report

Meeting Date: January 17, 2018

Prepared by: Carolyn Johnson, Community Development Director

Agenda Item. A de novo public hearing for Board review, public comment and Board action on an appeal of a Planning Commission decision to deny an Elk River Property Development, (land use application AD-1705) for the analysis of alternative routes for a pipeline and ancillary facilities to deliver recycled wastewater located for irrigation of a golf course on or over Assessor map 32-15-29C, lot numbers: 103, 104, 105, 106, 107, 108, 118, 120 and 121 and extending to the property commonly known as the Knapp Ranch. (Sections 19, 29 & 30 of Township 32 S., Range 15 W., W.M. Tax lot 4400, and Section 29c of Township 32 S., Range 15 W., W.M. Tax lot 500)

Hearing Procedure:

1. Identify and follow the hearing procedure specified in Zoning Ordinance 2.140(2a-d)
2. Receive the staff report
3. Accept testimony from parties in favor of the application
4. Accept testimony from other parties
5. Allow the parties to offer rebuttal evidence and testimony
6. If requested by the Board, continue the hearing to a date certain no later than January 31, 2018.
7. Conclude the hearing, the Board should determine whether to leave the record open.
8. Deliberate among the Board of Commissioners and, if desired, direct questions to County staff.
9. Discuss findings and direct staff to bring back a final order no later than January 31, 2018.

Proposed Board Options:

- 1) Reach a decision to uphold the Appeal. Direct staff to prepare a Board Final Order for action on January 31, 2018.
- 2) Reach a decision to deny the appeal and direct staff to prepare a Board Final Order for action on January 31, 2018.

Staff recommendations:

1. Accept Oral report from staff, hear testimony from parties with standing and the public, close the public hearing and deliberate.
2. Reach a decision to uphold the Appeal. Direct staff to prepare a Board Final Order for action on January 31, 2018.
3. If the January 17, 2017 de novo public hearing includes additional public suggested alternatives, with sufficient specificity to merit written response from the applicant (as per ORS 215.246), then the public hearing should be closed but the record remain open for written responses by the applicant and review by the Board at a future date but no later than January 31, 2018.

I. Application Information:

Applicant/Agent: Elk River Development Corporation LLC (ERCD)/Bill Kloos Esq.

Zoning: Exclusive Farm Use (EFU)

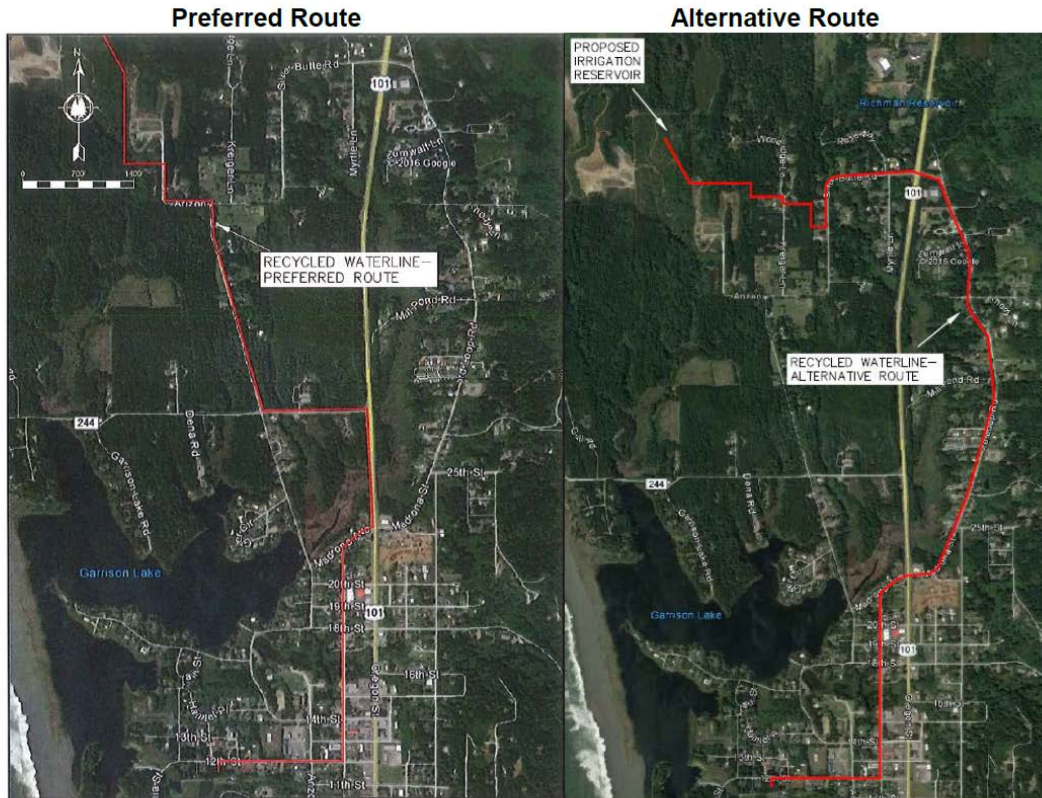
Project Description/Location: ERCD seeks to extend a recycled wastewater pipeline and ancillary facilities ¹ outside the Port Orford city limits to the future Pacific Gales golf course. ² The two pipeline routes under consideration can generally be described as:

- 1) Running north along Arizona Street and thence west and north across land owned by Knapp Ranches Inc,; and
- 2) Running north along Madrona Ave, until travelling west (partially through private property, with the landowners permission) to land owned by Knapp Ranches.

The proposed alternative routes are noted on Attachment 2 and the following page of this report.

¹ A pond that will store water, pumps and a small pumphouse that will shelter the irrigation equipment.

² Board Order 20255 (In the Matter of Remand Proceedings for Application AD-1411) and affirmed by LUBA opinion Or LUBA 2015-080, January 27, 2016.



II. Background: In January of 2015, the Board of Commissioners approved a Conditional Use Permit (CUP-1411) for the Pacific Gales Golf Course located in an Exclusive Farm Use (EFU) zoning district. The applicant seeks to extend a recycled wastewater pipeline to the golf course site for irrigation. The Zoning Ordinance is silent on a definition of recycled and/or reclaimed water³ permitting requirements. However Oregon State Statute (ORS) 215.283(1)(v) notes that subject to a license or permit⁴ by the Department of Environmental Quality (DEQ), recycled water for irrigation is a permitted use in an EFU zone. Prior to issuance of the subject permits, ORS 215.246⁵ notes that DEQ requires an applicant to identify alternatives through a local government process for the recycled wastewater pipeline location. After the local government process of reviewing alternatives is complete, DEQ will complete processing of the necessary DEQ permits for the applicant to proceed with the project. The County’s Zoning Ordinance⁶ identifies the Planning Commission as the County’s decision maker to analyze these alternatives.

ERCD made an application (AD-1705) for Planning Commission review of the alternative routes for the pipeline. The Planning Commission reviewed the application on September 21 and October 19, and denied the application on November 7, 2017. Attachment 11 provides additional information on the Planning Commission process. Planning Commission decisions can be appealed to the Board of Commissioners. ERCD appealed

³ The proposed pipeline would transport reclaimed water meeting the ORS 537.131 criteria as described in the July 27, 2017 memo from County Council. (Attachment 9) Reclaimed water is referred to as recycled water by DEQ.

⁴ The applicant has submitted applications to DEQ for a Wastewater Pollution Control Facility Permit and a Recycled Water Use Permit

⁵ ORS 215.246 -Approval of land application of certain substances; subsequent use of tract of land; consideration of alternatives

⁶ 2.060(2)(d) Article II. Procedures for Making Land Use Decisions

the Planning Commission's application denial to the Board pursuant to Zoning Ordinance Section 2.170 (Appeal of a land use decision) which states:

*"Appeals of the decision making body shall take up the appeal as a de novo issue **and** the final written order or conclusions of the lower decision making body being appealed shall not be considered in the appellate review."*

In this case, the "decision making body" is the Board of Commissioners. "De Novo" means the Board is to review the ERCD application without giving deference to the Planning Commission's denial. "Lower decision making body" means the Planning Commission. "Appellate review" means review by the Board of Commissioners.

III. Applicable Criteria and Discussion

Curry County procedure to review the proposal

A. CCZO Section 2.060(2)(d) identifies the Planning Commission as the decision making body for subdivisions, interpretations of Planning Director decisions and "other land use actions".

Consistent with CCZO Section 2.060(2)(d), the Planning Commission acted as the decision making body for Application AD-1705.

B. CCZO Section 2.170 (1) and (7) – Appeal of a Land Use Decision

1. *In the matter of all appeals, the decision making body shall take up the appeal as a **de novo** issue and the final written order or conclusions of the lower decision making body being appealed shall not be considered in the appellate review*

7. *Requires the notice of appeal to include a statement demonstrating that the appeal issues were raised during the public comment period.*

Discussion: The Planning Commission's November 7, 2017 decision was appealed. The Final Order was released on November 8, 2017. An appeal of the Planning Commission's decision, (Attachment 5a) from the applicant's representative Bill Kloos was received on November 10, 2017. The Planning Commission revisited and approved an expanded Final Order on December 14, 2017. An appeal to the second Final Order Planning Commission decision, (Attachment 5a) was received on December 20, 2017.

Consistent with CCZO Section 2.170 (1), the Board of Commissioners January 17, 2018 hearing is procedurally being held as a de novo hearing for the Planning Commission's two Final Orders. The Board of Commissioners is to review Application AD-1705 without giving deference to the Planning Commission's actions as further described in a November 27, 2017 memo from County Counsel (Attachment 9):

"The Board considers this review "de novo". That means this is a new hearing and the Board is not bound by, and cannot give any deference or weight to, the Planning Commission's work or decision. Nevertheless, that material is part of the record for the

Board's review. CCZO Section 2.170 (1) states: In the matter of all appeals, the decision making body shall take up the appeal as a de novo issue and the final written order or conclusions of the lower decision making body being appealed shall not be considered in the appellate review."

Consistent with CCZO Section 2.170 (7), The Notice of the Appeal (Attachment 4) included arguments and evidence raised during the public comment period.

C. CCZO Section 2.172(6) – Land Use Appeal Procedures

6. The decision making body shall render a decision, may affirm, reverse or modify the action of a lesser authority and may reasonably attach conditions necessary to carry out the Comprehensive Plan...

Consistent with CCZO Section 2.172(6), the Curry County Board of Commissioners is to render a decision regarding application AD-1705.

Oregon statutes regarding the proposal

D. ORS 215.246(1a) and (3)

(1) The uses allowed under ORS 215.213 ... (a) Require a determination by the Department of Environmental Quality, in conjunction with the department's review of a license, permit or approval, that the application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.

(3) When a state agency or a local government makes a land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids under a license, permit or approval by the DEQ, the applicant shall explain in writing how alternatives identified in public comments on the land use decision were considered, and if the alternatives are not used, explain in writing the reasons for not using the alternatives. The applicant must consider only those alternatives that are identified with sufficient specificity to afford the applicant an adequate opportunity to consider the alternatives. A land use decision relating to the land application of reclaimed water, agricultural or industrial process water or biosolids may not be reversed or remanded under this subsection unless the applicant failed to consider identified alternatives or to explain in writing the reasons for not using the alternatives.

ORS 215.246(1) requires the DEQ permit process to include "application rates and site management practices for the land application of reclaimed water, agricultural or industrial process water or biosolids ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract." Accordingly, the applicant is required to meet ORS 215.246(1) requirements as a part of the DEQ processing of their

Recycled Water Use Permit. The applicant has submitted an application for the DEQ permit; however the permit will not be issued until the County review process is completed.

If the Board authorizes the subject proposal, AD-1705 Condition of Approval #1 is a requirement to meet the standards of ORS 215.246(1a). Condition of Approval 1 states: *“Receive approval from the Oregon State Department of Environmental Quality for a Recycled Water Use Permit for the proposed use prior to pipeline construction.”*

ORS 215.246(3) requires an applicant to explain how public comments on the alternatives have been addressed and explain reasons for not using any identified (and adequately detailed) alternatives.

After the public hearing, if the Board of Commissioners finds that the applicant has adequately considered public comment related to identified alternatives, then the applicant has satisfied this statutory requirement. Public comments, and the applicants responses to those comments, have been received at the writing of this report (see Attachments 5 and 10) If public comments are received as a result of this hearing, which introduce new evidence related to identified alternatives, then the applicant must be granted an opportunity to evaluate them.

E. ORS 215.246(4)(a): *The uses allowed under this section include: The treatment of reclaimed water, agricultural or industrial process water or biosolids that occurs as a result of the land application;*

The project includes the treatment of reclaimed water consistent with ORS section 215.246(4)(a) by use of a pond to expose the reclaimed water to natural soil microbes that will digest a trace amount of nutrients and other substances.

It is the applicant’s position that natural processes will lead to continued improvements in water quality such as exposure to UV light while the water is impounded in a pond at the golf course.

As stated in the proposal application, all water quality treatments will occur at existing Port Orford sewage treatment plant. Some degree of water quality improvement is expected to occur incidentally to storing the recycled water in the pond, and its application to the golf course, where it will be exposed to soil microbes and other natural processes. Water currently being discharged from sewage treatment plant is already treated to such a high level that it is permitted to be discharged directly into the ocean. The applicant has stated that it is more environmentally sustainable to use the City’s effluent for irrigation, (where any trace containments will be broken down by exposure to air and UV light during the pond storage period, and by soil microbes after it is applied as irrigation), as opposed to discharging it directly into the marine environment.

F. ORS 215.246(4)(b) *The establishment and use of facilities, including buildings, equipment, aerated and nonaerated water impoundments, pumps and other irrigation equipment, that are accessory to and reasonably necessary for the land application to occur on the subject tract;*

ERCD has proposed improvements that will include a portion of the pipe that delivers treated water, a pond that will store water, pumps and irrigation equipment, and a small pumphouse that will shelter the irrigation equipment. Consistent with ORS 215.246(4)(b), the project includes improvements that will be reasonably necessary for the use of recycled wastewater for irrigation on the Pacific Gales golf course.

G. ORS 215.246(4)(c) *The Establishment and use of facilities, including buildings and equipment, that are not on the tract on which the land application occurs for the transport of reclaimed water, agricultural or industrial process water or biosoils to the tract on which the land application occurs if the facilities are located within: (A) a public right of way; or (B) Other land if the landowner provides written consent and the owner of the facility complies with ORS 215.275(4); and (d) the transport by vehicle of reclaimed water on which the water will be applied.*

ERDC proposes ancillary facilities necessary for the use of recycled wastewater on lands outside of the tract where irrigation will occur, primarily in the right of way. In limited instances where pipeline is to cross land that is not within right of way, written consent from land owners is required to cross property for the project. ERCD has secured the referenced written consent. (Attachment 6)

H. ORS 215.283(1)(v): *(1) The following uses may be established in any area zoned for exclusive farm use: (v) Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695... 459.205...468B.050... 468B.053...468B.055...468B.095... the land application of reclaimed water, agricultural or industrial process water or biosolids for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone under this chapter.”*

Oregon Statute requires the land application of reclaimed water to have a license, permit, or other approval from DEQ. DEQ has indicated the processing of the Recycled Water Use Permit for the project cannot be completed without the County’s review and authorization of the Alternatives analysis, the subject of this staff report.

IV. Conclusion

Related to ORS 215.283

The proposed recycled water pipeline and its ancillary features for irrigation in an EFU zone appears consistent with ORS 215.283. Reclaimed water can be used for irrigation related to an allowed use in the EFU zone. County Counsel notes in his October 11, 2017 memo (Attachment 9) that it is his opinion that a valid existing CUP for a golf course is not required for the County to authorize AD-1705.

The irrigation use in this case is proposed for use on the Pacific Gales golf course. The Board of Commissioners approved a Conditional Use Permit for the golf course project and the Land Use Board of Appeals affirmed the approval in 2016.⁷ The applicant's representative has provided evidence that the Conditional Use Permit has been initiated and is therefore valid. (Page 10 of Attachment 5)

ORS 215.283(v) specifies DEQ's approval of a Wastewater Control Facility Permit and a Recycled Water Use Permit to satisfy ORS 215.246. DEQ⁸ has identified the steps (Page 2 of Attachment 1) required for the applicant to secure the required DEQ permits:

- 1) The applicant obtains the required DEQ application and Land Use Compatibility Statement (LUCS) form to the County Planning Office for review and approval.
- 2) The County conducts its land use review process. Pertinent to this step, Board approval of the proposal would include the following Condition #1: *Receive approval from the Oregon State Department of Environmental Quality for a Wastewater Pollution Control Facility Permit and a Recycled Water Use Permit for the proposed use prior to pipeline construction*
- 3) The County completes the LUCS form and returns it to the applicant with appropriate findings.
- 4) The applicant submits the DEQ application and approved LUCS for processing.

The balance of the requirements to secure the required are required by Oregon State DEQ. The applicant has submitted the LUCS Statement to the Community Development Department/Planning division. Following a Board action to authorize the subject application, the LUCS will be completed and returned to the applicant for their submittal of the required permits to DEQ for the proposal.

Further information can be found in the October 24, 2017 County Counsel memo (Attachment 9).

Related to ORS 215.246 (1), (3), and (4c)

The applicant is required to meet ORS 215.246(1) requirements as a part of the DEQ processing of a Recycled Water Use Permit. AD-1705 Condition of Approval #1 specifies said compliance as follows: *Receive approval from the Oregon State Department of Environmental Quality for a Wastewater Pollution Control Facility Permit and a Recycled Water Use Permit for the proposed use prior to pipeline construction.*

⁷ Board Order 20255 and LUBA Opinion Or LUBA 2015-080

⁸ November 21, 2017 e-mail from by Ranei Nomura, Manager, Water Quality Permitting and Compliance DEQ Western Region to Jacob Callister, LCOG contract planner

ORS 215.246(3) requires an applicant to explain how public comments on the alternatives have been addressed and explain reasons for not using any identified (and adequately detailed) alternatives. The applicant has met the requirements specified in ORS 215.246 and (3) by specifying how alternatives identified in public comments on the land use decision were considered, and the reasons for not using the alternatives.

Related to ORS 215.246(4)(a)

The project includes the treatment of reclaimed water consistent with ORS 215.246(4)(a) by use of a pond to expose the reclaimed water to natural soil microbes that will digest a trace amount of nutrients and other substances.

Related to ORS 215.246(4)(b)

The project includes improvements that will be reasonably necessary for the use of recycled wastewater for irrigation on the Pacific Gales golf course.

Related to ORS 215.246(4c)

For both the preferred and alternate routes, the applicant has obtained easements with land owners where the pipeline can pass through private property.

V. Public Comments⁹ - Public comments can be found on Attachment 10 and include:

- October 18, 2017 Transmittal from the Oregon Coastal Alliance (ORCA)
- September 5 and December 14, 2017 letter from Beverly Walters
- December 20, 2017 letter from Jim Auburn
- December 14, 2017 letter from the Karen Jennings representing the Port Orford Main Street Revitalization Program
- December 14, 2017 letter from Karen Auburn

Attachments

- 1 – Electronic transmittal regarding DEQ permitting process.
- 2 - Proposed preferred and alternative routes of pipeline.
- 3 – Detailed description of alternatives (including routes and plans)
- 4 – Public notice for BOC January 17, 2018 public hearing
- 5 – Applicant’s written statements
- 5a – Applicant’s November 10 and December 14 appeals
- 6 – Easement agreements and written consent of property owners for use of property for pipeline
- 7 – Application to County
- 8 - November 8, 2017 and December 14, 2017 Planning Commission Final Orders
- 9 - July, October 11, October 24 and November 27 County Counsel memos
- 9a – November 7, 2107 Planning Commission meeting transcript
- 10 - Public comments
- 11- Planning Commission denial process

⁹ Received by 5 PM, January 3 for inclusion in the Board 01.17.2018 de novo hearing packet.