

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT WALDHIER

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Board of Commissioners
FROM: Bob Waldher, Director
DATE: May 9, 2018

CODE
ENFORCEMENT

**RE: May 16, 2018 Board of County Commissioners Hearing
Appeal of Planning Commission Decision
Blue Mountain Hay, LLC (Applicant/Owner)
Conditional Use Permit #C-1293-17**

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

GIS AND
MAPPING

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

Request

On November 21, 2017, Blue Mountain Hay, LLC submitted an application to the Planning Department for a Conditional Use Permit (CUP) to develop their property with a facility to support their agriculture operations. The request is to develop the subject property with a variety of farm-related operations which include a hay press, hay storage buildings, and accessory farm structures. Commercial activities covered by the Conditional Use Permit include sales of farm chemicals, fertilizer, and seed. A majority of the applicant's proposed activities are outright permitted uses in the Exclusive Farm Use (EFU) zone and would not require a CUP. Given that the applicant intends to develop a chemical, dry fertilizer, and seed storage for not only their own personal farm use, but also for commercial sale to the local farming and agriculture community, the Umatilla County Planning Department has determined that the proposed project requires a CUP for a Commercial Activity in Conjunction with Farm Use.

The 18.43-acre subject property is zoned EFU and is located at the northwest corner of Appleton Road and Highway 11, described as Tax Lot #2800, in Township 6N, Range 35E, Section 25B. A vicinity map is included in **Attachment A**. A copy of the Findings and Conclusions for the proposed project is included in **Attachment B**.

Background Information

Affected agencies and nearby property owners were notified of the CUP and were first sent a copy of the Preliminary Findings and Conclusions on January 9, 2018. Tentative Approval of the CUP was issued by the Planning Department on February 6, 2018 and a request for a public hearing was received on February 20, 2018, within the 15-day appeal period. The request for public hearing was made by Mr. Tim Werhan (owner of Smiley RV). Comments received prior to the hearing are included in **Attachment C**.

Memo

BCC Public Hearing – May 16, 2018

Blue Mountain Hay, LLC

Conditional Use Permit #C-1293-17

Planning Commission Hearing

The first evidentiary hearing was held before the Umatilla County Planning Commission on March 22, 2018. The Planning Commission heard testimony from the applicant, project proponents, and opponents, as documented in the meeting minutes. Several items were added to the project record including informational brochures from the Oregon Department of Agriculture regarding the regulation of agriculture chemical storage, use, and disposal. Additional information added to the project record included Resource Use Protections from the UCDC. These documents are included in **Attachment D**.

The Planning Commission upheld the Umatilla County Planning Department decision and approved the Conditional Use Permit. Minutes from the Planning Commission are included in **Attachment E**.

Request for Appeal

Appeal of the Planning Commission decision was received April 10, 2018 (**See Attachment F**). The appellant is Mr. Tim Werhan. The Planning Department addresses several inaccuracies in the appellant's request below:

In his appeal letter, the appellant contends that the Planning Commission hearing was not ran according to Parliamentary Procedure rules. While there were some disruptions from the public during the hearing, the Planning Department notes that the hearing was operated in accordance with Umatilla County Development Code (UCDC) 152.772.

The appellant suggests that not all of the surrounding landowners received notification of the meeting. Subsequent to the hearing, Planning Department staff reviewed the vicinity map provided with the notice and included the 750' buffer that shows area property owners who received the public notice. A copy of the vicinity map with buffer is attached.

Next, the appellant cites Oregon Revised Statute (ORS) Section 197.195 which pertains to Limited Land Use Decisions. A Limited Land Use Decision applies to a city urban growth boundary and prohibits a local government from directly applying comprehensive plan requirements as a basis for its decision on an application for limited land use decision approval, where the comprehensive plan requirements have not been incorporated into the local government's land use regulations. The Planning Department finds that Limited Land Use Decisions are not relevant to this CUP application.

Finally, the appellant contends that the project would not be in compliance with goals found in ORS 197.230 because of potential loss in property values. ORS 197.230 applies to Land Conservation and Development Commission (LCDC) and provides the impacts that LCDC must consider if new statewide planning goals are adopted or existing goals are amended. The Planning Department finds that LCDC is not proposing adoption or amendment of any statewide planning goals related to this request and ORS 197.230 is not relevant to this CUP application.

Criteria of Approval

Criteria of approval for Conditional Uses are found in Umatilla County Development Code (UCDC) Sections 152.060, 152.061, 152.615, and, 152.617 (I)(B), and Resource Use Protections in UCDC Sections 150.01-150.08.

Conclusion

The BCC is asked to refer to the Findings and Conclusions and supporting information to determine if the request meets or does not meet the applicable criteria. The BCC will approve or deny the pending Land Use Request. Approval or Denial must be based on substantive, factual evidence in the record, not conclusory statements.

Memo

BCC Public Hearing – May 16, 2018

Blue Mountain Hay, LLC

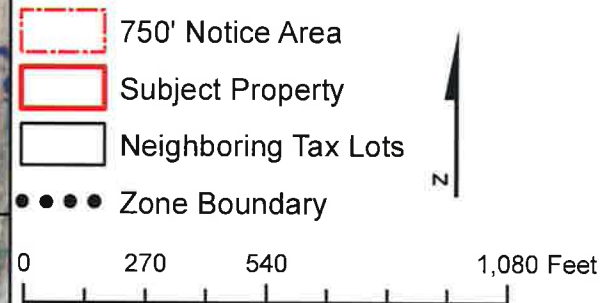
Conditional Use Permit #C-1293-17

Attachments

- Attachment A - Vicinity Map of Proposed Facility
- Attachment B - Findings and Conclusions
- Attachment C - Comments Received Prior to PC Hearing
- Attachment D - Information Presented During PC Hearing
- Attachment E - Minutes of PC Hearing
- Attachment F - Request for Appeal

Attachment A - Vicinity Map of Proposed Facility

SEE ATTACHED LIST FOR PROPERTY OWNERS WITHIN NOTICE AREA



CONDITIONAL USE REQUEST #C-1293-17
BLUE MT HAY, LLC / JEREMY CHRISTMAN, APPLICANT & OWNER
MAP 6N3525B, TAX LOT 2800

Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by J. Potterf, Umatilla County Planning Department Created 4/25/2018

CONDITIONAL USE REQUEST #C-1293-17
 BLUE MT HAY / JEREMY CHRISTMAN, APPLICANT / OWNER

PROPERTY OWNERS WITHIN 750' NOTICE OF SUBJECT PARCEL

<u>ACCT</u>	<u>MAP TAX</u>	<u>OWNER</u>	<u>IN CARE OF</u>	<u>AGENT</u>	<u>M ADDRESS</u>	<u>M CITY</u>	<u>ST</u>	<u>ZIP</u>
111699	6N3525B000300	MCEVOY RICK & ROSALINDA			53853 E CROCKETT RD	MILTON FREEWATER	OR	97862
111704	6N3525B000500	MIRAJ INCORPORATED			84802 HIGHWAY 11	MILTON FREEWATER	OR	97862-7303
111725	6N3525B000600	HOWARD A ROBBINS INVESTMENTS FAMILY L P			31 ROYAL CT	SAN RAFAEL	CA	94901
111738	6N3525B000800	KESSLER GERALD L & VICKIE L			53733 W CROCKETT RD	MILTON FREEWATER	OR	97862-7945
111740	6N3525B000900	BLAIR HARRY B & VICKI L			1120 LAMB ST	MILTON FREEWATER	OR	97862-1634
111743	6N3525B001000	WEIDING LARRY W & SIMMONS BILLIE J			5851 S 194TH ST	KENT	WA	98032-2125
111745	6N3525B001101	GORDON EARL G & KAY			1850 NE LOTUS DR #APT 30	BEND	OR	97701-6154
111748	6N3525B001102	GUSTIN MITZI J			53708 W CROCKETT RD	MILTON FREEWATER	OR	97862
111749	6N3525B001200	GARDNER CHRISTINE J			53674 W CROCKETT RD	MILTON FREEWATER	OR	97862
111750	6N3525B001300	KIRKLAND JAMES & EVELYN			53656 W CROCKETT DR	MILTON FREEWATER	OR	97862
111751	6N3525B001400	SILVA MARK A			52271 RECORDS LN	MILTON FREEWATER	OR	97862-6894
111752	6N3525B001500	SAM LEFORE FRUIT FARMS INC			54103 LEFORE RD	MILTON FREEWATER	OR	97862
111753	6N3525B001600	SAM LEFORE FRUIT FARMS INC			54103 LEFORE RD	MILTON FREEWATER	OR	97862
111756	6N3525B001700	FRYER TAMARA L & RICHARD C JR			163 TARA ST	MILTON FREEWATER	OR	97862
111760	6N3525B001701	EHRHARDT DONALD R & SANDRA A			53750 W CROCKETT RD	MILTON FREEWATER	OR	97862
111763	6N3525B001800	GARCIA JORGE & CEBALLOS MARIA E			51588 HIGHWAY 332	MILTON FREEWATER	OR	97862-6952
111767	6N3525B001900	MILLER DAVID R			84722 HIGHWAY 11	MILTON FREEWATER	OR	97862
111773	6N3525B001902	WERHAN TIM S			PO BOX 277	MILTON FREEWATER	OR	97862
111775	6N3525B002000	MARTINEZ ALFONSO JR & ELVIRA			550 ELZORA LOOP	MILTON FREEWATER	OR	97862-9416
111777	6N3525B002001	BOWE RANDALL A & DEBORAH J			53880 E CROCKETT RD	MILTON FREEWATER	OR	97862-7445
111796	6N3525B002002	HANEY DERALD R & DIANNE R			53520 W FERNDAL RD	MILTON FREEWATER	OR	97862-7431
111812	6N3525B002200	MATHWICH JOHN RYAN			84780 TUM A LUM RD	MILTON FREEWATER	OR	97862
111834	6N3525B002600	COWEE JUDY A			53921 E APPLETON RD	MILTON FREEWATER	OR	97862-7452
111845	6N3525B002700	UPPER COLUMBIA MISSION SOC OF SDA CHURCH	UPPER COLUMBIA CORP OF SEVENTH DAY ADV		3715 S GROVE RD	SPOKANE	WA	99224-6090
145134	6N3525B002702	MCCOY GLORIA			53867 E APPLETON RD	MILTON FREEWATER	OR	97862-7451
111847	6N3525B002800	BLUE MOUNTAIN HAY LLC			PO BOX 140	MILTON FREEWATER	OR	97862-0140
111853	6N3525B002900	SAM LEFORE FRUIT FARMS INC			54103 LEFORE RD	MILTON FREEWATER	OR	97862
111857	6N3525B003000	WEIS VICKY G			53671 APPLETON RD	MILTON FREEWATER	OR	97862-7643
111860	6N3525B003100	CHERRY RODNEY			53751 APPLETON RD	MILTON FREEWATER	OR	97862
111863	6N3525B003200	PELISSIER MICHAEL W			14704 SE OATFIELD RD	PORTLAND	OR	97267-2901
111872	6N3525B003600	SEIBEL PAUL DOUGLAS & KARIN RENEE			9650 SE 250TH AVE	DAMASCUS	OR	97089-6561
111876	6N3525B003601	SEIBEL PAUL DOUGLAS & KARIN RENEE			9650 SE 250TH AVE	DAMASCUS	OR	97089-6561
111880	6N3525B003700	HINDERMAN M FRANCES (TRS)		BRANNAN MIKE & JACKIE (AGT)	53848 E APPLETON RD	MILTON FREEWATER	OR	97862-7451
111885	6N3525B003800	HERITAGE HOMES LLC			53856 WILLOW LN	MILTON FREEWATER	OR	97862-7116
111888	6N3525B003900	DEGROSS ELLEN L (SUC TRS)			84613 HIGHWAY 11	MILTON FREEWATER	OR	97862
111893	6N3525B003901	PROCTOR GREG & EDITH			84601 HIGHWAY 11	MILTON FREEWATER	OR	97862-7614
111899	6N3525B003902	DEGROSS ELLEN L (SUC TRS)			PO BOX 449	WESTON	OR	97886-0449
111911	6N3525B004001	LOUDEN CHERI D & WOLF FLINN M			53874 E APPLETON RD	MILTON FREEWATER	OR	97862-7451
111919	6N3525B004003	RALSTON DAVID & PATRICIA			53886 E APPLETON RD	MILTON FREEWATER	OR	97862
111955	6N3525B004004	JAPP DONNA M		OWEN KANDACE AGT	53902 E APPLETON RD	MILTON FREEWATER	OR	97862-7452
111972	6N3525C000100	MILTON-FRWTR PIONEER POSSE			PO BOX 478	MILTON FREEWATER	OR	97862
111976	6N3525C000101	MILTON-FRWTR PIONEER POSSE	C/O BROWN GENE & BARBARA (LESSEE)		84575 HIGHWAY 11	MILTON FREEWATER	OR	97862

CONDITIONAL USE REQUEST #C-1293-17
 BLUE MT HAY / JEREMY CHRISTMAN, APPLICANT / OWNER

PROPERTY OWNERS WITHIN 750' NOTICE OF SUBJECT PARCEL

111980	6N3525C000200	WEAVER ARNOLD L & BEVERLY J		84543 HIGHWAY 11	MILTON FREEWATER	OR	97862-7613
111982	6N3525C000300	KINGSLEY ROBERT L & RIEKO H		263 RANCHO VILLA	WALLA WALLA	WA	99362-5217
111989	6N3525C000401	ROLOFF SEAN & HALL SHANNON		84509 HWY 11	MILTON FREEWATER	OR	97862-7613
112078	6N3525C000900	MAY LEWIS A & AMY I		1306 MONROE ST	WALLA WALLA	WA	99362
112081	6N3525C001000	RUSSELL GREGORY B & LISA		84576 EASTSIDE RD	MILTON FREEWATER	OR	97862-7078
112087	6N3525C001100	EASTERN OREGON PETROLEUM LLC	C/O SAMUEL L BYRNES	PO BOX 700	PENDLETON	OR	97801-0700
112091	6N3525C001201	D & S INVESTMENTS LLC		2685 LEXINGTON TERR	WEST LINN	OR	97068-2271
112096	6N3525C001203	D & S INVESTMENTS LLC		2685 LEXINGTON TERR	WEST LINN	OR	97068-2271
140574	6N3525C001204	MAY LEWIS A & AMY I		1306 MONROE ST	WALLA WALLA	WA	99362
112099	6N3525C001300	D & S INVESTMENTS LLC		2685 LEXINGTON TERR	WEST LINN	OR	97068-2271
112101	6N3525C001400	RUTHVEN JOHN C & ARLA J		84547 WEIS RD	MILTON FREEWATER	OR	97862
112104	6N3525C001500	RUTHVEN JOHN C & ARLA J		84547 WEIS RD	MILTON FREEWATER	OR	97862
112108	6N3525C001600	WALTERS MAE IRENE		84499 WEIS RD	MILTON FREEWATER	OR	97862
128934	6N3526A000300	STEWART CLAYTON & ANGELA		53601 W CROCKETT RD	MILTON FREEWATER	OR	97862-7944
129000	6N3526A003900	LEFORE JEFFRY T		53588 W CROCKETT RD	MILTON FREEWATER	OR	97862-7943
129001	6N3526A004000	GREENE JASON A		53671 APPLETON RD	MILTON FREEWATER	OR	97862-7643
129145	6N3526D000100	DIBBLE DANA A		84547 WEIS RD	MILTON FREEWATER	OR	97862-7659

Attachment B - Findings and Conclusions

**UMATILLA COUNTY BOARD OF COMMISSIONERS
FINAL FINDINGS AND CONCLUSIONS
CONDITIONAL USE PERMIT REQUEST, #C-1293-17
MAP #6N 35 25B, TAX LOT #2800, ACCOUNT #111847**

1. APPLICANT: **Blue Mountain Hay, LLC** (Jeremy Christman, agent), 31125 Cartney Drive, Harrisburg, OR 97446

2. OWNERS: **Blue Mountain Hay, LLC** (Trevor Derstine, Chadwin Derstine, Nevin Derstine, Davia Derstine, Matt Derstine), 31125 Cartney Drive, Harrisburg, OR 97446

3. REQUEST: The applicant, Blue Mountain Hay, LLC, seeks a conditional use permit for a proposed facility in support of their agriculture operations. Blue Mountain Hay, LLC started in 2008. It is an expansion of the Derstine family’s operation owned and operated by 5 brothers and their father. The family has been in the overseas pressed forage products from the Willamette Valley for several years through their company Valley Hay. Blue Mountain became an expansion company to take advantage of wheat and alfalfa products on the east side of the Cascade Range, since the Willamette Valley is predominately a fescue/perennial grass product. Blue Mountain Hay has decided to move its operations from Walla Walla, WA to the Milton-Freewater, OR area.

In the application materials, the applicant states that the project will “add to the local economy and farming community by moving from Walla Walla, with the majority of our farming activities captured in Oregon, as opposed to continuing our base operations in Washington.”

Proposed uses for the subject property include a variety of farm-related operations and the applicant proposes to develop the project in three phases:

Phase 1	Phase 2	Phase 3
<ul style="list-style-type: none"> • Remove Abandoned Dwelling • Office Building • Perimeter Fence w/ Gates • Chemical Storage Area • Truck Repair Shop • Fuel Island • Equipment Shed 	<ul style="list-style-type: none"> • Dry Fertilizer Storage • Truck Scale • Equipment Shed 	<ul style="list-style-type: none"> • Hay Storage • Hay Press Facility • Seed Processing Facility

Typically, a majority of the proposed activities listed above are outright permitted uses for the Exclusive Farm Use (EFU) zone and would not require a Conditional Use Permit. Given that the applicant intends to develop a chemical storage and dry fertilizer storage for not only their own personal farm use, but also for commercial sale to the local farming and agriculture community, the proposed project is being processed as a *Conditional Use Permit (CUP) for a Commercial Activity in Conjunction with Farm Use*.

The main business operation for Blue Mountain hay is to cut and bale the wheat fields after the farmers have harvested the seed. The farmer is then left with a clean field, ready to plow and plant, is paid for the baled product in tonnage procured from the field and then it is stored and shipped throughout

the year. Dairies tend to be primary customer, but mushroom farms buy the product for composting. Annually, Blue Mountain Hay operates 20 tractors with balers, stackers and rakes to bale 38,000 tons off farmer's fields throughout Umatilla County and up through Columbia County, Washington.

As would be expected with this type of operation, the activity at the facility as well as the number of employees associated with the operation would be highest over a three month period surrounding harvest. That surge in employee total is not only for the baling equipment, but also the trucking and support for this 3 month period. Throughout the rest of the year, there would be 8-10 trucks daily coming in and out of the facility picking up and delivering wheat straw. Hours of operation for the commercial aspects of the operation would be limited per the conditions of approval.

As part of the proposed operation the applicant hopes to expand the business model to include pressing of alfalfa, timothy and specialty products for overseas forage use (Phase III above). Currently Blue Mountain Hay sends the raw materials to the Willamette Hay/Valley Hay press for pressing, packaging and loading to ports. In addition, the ability to have a chemical and dry fertilizer supply is not only helpful for the custom farming that Blue Mountain Hay can do for its customers, but also for the local farming contingent. There is not a single point of distribution in the project vicinity, and Blue Mountain Hay can offer that with this operation in Milton-Freewater.

3. LOCATION: The subject property is located on the west side of Highway 11, approximately 2 miles north of Milton, Freewater, OR.
4. ACREAGE: The subject property is 18.43 acres.
5. COMP PLAN: The subject property has a Comprehensive Plan designation of Orchards District.
6. ZONING: The subject property is zoned Exclusive Farm Use (EFU)
7. ACCESS: Access to the subject property is via Highway 11. Oregon Department of Transportation (ODOT) is the permitting authority for access to/from Highway 11.
8. ROAD TYPE: Highway 11 is a 5-lane, state-maintained public roadway.
9. EASEMENTS: Easements for access and utilities are present on the subject property.
10. LAND USE: The subject property is currently farmed for crops (currently a corn field).
11. ADJACENT USE: Adjacent uses to the west and north include orchards and farm crops. Uses to the east and south include farming, rural residential, and some commercial.
12. IRRIGATION: Easements for access and utilities are present on the subject property.
13. SOILS: The subject property is comprised entirely of high-value soils. High value soils are defined in UCDC 152.003 as Land Capability Class I and II.

Soil Name, Unit Number, Description

Land Capability Class

39A-Hermiston silt loam, 0 to 3 percent slopes.

Dry Irrigated
IIC I

Soil Survey of Umatilla County Area, 1989, NRCS. The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water (*Survey*, page. 172).

14. BUILDINGS: The subject property contains an abandoned, dilapidated dwelling.
15. UTILITIES: Electrical Power is provided by City of Milton-Freewater. Humbert Refuse and Recycling provides trash service.
16. WATER/
WASTEWATER: Domestic water to the subject property is provided by an exempt well. There is also an irrigation well located on the subject property. The applicant intends to use the well for their spray and equipment needs.
- An existing septic system is present near the abandoned dwelling.
17. FIRE SERVICE: The subject property is within the Milton-Freewater subscriber service area.
18. FLOODPLAIN: The subject property is not within a floodplain.
19. IRRIGATION: The subject property is within the Hudson Bay Irrigation District. The subject property has irrigation water rights through Oregon Water Resources Department.
20. PLANNING COMMISSION HEARING: March 22, 2018
BOARD OF COMMISSIONERS HEARING: May 16, 2018
21. NOTIFIED AGENCIES: Department of Environmental Quality, Oregon Water Resources Department, Umatilla County Assessor, Umatilla County Environmental Health, Umatilla County Public Works, Oregon Department of Transportation, Walla Walla River Irrigation District, Milton-Freewater Rural Fire Department, Milton-Freewater Power, City of Milton-Freewater, Confederated Tribes of the Umatilla Indian Reservation – Natural and Cultural Resources, Humbert Refuse and Recycling
22. COMMENTS: The Umatilla County Planning Department received three letters, one email and one phone call from the notified public and agencies during the 21-day comment period. A copy of the comments have been included in the project record and general comments with staff responses are summarized in the tentative approval letter. In general the letters cited concerns about environmental impacts from the storage of fertilizer and chemicals on the subject property, aesthetics, nuisance noise and dust, and traffic.
- Tentative approval from the Planning Department was issued on February 6, 2018. During the 15-day appeal period, a request for a public hearing before the Umatilla County Planning Commission was received on February 20, 2018 from Mr. Tim Werhan (owner of Smiley’s RV).

At the March 22, 2018 hearing, the Planning Commission heard testimony from the applicant as well as project proponents and opponents, as documented in the meeting minutes. The Planning Commission upheld the Umatilla County Planning Department decision and approved the Conditional Use Permit.

23. THE UMATILLA COUNTY DEVELOPMENT CODE Section 152.060 (A) allows establishment of A COMMERCIAL ACTIVITY IN CONJUNCTION with FARM USE as a CONDITIONAL USE in an Exclusive Farm Use Zone subject to the standards of the Umatilla County Development Code Section 152.061, Section 152.615 and Section 152.617 (I) (B).

In an EFU zone the following use may be permitted conditionally via administrative review (§ 152.769), subject to the requirements of this section, the applicable criteria in §§ 152.610 through 152.617 and §§ 152.545 through 152.562. A zoning permit is required following the approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional uses and listed in this section may be expanded subject to administrative review and subject to the requirements listed Oregon Administrative Rules, Chapter 660, Division 033.

§ 152.060 CONDITIONAL USES PERMITTED.

(A) Commercial activities in conjunction with farm uses but not including the processing of farm crops pursuant to ORS 215.283(1)(u) and provided in §152.617(I)(B).

Typically, a majority of the applicant's proposed activities are outright permitted uses for the EFU zone and would not require a Conditional Use Permit. Given that the applicant intends to develop a chemical storage and dry fertilizer storage for not only their own personal farm use, but also for commercial sale to the local farming and agriculture community, Umatilla County has determined that the proposed project requires a Conditional Use Permit for a Commercial Activity in Conjunction with Farm Use.

§152.061: STANDARDS FOR ALL CONDITIONAL USES. The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

(A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and Umatilla County finds that the applicant's proposed facility will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use. In fact, the proposed operation will likely add value to existing farm practices by purchasing and processing straw from regional farming operations, as well as making fertilizer available commercially to area farmers. This criterion is met.

(B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. Umatilla County finds that the applicant's proposed facility will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use. Blue Mountain Hay, LLC provides a value-added component to regional dryland farm operations (allowing farmers to reduce excess residue to meet current farming practices) and should actually improve the bottom line of dryland farming in the area, not negatively impact its operations. This criterion is met.

§ 152.617 STANDARDS FOR REVIEW: CONDITIONAL USES AND LAND USE DECISIONS ON EFU ZONED LANDS.

(I) EFU CONDITIONAL USES

(B) Commercial Activities in Conjunction with Farm Use. Commercial activities that are in conjunction with farm use, including but not limited to, processing of farm crops into biofuel, public grain elevators, commercial use feedlots, livestock sale yards, commercial agricultural chemical storage tanks and

agricultural products for sale commercially, provided that:

(1) The activity is compatible with adjacent farm, forest, rural residential or multiple use uses;
Farming has occurred on the subject property for many years without conflicting with adjacent farm, rural residential, and commercial uses. Uses proposed as part of this project will continue to be related to farm use. Therefore, Umatilla County finds that the proposed activities are compatible with adjacent uses. This criterion is met.

(2) The activity is situated upon generally unsuitable land for production of farm crops considering, but not limited to, vegetation, location, terrain, adverse soil or land conditions, drainage and flooding, and size of the tract;

The subject property has historically been cultivated for the production of crops. Should the applicant erect all of the proposed buildings, there would be very little usable land left for cultivation. However, all of the uses, except for the commercial sales aspect of the proposed operation, are considered farm uses¹. Umatilla County finds that the applicant's operation can be allowed on the subject property because the operation includes the harvesting, selling, producing, and marketing of farm crops (hay and straw). This criterion is met.

(3) Does not materially alter the stability of the overall land use pattern of the area;

The existing land use pattern of the area is comprised of a variety of land use zones including, EFU, Rural Residential, and Rural Retail Service Commercial. Farming has occurred on the subject property for many years. Umatilla County finds that since farm uses will continue to occur on the subject property as they have for many years, the project will not materially alter the stability of the overall land use pattern of the area. This criterion is met.

(4) The activity has access to a major state, county or public road which is improved to an acceptable county standard or has access to a rail line;

Access to the subject property is via Highway 11, which is a major state roadway. Umatilla County finds that as a condition of approval, the applicant is required to obtain approval from ODOT for the use of the Highway 11 access points, and make any access improvements required by ODOT. This criterion is pending.

(5) Be located and of a size and design to help reduce noise, odor, or other detrimental effects when located adjacent to farm dwellings or rural [residential] or multiple use zones. A buffer or setback area from adjacent properties may be required to reduce possible detrimental effects. The establishment of a buffer shall consider such factors as prevailing winds, drainage, expansion potential of affected agricultural uses, open space and any other factors that may affect the livability of such proposed use of the agriculture of the area;

The applicant has designed the proposed use to include a minimum building setback of 50 feet from property lines. This well exceeds the minimum setbacks required for accessory buildings in the EFU zone. In addition, the applicant proposes to strategically locate the larger equipment sheds so as to shield the neighboring properties from excess noise or visual activity. The commercial aspects of the operation, for which a Conditional Use Permit is required, are proposed to be located near the interior of the 18-acre parcel, away from any rural residential or commercial zones. As a condition of approval, all buildings shall include a minimum 50-foot

¹ Farm use as defined in ORS 215.203 includes... The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products or any agriculture or horticulture use; animal husbandry or any combination thereof. FARM USE includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use...

setback from property lines and commercial activities shall be strategically located near the interior of the property to reduce possible detrimental effects to nearby dwellings. This criterion is pending.

(6) Ingress and egress are provided and designed not to create traffic hazards;

The applicant is proposing to use the existing access approaches along Highway 11 and has configured the placement of buildings and infrastructure to allow for vehicle and equipment overflow, keeping the corridor safe and uncluttered. In addition, buildings will be adequately set back from the roadway to maintain vision clearance for ingress/egress to and from Highway 11. As a condition of approval to ensure ingress/egress does not create traffic hazards, the applicant shall coordinate with ODOT to obtain necessary access permits along Highway 11. This criterion is pending.

(7) Takes the least possible amount of agricultural land out of production;

The proposed use will take the entire subject property out of crop production once ultimate build-out is complete. However, all aspects of the proposed business, including but not limited to the hay and straw processing, seed processing and fertilizer sales, all support the production of crops and agriculture on a regional scale. By concentrating these services at one location, less land will be taken out of production at other locations across the agricultural region. Therefore, Umatilla County finds that the proposed operation will take the least possible amount of agricultural land out of production. This criterion is met.

(8) The operation complies with all applicable air, noise and water quality and other applicable regulations of all county, state or federal jurisdictions and all applicable permits are obtained;

The applicant proposes a commercial chemical and fertilizer storage and sales facility. Proper storage of the fertilizer and containment would be regulated by three agencies; Oregon Department of Agriculture (ODA), Occupational Safety and Health Administration (OSHA), and Department of Environmental Quality (DEQ). ODA regulates the use and retail sales aspect of agricultural chemicals and pesticides, and a dealer license would be required for the retail sales aspect of the operation. OSHA regulates the safe storage and handling of agricultural pesticides and chemicals. DEQ has oversight of hazardous waste generation and contamination. Umatilla County finds that as a condition of approval, the applicant shall obtain the proper agency permits and comply with ODA, OSHA, and DEQ regulations related to the distribution, storage, and safe handling of agricultural fertilizers and pesticides.

In addition, a condition of approval is imposed requiring the applicant to obtain a County Zoning Permit pursuant to §152.025, and other applicable state or federal permits. This criterion is pending.

(9) Complies with other conditions as deemed necessary.

Additional Conditional Use Permit restrictions are addressed in §152.615, below.

§ 152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS.

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions:

(A) Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such a environmental effects as noise, vibration, air pollution, glare or odor;

The applicant states that similar to farming, the Blue Mountain Hay operation will typically be most active during a 3-month period around harvest time. Throughout a majority of the year, the applicant expects 8-10 trucks carrying wheat straw, making trips in and out of the facility on a daily basis. Some

dust and noise may be generated by the agricultural activities occurring at the site. As stated previously, many of the applicant's proposed uses are considered farm uses and are precluded from additional restrictions due to resource use protections embedded in state statute. Umatilla County finds that the commercial aspects of the operation (fertilizer and chemical sales and commercial seed cleaning and sales) have the potential to generate impacts and warrants restrictions on hours of operation to minimize these impacts to adjacent properties. Therefore, Umatilla County imposes a condition limiting the hours of operation until 6:00 pm daily, Monday through Saturday, for the commercial activities related to the operation. This criterion is pending.

The Planning Commission finds that the commercial operations have the potential to generate dust which could impact adjacent properties. Therefore, as a condition of approval, the applicant shall submit to the Planning Department a dust control plan prior to final approval. This criterion is pending.

(B) Establishing a special yard, other open space or lot area or dimension;

The applicant's site plan appears to show adequate space for the movement of trucks, trailers, and vehicles required for the proposed operation. Umatilla County finds that circumstances do not warrant imposing additional condition to establish another special yard, open space or lot area or dimension area for the applicant's proposed use.

(C) Limiting the height, size or location of a building or other structure;

The Umatilla County Planning Commission finds that the size of the chemical and fertilizer storage building should be limited to reduce impacts to adjacent properties. As a condition of approval the chemical and fertilizer storage building shall be limited to 14,400 square feet. This criterion is pending.

(D) Designating the size, number, location and nature of vehicle access points;

The applicant is proposing to use the existing access approaches along Highway 11 and has configured the site plan around these approaches, which will be permitted through ODOT. Umatilla County concludes there are no other known circumstances that warrant imposing additional vehicle access points.

(E) Increasing the required street dedication, roadway width or improvements within the street right of way;

Umatilla County finds there are no other known circumstances that warrant imposing additional street dedication, roadway width or improvements within the street right of way due to the applicant's proposed use.

(F) Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

The applicant's site plan shows parking around the proposed office building as well as an identified parking area for trucks/trailers. The parking areas would be paved. All other drive lanes and open space around the subject property would likely be graveled surface. Concrete aprons may be located around portions of the proposed buildings. Umatilla County finds there are no other known circumstances that warrant imposing additional requirements such as designating a different size, location, additional screening, drainage, surfacing or other improvement of the parking or loading area for the applicant's proposed use.

(G) Limiting or otherwise designating the number, size, location, height and lighting of signs;

Umatilla County finds that the applicant is required to meet the sign regulations found in UCDC Section 152.545 for any proposed signage. The applicant will likely propose building and entrance signage. However the signage is expected to be modest and not introduce any new light pollution. As a precedent condition of approval, the applicant shall provide a site plan designating the number, size, location, height and lighting of any proposed signs. This criterion is pending.

(H) Limiting the location and intensity of outdoor lighting and requiring its shielding;

At this time, the applicant only proposes lighting for safety and security. Since there are residential properties in the vicinity, Umatilla County imposes a condition requiring any proposed lighting to be downward facing with shielding to avoid light pollution to surrounding areas. This criterion is pending.

(I) Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance.

The applicant has designed the proposed use to include a minimum building setback of 50 feet from property lines. This well exceeds the minimum setbacks required for accessory buildings in the EFU zone. In addition, the applicant proposes to strategically locate the larger equipment sheds so as to shield the neighboring properties from excess noise or visual activity. The commercial aspects of the operation, for which a Conditional Use Permit is required, are proposed to be located near the interior of the 18-acre parcel, away from any rural residential or commercial zones. As a condition of approval, all buildings shall include a minimum 50-foot setback from property lines and commercial activities shall be strategically located near the interior of the property to reduce possible detrimental effects to nearby dwellings.

During the public comment period, the City of Milton-Freewater provided comments noting that while the project is not within the jurisdiction of the City of Milton-Freewater, the City does recognize the Highway 11 corridor as a gateway to the city. The City requested that some landscaping be provided along the Highway 11 frontage, and/or possibly adjacent to the proposed office area. In addition, the City requested no razor-wire be used on top of the fencing along the highway frontage.

To cooperate with the City's request, the applicants have agreed to provide some landscaping along the Highway 11 corridor. Additionally, the Umatilla County Planning Commission found that landscaping (trees in rows) for a windbreak and dust control around the south, west, and northern property lines is warranted to minimize impacts to nearby properties. Therefore, Umatilla County finds that as a condition of approval, the applicant shall provide a site plan showing proposed fencing (without razor-wire along the highway frontage), landscaping along the Highway 11 frontage and adjacent to the proposed office area. The landscaping plan shall include for a windbreak for dust control around the south, west, and northern property lines. The landscaping and fencing, as described, shall be installed per the approved site plan. This criterion is pending.

(J) Designating the size, height, location and materials for a fence;

During the public comment period, some comments were received regarding security fencing on the subject property. To provide an additional level of security and prevent theft of chemicals and fertilizer the applicant has agreed to provide a 6-foot chain-link fence around the perimeter of the subject property, cameras, and locked/secured storages for the fertilizer and chemicals. Umatilla County finds that as a condition of approval the applicant shall install security fencing (without razor-wire along the highway frontage), cameras, and locked/secured storages to detour theft and other criminal activity at the subject property. This criterion is pending.

(K) Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.

Umatilla County finds that the subject property is currently cultivated and there are no natural resources such as trees, vegetation and wildlife habitat existing on the property deserving protection. The applicants do propose to use groundwater for their operation. The owners of the subject property have water rights for an exempt well located on the subject property. Groundwater use is regulated by Oregon Water Resources Department (OWRD). Therefore, Umatilla County finds that as a condition of approval, the applicant shall coordinate with OWRD to obtain any necessary permits for use of water rights associated with the subject property. This criterion is pending.

(L) Parking area requirements as listed in §§ 152.560 through 152.562 of this chapter.

The applicant's site plan appears to show adequate space for the movement of trucks, trailers, and vehicles required for the proposed operation. However, the plan does not identify individual parking spaces. Umatilla County finds as a condition of approval, the applicant shall provide a site plan showing the location and number of proposed off-street parking spaces that meets the parking area requirements of the Umatilla County Development Code prior to final approval. This criterion is pending.

FINAL DECISION: BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY BOARD OF COMMISSIONERS APPROVES THE BLUE MOUNTAIN HAY, LLC CONDITONAL USE PERMIT REQUEST FOR A COMMERCIAL ACTIVITY IN CONJUNCTION WITH FARM USE, UPON COMPLETION OF THE CONDITIONS LISTED BELOW.

Precedent Conditions: The following precedent conditions must be fulfilled to finalize approval of this request.

1. Obtain approval from ODOT for the use of the Highway 11 access points, and make any access improvements required by ODOT.
2. Provide a site plan designating the number, size, location, height and lighting of any proposed signs.
3. Submit a site plan showing the location of and number of proposed off-street parking spaces that meets the parking area requirements of the Umatilla County Development Code.
4. Submit to the Planning Department a dust control plan prior to final approval.
5. Provide a site plan showing all buildings with a minimum 50-foot setback from property lines. Commercial activities shall be strategically located near the interior of the property to reduce possible detrimental effects to nearby dwellings. The chemical and fertilizer storage building shall be limited to 14,400 square feet.
6. Coordinate with ODA, OSHA, and DEQ for any necessary permits related to the distribution, storage, and safe handling of agricultural fertilizers and pesticides.
7. Coordinate with OWRD to obtain any necessary permits for use of water rights associated with the subject property.
8. Provide a site plan showing proposed fencing (without razor-wire along the highway frontage), landscaping along the Highway 11 frontage and adjacent to the proposed office building. The landscaping plan shall show trees for a windbreak and dust control around the south, west, and northern property lines.
9. Obtain a Zoning Permit from the County Planning Department and all applicable State and Federal permits from Oregon Department of Agriculture, Occupational Safety and Health Administration, Department of Environmental Quality and State Building Codes.

Subsequent Conditions: The following subsequent conditions would continue to be applicable to the applicant's conditional use permit.

1. Hours of operation shall be until 6:00 pm daily, Monday through Saturday, for the commercial sale of fertilizers, chemicals, and seed permitted by the Blue Mountain Hay, LLC Conditional Use Permit .
2. Any lighting shall be downward facing with shielding to avoid light pollution to surrounding areas.
3. Landscaping and fencing shall be installed per the approved site plan.
4. Install security fencing, cameras, and locked/secured storages to detour theft and other criminal activity at the subject property.
5. Continue compliance with ODA, OSHA, and DEQ regulations and maintain permits related to the distribution, storage, and safe handling of agricultural fertilizers and pesticides.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Dated _____ day of _____, 20 _____

George Murdock, *Chair*

Attachment C - Comments Received Prior to PC Hearing

RECEIVED

JAN 17 2018

**UMATILLA COUNTY
PLANNING DEPARTMENT**

Mitzi Gustin
Map and tax lot 6N3525B001102

and

Michelle LeFore
541-861-3033

Map and tax lot 6N3525B000701

(not on the nearby property owners list but across the street
from Mitzi Gustin and next door to Gerry and Vicki Kessler)

Umatilla County

Department of Land Use Planning

Public Notice January 9, 2018; Blue Mountain Hay, LLC; Conditional Use Permit #C-1293-17; Assessors
Map #6N 35 25B: Tax Lot #2800; Account #111847

The following statements are in concern of Blue Mountain Hay, LLC building and operating their
business.

18. This area is a reduced risk of flooding because of the levee. If the levee were to fail we would flood. So the statement that we are not in a flood plain is incorrect. There are several sections of the levee that need repair. If you contact the Corps of Engineers in Walla Walla they could provide details of the levee condition. If the levee were to breach, would the chemicals and dry fertilizers be at risk due to the flooding?

152.060

Chemical Storage – What kind of chemicals and dry fertilizer? How much chemicals and dry fertilizer? How will they be stored? Is there any chance of a chemical or fertilizer explosion that can contaminate our groundwater? If the quantity is large the explosion could cause widespread evacuations. Can anybody come into their store and buy chemicals. I do not know what kind of chemicals they will have but this area is known for its meth users. They need chemicals when they cook the meth.

152.617

(1) Trucks coming and going, a hay press facility, and seed processing is not the same as growing corn on the property. Trucks are noisy and what about the noise pollution from the press machines? This is a fairly quiet area. Would you like this type of operation in the area where you live?

(2) The statement is in error. The soil is Hermiston silt loam, excellent for growing crops. Contact the University of Oregon, Environmental Studies and listen to what they can tell you about Hermiston silt loam.

(3) How many building will be erected? How tall will they be? There is a dwelling directly to the north and to the west. Will this operation devalue the price of these two homes. Will this operation lower all our property values if the noise level destroys the peace and quiet of the surrounding neighborhoods?

(4) It will be interesting what ODOT has to say as the highway is very congested at certain times of the day. Adding more big rigs will only add to the trouble as they try to access the highway when there are vehicles everywhere in both directions.

(5) A 50' set back is all that is required. For the dwelling to the north and to the west this will not be enough if only a chain link fence is required. Will the Cherry property lose their view to the east because of tall buildings? They will hear the brunt of any noise pollution. It would be like living near a truck stop. And again how loud are the press machines? How many machines will there be? How many fork lifts? The statement starts talking about a well. What does a well have to do with the opening statements in (5). Is this an existing well, a new well? The groundwater is already lowering in this area. Will the pressing and seed operations require large amounts of water, and if the water is contaminated after it is used where will it go? It is stated the buildings will be in the center but then states they will maintain a 50' setback. So is not that saying that the buildings can be 50' away from the homes located to the north and west? 18 acres is not that big to reduce noise to either of these homes and to the surrounding area.

152.615

(A) It states "may impose". It is quiet here at night. Balers and other field equipment are often run at night in the fields. Will there be 24 hours of operation at this operation during harvest? If so we will have no peace and quiet at night. Sounds are heard differently at night. They are more magnified. We are already subjected to highway traffic noise at night. If this operation has trucks unloading and moving around at night this creates noise pollution for the surrounding residential area.

(C) The Cherry property will be impacted if any building is constructed, of any height, that will block their view to the east.

(F) Vehicles and trucks and tractors have oil leaks, or gas leaks. If they are parked on a gravel surface this will contaminate the underlying groundwater. If they are on a paved surface what is going to be done with runoff that will be contaminated? Will it end up in the irrigation water, or our groundwater?

(I) Again, the statement does not say anything about a well that is in the second sentence. I would think that some type of landscaping would be necessary for the property to the north the Cherry property.

In the "Subsequent Condition" it states the hours of operation would be limited to daylight hours, but as stated above it is also stated "may impose".

We are not against any business opening in this area. However, if it devalues our way of life and our property, and threatens our groundwater, we do. Thank you for listening to our concerns. Please feel free to call me (I am Michelle LeFore) at 541-861-3033.

Thanks You

Michelle LeFore 1/17/2017

Smiley RV Sales
53816 W. Crockett Rd.
Milton Freewater, OR 97862
800-338-6562/541-938-6563

RECEIVED

January 29, 2018

JAN 29 2018

UMATILLA COUNTY
PLANNING DEPARTMENT

Robert T. Waldher, Director
Umatilla County
Dept. of Land Use Planning
216 SE 4th Street
Pendleton, OR 97801

RE: Blue Mt. Hay, LLC conditional use permit #C-1293-17

Dear Mr. Waldher,

My name is Tim S. Werhan. I own property lot#1902, assessor's map 6N3525B00, at 53816 W. Crockett Rd., on the corner of Hwy. 11 & Crockett Rd. in Milton Freewater. I purchased the property in 1983 because of the location and commercial zoning and developed it into Smiley RV Sales & Service, Inc. We sell RV's and autos. There is also a parts store and repair shop located on the property.

I am worried that an agricultural retail processing operation would be very detrimental to our business and products. The proposed operation is only approximately 330' away. I have a good well on my property that supplies a home on the property and the sales lot. The new business would have fuel storage and chemicals that could, should an accident or leakage occur, seep into the ground water and destroy our only water source.

In retail sales, one of the big factors is keeping the product clean, both inside and out. We already spend a lot of money to keep the units clean year around. The operation that Blue Mt. Hay LLC is proposing will completely cover our sales lot in dust, dirt and hay product. It will make it virtually impossible to keep our inventory clean and sell-able; this is my livelihood.

This type of business, so close to a commercial property, is not compatible.

1. The increase in traffic with big trucks will most likely hinder access to our Hwy. 11 access for the big motorhomes, not to mention the congestion in that one block area.
2. The manufacturing noise and equipment usage going on 8 to 12 hours a day will be very intrusive. The highway noise is bad enough without adding more. Our customers would find it difficult to stand outside and look at RV's with the extra noise and dirt, let alone try to talk to a salesman. Our renters might also feel that the dirt and noise are more than they want to deal with and move. That takes my income

away from me.

3. The possible foul odors from chemicals is also a big negative to sales.

4. The possibility of soil contamination and ground water is very real.

These items that I have listed would make it impossible to run a retail RV operation next to this supposed commercial farm operation

The simple truth is this: If you allow Blue Mt. Hay LLC to put in a commercial farm operation next door to an RV business that has been around for 40 years and is the only one in the valley, it could very well mean the end of Smiley RV.

I strongly object to this conditional use permit #C-1293-17 for Blue Mt. Hay LLC. If they want to operate a commercial business, then they should buy a commercial property. The property they want the permit for is farm use only.

If I need a public hearing to stop this then I will pay the \$250 for a public hearing.

Thank you.

Respectfully,

 1/29/18

Tim S. Werhan

Owner

Smiley RV

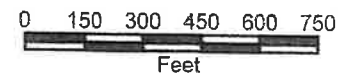
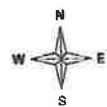


SEE ATTACHED LIST FOR PROPERTY OWNERS WITHIN NOTICE AREA

*Tim S WERHAN OWNER
 # 1902 LOT
 RETAIL SALES LOT Smiley AV
 APPROX 330' FROM LOT 2800*

CONDITIONAL USE REQUEST #C-1293-17
 BLUE MT HAY, LLC / JEREMY CHRISTIAN, APPLICANT & OWNER
 MAP 6N3525B, TAX LOT 2800

2016 AERIAL PHOTO



DATE: 12/5/17

Subject Property
 Zone Boundary

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by Umatilla County Planning Department, 12/5/17



Since 1889

CITY OF

MILTON-FREEWATER

P.O. Box 6, Milton-Freewater, OR 97862 • Phone (541)938-5531 • Fax (541)938-8224

January 30, 2018

Robert Waldher, Director
Umatilla County Planning Department
216 S.E. 4th Street
Pendleton, OR 97801

RE: Blue Mountain Hay, LLC
Conditional Use Permit C-1293-17

Dear Bob:

This letter is in response to your public notice letter dated January 9, 2018 for the above referenced conditional use permit. Thank you for the opportunity to comment on this project. The site is located to the north of Milton-Freewater. Although not within the City limits, the property serves somewhat as a gateway to the City. We request that some landscaping be provided along the highway frontage, and/or possibly adjacent to the office area. We also see that fencing is proposed. We request that razor wire be avoided along the top of the fence.

Sincerely,

A handwritten signature in cursive script that reads "Laurel Sweeney".

Laurel Sweeney
City Planner



CUP#C-1293-17

SILBERNAGEL Greg M * WRD <Greg.M.Silbernagel@oregon.gov>
To: Robert Waldher <robert.waldher@umatillacounty.net>

Thu, Jan 18, 2018 at 3:00 PM

Hi Bob,

Regarding the recent CUP #C-1293-17 for Blue Mountain Hay, LLC

- 1) The applicant has stated they plan to use the irrigation well for their equipment and spray needs. What is the estimated use per day during the peak months? I did not notice an industrial or commercial water right for this property which would limit them to exempt uses if they cannot provide one. There may be an option to change the character of use from irrigation to industrial on the Groundwater Registration associated with this property. I cannot guarantee the success of this as the applicant would have to apply through OWRD's transfer program and go through the public review process.
- 2) I did notice a Groundwater Registration for this property, GR-1465. It would be in the applicants favor to identify a plan for the place of use effected by property development (Both groundwater and surface water, if applicable). Development can cause water rights to become subject to forfeiture after 5 years of non-use. i.e. parking lots, outbuildings, ect. This is educational only and should not prevent the application from moving forward. It is something the applicant should be aware of to prevent loss of water rights on the property. They are welcome to contact me directly with any questions.
- 3) This area is within the Walla Walla River Irrigation District and did not notice their name under "agencies notified". They recently remapped and issued new certificates within the Walla Walla River Irrigation District. I do not yet have a copy of the updated maps and certificates. You would need to check with them to determine irrigation district rights affected by this proposal.

Best,

Greg Silbernagel - Watermaster, District 5

Oregon Water Resources Department

116 SE Dorion Ave.

Pendleton, OR 97801

(541) 278-5456

Section 3: Basis for the Request for a Public Hearing

Complete only for a Request for a Public Hearing

The Request for a Public Hearing must be based on issues you feel should be addressed in a public forum. Please describe the reasons you feel that a public hearing should be held before the Umatilla County Planning Commission in relation to the land use request application specified above:

The property is permitted for Exclusive Farm Use. A chemical storage & dry fertilizer storage for personal use leads a person to be concerned with potential foul odors & possible contamination of ground water. Also, if said chemicals & dry fertilizer are sold commercially, it would seem that Blue Mt. Hay needs to obtain a commercial property for that purpose. A fuel island and a truck repair shop also pose problems with possible contamination. Also, just how long does the "conditional permit" last? Surely not permanently. I can't imagine Blue Mt. Hay investing a lot of money for a temporary permit.

Farm is farm & commercial is commercial.

Umatilla County

Department of Land Use Planning

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252



Request for a Public Hearing

Process taken from UCDC 152.769

REQUEST FOR A HEARING

The purpose of a notice for a land use request application is to provide affected property owners and agencies the opportunity to review the request and the tentative findings and conclusions of the Department, and to either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.

RECEIVED

FEB 20 2018

UMATILLA COUNTY
CODE ENFORCEMENT

FILING FEE

Requesting a Public Hearing - \$250

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: February 20, 2009

File Location: H:\shared\FORMS_Master\Appeal_Hearing.doc

Section 1: Request and Description of Application

This information deals with the Land Use Request Application where a Public Hearing is being requested.

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: #C-1293-17
- Type of Land Use Request Application: conditional use permit
- Decision-Making Body: Planning Director or Other _____
- For a Request of a Public Hearing, Date Notice was sent: 1-29-18

Section 2: Contact Information

Name of Submitter(s): Tim S. Werhan

Address: 53816 W. Crockett Rd.

City, State, Zip: Milton Freewater, OR 97862

Telephone Number & Email Address: 541-938-6563, smileyrv@hotmail.com

Date of Submittal for Request of a Public Hearing: 2-9-2018

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X Tim S. Werhan
Signature of Submitter

02-09-2018
Date

Tim S. Werhan
Printed Name of Submitter

X _____
Signature of Submitter

Date

Printed Name of Submitter

X _____
Signature of Submitter

Date

Printed Name of Submitter

X _____
Signature of Submitter

Date

Printed Name of Submitter

Office Use Only

Date this paperwork was received: 02/20/18

Accepted by: Robert T Waldner
Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: 17674

Conditional use permit

2 messages

Don Ehrhardt <dehrhar@hotmail.com>

Tue, Mar 6, 2018 at 11:20 AM

To: "planning@umatillacounty.net" <planning@umatillacounty.net>, "robert.waldher@umatillacounty.net" <robert.waldher@umatillacounty.net>

re: Request #C-1293-17 Blue Mountain Hay, ILC

We own property in RR-4, lot 1701. We have a well for our needs. The subject property is only one lot, # 1600 away from us. What provisions or assurances is there concerning farm chemicals/fertilizer storage from entering the water table over us? Unfortunately both my wife and myself cannot attend the hearing. We hope that natural resources and environment questions can be asked by your staff for the meeting.

Sincerely,
Don Ehrhardt

Robert Waldher <robert.waldher@umatillacounty.net>

Thu, Mar 8, 2018 at 3:14 PM

To: Don Ehrhardt <dehrhar@hotmail.com>

Hello Mr Ehrhardt - Thank you for the comments. These will be added to the project record and presented to the Planning Commission for their consideration.

In terms of your concerns for farm chemicals and fertilizer storage methods, these would all be regulated by the Department of Environmental Quality. As a condition of the Planning approval, they would be required to comply with any of DEQ's requirements for these types of facilities.

Please let me know if you have additional questions/concerns. Thank you!

Kind Regards -

Bob

[Quoted text hidden]

Bob Waldher, RLA

Director

Umatilla County Department of Land Use Planning

216 SE 4th ST | Pendleton, OR 97801

Phone: 541-278-6251 | Fax: 541-278-5480

<http://www.umatillacounty.net/planning> - Visit our website for copies of planning documents, permit applications and other helpful information.

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.

**Attachment D - Information Presented During PC
Hearing**

RESOURCE USE PROTECTION

Section

<u>150.01</u>	<u>Title</u>
<u>150.02</u>	<u>Purpose and intent</u>
<u>150.03</u>	<u>Definitions</u>
<u>150.04</u>	<u>Protecting resource uses outside UGB</u>
<u>150.05</u>	<u>Protecting resource uses within UGB</u>
<u>150.06</u>	<u>Change in UGB</u>
<u>150.07</u>	<u>Land use decisions</u>
<u>150.08</u>	<u>Complaints by nonresource users</u>

§ 150.01 TITLE.

This chapter may be cited as the
“County Resource Use Protection
Ordinance.”
(Ord. 93-01, passed 4-7-93)

§ 150.02 PURPOSE AND INTENT.

(A) It is the purpose of this chapter to protect resource-based economically productive activities of the county in order to assure the continued health, safety and prosperity of its residents. Resource uses sometimes offend, annoy, interfere with or otherwise affect others located on or near resource lands. The county has concluded that persons located on or near resource lands must accept the conditions commonly associated with accepted resource uses.

(B) This chapter is intended to limit the availability of remedies based on nuisance or trespass, complaint procedures, rights of action and claims for relief over which the county has jurisdiction, when they otherwise would either have an adverse impact on

resource uses which the county seeks to protect, or would impair full use of the resource base within the county.
(Ord. 93-01, passed 4-7-93)

§ 150.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FACILITY. Any real or personal property, including appurtenances thereto and fixtures thereon, associated with a given use.

FARMING PRACTICES. The cultivation, growing, harvesting, processing or selling of plants or animals of any kind, which lawfully may be grown, possessed and sold, including, but not limited to, livestock, sheep, nursery stock, potatoes, cereal grains, green peas, alfalfa, fruit, grapes, melons, canola, and vegetables.

FOREST PRACTICE. This term has the meaning given by ORS 527.620.

GENERALLY ACCEPTED. This term means either a practice or facility which is conducted or used in compliance with applicable federal and state laws; or, if there is no applicable federal or state law, a practice or facility which an average person in the county who is a grower or producer regularly involved in the same type of resource use would reasonably expect to occur or exist in a truly rural setting. The County Board of Commissioner may, as it deems necessary, establish resource user peer review boards consisting of five persons who regularly are involved in the same type of resource use in question, to advise the Commission as to generally

accepted practices or facilities with respect to that resource use.

NON-RESOURCE USE. Any facility, activity or other use of land which does not constitute a resource use, including, but not limited to, residential use, and, also including any aggregate mining use which is not conducted in accordance with a program complying with Goal 5, adopted by the Oregon Land Conservation and Development Commission.

RESOURCE USE. Any current or future generally accepted aggregate mining, farming, ranching or forest practice or facility conducted in compliance with applicable county land use ordinances. **RESOURCE USE** does not include the willful growing or unlawful, infested, infected or diseased plants or animals; or trespass which involves actual physical intrusion onto the property of another by a person or by a person's animals. (Ord. 93-01, passed 4-7-93)

§ 150.04 PROTECTING RESOURCE USES OUTSIDE UGB.

(A) No resource use occurring outside an urban growth boundary (UGB) shall be declared to be a public or private nuisance or trespass, or support any complaint procedure, or give rise to a claim for relief in favor of, or to protect the interests of, nonresource uses or any persons or property associated therewith, to the extent that such right, proceeding or claim would arise under an ordinance or the inherent authority of the county.

(B) This section applies regardless of:

(1) The location of the purportedly affected non-resource use.

(2) Whether the nonresource use purportedly affected existed before or after the occurrence of the resource use.

(3) Whether the resource use or non-resource use has undergone any change or interruption.

(4) Whether the resource use or non-resource use is located inside or outside an area designated as secondary resource lands. (Ord. 93-01, passed 4-7-93)

§ 150.05 PROTECTING RESOURCE USES WITHIN UGB.

(A) No resource use occurring within an urban growth boundary (UGB) shall be declared to be a public or private nuisance or trespass, or support any complaint procedure, or give rise to a claim for relief in favor of, or to protect the interests of, non-resource uses or any persons or property associated therewith, to the extent that such right, proceeding or claim would arise under an ordinance or the inherent authority of the county.

(B) This section applies:

(1) Regardless of the location of the purportedly affected nonresource use.

(2) Only if the resource use predated the purportedly affected nonresource use.

(3) Only if the resource use has not significantly increased in size or intensity after the effective date of this chapter, or the date on which the applicable urban growth boundary is changed to include the subject resource use within its limits, whichever date is later. However, if the change is

mandated by law, this section shall apply.

(Ord. 93-01, passed 4-7-93)

(C) In any action or claim for relief alleging nuisance or trespass and arising from a practice that is alleged by either party to be farming or forest practice, the prevailing party shall be entitled to judgment for reasonable attorney fees and costs incurred at trial and on appeal.

(Ord. 93-01, passed 4-7-93)

§ 150.06 CHANGE IN UGB.

To the extent permissible under state law, if an urban growth boundary (UGB) is changed in such a way as to place a resource use either inside or outside such boundary, § 150.04 of this chapter applies with respect to any conflict between a resource use and nonresource use.

(Ord. 93-01, passed 4-7-93)

§ 150.07 LAND USE DECISIONS.

The fact that the County's Comprehensive Plan, development ordinances and land use decisions may allow the siting, development or support of land use decisions may not negate the provisions of this chapter intended to protect a resource use.

(Ord. 93-01, passed 4-7-93)

§ 150.08 COMPLAINTS BY NON-RESOURCE USERS.

Any persons engaged in a nonresource use are deemed on notice that the county will not act on complaints involving a resource use protected under this chapter, wherever located, so long as such resource use complies with applicable provisions of federal and state laws and this chapter.

MULTIPLE LOCATIONS

Pesticide retailers must have a Pesticide Dealer license for each location that sells or distributes RUPs to end users. This includes in-state and out-of-state distribution/shipping facilities that ship directly to the customer in Oregon.

INSPECTING PRODUCTS

- ✓ Check to make sure the pesticides offered for sale are registered with ODA. Registered products should appear when searching the ODA website.
- ✓ All pesticides must have the complete product label on the package. Some products have additional booklets, manuals, or supplemental labels.
- ✓ Do not sell adulterated (damaged) or misbranded (incorrectly labeled) products to end users.

CONSULTING

Employees of the dealer must hold a Pesticide Consultant license if they are providing technical advice on restricted-use pesticides (RUPs). This includes recommending RUPs, calculating rates, and interpreting label instructions for clients.

CUSTOM APPLICATIONS

The pesticide dealer license does not allow the license holder to perform **any** pesticide applications on the property of others. A **Commercial Pesticide Operator** license must be obtained prior to starting a pesticide application business or applying pesticides to the property of others. Individuals making pesticide applications must obtain a **Commercial Pesticide Applicator** license with the appropriate categories.

CONTACT US

Oregon Department of Agriculture
Pesticides Program
635 Capitol St NE
Salem, OR 97301
Phone: 503-986-4635
Fax: 503-986-4735
<http://oregon.gov/ODA/PEST>
pestx@oda.state.or.us

This publication is available in other formats, if needed.

3/2013



Oregon
Department
of Agriculture



Dealer

Pesticide Dealer Responsibilities



CHECK LICENSES

Only persons with the following licenses may purchase restricted-use pesticides (RUPs):

- ✓ Commercial pesticide applicators with the correct license categories
- ✓ Public pesticide applicators with the correct license categories
- ✓ Private applicators
- ✓ Only Consultants with the Demonstration and Research category

Apprentices and Trainees cannot purchase RUPs

VERIFYING CATEGORIES

Individuals attempting to purchase restricted-use pesticides must only be sold products that would be legal to use under their license.

- ✓ Commercial and public applicators' categories must match the product uses. For example, a commercial applicator with the "Structural Pest" category should not be sold a restricted-use agricultural herbicide.
- ✓ Private applicators should only be allowed to purchase restricted-use pesticides for agriculture, forestry, greenhouse or nursery use.
- ✓ Consultants can only purchase restricted-use pesticides for use in research or demonstration trials or plots. **Large quantities should be questioned.**

DEALER RECORDKEEPING

Recordkeeping requirements

- ✓ Pesticide license holder information
 - ♦ Name of purchaser (no nicknames, initials, partial names, or ranch or company names)
 - ♦ Applicator's mailing address
 - ♦ Applicator's license number (list issuing state if not from Oregon).
- ✓ Date (M/D/Y) of the sale or distribution
- ✓ Trade name of pesticide—including formulation type
- ✓ Quantity of product sold or distributed

Although the sale of a RUP is made to a licensed certified applicator, the product may be picked up by an un-licensed person designated by the purchaser. The name of the person picking up the RUP should be listed in the sales record.

How to keep records

- ✓ Develop your own forms based on the elements listed above.
- ✓ Records may be kept in hard copy format or on a computer system.
- ✓ Records must be maintained for three years.
- ✓ Provide records to ODA upon request.

SECONDARY CONTAINMENT

Does my Facility Need Secondary Containment?

- ✓ If you are an agricultural products establishment whose principal business (50% or more) is retail sales, OR
- ✓ You are a Commercial Pesticide Applicator, OR
- ✓ You are a custom blender, **AND**
- ✓ One or more of the stationary pesticide containers holds 500 gallons or more of a liquid pesticide or 4000 pounds or more of dry pesticides...

Then you **MUST** have a secondary containment unit and a containment pad.

REPACKAGED/REFILLABLES

- ✓ Dealer (independent refiller) must have a written contract with the product registrant.
- ✓ Refiller and product registrant are responsible for the product integrity.
- ✓ Use only a registrant-acceptable container and confirm that it is safe to use.
- ✓ Refillable containers must be properly cleaned to registrant specifications.
- ✓ Refillable containers must be properly labeled; including the EPA establishment number and the net contents.
- ✓ Records must be kept on the product, date, and container for each refill.



INSURANCE

- ✓ State law requires that Commercial Pesticide Operators are insured for property damage and bodily injury, of at least \$25,000 each.
- ✓ If your insurance coverage changes or is renewed during the year, the Operator must submit the change to ODA. Licenses will either be suspended or rendered inactive if insurance is not renewed.

BUSINESS CHANGES

- ✓ Let ODA know in writing when business information (address, phone, etc.) changes or a licensed applicator's employment is terminated.

PROTECTING WORKERS

- Encourage applicators, apprentices, and trainees to engage in practices that will protect their health.
- ✓ Provide personal protective equipment (PPE) for employees
 - ✓ Provide decontamination, spill and emergency cleanup supplies
 - ✓ Conduct safety training
 - ✓ Have Material Safety Data Sheets (MSDS) for all products and conduct MSDS training
- Call OR-OSHA 1-800-922-2689 for more information.

WEB SITE

<http://oregon.gov/ODA/PEST/>

- ✓ Pesticide advisories
- ✓ Enforcement actions
- ✓ Laws & compliance
- ✓ Licensing information
- ✓ Pesticide registration
- ✓ Recertification information
- ✓ Recordkeeping and reporting
- ✓ Pesticide storage and disposal
- ✓ And more...

CONTACT US

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635 Capitol St. NE
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9/2013



Oregon
Department
of Agriculture



Operator

**Commercial
Pesticide
Operator
Responsibilities**



OPERATOR'S LICENSE

- ✓ Allows a business to employ commercial pesticide applicators and engage in the business of applying pesticides to the land or property of others.
- ✓ Operator's licenses are based on Pesticide Applicator license categories.

PESTICIDE LICENSES

Understand the responsibilities and limitations of each pesticide license type.

Commercial Pesticide Applicator

- ✓ May purchase and apply any pesticide within categories on their license
- ✓ Requires category specific exams
- ✓ May supervise apprentices and trainees

Pesticide Apprentice

- ✓ May not purchase restricted-use pesticides
- ✓ May only work within the supervisor's and operator's license categories
- ✓ Supervisor must be easily available during the application, but does not have to be on site

Immediately Supervised

Pesticide Trainee

- ✓ May not purchase restricted-use pesticides
- ✓ May only work within the supervisor's license categories
- ✓ Supervisor must be on site during the application and no more than 5 minutes away from the trainee

RECORDKEEPING

Recordkeeping elements

- ✓ Customer name, address and phone number
- ✓ Address or geographical description where application was made. Also include number of acres, ft², etc. treated
- ✓ Date (M/D/Y), beginning and ending time
- ✓ Product supplier
- ✓ EPA registration number or the FULL product trade name including formulation type and manufacturer
- ✓ Amount applied—use lbs., oz. or gal. of actual product per acre or concentration (lbs. or oz. product/gal.) and total gallons applied
- ✓ Target site or crop
- ✓ Equipment description, including FAA number if applied by air
- ✓ Full name and license numbers of all applicators, apprentices and trainees who made pesticide application (no nicknames or initials)
- ✓ Records must be maintained for three years
- ✓ Records must be legible
- ✓ Provide records to ODA, USDA, and attending licensed health care professionals when requested

READING THE LABEL

Read it...

- ✓ Read the label before you purchase a pesticide product, each time you apply it, and when you store or dispose of it.

Follow it...

- ✓ Always follow label directions exactly. Wear required personal protective equipment, apply correct rates only on listed sites, and observe all other label restrictions.
- ✓ If you have questions about the label, contact ODA's Pesticides Program.

AVOIDING PROBLEMS

- ✓ Be especially careful near sensitive sites, such as bee hives, schools, and hospitals
- ✓ Observe buffer zones around waterways. See the ODA web site for details
- ✓ Keep application equipment in good condition and calibrated correctly
- ✓ Prevent drift by the use of drift control technologies – such as drift reduction nozzles or drift retardants
- ✓ Avoid areas where runoff to water is likely
- ✓ Protect local endangered species



Storage of agricultural pesticides and chemicals

OAR 437-004-1680

Storage of agricultural pesticides and chemicals

This fact sheet will help you make decisions about storing pesticides on your farm or ranch. Because your decisions could have impact beyond the scope of Oregon OSHA compliance, this fact sheet offers suggestions for good practices in addition to telling you what our rules require. When you see the word "should" or "suggested," we are offering an idea that may be good sense related to your civil liability or toward compliance with rules of other government agencies. Everything else is related to Oregon OSHA's standard on this subject, **OAR 437-004-1680, Storage of Hazardous Chemicals**.

Where to Store

You should find a site not likely to flood or expose the chemicals to water. When possible, it should be at least 100 feet from surface water and downslope from wells and other sensitive factors like feed storage areas. Depending on how much you store, your site should also minimize the potential for run-off into streams or other areas. If prevailing winds in your area come mostly from one direction, locate the storage downwind from dwellings as much as possible.



The Storage Facility

Keep your storage area or facility as small as practical. This makes it harder for you to have more chemicals on site than you really need. Chemical storage must comply with instructions (usually found on the container or MSDS) of the chemical manufacturers. When storing pesticides, you must adequately separate chemicals that could cause a hazardous reaction if they are mixed. Each area must have a label according to the chemical category stored in it.

Chemical storage areas must have enough ventilation to keep air contaminants below the permissible exposure levels (PEL) in **OAR 437-004-9000, Air Contaminants**, and below 25% of the lower explosive limit (LEL) when employees enter the facility.

If you build a facility specifically for storage of restricted-use pesticides, try to use as much nonflammable material as possible. Nonabsorbent interior materials are best.

OR-OSHA rules require floors and shelves to be nonabsorbent or have nonabsorbent coatings when you store restricted-use pesticides.

There must be enough natural or artificial light inside the storage area to allow workers to work safely. The rule requires at least 20 foot-candles of light.

Control the temperature inside the facility so that your chemicals do not freeze and the conditions meet the storage recommendations of the manufacturer.

While it is smart business practice to lock any chemical storage area, OR-OSHA rules only require it when you store restricted-use pesticides.



Web site:

www.orosha.org

Salem Central Office
350 Winter St. NE, Rm. 430
Salem, OR 97301-3882

Phone: (503) 378-3272
Toll-free: (800) 922-2689
Fax: (503) 947-7461



Storage of agricultural pesticides and chemicals *continued*



Safe Storage Practices

The most important rule is to follow any and all recommendations of the manufacturer. These are usually found on the chemical container, label, or material safety data sheet (MSDS). Oregon OSHA requires that you do this and has a rule that says, "Storage and removal of hazardous chemicals must not cause hazards to workers."

If the label, container, or MSDS becomes illegible, you can get the information from your supplier, the manufacturer, or on the Internet. You can't have unidentified chemicals without violating several government regulations and agencies. Use common sense: Do not store chemicals in containers normally used for other purposes, like plastic milk jugs. Even if the container has the proper label, you are inviting disaster. Do not store pesticides with non-related equipment.

Local Responders

Be certain to let your local emergency responders (fire and police) know where you keep your pesticides and other hazardous chemicals. If you keep certain very high hazard chemicals like aluminum phosphide you must post certain signs on your storage facility because it can become explosive when it contacts water. Other chemicals react badly with water and/or create toxic fumes when they burn. If any of your chemicals would be a hazard to responders, you have an obligation to warn them. Keep your MSDS and fire extinguishers where they are safely accessible, not where somebody would be in danger getting to them.



Sign required for
Aluminum Phosphide

Other Requirements

There are many other rules that apply to the storage of chemicals in general and to the storage and handling of restricted-use pesticides in particular. Some are:

- **OR-OSHA Subdivision 4/H, Flammable & Combustible Liquids**
- **OR-OSHA Subdivision 4/H, Hazardous Waste Operations & Emergency Response**
- **OR-OSHA Subdivision 4/I, Personal Protective Equipment**
- **OR-OSHA Subdivision 4/S, Electricity**
- **OR-OSHA Subdivision 4/Z, Air Contaminants**

Be sure to read **OAR 437-004-1680, Storage of Hazardous Chemicals**, for information not in this fact sheet.

Other Regulators

These agencies also have rules and responsibilities regarding the storage of pesticides and hazardous chemicals:

- **Oregon Department of Environmental Quality**
www.oregon.gov/DEQ/index.shtml
- **Oregon State Fire Marshal**
www.oregon.gov/OOHS/SFM/index.shtml
- **Building Codes Division**
www.cbs.state.or.us/external/bcd/
- **Oregon Department of Agriculture**
www.oregon.gov/ODA/index.shtml
- Your local fire and law enforcement agencies

The photos:

The photos in this fact sheet are of a newer, state-of-the-art storage facility for a very large agricultural business. Wouldn't we all like to have something like this? Realistically, most facilities are much smaller. However, regardless of the nature of your facility, the principles shown in the photos remain the same.

OR-OSHA (11/06) FS-23

OAR
437-004-1680

Storage of agricultural pesticides and chemicals

Oregon
OSHA

The Standards and Technical Resources Section of Oregon OSHA produced this fact sheet to highlight our programs, policies, or rules. The information is from the field staff, research by the technical resources staff, and published materials. We urge readers to also consult the rules as this fact sheet information is not as detailed.

Managing Waste Pesticide

Details managing waste pesticide according to the Universal Waste Rule

Background

Waste pesticides can be managed using the streamlined management requirements of the "universal waste rule." Before the adoption of this rule, waste pesticides needed to be managed using the more stringent hazardous waste management rules. This fact sheet provides guidance to individuals who create and manage waste pesticides according to the universal waste rule.

For detailed information on the management of waste pesticides, refer to the Oregon Administrative Rule (OAR) Chapter 340, Division 109. Universal waste rules are found in the Code of Federal Regulations (CFR), Title 40, Part 273 and (OAR) Chapter 340, Division 113.

What is a "waste pesticide"?

For the purposes of this fact sheet, *waste pesticides* are defined as any pesticide-containing material that:

- Cannot or will not be used, and
- Will be discarded or disposed.

Waste pesticides can include, but are not limited to, unused or unusable:

- Pesticide products destined for disposal;
- Banned, canceled or recalled pesticide products;
- Surplus spray solutions, spray concentrate, dust or granules;
- Pesticide contaminated water produced by cleaning the interior surfaces of pesticide application equipment or by rinsing empty pesticide containers; and
- Empty, unrinsed pesticide containers.

Waste pesticides do not include pesticide-containing materials (*e.g.*, soil, carpet and foodstuffs) where pesticides are applied according to pesticide label instructions.

Managing waste pesticides

The following management requirements of waste pesticides, according to the universal waste rule, are designed to minimize releases of pesticide into the environment.

Tanks and containers

Waste pesticides must be managed in a container or tank that remains closed, structurally sound and is compatible with the waste. This can be the original container that held the pesticide product

when it was purchased. The container must not be leaking or damaged in a way that could cause leakage. Any container showing signs of leakage must be placed inside a larger container, suitable to contain any leakage.

Storage time limits

Persons generating waste pesticides may store them for up to one year after they decide to dispose of the pesticide.

Labeling

Containers holding waste pesticides must be labeled or marked with:

- The label that was on or accompanied the original product when it was sold. If the label is not available, the container must be marked with the appropriate label as required by the U.S. Department of Transportation Regulation 49 CFR Part 172,
- The words "Waste Pesticides," *and*
- The date the pesticide became a waste (state-only pesticide waste requirement).

Response to releases

A generator of waste pesticides must be able to respond to releases. Any release of waste pesticide must be immediately contained and transferred to an appropriate container.

A good way to remember the steps for a spill emergency is the "Three C's"- *Control, Contain, Cleanup*:

- *Control* the spill situation: protect yourself, stop the leak, protect others, and stay at the site.
- *Contain* the spill: confine the spill, protect water sources, absorb liquids, and cover dry materials.
- *Cleanup* clean up the spill: decontaminate the spill site, neutralize the spill site, decontaminate equipment, and decontaminate yourself.

Note: Spills of pesticides greater than the federal reportable quantity (see 40 CFR Part 302 Table 302.4) or, if not on the 302.4 Table, greater than 200 pounds (25 gallons), must be reported to the Oregon Emergency System (OERS) at 1-800-452-0311. Spills of pesticides greater than the federal reportable quantity must also be reported to the National Response Center at 1-800-424-8802.



State of Oregon
Department of
Environmental
Quality

**Waste Prevention & Management
Hazardous Waste**
811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-6753
(800) 452-4011
Fax: (503) 229-6977
Contact: Rick Volpel
www.deq.state.or.us

Where must the waste be disposed?

Waste pesticides managed according to the universal waste management requirements must be transported to the following sites for management or disposal prior to the end of the one-year storage limit:

- A site or facility that has registered with DEQ as a pesticide collection program, or
- A permitted hazardous waste facility.

Transporting waste pesticides

Generators may self transport their waste pesticides to a registered collection event or facility. Transportation should be done with prior approval from the collection program or facility. Transporting waste pesticides according to the universal waste rule in Oregon does not require a hazardous waste manifest. However, applicable Department of Transportation (DOT) regulations must be observed.

Deciding where to send your waste pesticides

When deciding to send waste pesticides to a pesticide collection program or to a hazardous waste management facility, you should know how your waste will be managed. You should feel assured that the waste will be managed properly and your potential liability, if the waste is mismanaged, is minimized.

Before you transport your waste to a collection site or facility, you should know the following:

- How the waste will be managed, stored and transported;
- How long will the waste be stored before it will be treated or disposed;
- How the waste will be treated or disposed of; and
- How you will know that the waste has been properly treated or disposed of.

Recommended safety practices

Note: No safety precautions and protective measures can be suggested that eliminate risks. However, here are some suggestions that may assist you in minimizing exposure as you manage waste pesticides.

For handling waste pesticides

Inspect waste containers and bags. If, upon inspection you have reason to suspect that a container or bag will tear or rupture when moved, do not attempt to move or load for transport. Notify collection site personnel for assistance.

Wear the protective clothing and protective equipment (*e.g.*, goggles, gloves, respirator, *etc.*) described on product labels when handling waste pesticides.

Use the respiratory protection described on product labels. If you suspect that any of the older chemicals or unlabeled chemicals are highly volatile or are packaged under pressure, consider the need for appropriate respiratory protection.

In the event that the waste pesticides are not labeled, the product label is not legible or the product label does not contain a "Hazardous to Humans and Domestic Animals" panel with protective clothing information, wear protective clothing that you would normally wear when applying pesticides. At a minimum, wear a long sleeved shirt with sleeves buttoned at the wrist, a pair of chemical resistant gloves, preferably a chemically resistant apron, rubber boots, goggles or full face shield and a wide brimmed hat.

Have spill control materials available (*e.g.*, a 10-pound bag of commercially available safety absorbent, a shovel and a container for spilled material collected with the absorbent and any contaminated soil). These may be useful in control and cleanup of a spill involving a small amount of waste pesticides.

Note: Handle all waste and unused pesticide containers and bags with care to minimize the possibility of container rupture and loss of the material.

For transporting waste pesticides:

- Inspect all waste pesticides to ensure that they are securely packaged. Only transport containers that are securely closed. Containers that cannot be securely closed should be packed within containers that can be securely closed.
- Line the storage area of the transport vehicle with plastic sheeting to contain any spillage that might occur, and therefore, minimize any cleanup or decontamination.
- If possible arrange the waste pesticides by hazard class (*i.e.*, flammable, corrosives, oxidizers, poisons, *etc.*) to prevent mixing of incompatible materials should spillage occur.
- Assure all labels are securely attached. Unlabeled containers can result in greater expense for testing before disposal. Attention on your part to this detail can minimize your disposal costs. Management as a universal waste requires the product label be attached to containers.

- Arrange waste containers in your vehicle so that they are braced to prevent shifting which may result in container damage and/or leakage.
- All waste containers should be kept dry during transport. Loads in open vehicles such as pick-up trucks should be covered in the event of rainfall.
- Do not transport waste pesticides in a manner that will allow fumes from those wastes to enter the passenger compartment of the transportation vehicle.
- Make a list of the waste pesticides that you are transporting. Include on the list the name(s) of the pesticide, number of containers and hazard class (when known). In addition, include the emergency telephone numbers for fire and police assistance. Make another copy of that list. In case of an accident leave one copy on the driver's seat and take the second copy with you to the telephone for help. The copy you leave is in case emergency services arrive while you are away seeking assistance.
- Drive directly to the pesticide collection site or facility after you load your vehicle.
- If at the collection site, proceed to the line to which a designated project representative directs you. If you observe spillage from your vehicle while waiting in line at the collection center, get out of your vehicle and move upwind to the designated "safe zone."
- **DRIVE CAREFULLY.** You are responsible for any spillage, damage, subsequent cleanup and restoration that might occur while you are transporting the wastes, whether the accident is your fault or someone else's. You are responsible for any spillage that occurs before the waste is accepted at the collection site

For more information

For specific regulatory guidance, you are encouraged to refer to the actual rule that is available from the DEQ. Rules and fact sheets are available under the hazardous waste section of the DEQ's web site at <http://www.deq.state.or.us>.

Fact sheets and other information can be obtained from the DEQ by contacting the nearest DEQ office listed below:

Eastern Region

Bend (541) 388-6146, ext. 229

Northwest Region

Portland (503) 229-5336

(503) 229-5564

(503) 229-5560

Western Region

Eugene (541) 686-7838, ext. 270 or 237

Medford (541) 776-6010, ext. 239

Additional sources of information

The following is a list of contacts that may be useful sources of information for the management of waste pesticides:

*Oregon Agricultural Chemicals and Fertilizers Association (OACFA)
503-370-7024*

*Oregon Association of Nurserymen
800-342-6401*

*Oregon Department of Agriculture
Plant Division
503-986-4638*

*Oregonians for Food and Shelter
503-370-8092*

*Oregon State University
Agricultural Chemistry Dept.
Attn.: Extension Pesticide Coordinator
541-737-1811*

*Western Wood Preservers Institute
360-693-9958*

Alternative Formats

Alternative formats of this document can be made available. Contact the DEQ Office of Communications and Outreach for more information (503) 229-5696.

Waste Pesticide Management

How to avoid producing excess spray solutions, pesticide contaminated rinsewaters, absorbents and empty pesticide containers

Environmentally sound management of pesticide waste and empty pesticide containers is in everyone's best interest. Accidental release or indiscriminate discharge of pesticide waste into the environment can harm people and contaminate surface and groundwater. Pesticide contaminated water poses a hazard to non-target organisms such as plants, beneficial insects, fish and other aquatic life.

This factsheet is produced for people who use pesticides in industrial processes, crop and livestock production, and forest management. It describes how to dispose of excess pesticide spray solutions, pesticide-contaminated rinsewaters and pesticide-containing absorbent. This factsheet does not cover how to dispose of unused pesticide products. For that information, refer to DEQ's "Managing Waste Pesticides" factsheet.

What is pesticide waste?

Pesticide wastes are materials containing pesticide that cannot or will not be used and will be discarded and disposed of. By definition, pesticide wastes are "hazardous wastes" in Oregon. Pesticide wastes include, but are not limited to:

- Surplus spray solution, ultra-low volume (ULV) spray concentrate, dusts, granules, or baits remaining in the application equipment (such as tanks, hoppers, booms, hoses) after use.
- Pesticide-contaminated water produced by cleaning the interior surfaces of the pesticide application equipment or from rinsing empty pesticide containers.
- Pesticide-contaminated absorbent, water, or other materials generated from cleaning up spilled spray solutions.
- Empty, contaminated (unrinsed) pesticide containers.

Note: Spills of all pesticides, including pesticide wastes, must be reported to the Oregon Emergency Management Division (1-800-452-0311) and must be cleaned up according to Oregon revised regulation 340-142-0060.

What is not a pesticide waste?

Any pesticide-containing material that is used or reused according to label instructions for its intended purpose is not considered a pesticide

waste. In addition, pesticide wastes do not include pesticide-containing materials when pesticides were applied according to label instructions. For examples, treated soil, foodstuff, water, vegetation, and treated seeds are not pesticide waste when disposed of.

Pesticide wastes are hazardous waste.

Pesticide-containing materials that cannot or will not be reused (i.e., pesticide wastes), and must be disposed are "hazardous wastes" and are designated "pesticide residue" generated from two sources:

- The point of application (in the field and essentially limited to agriculture and silviculture); and
- Permanent bases of operation (i.e., places where equipment is stored, such as an airfield or pesticide dealership).

How pesticide waste is managed for disposal varies depending on the point of generation of waste.

How to avoid making pesticide wastes

Here are some important methods to help you avoid pesticide waste generation:

- Purchase no more pesticide than can be used in one season,
- Measure, mix and load only enough pesticide to do the job,
- Apply all the pesticide spray solution according to the highest industry standards and label instructions, onto the target site,
- Completely remove dry or liquid pesticide formulations from the containers. Drain containers holding liquids until dripping stops, and
- In the field, use water or another specified diluting agent and multiple rinse (rinse at least three times) or pressure wash empty containers as often as necessary until the container is clean. Always add the collected rinse solution to the spray solution. In the field, collect pesticide-contaminated water produced by high pressure, low volume cleaning (this method reduces volume) of the interior surfaces of the pesticide application equipment, such as the spray or mixing tanks, booms, hoses, or spray guns.



State of Oregon
Department of
Environmental
Quality

Land Quality Division Hazardous Waste Program

811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-5913
(800) 452-4011
Fax: (503) 229-6977
Contact: Rick Volpel
<http://www.oregon.gov/deq>

Spray the collected mixture onto the previously treated area, sites or targets, described on label.

If you cannot spray the rinsates or if there is leftover pesticide or pesticide-containing material because of error or miscalculation, do the following:

- Collect the material in a container. Hold it for use in the next application.
- Label the container with 'the name of the pesticide contents and EPA Registration Number.
- Date the container to keep track of which rinsates or mixtures to use first.

These materials may be used as a "product."

How to manage empty pesticide containers

Contaminated, empty containers (unrinsed containers) are "hazardous wastes" unless they are accepted by a pesticide distributor or manufacturer for refill or are decontaminated. If discarded, contaminated containers must be disposed of as hazardous waste. This expensive practice can be avoided by decontaminating them. At the time of emptying, decontaminate rigid containers such as plastic pails or drums, metal pails or drums, and, fiber containers by:

- Pressure or multiple rinsing (multiple rinse with the appropriate diluent at least, three times, or as often as necessary to make the container clean; if possible, multiple rinse non-rigid containers such as paper containers lined with plastic or foil. Always use this rinsate for your next batch of pesticide spray mix.
- Visually verifying that the residues have been removed from the inside and outside of the containers;
- Drying (the container's interior surfaces should be dried before crushing); and
- Crushing or physically altering, such as puncturing, the containers.

(**Note:** One and five gallon metal containers are to be punctured with at least three one-inch holes in the top and bottom before crushing. Thirty and fifty-five gallon containers are required to have both the tops and bottoms cut out and then flattened. Plastic containers do not need to be crushed.)

Decontaminated containers can and should be recycled. For more information on the collection and recycling of decontaminated metal or plastic pesticide containers, contact the **Oregon Agricultural Chemicals and Fertilizers Association (OACFA) at 503-370-7024.**

If you reuse your rinsates AND avoid generating excess spray mixtures AND purchase only the amount of pesticide you need, THEN you have no wastes to dispose of. Stop Here!!

However, if you have unusable pesticide containing materials, and they cannot be reused, then disposal is your only option. Consult DEQ's "How to dispose of unusable or unwanted pesticide spray solutions, pesticide contaminated rinsewaters and pesticide-containing absorbent" factsheet for information on how to dispose of pesticide waste.

Where can I find more information on managing pesticides waste?

For more information on the management of waste pesticides, visit DEQ waste pesticide webpage at <http://www.deq.state.or.us/lq/hw/pesticide.htm> or contact:

- The nearest [DEQ Regional Office](#),
- **Oregon Department of Agriculture**
Plant Division 635 Capitol Street NE
Salem, OR 97310-0110
503-986-4635, or
- **Oregon State University**
Department of Environmental and
Molecular Toxicology
Ag & Life Sciences Building – Room 1007
Attn: Extension Pesticide Coordinator
Corvallis, OR 97331
541-737-1811

This factsheet was developed jointly by the Department of Environmental Quality and Oregon State University Extension Service in cooperation and support from the Oregon Department of Agriculture, Oregon Agricultural Chemicals and Fertilizers Association, and Oregonians for Food and Shelter, Oregon Association of Nurserymen, and the Western Wood Preservers Association.

Alternative formats

Alternative formats (Braille, large type) of this document can be made available. Contact DEQ's Office of Communications & Outreach, Portland, at (503) 229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.





Blue Mountain Hay



Blue Mountain Hay Introduction

- ▶ Farming family for decades—Father and five sons
- ▶ Shared Owners in "Valley Hay" a forage export company of pressed straw
- ▶ Blue Mountain was started in 2008 with sole family ownership to grow into Hay products and Wheat Straw baling.
- ▶ Operation is currently in Walla Walla, Washington, with office in Milton-Freewater.
- ▶ Wheat Straw baling is the primary segment of BMH
- ▶ The family operates their own baling equipment and collects all the cut wheat straw, leaving the farmer with a clean field to work for next crop cycle
- ▶ Wheat straw is supplied to dairies, mushroom farms and mills throughout Oregon Washington and California



Milton-Freewater Project

- ▶ BMH had the opportunity to acquire the property on Highway 18
- ▶ EFU property allows us to apply for zoning permits (152.058) for buildings and structures accessory to a farm use.
- ▶ No hearings or public notice would have been necessary. If approved through the building department most all of the building we proposed could have simply proceeded
- ▶ An opportunity existed to start a fertilizer and chemical supply business which had a natural synergy to BMH existing operations
- ▶ This use required the Conditional Use Permit application process



Buildings and their purpose

- Store all the equipment under cover on BMH owned and secured property
- A shop to repair equipment
- A truck scale to record the accurate weights in/out
- On site storage of Wheat straw products for better quality control
- A seed cleaning facility
- A small press to increase efficiency of overseas hay products to port
- Office building (CUP)
- Dry fertilizer storage/blending for bulk sale and pick up (CUP)
- Chemical storage for bulk sale and pick up (CUP)



Community Benefit

- ▶ The current property has a dilapidated and collapsing home sitting next to the road
- ▶ A professional building and operation replacing the home and fallow field will improve the “window in” to Milton-Freewater
- ▶ All activities will now be based in Oregon
- ▶ Roughly 45 farming jobs seasonal/permanent, plus several more as the seed and pressing operation(s) come to fruition.
- ▶ Local farmers can acquire their bulk fertilizers and field chemicals locally instead of traveling 25 minutes to the next closest operation
- ▶ Local business can benefit from the increase in commerce activity associated the project

The Umatilla Planning Dept. is working with Blue Mt Hay LLC to put a commercial farm operation under a conditional use permit (CUP). This is totally wrong and will destroy the area. I understand bringing in new business and jobs to the area, but at what cost to the community? The location that is being looked at is zoned exclusive farm use (EFU). The conditional use permit was not designed to turn farm land into a commercial, manufacturing retail operation. The potential health threats alone to the residents makes this a bad idea for this property. Blue Mt. Hay LLC needs to find an area that is zoned for their commercial operation and not right next to residential and school areas.

These are a few potential problems:

Building in the most populated area on the Hiway 11 strip makes no sense and is not acceptable. Appleton Road has Green Acres mobile home park, Crockett Road has Villadom RV and mobile home park; just down the road on Crockett, you have the Milton Stateline Adventist school and Learning Tree Christian Kinder school. The mobile home parks house predominantly retired people while the schools have the young children. In addition, there are houses all around with families.

The air quality will potentially go from good to bad as soon as Blue Mt. Hay LLC goes into production. The dirt and dust from the hay press and the fertilizer will affect the health of both young and old; the mix of chemicals and the hay press dust could affect breathing issues. Not acceptable.

The noise pollution from all of the equipment and trucks running 8-12 hours a day will destroy the quality of life lived in the rural area. Not acceptable.

The potential water table and well contamination is very high with this kind of operation, i.e., fertilizer storage, chemical storage, fuel storage. This is not acceptable.

The intersection of Hwy. 11 & Crockett Rd. is extremely dangerous as it is. It is where the Rural Fire Dept. merges onto the highway during emergencies, plus Taj Market sits on the corner; add the residents from the park and you have a real traffic snarl going on. Add in big trucks with trailers and the outcome would be disastrous. Not acceptable.

Building this type of operation in the middle of 100's of peoples' homes has all the potential of a bomb going off in our front yards, destroying our quality of life and the safety of our health.

Attachment E - Minutes of PC Hearing

**Umatilla County Planning Commission Public Hearing
Thursday, March 22, 2018, 6:30 p.m.
Albee Room, City of Milton-Freewater Public Library,
8 SW 8th Avenue, Milton-Freewater, OR**

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Gary Rhinhart, Vice Chair, Don Wysocki, Tami Green, Tammie Williams, Clive Kaiser, Hoot Royer
ABSENT: Molly Tucker Hasenbank, Cecil Thorne
STAFF: Bob Waldher, Planning Director, Carol Johnson, Senior Planner, Jacob Potterf, Planner/GIS, Tierney Dutcher, Administrative Assistant, Gina Miller, Code Enforcement Coordinator

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE

CALL TO ORDER

Chair Danforth called the meeting to order at 6:30 p.m. and read the Opening Statement.

RECOGNITION

Planning Director Bob Waldher and Planning Commission Chair Suni Danforth recognized Don Marlatt for his commitment in serving on the Planning Commission since 2013. Mr. Marlatt was presented with a Certificate of Appreciation, as his time on the Planning Commission has come to an end.

Mr. Waldher stated that we have a new staff member in the Planning Department, Jacob Potterf. Mr. Potterf started in February as a Planner and GIS Technician and we are excited to have him on board.

The Planning Commission also welcomes two new Commissioners, Molly Tucker Hasenbank and Hoot Royer. Mr. Royer resides in the Hermiston area and is in attendance tonight. Mrs. Tucker Hasenback lives in the Weston Mountain area and will be joining us soon. Mr. Waldher thanked them for their service and looks forward to working with them on future applications.

NEW HEARING

REQUEST FOR A PUBLIC HEARING FOR CONDITIONAL USE PERMIT REQUEST #C-1293-17: Blue Mountain Hay, LLC, Applicant/Owner

A “Request for a Public Hearing” was filed on February 20, 2018 to appeal the County’s tentative approval granted to Blue Mountain Hay, LLC for a Conditional Use Permit for “Commercial Activity in Conjunction with Farm Use.” The request is to develop the subject property with a variety of farm-related operations including a hay press, hay storage buildings, and an area for farm chemicals/fertilizer storage and sales. The 18.43-acre subject property is zoned Exclusive Farm Use (EFU) and is located at the northwest corner of Appleton Road and Highway 11, described as Tax Lot #2800, in Township 6N, Range 35E, Section 25B. Criteria of approval for Conditional Uses are found in Umatilla County

Development Code (UCDC) Sections 152.060, 152.061, 152.615, and, 152.617 (I)(B), and Resource Use Protections in UCDC Sections 150.01-150.08.

STAFF REPORT

Mr. Waldher stated that a majority of the Applicant's proposed uses are outright permitted uses for the EFU Zone and would not require a Conditional Use Permit (CUP). He distributed a copy of the Resource Use Protection section of the UCDC. He stated that since the Applicant is seeking to permit chemical storage and dry fertilizer storage on the property, Planning staff suggested that the application be processed as a CUP. Affected agencies and nearby property owners were notified of the CUP request and were sent a copy of the Preliminary Findings and Conclusions on January 9, 2018. The Planning Department received 3 letters, 1 email and 1 phone call from the notified public and agencies during the 21 day comment period. Copies of these communications can be found in the Planning Commission packets. Tentative Approval from the Planning Department was issued on February 6, 2018 and a Request for Public Hearing was received on February 20, 2018, within the 15 day appeal period. The request for public hearing was made by Mr. Tim Werhan, owner of Smiley's RV. A copy of the request is included in the hearing packets.

Mr. Waldher stated that he has communicated with Mr. Cory Cooley, Oregon Department of Agriculture (DOA) Pesticide Investigator for the Northeast region of Oregon. Mr. Cooley provided information regarding pesticides and storage of chemicals. He stated that several different state agencies have a part in the regulation of pesticides. Most of the chemicals stored at this site will be agriculture chemicals and so DOA will require permitting through their agency. Other aspects of the chemical and fertilizer storage will be regulated by the Oregon Occupational Safety and Health Administration (OSHA) and the Department of Environmental Quality (DEQ) will be brought in if there is an environmental issue or concern that needs to be addressed.

The Planning Commission was asked to refer to the Preliminary Findings and Conclusions and supporting information provided by the Applicant to determine if the request meets or does not meet the applicable criteria. They will either approve or deny the pending Land Use Request, and approval must be based on factual evidence in the record, not conclusory statements.

Chair Danforth called for any abstentions, bias, conflict of interest, declaration of ex-parte contact or objections to jurisdiction. There were none.

TESTIMONY

Applicant Testimony: Jeremy Christman, 31125 Cartney Dr., Harrisburg, Oregon. Mr. Christman represents the Applicant, Blue Mountain Hay. He started with a PowerPoint Presentation to explain more about Blue Mountain Hay.

Mr. Christman stated that Blue Mountain Hay is run by a family consisting of a father and 5 boys. They started out in the hay pressing business in the Willamette Valley and have been farming for decades.

They are half-interest owners in Valley Hay and grew to start Blue Mountain Hay in 2008. The thrust of their business is in wheat straw baling. The function of their job is to clear out the fields and bale things for farmers. They take the crop with them, store it and ship it to various fields and farms that need the product. The field is then left clean and ready for the farmer to start their next crop cycles.

In November of 2017, Blue Mountain Hay had an opportunity to acquire the subject property on Highway 11. The property is zoned EFU and they were able to obtain Zoning Permits for most of the buildings. They have moved into farming their own properties and require chemicals and fertilizers for production. Most of the chemicals consist of weed killers, pesticides and general fertilizer used for crops. If they were simply seeking Zoning Permits for the buildings, they would not need to address dust or noise in the process. They are seeking the community's support in this process and hope to build a good neighbor policy.

Mr. Christman stated that he would like to explain more about the purpose of the proposed buildings. While they were still in the planning stages they worked with the Oregon Department of Transportation (ODOT) and other agencies to figure out exactly what the layout was going to be. The equipment is required to be in a secure, dry storage location. They also need shops to repair equipment and a storage facility. At some point they would like to add a small press to duplicate what they do in the valley and they plan to have trucks parked on site. The Conditional Use Permit (CUP) would allow for an office building, dry chemical storage area and chemical storage area.

Mr. Christman stated that at this time, Highway 11 consists of an old field and old building that appears to be falling down. This project would call for removal of that building and replace with a new, professional building and secured storage. He believes this will improve the overall look of the area. He feels that they will bring more business and activities to Milton-Freewater and it would benefit the community as a whole. There are roughly 45 farming jobs within the baling operations and shops, not including the additional employees that will be needed as they grow the business on the property. Currently, farmers in Milton-Freewater travel 25-30 minutes to get supplies needed for bulk fertilization, pest control, weed abatement etc. Those products will be available for purchase on this property. He sees the project as a general win-win for everybody.

Commissioner Kaiser asked for clarification on how Mr. Christman determined that a 25-30 minute commute is necessary to get bulk chemicals for farming in the area. Mr. Christman stated that the family members researched that issue and provided the number. Commissioner Kaiser asked which specific site they are referring to. Mr. Christman stated that he cannot answer that question. Commissioner Kaiser stated that The McGregor Seed Company is located in Milton-Freewater, 5 minutes away from the proposed site. He stated that they will be competing with McGregor and asked more about the size of the operation. Mr. Christman stated that the chemical storage building will be 100 x 100 ft. and will hold approximately 2,500 gallons.

Commissioner Rhinhart asked if they will have fuel sales on site. Mr. Christman stated that they will have fuel on site for their own trucks, but no fuel available for purchase. Commissioner Rhinhart asked more about the chemicals that will be in the fertilizer storage areas. Mr. Christman stated that they will

have nitrogen phosphate and potassium in large quantities so they can make custom mixtures for farmers. Other chemicals are as simple as Roundup Max in large quantities for farm use.

Commissioner Rhinhart stated that the subject property is irrigated, high-value farm ground. He asked if they considered other locations for this project. Mr. Christman stated that the family has been looking at various parcels throughout the area, but this was the right location. He cannot comment on how many places they looked at. They have been leasing spaces to store equipment throughout the area and are eager to find a location that works to support their business needs. Commissioner Rhinhart stated that he supports the idea but is struggling with whether it is the right piece of ground for this activity.

Mr. Christman stated that Blue Mountain is in the hay business, including alfalfa, Timothy, meadow and organic hays. Currently those are shipped over to the valley to get pressed. The freight costs do not support a high efficiency business model. In having a press on site, they will save and the family is well known and well regarded for providing a quality package for the overseas market. The pressing activity falls within their skillset and it would benefit their business model.

Commissioner Wysocki stated that both anhydrous and liquid fertilizers are common products but the application states that they plan to use dry fertilizer. He asked if they have plans for liquid or anhydrous fertilizer storage in the future. Mr. Christmas stated that as of now, they will have dry fertilizers that will be stored in bins, used for mixtures and then loaded out. The chemical storage is designed for pesticides, fungicides and weed killers. There is no plan for liquid material at this point.

Commissioner Williams asked about the jobs that will be created to operate the facility. Mr. Christman stated that the 45 jobs he spoke of are inclusive of all workers associated with the operation including mechanics, processing agents and seasonal farm workers. Commissioner Williams asked if the jobs are already filled or if there will be new job opportunities associated with this project. Mr. Christman stated that some are returning seasonal farm workers. The office workers will be moving from another location to this new site. As they grow as a business and put more bailers on, they will source new positions locally.

Mr. Waldher provided a site plan to the Planning Commission and asked that the document be added into the record.

Chair Danforth stated that the setbacks will be 50 ft. and they will provide landscaping to shield some of the visuals. She asked about the noise associated with the process of bailing straw. Mr. Christman stated that it depends on the trucks. Without the chemical storage, fertilizer storage and office building, they would be able to do these other activities with a Zoning Permit. This would allow for the bailing activity without considerations for noise or dust. This discussion is a result of applying for the Conditional Use Permit which generated questions about the noise and dust. The chemical storage, fertilizer storage and office building will not create any excessive noise. Additionally, due to the fact that the property is located next to Highway 11, there will be no additional noise to note. The same activities are being done in the valley and the noise is so minimal that OSHA does not require ear protection for their workers.

Chair Danforth asked for more explanation about the seed cleaning activity that will take place at the facility. Mr. Christman stated that the family owns farms and need to have seed cleaned. At this time the seed is transported to the valley to be cleaned. With the Conditional Use Permit, they plan to receive dirt weight seed and send it through an elevator with shakers and screens. The chaff will be blown off and the end result is finished seed with a purity content that meets seller needs and regulations. Chair Danforth asked where the chaff goes. Mr. Christman stated that they end up at the pellet mill where they are converted into pellets and sold so nothing goes to waste. Chair Danforth asked if any of the chaff is released into the air or if it is all captured. Mr. Christman stated that dust is produced as part of the operation.

Commissioner Rhinhart asked if they plan to sell and treat seed. Mr. Christman stated that for this application, they are asking for approval to store their wheat and operate a chemical and fertilizer business. In the future they would like to bring other activities in-house. They are hoping to have one land use hearing where they ask for what they need and get approval, instead of needing a new permit each time they want to add to it. They may or may not come to fruition, but they will have the opportunity if and when circumstances allow. Commissioner Rhinhart asked if they know how long it will take to finish the expansion. Mr. Christman stated that Phase 1 consists of building the office structure, chemical storage, truck shop, equipment shed, truck scale and the fuel island. They estimate it will take a year to complete Phase 1. They would need to consider finances before they move on to Phase 2 and Phase 3. Commissioner Rhinhart asked if some of the land will still be farmed. Mr. Christman stated that there are about 10 unused acres and he's not sure it would be economical to farm.

Commissioner Wysocki asked if the purpose of the seed cleaning facility will be to market their own seed. Mr. Christman stated that they will clean their own seed and offer custom cleaning services to other farmers. They plan to eventually get into seed sales. Commissioner Kaiser asked if their operation grows, at what point does it become industrial and require a CUP? Mr. Waldher stated that the commercial aspect of the seed cleaning and sales fall under the CUP because it implies commercial activity in conjunction with farm use.

Commissioner Kaiser stated that the sales of seeds and fertilizers will produce additional traffic to the area. He asked if ODOT has been consulted. Mr. Waldher stated that ODOT indicated that the ingress and egress to the site will be off an ODOT facility, so they have jurisdiction. There are 7 reservations for access to the property and the applicant has been working with them to establish which is best. They have consolidated the access points into 3, with 40 ft. wide openings on each. They will not be accessing the property off the highway. Mr. Christman stated that they met with ODOT Permit Specialist, Tom Lapp, on site. They stated that they would like an overall traffic count and turn radius but Mr. Lapp concluded that the total amount of trucks they will use are de minimis in nature and do not require a traffic count. There are no traffic control lights necessary, but they would need to confirm ODOT's traffic study which was completed sometime around 2010 or 2012.

Chair Danforth asked about safety measures in place for the fertilizer storage to ensure groundwater is safe from contamination. Mr. Christman stated that OSHA requires that the chemical storage area has an immediate shower application, blow-down area and containment. For spill mitigation there will be a 4

inch containment berm connected to a drain that leads to a pump-out container. The dry fertilizers are generally organic, so there is no safety net necessary. There are safety protocols for those working with the dry fertilizers, but not for spills. Chair Danforth asked more about the chemical liquid containment. Mr. Christman stated that it will be stored in a heat conditioned, contained building, on racks or shelves. Based on the square footage and height available, they plan to store approximately 25,000 gallons maximum.

Commissioner Green asked if the family is already doing business in the fertilizer industry. Mr. Christman stated that this is a new venture for the family and they are just getting started. He stated that, although these chemicals are stored in concentrated levels, they are designed to be diluted and sprayed on the ground to kill fungus, pests and weeds. Chair Danforth stated that she understands that, but when used in farming practices the chemicals are heavily diluted. She asked if the applicant has made attempts to reach out to surrounding property owners, including those in the adjacent mobile home park. Mr. Christman stated that this application process has allowed them to communicate more with neighbors. He did not reach out to them personally because he did not want to make it seem as though they were trying to coerce property owners into favoring the project. He felt the public hearing was the proper way to answer all the questions and address any concerns neighbors have.

Commissioner Wysocki stated that most retail suppliers of fertilizers and agriculture chemicals provide services to patrons, like advice and field inspections. He asked if they plan to expand to develop a consulting business along with sales. Mr. Christman stated that as part of the Co-op they are working with, they will have a designated person to do that work but their business plans and business models are still a work in progress. Commissioner Kaiser asked if they will aid in the recycling of empty fertilizer and pesticide containers. Mr. Christman stated they would have to provide that service because there is nowhere else to dispose of them.

Chair Danforth asked how many tons they anticipate producing in the baling process. Mr. Christman stated that they plan to produce 40,000 – 45,000 tons, annually. Commissioner Royer asked if they will be loading the bales onto containers on the property. Mr. Christman stated that they will be loading bales onto trucks from a loading dock. Commissioner Royer asked if they plan to store containers on the premises. Mr. Christman stated that they will load the trucks and immediately send them back out and the press will allow for production to fill about 6-7 containers daily.

Chair Danforth stated that the hours of operation will be daylight hours. She is concerned that during the summer season, it can stay light until 10:00 pm. She asked if they will be operating the press and machines and have tractors coming and going from the property that late. Mr. Christman stated that he does not know how busy they will be, but farmers tend to work as long as they possibly can. If they were not seeking the CUP they would have the right to operate all day and night, but they don't want to be bad neighbors. The CUP process captures the ability to apply conditions on how they operate. Ideally, they would like to be seen as an asset to the community. They do not want to be considered a project that will create fear, noise or disrupt people's way of life. This project should not do that, because if it did they would not consider it. Chair Danforth stated that she likes the prospect of this business, but she is aware of what surrounds the property, including the mobile home park and RV

business. She is not sure if she can fully support the location based on the dust and noise that will be produced.

Mr. Waldher provided a copy of Umatilla County Development Code (UCDC) pertaining to protected farming practices in a Resource Zone.

[UCDC 150.04 PROTECTING RESOURCE USES OUTSIDE UGB. (A) No resource use occurring outside an urban growth boundary (UGB) shall be declared to be a public or private nuisance or trespass, or support any complaint procedure, or give rise to a claim for relief in favor of, or to protect the interests of, non-resource uses or any persons or property associated therewith, to the extent that such right, proceeding or claim would arise under an ordinance or the inherent authority of the county. (B) This section applies regardless of: (1) The location of the purportedly affected non-resource use. (2) Whether the non-resource use purportedly affected existed before or after the occurrence of the resource use. (3) Whether the resource use or non-resource use has undergone any change or interruption. (4) Whether the resource use or non-resource use is located inside or outside an area designated as secondary resource lands.]

UCDC 150.07 LAND USE DECISIONS. The fact that the County's Comprehensive Plan, development ordinances and land use decisions may allow the siting, development or support of land use decisions may not negate the provisions of this chapter intended to protect a resource use.]

Mr. Waldher stated that many of the activities that are included in this request are determined to be farm uses and therefore are considered outright farm uses, including the hay press. Those activities would be allowed to occur on the subject property. They would only need to obtain a Zoning Permit for the new building. The CUP application captures the commercial activities such as the fertilizer storage. Additionally, if they chose to have their own seed cleaning operation and chemical storage for their own farm use, they would be able to do that because it is tied to the farm use and that falls under state statute.

Support Testimony: Arnold Weaver, 84543 Highway 11, Milton Freewater, Oregon. Mr. Weaver stated that he lives and operates a mechanic shop to the south of the proposed project location. He knows the people from Valley Hay and has had good experiences doing business with them. He feels that moving the operation to this area will produce more work for his business and he views this as a positive thing. He stated that he would anticipate less noise produced by this project than other businesses that are operating in the area at this time.

Support Testimony: Ryan Mathwich, 84780 Tum-A-Lum Rd., Milton Freewater, Oregon. Mr. Mathwich stated that he has been farming the subject property for the last 6 years. He has gotten to know the Derstines over the years and believes they are great people. They have purchased this property and have plans for it. He believes that the opportunity to sell commercially will not produce much more dust than would already occur with normal farming practices.

Opposition Testimony: Tim Werhan, Owner, Smiley's RV, 53816 W. Crockett Rd., Milton Freewater, Oregon. Mr. Werhan stated that he believes the proposed project is designed to take place in the country.

He believes that they are requesting to obtain a special permit that would give them a commercial license, allowing them to operate the property as a commercial entity rather than a farm entity. The production and sale of products makes them a commercial operation, not a farm. The property is zoned for farm use and this is his biggest objection.

Mr. Werhan stated that there are roughly 200-300 residents in the immediate area, including 2 mobile home parks and an RV park. He believes it will be impossible for this project to not to produce dust and chemical contamination to the air and water. He is concerned that no matter how many provisions they may take, accidents happen and chemicals get spilled. The water aquifer supplying water to hundreds of people is roughly 100 ft. from most of the wells in the area. He is concerned that concentrated chemicals are unsafe materials and could destroy the entire aquifer. Most farming practices only produce dust and dirt for a few weeks each year, while this operation would continue all year.

Mr. Werhan believes this application is being considered as a farm project, but in fact it is a commercial entity because they will not be growing crops or producing food. He believes that farming is raising a crop or livestock and this project will consist of processing and retail sales. He does not believe this aligns with normal farming practices and as a result, the neighbors will be forced to live with the consequences of additional noise, dust, dirt, odors, trucks, fuel and chemicals.

Mr. Werhan stated that the Appleton Road and Crockett Road intersection is the most dangerous intersection on the highway. Crockett Road is one of the major roads joining Spofford Road and Eastside Road, along with the park and the school. He believes the increased truck traffic will create more accidents and traffic deaths.

Mr. Werhan stated that it would be great to have the property developed into a commercial property. He would like to see the space used for a grocery store, hardware store or other similar business. He stated that he is trying to protect his community. He appreciates that they are bringing new business to Milton Freewater, but does not want the project on this piece of land.

Commissioner Green asked Mr. Werhan if he believes a grocery store would create traffic increases in the area, similar to the increases he is concerned about with this CUP. Mr. Werhan stated that it would not be the same because this CUP proposes to use large semi-trucks with pup trailers and other massive commercial vehicles. He feels that grocery store traffic would increase smaller cars merging on and off the highway, which is much safer. Commissioner Green stated that she is confused because he stated that his biggest objection is that this property is zoned for farm use and should be used for farm purposes. Mr. Werhan stated that he has an issue with this particular type of business because it will be intrusive. He believes a grocery store would not produce the same issues of additional chemicals, dust, dirt and noise in the area.

Commissioner Williams commented on the statement Mr. Werhan made about the aquifer being roughly 100 ft. from most of the area wells. She stated that farming the land would cause more leaching into their water base with farmers dumping Round-up on the ground year after year, versus one accidental chemical spill. The protections will be in place in the building and any spills will be cleaned up

immediately. Mr. Werhan stated that the amount of spray the farmers use does not saturate the ground enough to penetrate much of the soil. Commissioner Green stated that this CUP will allow for the land use piece of the operation but DEQ and OSHA will be involved and the chemicals will be more controlled. Mr. Werhan stated that the chemicals involved in the CUP will be in a concentrated form and a spill would be dangerous. Commissioner Kaiser stated that the applicant will be required to have a concrete containment tank underneath the building to catch any spilled materials.

Opposition Testimony: Katharyn Tuten-Puckett, 53785 W Crockett Rd., Milton Freewater, Oregon. Ms. Tuten-Puckett stated that she lives in Villadom Mobile Home Park which is a 55+ community next to Smiley's RV. She is concerned that this operation will take place next to the park which holds 84 mobile homes and 14 RV spaces. They are on a well and do not want the water contaminated. Ms. Tuten-Puckett stated that she will be 75 years old next month. Many of the residences at Villadom are there because the air is clean in Milton-Freewater and pollutants to the air and ground are a concern of hers. In the 4 years she has lived in the park, there have been 5 major traffic accidents at the corner of W Crockett Road and Highway 11. She believes that increasing the truck traffic will cause more accidents and damage to the roads. She stated that this is very good farmland and she feels it should be protected.

Opposition Testimony: Mitzi Gustin, 53708 W Crockett Rd., Milton Freewater, Oregon. Ms. Gustin stated that she has lived in her current residence for 17 years and travels the highway into town every day. She has reached out to ODOT about safety issues but was told that they are only concerned with vehicular deaths that occur. She feels that the area cannot support any more traffic unless the state installs traffic lights. Many residents use back ways to enter the highway because it is so unsafe. She has a 40 foot well and is concerned about groundwater contamination because she does not think OSHA will monitor the site regularly. She is disappointed that they plan to bring in 45 of their own employees because the community could use the work. She does not want a grocery store or gas station. She wants to be able to use her patio without extra noise.

Opposition Testimony: David Miller, 84722 Highway 11, Milton Freewater, Oregon. Mr. Miller stated that he lives on the north edge of the subject property. He is concerned about the amount of dust and noise that will be created.

Opposition Testimony: Darrel Lepiane, 85134 Triangle Station Rd., Milton Freewater, Oregon. Mr. Lepiane stated that his main concern is water quality. There are many residences and a school in the area and they all rely on wells. He is uncomfortable with the chemical aspect of the project. He wants to know about the size of containers they will use to store the chemicals. He asked who will be monitoring the project to be sure they are complying with water quality regulations. He asked if they will make scheduled checks or unannounced checks to see how things are being done on site. Chair Danforth stated that Mr. Christman will address his questions in his rebuttal.

Commissioner Rhinhart stated that Mr. Lepiane lives in an orchard area, where they have been spraying arsenic for years. The area already has high nitrate levels for their wells. He stated that there is likely to be more pollution to the wells by the septic tank than there will be from this project. Mr. Lepiane asked who will monitor the project to ensure things are done in a safe way. Chair Danforth stated that DEQ

oversees the process, which is complaint driven. Commissioner Kaiser stated that they will have annual inspections of the tank but a spill would trigger an investigation. Mr. Lepiane stated that he would like to have regular unannounced inspections and measures onsite to mitigate. Commissioner Rhinhart stated that they will help get the process set up and probably come out in the first year to review, but they will not likely have additional inspections unless a complaint is made.

Opposition Testimony: Clayton Stewart, 53597 W Crockett Rd., Milton Freewater, Oregon. Mr. Stewart stated that he is for growth in the community but commercial operations should not take place on a quality piece of farm ground. He stated that an orchard separates his property from the subject property and when the orchard is gone he will be looking right at them. He is not as concerned about the chemical spills because he knows DEQ will keep the chemicals contained. He is concerned about the safety issues with the highway and the straw that will be blowing around the area.

Public Agencies: Mr. Waldher stated that Corey Cooley from Oregon Department of Agriculture had outlined the 3 different agencies that would be involved with the regulation of the pesticides. The City of Milton Freewater provided comments requesting that the applicant consider landscaping along the Highway 11 corridor. That request has been added as a condition of approval. Commissioner Williams asked if they received comment from the Oregon Water Resources Department (OWRD). Mr. Waldher stated that OWRD received notice and did not provide any feedback.

Mr. Waldher stated that the public notice was sent to all property owners within a 750 ft. radius of the project, per state statute. The addresses are identified using County Assessor records and public notices are sent to the address on file. Therefore, the owner of the mobile home park received notice, but each individual person residing in the park would not be noticed in this process.

Mr. Waldher stated that the state has a broad definition of what is considered farm use. He referenced the UCDC definition of Farm Use, as defined in Oregon Revised Statute (ORS) 215.203.

[FARM USE. (as defined in ORS 215.203) (1) The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management, and sale of, or the produce of livestock, poultry, fur-bearing animals or honeybees, or for dairying and the sale of dairy products or any agriculture or horticulture use; animal husbandry or any combination thereof. FARM USE includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use....]

Mr. Waldher stated that staff's interpretation is that the activities being proposed on the subject property are farm uses. However, the fertilizer sales and seed cleaning fall into a commercial use category.

Applicant Rebuttal: Jeremy Christman, Representing Blue Mountain Hay, 31125 Cartney Dr., Harrisburg, Oregon. Mr. Christman stated that he is surprised about all the emotion involved in the hearing tonight. He was not aware this project would cause so much concern about safety. The owners chose to pursue a CUP instead of just obtaining the Zoning Permits because they wanted to inform the public and receive feedback. The family would like to put forth a nice presence in the community. He

stated that if the Planning Commission would like a tree line to mitigate dust, they are open to doing that. He added that the layout will change slightly now that ODOT has issued different driveway cuts and approved the project at that site. As a result, the property will have a layout that is more efficient because the 3 driveways allow for less funneling of traffic throughout the property.

The regulatory authorities will be in charge of what can and cannot be done on the property. He understands that spills are a concern, but most of the chemicals will be in 2.5 gallon jugs and stored in a contained area. He feels that the fact that DEQ has approved the permit and will regulate the use means concerns are somewhat minimal in scope.

Mr. Christman stated that currently with no growth, the employee force is filled. However, they hope to hire community members as soon as the additional buildings are completed. Mr. Christman stated that the CUP activity will not add additional noise. The farming activities could go all night, although they do not choose to do that.

Commissioner Kaiser asked what the hours of operation will be for the CUP activities. Mr. Waldher stated that there is a provision in the criteria for approval under UCDC 152.615(A), which states that, “[I]imiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, water pollution, glare or odor”. He stated that staff is using these standards specifically for the commercial uses, not the farm uses.

Commissioner Rhinhart asked if they will be open on Sundays. Mr. Christman stated that the family never works on Sundays. They do not currently work Saturdays, but during harvest time they may have to work Saturdays.

Chair Danforth closed the hearing for deliberation.

DELIBERATION

Commissioner Rhinhart stated that he supports the project. He is not too concerned with the noise or the chemicals but he is concerned about the location. He stated that he is a hardcore farm land protector and he is concerned about the high value farm ground.

Chair Danforth stated that she lives in this area and drives the highway frequently. She agrees with the concern about additional truck traffic and is not sure this is the right location for this project. Another concern is the dust, especially because there are mobile home parks and an RV park in close proximity. The well water does not concern her because the shallow wells in the area are already contaminated with high nitrates. She wants additional businesses to come to Milton Freewater, but is concerned about the activities involved with this project.

Commissioner Wysocki stated that if it weren't for the CUP part of the project, the rest of the activities would be allowed outright in the EFU Zone. The retail sales of pesticides, agricultural chemicals and fertilizers make this request commercial, and those actions are being requested through the CUP.

Commissioner Williams stated that this activity is an outright farm use but she hears a lot of concern from the community. She stated that she was impressed with the change from the original 11 property access points to the revised 3 controlled access points. She stated that they have the right to do this through the ordinance that has been in effect for many years.

[Commissioner Green was feeling ill and excused herself before the vote.]

Chair Danforth asked if there were any additional conditions of approval to discuss before the final decision. Commissioner Kaiser stated that he would like to see a maximum size restriction of 120 x 120 ft. (14,400 sq. ft.) on the 2 new commercial buildings for chemical and fertilizer storage. He would like to propose a 6 P.M. curfew for the commercial activities and asked for the northwest and south borders of the property to be tree lined. Additionally, he is concerned that during more active times, there will be large amounts of chaff that comes off during the seed cleaning activity so he asked for a dust containment plan for the commercial use.

Commissioner Green stated that she wishes she could add a condition for the road, but that is ODOT's jurisdiction and the Planning Commission has no power over the road.

Chair Danforth stated that the City of Milton Freewater requested that there be no razor wire used. She stated that she understands they will want security fencing, but she asked that there is no razor wire along the highway.

Mr. Waldher stated that the following conditions of approval will apply; size limit of 14,400 sq. ft. on the commercial chemical/ fertilizer storage buildings, 6 P.M. curfew for commercial operations, dust control plan for commercial operations, landscaping, tree line to mitigate dust, and no razor wire on front size of property along the highway.

Chair Danforth added the following documents into the record; Blue Mountain Hay PowerPoint Presentation, UCDC Chapter 150: Resource Use Protection, Tim Werhan's Comments and Pesticide Information email from Cory C. Cooley, ODA Pesticides Program to Bob Waldher.

Commissioner Kaiser made a motion to approve the Blue Mountain Hay, LLC Conditional Use request #C-1293-17, subject to the precedent and subsequent conditions listed on page 12 and 13 of the hearing packet and additional conditions of approval imposed by the Planning Commission. The motion was seconded by Commissioner Williams. Motion passed with a vote of 4:2.

Attachment F - Request for Appeal

RECEIVED

Section 1: Request and Description of Application APR 10 2018

This information deals with the Land Use Request Application that an Appeal is being filed against.

UMATILLA COUNTY
PLANNING DEPARTMENT

THE REQUEST IS FOR... (Check the one that applies)

- an Appeal to the Planning Commission from a decision of the Planning Department
- an Appeal to the Board of Commissioners from a decision of the Planning Commission

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: #C-1293-17
- Type of Land Use Request Application: conditional use permit
- Decision-Making Body: Planning Director or Planning Commission
- Date of Decision (date on Findings): march 22, 2018
- Date you received notice of the decision or learned of the decision: march 30, 2018

Section 2: Contact Information

Name of Appellant(s): Tim S. Werhan

Address: 53816 W. Crockett Rd.

City, State, Zip: Milton Free Water, OR 97862

Telephone Number & Email Address: 541-938-6563, smileyrv@hotmail.com

Date of Submittal for the Appeal: 4-10-18

9 pgs. total

Section 3: Basis of Appeal

Complete only when appealing a decision made by the Planning Department or Planning Commission.

The Appeal is based on the belief that certain policies and/or procedures of the Comprehensive Plan and/or provisions of the Development Code were not properly administered or followed. Please specify the chapter, section and page numbers of the Comprehensive Plan and/or Development Code where the policies and/or procedures are found; as well as a narrative explaining the issues that the Appeal is based upon (*use additional pages if necessary*):

Please see attachments

Tim S. Werhan
53816 W. Crockett Rd.
Milton Freewater, OR 97862
800-338-6562

April 10, 2018

Umatilla County
Dept. of Land Use Planning

RE: Notice of Appeal, Conditional Use Permit #C-1293-17
Map 6N3525B, Tax lot #2800, Acct. #111847

I attended the last appeal of the Planning Committee on March 22, 2018.

I was politely informed that the meeting would be run according to Parliamentary procedure; it must have been a different procedure than what I have participated in in the past. Some people were allowed to speak at any time, others of us had to wait and be called on.

Not all of the surrounding landowners received notification of the appeals meeting; I brought one of them with me to the meeting.

The EFU zoning of the property in question makes a commercial, retail business seem to be in direct conflict of the zoning. I know that ORS 215.213 (1)(u) provides an opportunity for processing farm crops; I don't think chemicals and fuel storage fall into that category. This property is good farm land, without the rocks that are found on most of the properties in this area. 197.195 Limited Land Use Decision; Procedures. Section (1) subsections (a)(b) and (c) state that the limited land use decision is subject to paragraphs a-c of this subsection. (Please see attachment 29)

As I stated before, traffic on Hiway 11 is extremely congested and downright dangerous at times. Adding more big trucks and trailers to this area will prove to be costly, both in terms of property and possibly, lives.

This proposed farm operation is not compatible by Smiley RV Sales & Service, Inc., which is on a commercial property; it is located 330' from the property line of Smiley RV. Most of the farm operations of this type are often located away from residential areas. Here, it will be surrounded by residential on all four sides. Between the noise, the dust, the extra traffic, etc., it has the potential to ruin property values for surrounding

homes and businesses. Surely there must be other properties in the valley that fit the bill, without so many negatives.

Goals compliance, 197.230 subsection (B) applies to potential property values dropping; (J) applies to the agricultural use of this property. (Please see attachments 30 & 31)

counties shall incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. A decision to incorporate all, some, or none of the applicable comprehensive plan standards into land use regulations shall be undertaken as a post-acknowledgment amendment under ORS 197.610 to 197.625. If a city or county does not incorporate its comprehensive plan provisions into its land use regulations, the comprehensive plan provisions may not be used as a basis for a decision by the city or county or on appeal from that decision.

(2) A limited land use decision is not subject to the requirements of ORS 197.763.

(3) A limited land use decision is subject to the requirements of paragraphs (a) to (c) of this subsection.

(a) In making a limited land use decision, the local government shall follow the applicable procedures contained within its acknowledged comprehensive plan and land use regulations and other applicable legal requirements.

(b) For limited land use decisions, the local government shall provide written notice to owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

(c) The notice and procedures used by local government shall:

(A) Provide a 14-day period for submission of written comments prior to the decision;

(B) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue;

(C) List, by commonly used citation, the applicable criteria for the decision;

(D) Set forth the street address or other easily understood geographical reference to the subject property;

(E) State the place, date and time that comments are due;

(F) State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost;

(G) Include the name and phone number of a local government contact person;

(H) Provide notice of the decision to the applicant and any person who submits comments under subparagraph (A) of this paragraph. The notice of decision must include an explanation of appeal rights; and

(I) Briefly summarize the local decision making process for the limited land use decision being made.

(4) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth.

(5) A local government may provide for a hearing before the local government on appeal of a limited land use decision under this section. The hearing may be limited to the record developed pursuant to the initial hearing under subsection (3) of this section or may allow for the introduction of additional testimony or evidence. A hearing on appeal that allows the introduction of additional testimony or evidence shall comply with the requirements of ORS 197.763. Written notice of the decision rendered on appeal shall be given to all parties who appeared, either orally or in writing, before the hearing. The notice of decision shall include an explanation of the rights of each party to appeal the decision. [1991 c.817 §3; 1995 c.595 §1; 1997 c.844 §1]

197.200 Refinement plan; procedures for land division, site or design review within area subject to plan. (1) A local government may convene a land use proceeding to adopt a refinement plan for a neighborhood or community within its jurisdiction and inside the urban growth boundary as provided in this section.

(2) A refinement plan is more detailed than a comprehensive plan and applies to a specific geographic area. A refinement plan shall:

(a) Establish efficient density ranges, including a minimum and a maximum density for residential land uses;

(b) Establish minimum and maximum floor area ratios or site coverage requirements for nonresidential uses;

(c) Be based on a planning process meeting statewide planning goals; and

(d) Include land use regulations to implement the plan.

(3) A refinement plan and associated land use regulations adopted prior to September 9, 1995, may qualify as a refinement plan if the local government holds a public hearing to gather public comment and decides to adopt the plan as a refinement plan under this section.

(4) A local government shall apply the procedures for expedited land divisions described in ORS 197.360 to 197.380 to all applications for land division and site or design review located in any area subject to an acknowledged refinement plan. The review shall include:

(a) All elements of a local government comprehensive plan and land use regulations that must be applied in order to approve or deny any such application; and

(b) Any planned unit development standards and any procedures designed to regulate:

(A) The physical characteristics of permitted uses;

(B) The dimensions of the lots to be created; or

(C) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development.

(5) Any decision made on a refinement plan described in subsection (3) of this section shall be appealed only as provided for appeals of expedited land division decisions in ORS 197.375.

(6) Refinement plans and implementing ordinances may be adopted through the post-acknowledgment or periodic review process. [1995 c.595 §15]

GOALS COMPLIANCE

197.225 Preparation; adoption. The Department of Land Conservation and Development shall prepare and the Land Conservation and Development Commission shall adopt goals and guidelines for use by state agencies, local governments and special districts in preparing, adopting, amending and implementing existing and future comprehensive plans. [1973 c.80 §33; 1981 c.748 §27a]

197.230 Considerations; finding of need required for adoption or amendment of goal. (1) In preparing, adopting and amending goals and guidelines, the Department of Land Conservation and Development and the Land Conservation and Development Commission shall:

(a) Assess:

(A) What economic and property interests will be, or are likely to be, affected by the proposed goal or guideline;

(B) The likely degree of economic impact on identified property and economic interests; and

(C) Whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact.

(b) Consider the existing comprehensive plans of local governments and the plans and programs affecting land use of state agencies and special districts in order to preserve functional and local aspects of land conservation and development.

(c) Give consideration to the following areas and activities:

- (A) Lands adjacent to freeway interchanges; ✓
- (B) Estuarine areas;
- (C) Tide, marsh and wetland areas;
- (D) Lakes and lakeshore areas;
- (E) Wilderness, recreational and outstanding scenic areas;
- (F) Beaches, dunes, coastal headlands and related areas;
- (G) Wild and scenic rivers and related lands;
- (H) Floodplains and areas of geologic hazard;
- (I) Unique wildlife habitats; and
- (J) Agricultural land.

(d) Make a finding of statewide need for the adoption of any new goal or the amendment of any existing goal.

(e) Design goals to allow a reasonable degree of flexibility in the application of goals by state agencies, cities, counties and special districts.

(2) Goals shall not be land management regulations for specified geographic areas established through designation of an area of critical state concern under ORS 197.405.

(3) The requirements of subsection (1)(a) of this section shall not be interpreted as requiring an assessment for each lot or parcel that could be affected by the proposed rule.

(4) The commission may exempt cities with a population less than 10,000, or those areas of a county inside an urban growth boundary that contain a population less than 10,000, from all or any part of land use planning goals, guidelines and administrative rules that relate to transportation planning. [1973 c.80 §34; 1977 c.664 §17; 1981 c.748 §17; 1983 c.740 §50; 1995 c.299 §2; 1999 c.784 §1]

197.235 Public hearings; notice; citizen involvement implementation; submission of proposals.

(1) In preparing the goals and guidelines, the Department of Land Conservation and Development shall:

(a) Hold at least 10 public hearings throughout the state, causing notice of the time, place and purpose of each hearing to be published in a newspaper of general circulation within the area where the hearing is to be conducted not later than 30 days prior to the date of the hearing. At least two public hearings must be held in each congressional district.

(b) Implement any other provision for public involvement developed by the State Citizen Involvement Advisory Committee under ORS 197.160 (1) and approved by the Land Conservation and Development Commission.

(2) Upon completion of the preparation of the proposed goals and guidelines, or amendments to those goals and guidelines, the department shall submit them to the commission, the Local Officials Advisory Committee, the State Citizen Involvement Advisory Committee and the appropriate legislative committee for review.

(3) The commission shall consider the comments of the Local Officials Advisory Committee, the State Citizen Involvement Advisory Committee and the legislative committee before the adoption and amendment of the goals and guidelines.

(4) Notwithstanding subsection (1)(a) of this section, when a legislative enactment or an initiative measure is inconsistent with the adopted goals and guidelines or directs the commission to make a specific change to the adopted goals and guidelines, the commission may amend the goals and guidelines

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X Tim S. Werhan
Signature of Appellant

4-10-18
Date

Tim S. Werhan
Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

X _____
Signature of Appellant

Date

Printed Name of Applicant

RECEIVED

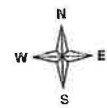
Office Use Only		APR 10 2018
Date this paperwork was received: <u>04/10/2018</u>		UMATILLA COUNTY PLANNING DEPARTMENT
Accepted by: <u>Carol Johnson</u>	<u>CAROL JOHNSON</u>	
<i>Signature of Planning Staff & Printed Name</i>		
Fee Paid? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Receipt Number: <u>17854</u>	

SEE ATTACHED
OWNERS WITHIN

4/9/15



Property 2900 Set so
 The middle of 100' of people
 pub & school
 The worst possible spot
 For this in the area



CONDITIONAL USE REQUEST #C-1293-17
 BLUE MT HAY, LLC / JEREMY CHRISTIAN, APPLICANT & OWNER
 MAP 6N3525B, TAX LOT 2800

2016 AERIAL PHOTO

DATE: 12/5/17

Subject Property Zone Boundary

MAP DISCLAIMER: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of this data. Parcel data should be used for reference purposes only. Created by Umatilla County Planning Department, 12/5/17