

**WASCO COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING CONTINUATION, WEDNESDAY, MAY 8, 2013
LOCATION: Wasco County Courthouse, Room #302
511 Washington Street, The Dalles, Oregon**

NOTE: With the exception of Public Hearings, the Agenda is subject to last minute changes; times are approximate – please arrive early. **Meetings are ADA accessible.** For special accommodations please contact the Commission Office in advance, (541) 506-2520. TDD 1-800-735-2900.

9:00 a.m.

CALL TO ORDER

Pledge of Allegiance

Items without a designated appointment may be rearranged to make the best use of time.

- Corrections or Additions to the Agenda
- Administrative Officer - Tyler Stone: Comments
- [Discussion Items](#) (Items of general Commission discussion, not otherwise listed on the Agenda)
[Enterprise Zone Allocations](#), [Cooperative Law Enforcement Plan](#)
- [Consent Agenda](#) (Items of a routine nature: minutes, documents, items previously discussed.)

9:00 a.m.

[Continuation of Hearing for Mass Gathering Permit](#) – Joey Shearer

**NEW / OLD BUSINESS
COMMISSION CALL / REPORTS
ADJOURN**



WASCO COUNTY BOARD OF COMMISSIONERS
CONTINUATION OF OUTDOOR MASS GATHERING PERMIT PUBLIC HEARING
MAY 8, 2013

PRESENT: Rod L. Runyon, Chair of Commission
Scott Hege, County Commissioner
Steve Kramer, County Commissioner
Tyler Stone, County Administrator
Kathy White, Executive Assistant
John Roberts, Planning Department Director
Joey Shearer, Senior Planner

At 9:00 a.m. Chair Runyon re-opened the Public Hearing to consider an Outdoor Mass Gathering Permit for What the Festival. He began the hearing by explaining the process to the gallery:

"The public hearing is now re-opened for the purpose of considering PLAOMG-13-03-0001: request for an Outdoor Mass Gathering for a music and art festival entitled "What the Festival" (July 25-28, 2013).

This hearing is a continuance from the May 1, 2013 public hearing. This hearing is still open to public and written testimony. The procedure I would like to follow this morning is:

The Planning Department will give their presentation which includes additional changes to the information presented to the Board at the May 1, 2013 public hearing. The Board will ask planning staff for any clarification or further explanation regarding the proposed regulations or public comments.

Public testimony Starts: Members of the audience who wish to provide testimony will be allowed to do so. If you would like to comment, please sign-up and limit your comments to 3-5 minutes, unless extended by the Chair. Additionally, please only testify if you have new information to provide. This is to help keep individuals from presenting irrelevant, immaterial, or unduly repetitious testimony or evidence. As such, testimony and evidence must be directed toward the subject hearing. The Board of Commissioners will provide direction to staff for any additional information or amendments they would like. The Board of Commissioners will choose how to proceed (continuance, denial or adoption)."

Chair Runyon asked if any Board member wished to disqualify themselves for any personal or financial interest in this matter. No member of the Board wished to disqualify themselves.

Chair Runyon asked if any member of the audience wished to challenge the right of any Board member to hear this matter. No member of the audience wished to submit a challenge to the authority of the Board.

Chair Runyon called upon Mr. Roberts to begin the staff presentation.

Staff Report

Mr. Roberts reported that the Planning Department had received a lot of good comments. He reminded everyone that a outdoor mass gathering permit is outside the scope of the land use process. He noted that while the comments were good, they were not always relevant to the rules being applied.

Mr. Shearer reviewed the submitted update to findings and conditions (see staff report, attached):

Insurance: The Planning Department recommended a million dollars in liability coverage payable to Wasco County; limits for this are set in statute.

Water: The test results on the well were confirmed by Public Health. The applicant has updated plans for trucking in supplemental water. The Planning Department believes the applicant can meet water requirements.

Traffic & Safety: The Wasco County Sheriff has certified that the applicant has an adequate plan for traffic and safety.

Fire: Planning has received a written statement from the fire authority as well as a statement from the State Fire Marshall and the Forest Service. Planning has also talked with local fire agencies. The proposed event meets rules and regulations.

Commissioner Hege asked what "energy release" refers to in the ODF Fire Prevention Plan. Mr. Shearer explained that it is measure of the level of severity current of fire hazard conditions.

Commissioner Hege asked what training there was for the second tier of security which is comprised of volunteers. Mr. Shearer responded that no specific training had been related to Planning.

Mr. Roberts asked the Board if they had any legal questions as the District Attorney would be leaving the meeting soon. District Attorney Eric Nisley said he had read the materials provided to him and concurred with the staff findings.

Public Testimony

Chair Runyon opened by explaining the process for testifying:

"An official recording is being made of what is said at this hearing. Therefore, persons addressing the Board are requested to speak clearly and only one person may speak at a time. This is the time for presentation of testimony. No debate is allowed. Testimony will be limited to 3-5 minutes per audience member unless extended by the Chair. In doing so please come to the table and state your name and address for the record. Please limit your comments to criteria applicable to the request and new information."

Chair Runyon then began to call on those who signed up to speak, beginning with those who had not testified previously.

Darren Garner 1108 W. 6th Street, The Dalles, OR

Mr. Garner introduced himself as the owner of the local Taco Time restaurant. He stated that his family has been doing business in The Dalles for thirty years and he is familiar with landowner Glen Boyd. He went on to say that last year's festival resulted in a large increase in sales at his restaurant in The Dalles. He added that with festival gatherings such as the one being considered at this hearing; producers and owners become strategic partners, helping the community with job creation and boosting civic pride. Mr.

Garner expressed his opinion that having a festival in Wasco County is a positive experience.

Judy Moore 79009 Wolf Run Road, Dufur, OR

Ms. Moore stated that she had talked with her insurance agent who had advised her that the organization should carry event insurance that insures at the rate of one-million dollars per property owner. She stated that the organizer's current insurance would not adequately cover potential losses for nearby landowners.

Ms. Moore added that she felt the hearings were not adequately publicized as she owns nearby, non-adjacent property and was not notified directly. She also expressed concern about the noise generated by the festival and asked if time limits would be enforced for noise. She also stated that Wolf Run Road runs parallel to Dufur Valley Road and asked about the level of traffic, noting that the road takes a beating just from residents. Additionally, she wanted to know about remedies for trespassers.

Commissioner Hege stated that he is not familiar with the road issue. Ms. Moore replied that Wolf Run Road runs parallel to the north of Dufur Valley Road.

Arthur Smith 520 NE William Street, Dufur, OR

Mr. Smith introduced himself as the Mayor of Dufur and stated that when What the Festival presented to the Dufur City Council the meeting was appropriately noticed as are all City Council meetings. He went on to say that he has heard from local merchants who are big proponents of the Festival. He went on to say that the City of Dufur has been in talks with the event organizers who he described as honest and transparent.

Commissioner Hege asked if there had been meetings in Dufur around this issue. Mayor Smith replied that there was the formal presentation made before the City Council at a regular session. He stated that merchants had contacted him directly to express their support for the event and no citizens had conveyed any negative comments.

Chair Runyon asked when the presentation before the City Council had occurred. Mayor Smith stated it was in March. Chair Runyon asked if there had been any subsequent presentations by the organizers. Mayor Smith replied that there had not, but there had been informal conversations with local leaders.

Dr. David Wehrly, Dufur Valley Road, Dufur, OR

Dr. Wehrly noted that the festival is outside the city limits of Dufur. Adding to his previous comments he read the following statement into the record:

"I would like to clarify and add to the comments I made at the previous hearing on May 1.

First, with respect to my concerns as to the potential for fire, I would like to add some specifics regarding the current and anticipated fire conditions. The numbers I will reference are sourced from the Oregon State University Extension and are specific to the area in question. Over the preceding 10 years, the average rainfall or moisture equivalent for the period September 1st to May 1st has been 14.57 inches for the period January 1st to May 1st and 7.24 inches for the period January 1st to May 1st. For those same periods so far this year, September 1, 2012 to May 1, 2013, only 9.61 inches have fallen – a deficit of 4.96 inches or roughly one-third the normal amount. For the period January 1, 2013 to May 1, 2013, equivalent moisture has only been 3.05 inches, only 41% of normal – a deficit of two-thirds as compared to that same period last year.

With the proposed festival three months away and summer rainfall measured in this area unlikely to make-up any deficits, we should be seeking to eliminate any unnecessary activities that might heighten the possibility of fire. What is the value to the community in permitting an activity that clearly puts our homes and livelihoods at greater risk with no benefit whatsoever to the area residents or our property.

With respect to my concern to the rural road, Dufur Valley Road, during the last hearing Wasco County Public Works indicated that they were not concerned for the potential damage 2,500 – 3,000 automobiles might cause other than the associated wear and tear with that number of vehicles. What was not addressed, however, was the volume of heavy trucks building and supporting the infrastructure for the proposed festival. The promoters have indicated that they would meet specified water requirements by trucking in supplemental water. A 6,000 gallon water tanker, often used by fire fighters, has a gross weight of approximately 45 tons. Like most rural roads in Wasco County, Dufur Valley Road's base is subject to damage from such heavy traffic, especially in the heat of the summer where temperatures can easily exceed 100 degrees. At those temperatures, even the additional auto traffic is potentially damaging.

As a point of clarification, my earlier comments regarding the residual impact that the Woodstock Festival has on that agricultural area of New York, had less to do the hippies that attended the 1969 festival than the ever increasing number of gatherings that adopted the venue. I find it implausible to believe, given the investment in infrastructure,

that Mr. Boyd intends the proposed festival to be a once in a lifetime event at this location, or that once in place that other events would not be hosted. The noise, traffic and general turmoil of such activities is, as I previously indicted totally incompatible with either the designated and restricted ag and forest use or with the residents of this area.

I am truly concerned with the 'fait accompli' approach that has surrounded this permitting process. I am also concerned about some conflicts of interest that may exist and some short cuts that may have been taken around the process. I encourage the Commissioners to both reject the permit and at the same time, if they feel there is benefit to Wasco County, assist the festival organizers in finding a more appropriate venue.

Thank you."

Commissioner Hege asked Dr. Wehrly to expand on his comments regarding a conflict of interest. Dr. Wehrly stated that Commissioner Kramer works for Mels Refuse which will have the contract to remove the trash generated by the festival. Commissioner Kramer responded that he is currently on a leave of absence from Mel's Sanitation and due to his workload as a Commissioner does not anticipate returning to his position there.

Chair Runyon asked if Commissioner Kramer is a part-owner or stock holder in the company. Commissioner Kramer replied that he is neither.

Peter Livingston, Attorney for Ken Thomas, Dufur, Oregon

Mr. Livingston referenced a second letter submitted to the Board (attached). He highlighted some of the items in the letter, saying that the most significant points are violations of the laws prohibiting advertising the event prior to the issuance of a permit and making permanent physical alterations to the site. He stated that if the new access is a road it must meet forestry standards and if it is a driveway, land use approval has been violated as the existing driveway is the only approved access and there has been no application for a modification. Had there been an application, the same standards would apply requiring no impact to forest land.

He went on to say that water rights do not permit the use of water for the festival; domestic, stock and household purposes are permitted only. Furthermore, if the water cannot be used for the festival, then more water will have to be trucked in.

In addition, if campers are to stay on site throughout the event, they will be unable to stay within the area for campsites as there are state rules regulating the required area

for each camp site; there is not adequate space at the festival site to meet state regulations.

He stated that the organizers have claimed that there will not be drug use, but provide hookah lounges on site; either the drug laws will be ignored or the fire hazard will be increased when drug users go off-site to use drugs.

Finally, he said the economic impact is not a criterion for granting the permit.

Public Health Director Teri Thalhofer interjected that hookah lounges are not marijuana related but are used for flavored tobaccos.

Peter Clark, Event Organizer, Portland, OR

Mr. Clark stated that they have been working to alleviate concerns and have added an addendum to their application. Their insurance is for \$2 million general liability plus \$3 million aggregate policy; with that policy they are currently drafting a certificate of insurance naming \$1 million for Wasco County and \$2 million to cover damage to the roads. There is also \$1 million coverage per incident that will extend to all the neighbors.

He went on to say they are very aware of the fire hazards and they are fully compliant with all of the requirements imposed by the Oregon Department of Forestry. To further enforce that, they have contacted the State Fire Marshall who supports their efforts to provide fire protection. They are contracting with Midland Emergency Services for two fire trucks and crew if the fire danger increases to a level where that would be necessary.

Addressing the issue of training for the volunteer rangers, he stated that they are trained in conflict resolution, acting as ambassadors to prevent any issues from escalating.

For traffic, they have provided a lengthy narrative regarding their plans to reduce the impact of traffic. Support vehicles will not be going through Dufur and they are working with the Sheriff's Office and the Road Department to affect a successful use of the road system. He assured the audience that they intend to intake and process vehicles as quickly as possible.

Glenn Boyd, 7889 Dufur Valley Road, Dufur, OR

Mr. Boyd pointed out that comparisons to Woodstock were inappropriate as Woodstock had 400,000 attendees with no sanitation and no security while WTF organizers are engaged with authorities to create a safe environment for the event.

Trespassing: He said that they would have security at the front of the road and signs directing traffic to the appropriate entrance.

Rangers: Mr. Boyd said that he has served as a ranger at events. He explained that while they are trained in conflict resolution, they are also instructed at each event as to what issues may be foremost at that particular event. They also provide additional sets of eyes to look out for hazards.

Commissioner Hege asked if their training is specific. Mr. Boyd replied that that the rangers will be experienced and will have a command structure and organized patrols. In addition, they will be advised as to what they are to be looking for based on the environment.

Commissioner Hege asked if Mr. Boyd's property can be accessed via Wolf Run Road. Mr. Boyd replied that they could not without going through other people's properties.

Virginia Whitely 79351 Dufur Valley Road, Dufur, OR

Ms. Whitely noted that on page three of the application it states that the WTF is an annual event, which means this will be year in and year out. She asked what would be done when they decide to have more than one event a year.

Janna Webb, 3825 Cherry Heights Road, The Dalles, OR

Ms. Webb explained that the What the Festival had been held last year on her family's property. She had been opposed to the event when her brothers suggested it, but now she feels she was wrong; the event turned out well.

Chair Runyon asked Chief Deputy Lane Magill if he had anything to add. Chief Deputy Magill stated that the Sheriff's Department does not see anything that causes them to be concerned; any issues they faced last year have been resolved as much as is possible for the upcoming event. The site has the ability to hold up to 600 vehicles off-road for the intake process at the event. The organizers have been advised that the Deputies would take action should traffic become an issue. He reported that when working with the organizers last year, they were able to resolve any issues that came up.

He went on to say that Wolf Run was a concern because if participants try to go that way they will have to cross private properties. He stated that they will add additional patrols and be aware of the potential problem; they will enforce criminal trespass laws.

Commissioner Hege asked if trespassing signs must be posted. Chief Deputy Magill responded that it is not necessary.

Chief Deputy Magill added that the Sheriff's Department is in communication with forest law enforcement and will be working with them on the patrol plan.

Chair Runyon asked if Deputies were on-site at last year's event. Chief Deputy Magill replied that they did not go on-site unless requested, but patrolled the area. He said that last year event security was inadequate but that this year they have exceeded expectations; if they need assistance, deputies will come in and provide it.

John Hickoks 79296 Dufur Valley Road, Dufur, OR

Mr. Hickoks asked why the event was moving from Tygh Valley to Dufur.

Glenn Boyd, continued

Mr. Boyd stated that the Tygh Valley site is in a box canyon which presents challenges to access, sanitation, logistics and security; in addition they anticipate exceeding the maximum capacity of the Tygh Valley site.

In regards to the claim that they have violated the law by promoting the event prior to the permit issuance, he stated that they have not sold above the number of tickets that would constitute a mass-gathering.

Commissioner Kramer asked if they planned on holding this event more frequently than once a year. Mr. Boyd replied that they plan to have the festival on an annual basis moving it to earlier in the year beginning with next year's event. The law allows them to hold an event every 120 days, but they do not anticipate doing that; this is a time-consuming process. Commissioner Kramer asked if the long term goal is just one per year. Mr. Boyd replied, yes.

Judy Moore, continued

Ms. Moore asked why they are selecting land in a forest when they have the rodeo grounds and fair grounds.

George Whitely, 79351 Dufur Valley Road, Dufur, OR

Mr. Whitely cautioned that the area around the site has seen some recent construction that included dynamite demolition; he warned that dynamite could have been left behind and would present a hazard to unwary event participants.

Public Works Director Marty Matherly

Mr. Matherly stated that Dufur Valley Road is a rural county road but designated as a federal forest route which requires it to be built to standards to withstand logging trucks; it should not sustain any major damage from a traffic event. He said they may add Wolf Run to receive signage for special events to direct traffic away from it.

Janna Webb, continued

Ms. Webb stated that her brothers went forward with last year's event and it was successful; the lady who lived on the corner where traffic entered loved it! There were no issues.

Chair Runyon asked if any member of the Board had questions.

Ms. Thalhofer stated that there continue to be Public Health issues and Public Health will be there before, during and after the event to make sure everyone is operating within regulations. She said Public Health will continue to work with the promoter to resolve remaining issues. In addition, some of the issues Public Health is required to regulate have no fee attached which will result in expended revenue with no compensation.

Chair Runyon asked if there was any further testimony or additional written comments.

Commissioner Kramer asked Ms. Thalhofer what her estimated costs would be related to the festival. Ms. Thalhofer replied that they probably already have forty to fifty hours in at \$60 per hour and there will be more. Chair Runyon pointed out that some of what Public Health will do does generate fee income. Ms. Webb commented that there is a \$5,000 fee for the permit. Chair Runyon added that the fee goes into the general fund, not directly to Public Health.

Commissioner Hege asked the Planning staff to address comment made by Mr. Livingston. Mr. Shearer asked if the Board would like for him to do that before or after closing the hearing for public comment.

Chair Runyon closed the hearing to public comment and explained the next step in the process:

"There being no further testimony, I will close the Public Testimony portion of the Public Hearing for deliberation. It is now in order for the Board to discuss matters. Is there any information not provided by staff that would assist the Board in reaching a decision? Are there any additional findings or conditions not included that a Board Member would like to see made or further explored? The Board cannot ask the public to speak again."

Mr. Roberts answered Commissioner Hege's question by saying that Mr. Thomas, through his attorney, has made a lot of good comments; however, most were land use issues having nothing to do with an outdoor mass gathering permit. Regarding the driveway – it is the Planning Department's interpretation that the property owner would not need a permit to construct a driveway and multiple access points to a resource zoned property are legal; however, access to "lots" in subdivisions have different standards per our County code.

Mr. Shearer stated that they had consulted with County Counsel regarding the advertisement and Counsel had seen no issues. He added that Wasco County runs a complaint driven code compliance program and no complaints have come in. He said that the watermaster has stated that some of the irrigation rights can be used to water down the lot.

Mr. Roberts stated that other items are not within the County's scope of authority or do not apply.

Mr. Shearer commented that standards for noticing in the permit process are not as high as in land use; however, they did incorporate some of those processes. All agencies were noticed on March 29, 2013, owners within 750 feet of the site were notified, and notices appeared in The Dalles Chronicle as well as on the Wasco County Planning Department's website. These notices were more than what is required. Lastly, he stated that the law allows a gathering of 3,000 or more people for 120 hours in a 3 month period; anything beyond that would trigger other regulations.

Chair Runyon asked how long the permit extended. Mr. Shearer replied that it is for a specific event. He added that the fee is \$5,000 and the County cannot charge more than that; it does take a good deal of county resources. Ms. Thalhoffer stated that many of the Public Health fees are also set in statute. Chair Runyon pointed out that other Public Health fees are not set in statute and Public Health should examine this process to determine if any of their flexible fees need adjustment.

Chair Runyon asked the Board for a motion to continue the hearing, deny the permit, or adopt the permit.

Commissioner Kramer stated that the room could have been filled four times over with people who have opinions regarding this event. He reported that he has talked with a number of his constituents who are in favor of the event.

{{{Commissioner Kramer made a motion to approve the proposed Outdoor Mass Gathering regarding planning case number PLAOMG-13-03-0001, in light of the applicable criteria and findings presented in the staff reports to the Board dated May 1, 2013 and May 8, 2013. Commissioner Hege seconded the motion.}}}

Discussion: Commissioner Hege said that he is glad that Commissioner Kramer, who lives in the southern part of the County, has received positive comments. He stated that he was concerned about last year's event but was surprised at how professional and well done the event was. Locals also felt organizers did a good job. He said he expects the upcoming event will be even better run. For those who have concerns – he reminded them that this is a one-time permit. Organizers will be judged on their activity this year and the Board will look at that for any future permitting. He went on to say that he believes there will be economic benefits. He said he has thought a lot about fire, which can happen at any time, but he feels the organizers are addressing that issue – they have exceeded our expectations in working with County staff.

Chair Runyon stated that he was also skeptical last year, saying that he has attended other mass gathering events as a participant. He said this was one of the better ones he has seen. Last year the County did not have a clear process, but Planning has built a process and will continue to adjust that process as we learn. He stated he is satisfied.

Mr. Roberts interjected that the one of the dates in Commissioner Kramer's motion was not accurate – May 8th should be May 7th.

{{{Commissioner Kramer moved to rescind his previous motion. Commissioner Hege seconded the motion which passed unanimously.}}}

{{{Commissioner Kramer made a motion to approve the proposed Outdoor Mass Gathering regarding planning case number PLAOMG-13-03-0001, in light of the applicable criteria and findings presented in the staff reports to the Board dated May 1, 2013 and May 7, 2013. Commissioner Hege seconded the motion which passed unanimously.}}}

Chair Runyon closed the public hearing and called a recess in the session at 10:34 a.m.

The session reconvened at 10:38 a.m.

Chief Deputy Magill explained that this an annual contract that pays the Wasco County Sheriff's Department to provide patrols within the federal forest. While it is a seasonal contract, May through September or October, it can be used for events that occur within the forest outside that time frame. Commissioner Kramer related his conversation with Sheriff Eiesland who reported that the County enjoys a good working relationship with the Forest Service.

{{{Commissioner Hege moved to approve the Cooperative Law Enforcement Annual Operating Plan and Financial Plan between the Wasco County Sheriff's Department and the USDA, Forest Service Mt. Hood National Forest. Commissioner Kramer seconded the motion which passed unanimously.}}}

Discussion List – Enterprise Zone Allocations

Chair Runyon explained that the meetings around the enterprise zone were just part of the overall effort to examine processes. This particular fund had not been examined, reconsidered or reviewed for seven years. The joint City/County group brought all the issues up and discussed what should stay the same or change. City Manager Nolan Young contacted Columbia Gorge Community College who had been receiving \$100,000 in enterprise zone funding annually. The group determined that they would reduce funding to the college to \$75,000 for each of the next two years. In addition, QLife has been doing well and no longer needs the financial support provided by the enterprise zone funding. The proposed allocations for this year include veteran's services and Discovery Center infrastructure debt.

City Manager Nolan Young joined the session and reported that the proposed allocations had been discussed by the City budget committee.

Chair Runyon noted that the enterprise zone budget for this year includes \$18,000 of rolled over funding; the annual budget is \$250,000.

Mr. Young stated that there were no questions at the budget meeting. The allocations will be considered by the City Council on May 13th. He asked for feedback from Commissioners Hege and Kramer who were not involved in the allocation meetings.

Commissioner Kramer said he likes the idea of an annual review of the allocations.

Commissioner Hege agreed saying that this is some of the most flexible funding the City and County receive and we should always be reviewing it to discover how we can best use it toward improving our economy.

Mr. Young stated that by having dialog we might bring other taxing entities to the table to help us discover other opportunities. Chair Runyon added that it has been the County's mission to examine processes to find the best plan for the most people.

Mr. Young asked if this would be on an upcoming Commission agenda.

Mr. Stone thanked Mr. Young for his willingness to work through this process with the County.

{{{Chair Runyon moved to approve the proposed enterprise zone allocations as outlined in Exhibit B included in the Board Packet. Commissioner Kramer seconded the motion which passed unanimously.}}}

Mr. Young said he would relate that motion to the City Council on Monday and invited Mr. Stone and the Board to attend.

Chair Runyon thanked Mr. Young for his efforts.

Commission Call

Mr. Stone reported that the County budget meetings are scheduled for May 15th and 16th. He also stated that he getting an opinion on the possibility of a fuel purchasing agreement for the County in an effort to reduce fuel costs.

Commissioner Kramer advised the group that he is still working on the facilities at the Pine Hollow boat ramp; he has commitments of \$2,500 and needs an additional \$500 in order to get matching funds from the State. Those funds will pay for maintenance for this season and buy the necessary time to form a parks and recreation district to manage the boat ramp area.

Mr. Stone updated the Board on previous session items – he has been working on the Signal Hill transmitter lease and there will likely be an annual escalator added to the lease. In addition, he had been working on the USDA Cooperative Services Agreement and some language has been removed and other language adjusted. The USDA is not willing to change the liability language and Mr. Stone cautioned that the contract would probably not go forward if the County insisted on that language changing.

Commissioner Hege reported attending the Lower Deschutes working group meeting and he will attend the managers meeting next Friday. He said he had met with former Commissioner Sherry Holliday before attending the meeting as she had been a member of that group for many years; he found it very helpful to get her perspective. He said it has been very educational and he is discovering a lot of political issues. His concern is

an assessment of segment three of the Lower Deschutes which has been delayed for years by the BLM although the Lower Deschutes group has made it their highest priority.

Mr. Stone asked if the Tribes are represented on the group. Commissioner Hege replied that they are represented by the man who wrote the plan and was hired back as their representative. He added that there are issues that have been ignored and need to be addressed.

Commissioner Kramer noted that it will be important to keep former Commissioner Holliday involved as she has so much background with the issues.

Chair Runyon reported that he had attended the Regional Solutions Advisory/MCEDD joint meeting. Groups were formed at eight tables and charged with coming up with projects. Five of the eight groups proposed Mid-Columbia Housing. One of the issues Chair Runyon brought forward was the RV spaces at Hunt Park; money could be channeled into a design and feasibility study to optimize use of the RV Park. He noted that there is a lack of RV facilities in the area and this could provide a source of revenue to the County.

Chair Runyon reminded the Board of the inspection of the Juvenile facilities of NORCOR tomorrow at 2:00 p.m. He also said he would not be at the second day of the budget meetings and John Carter may also be absent that day. Commissioner Hege said that he believes there will still be a quorum.

Chair Runyon reported that a letter from State Building codes hearings in regard to MCCOG is forthcoming. He encouraged the Board to explore what other (building codes) funds have been used in the past (by MCCOG) to make sure everything is above board. Commissioner Hege commented that he thinks it would be appropriate to pursue that.

Chair Runyon asked the Board members to keep Ms. White in the loop regarding their general activities so that she can be more efficient in providing support.

Chair Runyon adjourned the session at 11:20 a.m.

Summary of Actions


Motions Passed

- Approve the proposed Outdoor Mass Gathering regarding planning case number PLAOMG-13-03-0001, in light of the applicable criteria and findings

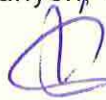
presented in the staff reports to the Board dated May 1, 2013 and May 7, 2013.

- Approve the proposed enterprise zone allocations as outlined in Exhibit B included in the Board Packet.
- Approve the Cooperative Law Enforcement Annual Operating Plan and Financial Plan between the Wasco County Sheriff's Department and the USDA, Forest Service Mt. Hood National Forest.

WASCO COUNTY BOARD
OF COMMISSIONERS



Rod L. Runyon, Commission Chair



Scott Hege, County Commissioner



Steve Kramer, County Commissioner

**WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
MAY 8, 2013**

DISCUSSION LIST

ACTION AND DISCUSSION ITEMS:

1. [Enterprise Zone Allocations](#)
2. [Cooperative Law Enforcement Plan](#)

ON HOLD:

1. Wasco County website improvement
2. MCMC Public Health Contract (adding language to cap costs)
3. Signal Hill Lease (negotiating for incremental increases based on CPI)
4. NORCOR Inspection (waiting for inspection of Juvenile facility)
5. USDA Cooperative Services Agreement (waiting for language clarification)

Discussion List Item

Enterprise Zone Allocations

- [Memo](#)
- [Proposed Project Fees – Programs & Projects for Fiscal Year 2013-2014](#)
- [2005 Enterprise Zone Abatement Agreement](#)

MEMORANDUM

TO: BOARD OF COUNTY COMMISSIONERS
FROM: KATHY WHITE
SUBJECT: ENTERPRISE ZONE ALLOCATIONS
DATE: 5/7/2013

BACKGROUND INFORMATION

In 2005, Wasco County and the City of The Dalles signed an Enterprise Zone Tax Abatement Agreement with Design, LLC for the site where the current Google facility is located in The Dalles. That agreement calls for Design, LLC to make an initial payment of \$280,000 to the sponsors (the County & the City) on November 30, 2005; and an additional \$250,000 for each year that the facility receives a tax exemption up to 15 years. Currently, we have received six additional payments with the possibility of receiving nine more as long as the Google facility continues to operate.

Section 2.c(3) states that *“the fees will be deposited with the County and budgeted, expended and distributed by the sponsors for projects, and programs for local services, or infrastructure benefiting the facility. Currently, anticipated projects and programs are listed in Exhibit B and may be changed by the sponsors during the term of this agreement.”*

For the last six payments the distribution has been as follows:

Columbia Gorge Community College Information Technology Program	\$100,000
QualityLife Intergovernmental Agency	\$ 50,000
Wasco County Economic Development	\$ 75,000
Project related costs to Wasco County	\$ 25,000

- Columbia Gorge Community College has used these funds for general STEM (Science, Technology, Engineering, Math) Programs
- QLife has used these funds for retirement of the debt it obtained to build the fiber optic system that is benefiting the Google facility. QLife has sufficient anticipated resources to retire the last loan in two years (3 years early) without additional Enterprise Zone money.
- Wasco County has primarily used these funds for retaining economic development services from Mid-Columbia Economic Development District (MCEDD) and for assistance in retiring debt associated with the Discovery Center infrastructure.

The County and City are currently considering a re-designation of the use of these fees. The attached “Exhibit B” is presented for Board consideration. The intent in the future is to review how

these fees are distributed in January of each year, so that they can be placed in the appropriate budgets.

Benefit to the Google facility has been broadly interrupted; it was felt that most economic development and community development activities do have a benefit to the facility and its employees.

Enterprise Zone Fees

EXHIBIT B

PROPOSED PROJECT FEES

PROGRAMS AND PROJECTS FOR FISCAL YEAR 2013-14

Annual Project Fees
\$250,000

Columbia Gorge Community College	
Information Technology Programs	\$ 75,000*
QualityLife Intergovernmental Agency	0
Economic Development	
a. County MCEED Contract	\$ 35,000
b. City Economic Development Specialist	\$ 30,000
c. Downtown Main Street Program	\$ 25,000
d. Discovery Center Infrastructure Debt	\$ 45,000
e. Old Armory Site Redevelopment	\$ 17,000
County Veteran's Service Officer Program	<u>\$ 41,000</u>
 TOTAL	 \$268,000**

City and County Representatives will meet in January of each year to propose distribution to City Council and County Commission

*Two years through 2014-15

** includes \$18,000 in reserve from prior years

ENTERPRISE ZONE TAX ABATEMENT AGREEMENT WASCO COUNTY

This Enterprise Zone Tax Abatement Agreement (Agreement) is entered this 25th day of April, 2005 (Effective Date) between the City of The Dalles (City), Wasco County (County) and Design, LLC, a Delaware limited liability company (Design).

FILED
2005 JUL 26 P 3:20
KAREN LEBRETON COATS
COUNTY CLERK

RECITALS

City, County and Design accept the following facts for purposes of this Agreement:

A. The Oregon Legislative Assembly adopted ORS 285C.400 to 285C.420 (Statutes) to provide tax incentives to certified business firms that invest in a qualifying facility located within a nonurban enterprise zone in a county with chronically low income or chronic unemployment. The Statutes are implemented under administrative rules (OAR 123-065-3000 to 123-065-3999, 150-285C.409 and 150-285C.420) adopted by the State of Oregon.

B. The benefits to a certified business firm under the Statutes include a 100-percent exemption on real property improvements and personal property that is owned or leased by the business firm located at the site of a qualifying facility or used in the business operations of the business firm. Under ORS 285C.409(1) qualifying property is exempt from *ad valorem* property taxes:

1. for the first tax year following the calendar year in which the business firm is certified or after construction of the facility commences, whichever is later;

2. for each subsequent tax year in which the facility is not yet in service as of the assessment date; and

3. for an additional period of between 7 and 15 years beginning with the first tax year in which the facility is in service as of the assessment date as established in an agreement between the business firm and the zone sponsor.

C. Before construction or installation of improvements or property and before hiring employees, a business firm seeking tax abatement under the Statutes must submit the Oregon Department of Revenue's Certification Application for Long-Term Rural Oregon Tax Incentive, Form 150-310-073 (Application). The Application must be submitted to the local zone manager and to the county assessor for approval, and certification of the following:

1. Execution of a written agreement between the business firm and the local zone sponsor;

2. Adoption of resolutions by the governing body of the county and of the city in which the facility would be located approving the property tax exemption;

3. Satisfactory commitment by the business firm to the requirements of ORS 285C.412 following the first assessment date on which the facility is in service, and any additional requirements contained in the written agreement; and

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4. Review of the written agreement's administrative sufficiency and confirmation of the county's current economic status by the Oregon Economic and Community Development Department.

The county assessor may make its approval of the Application contingent on establishing satisfactory administrative arrangements with the business firm. This may include regular notice and periodic substantiation of the development of the facility or satisfaction of statutory requirements. For tax abatement benefits to be received, the Application must be approved by the local zone sponsor and the county assessor on or before the date on which any facility property is placed in service, the effective date of the enterprise zone's termination, and January 1, 2007.

D. Irrespective of certification and the written agreement, a business firm qualifies for and may receive the property tax exemption described above after the first assessment date on which the facility is in service only if minimum investment, hiring and compensation targets are achieved and maintained at the facility, as set forth in ORS 285C.412 and 285C.420 and as more specifically described in the "Terms and Conditions" of this Agreement below.

E. City and County (Sponsor) jointly sponsor a nonurban enterprise zone under the Statutes known as The Dalles/Wasco County Enterprise Zone (Zone). The current population of Wasco County is less than 40,000.

F. Design proposes to construct and operate a technology facility on real property (Facility) within the Zone that will employ a significant number of persons who will be compensated on average at substantially more than the average annual wage within the County.

G. The Sponsor has found that the construction and operation of the Facility will foster desirable economic development in the Zone and its local area and will be in the best interest of City and County.

H. The function of the Facility will be as a technology operations supporting Design's internet business.

I. The site of the Facility is within the corporate limits of City.

J. In addition to tax abatement under the Statutes, a certified business firm that is subject to the corporation excise tax under ORS Chapter 317 that owns a qualifying facility in an enterprise zone may obtain the Governor's approval of excise tax credits. These credits may equal up to 62.5 percent of the business firm's annual gross payroll costs at the facility (Payroll Tax Credits) under ORS 317.124 to 317.131. Payroll Tax Credits may be claimed for a period of 5 to 15 fiscal years, starting within three calendar years after the qualifying facility is placed in service. Payroll Tax Credits are supplemental to any property tax abatement under the Statutes and are subject to other provisions of law. Design may seek approval from the Governor for any available Payroll Tax Credits.

TERMS AND CONDITIONS

As an incentive for Design to locate the Facility within the Zone and in accordance with ORS 285C.403(3)(b) and (c), the parties agree as follows:

I. PROPERTY TAX EXEMPTION

Subject to the terms and provisions of the Statutes and this Agreement, and to approval of Design's Application, City and County shall grant a 100% *ad valorem* tax exemption to all qualifying property of the Facility pursuant to ORS 285C.409(1), as follows:

- A. for the first tax year following the calendar year in which Design is certified or after which construction of the Facility commences, whichever is later;
- B. for each subsequent tax year in which the Facility is not yet in service as of the assessment date; and
- C. for a period of 15 additional years, beginning with the first tax year in which the Facility is in service as of the assessment date.

II. OBLIGATIONS OF DESIGN

A. Conditions

All obligations of Design described in this Agreement arise solely on account of, and depend entirely upon, the following:

- 1. Design's development and the placement in service at the Facility at the site legally described in Exhibit A.
- 2. Design's ability to obtain a 100% *ad valorem* property tax exemption for all qualifying property of the Facility under ORS 285C.409(1), as provided above in Part I of this Agreement.
- 3. Design's receipt of the Governor's approval, or any other approval required, which confirms that Design will receive Payroll Tax Credits at a percentage amount and for a length of time satisfactory to Design, in Design's sole and absolute discretion.

If either condition is not satisfied for any reason, Design is excused from performance of any obligation under to this Agreement, subject to any potential liability for back taxes under ORS 285C.420(3).

B. Statutory Obligations

- 1. Design will complete the Application and submit it, along with an original and executed copy with this Agreement with attachments, to the local zone manager for the

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Zone, and to the County Assessor before the any construction or installation of property and improvements and before hiring employees at the Facility.

2. To continue to qualify for the property tax exemption described in Part I after the Facility is placed into service, Design must comply with ORS 285C.412 and 285C.420. Design must meet the requirements of ORS 285C.412(2) as follows:

a. By the end of the calendar year when the Facility is placed in service, the total cost of the Facility must equal or exceed 1 percent of the real market value of all nonexempt taxable property in Wasco County, or \$16,945,345, based on the 2004-05 Oregon Property Tax Statistics, Department of Revenue.

b. By the end of the third calendar year following the year when the Facility is placed in service, the number of full-time equivalent, year-round employees at the Facility must be 35 or more.

c. For at least one of the five calendar years following the year when the Facility is placed in service (Measuring Year), the average annual compensation (including wages, salary, non-mandatory insurance and other financial benefits) of all employees working at the Facility must equal or exceed 150 percent of the average annual wage for employees in all industries in Wasco County, based on the most recent such figure that is available from the Oregon Employment Department as of the Measuring Year. For each calendar year after the fifth calendar year following the year when the Facility is placed in service, annual average compensation at the Facility must equal or exceed 150 percent of the average wage in Wasco County for the Measuring Year.

d. For purposes of this Section 0, all persons providing services to the Facility for compensation will be deemed "employees," including employees of Design, independent contractors, and employees of independent contractors that provide services to the Facility.

C. Additional Obligations

Design will meet certain additional requirements as reasonably requested by the Sponsor and established solely through this Agreement, as follows:

1. Design must pay an initial Project Fee of \$280,000 to the Sponsor on or before November 30, 2005.

2. On or before December 31 of each tax year in which the Facility is in service as of the assessment date, Design must pay a further Project Fee in the amount of \$250,000 to the Sponsor. The Project Fee will not be due for any tax year in which the Facility fails to qualify for the property tax exemption under ORS 285C.409(1)(c).

3. The Project Fees will be deposited with County, and budgeted, expended and distributed by the Sponsor for projects and programs for local services or infrastructure

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benefiting the Facility. Currently anticipated projects and programs are listed in Exhibit B and may be changed by the Sponsor during the term of this Agreement. Failure by Design to pay any Project Fee after 120 days written notice of delinquency from the Sponsor (with a copy to the County Assessor) will result in disqualification of Facility property from the property tax exemption as provided in ORS 285C.420, including but not limited to potential liability for back taxes under ORS 285C.420(3).

4. Design will make reasonable efforts to assist the County Assessor, the Sponsor and state agencies in administering the provisions of this Agreement or the associated tax incentives. However, Design may refuse any request for assistance if Design concludes, in its sole discretion, that such assistance will compromise the confidentiality of its plan to construct and operate the Facility.

5. Except as provided above, no promise or warranty attributable to Design, whether oral or written, will be deemed an obligation or requirement of Design for purposes of a property tax exemption under the Statutes.

III. OBLIGATIONS OF SPONSOR

A. The County and City will each adopt substantially the same resolution to authorize approval of this Agreement (Approval Resolutions):

1. If the Approval Resolutions are not adopted within 90 days of the Effective Date, then Design may terminate this Agreement by written notice to the Sponsor. This agreement will then become null and void and neither the Sponsor nor Design will be liable in any way.

2. Official, executed copies of the Approval Resolutions will be attached and included with this Agreement in Exhibit C.

3. The Approval Resolutions will constitute approval under ORS 285C.403(3)(a) of the property tax exemption described in Part I.

B. The Sponsor sets the period of the property tax exemption for purposes of ORS 285C.409(1)(c) at 15 consecutive years beginning with the first tax year in which the Facility is in service as of the assessment date, notwithstanding any other period that may be allowed by law.

C. The Sponsor will ensure that the Project Fees are budgeted, expended and distributed and will indemnify and hold Design, its employees, agents, attorneys, contractors, members, managers and affiliates harmless from and against any loss, damage, liability, cost or expense (including attorney fees and costs) arising out of or related to the Project Fees, including without limitation issues relating to accounting, budgeting, expenditure, non-expenditure or distribution.

D. The Sponsor will not impose or request any additional requirement of Design as a condition of the property tax exemption granted herein, except as expressed in this Agreement.

E. The Sponsor will support Design in every effort to have the Facility approved by the Governor for Payroll Tax Credits under ORS 317.124, but the Sponsor makes no warranty with respect to its ability to affect any outcome.

IV. TERM OF AGREEMENT

This Agreement takes effect on the last date of execution by the parties and is terminated on June 30 of the last tax year of the property tax exemption.

V. MISCELLANEOUS

A. This Agreement is governed by the law of the State of Oregon.

B. The benefits and burdens of this Agreement run with the land on which the Facility is constructed and is binding upon the parties, their successors and assigns.

C. Design may assign its rights and obligations under this Agreement only with the consent of City and County, not to be unreasonably withheld or delayed. Neither City nor County's consent are required for an assignment to: (1) a person or entity that owns a majority interest in Design (Parent); or (2) another entity in which the Parent or Design owns a majority interest. A change in ownership of the Parent, Design or an assignee of Design's rights and obligations under this Agreement will not be deemed an assignment for purposes of this paragraph. City and County may not assign this Agreement.

D. The parties will to the maximum extent permitted by law:

1. consider this Agreement as containing confidential commercial and financial information of Design, thus making it exempt from Freedom of Information Act (FOIA) requests as permitted under 5 U.S.C. §552(b)(4) and Section 192.502(4) of the Oregon public records law;

2. keep the existence and nature of this Agreement and the Facility confidential and will not, without the prior written consent of the other party, disclose the fact that discussions or negotiations are taking place between the parties concerning this Agreement and the Facility or the status thereof, or disclose or use any information obtained in the course of this transaction other than in connection with the transaction; and

3. transmit such information only to such of its representatives who need to know the information for the sole purpose of assisting that party in evaluating this Agreement and who agree to be bound by these terms as if a party.

E. If a legal action, arbitration, or other proceeding of any nature is instituted, or the services of any attorney are retained, to interpret or enforce any provisions of this Agreement or with respect to any dispute relating to this Agreement, the prevailing party will be entitled to recover from the losing party its attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. The amount of such fees will be determined by the judge or arbitrator and include

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fees and expenses incurred on any appeal or review, and will be in addition to all other amounts provided by law.

F. All notices relating to this Agreement must be in writing, are effective upon receipt, and must be personally delivered or sent by U.S. certified mail, return receipt requested, addressed to the parties as follows:

If to Design:

Design LLC
Ms. Leslie Chu
c/o Shartsis, Friese & Ginsburg
Eighteenth Floor
One Maritime Plaza
San Francisco, CA 94111

with a copy to:

Joseph S. Voboril
Tonkon Torp LLP
1600 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204

If to Sponsor:

The Dalles/Wasco County Enterprise Zone
Community Development Director
City of The Dalles
313 Court Street
The Dalles, OR 97058

Either party may by proper notice to the other designate such other address for notice. All notices will be deemed given on the day such notice is personally served or on the third day following the day such notice is mailed.

G. This Agreement supersedes any prior agreement and contains the entire agreement of the parties as to the matter covered. No other agreement, statement, or promise made by any party or to any employee or agent of any party is binding unless made in writing and signed by both parties to this Agreement.

H. The parties acknowledge that they have been represented by legal counsel in connection with this transaction. This Agreement and each of the terms and provisions were explicitly negotiated between the parties. This Agreement will be construed according to its fair meaning and not strictly for or against either party.

I. This Agreement may be executed in two or more counterparts, each will be considered an original and all together will constitute one and the same Agreement.

J. The following Exhibits are attached and incorporated into this Agreement:

Exhibit A – Legal Description of the Facility Site

Exhibit B – Project Fees Uses

Exhibit C – City & County Approval Resolutions

The parties executed this Agreement as follows:

City of The Dalles

By: Melissa K. Young
Title: City Manager

DATE: 5-18-05

Wasco County

By: Don Dickson
Title: Wasco County Judge

DATE: 5-18-05

Design LLC, a Delaware limited liability company

By: Ken Crawford
Title: Controller

DATE: 5/25/05

EXHIBIT A

LEGAL DESCRIPTION

Lots 24, 25, 26, 27, 28 and the East 65 feet of Lot 23, all in Chenoweth Creek Industrial Subdivision, in the City of The Dalles, County of Wasco, State of Oregon.

EXHIBIT A

P2005-0154(10)⁹

Discussion List Item
Cooperative Law Enforcement Plan

- [Cooperative Law Enforcement Annual Operating Plan & Financial Plan between the Wasco County Sheriff's Department and USDA Forest Service, Mt. Hood National Forest](#)

**EXHIBIT A****COOPERATIVE LAW ENFORCEMENT ANNUAL OPERATING PLAN &
FINANCIAL PLAN**

Between The
WASCO COUNTY SHERIFF'S DEPARTMENT
And the
USDA, FOREST SERVICE
MT. HOOD NATIONAL FOREST

2013 ANNUAL OPERATING AND FINANCIAL PLAN

This Annual Financial and Operating Plan (Annual Operating Plan), is hereby made and entered into by and between the Wasco County Sheriff's Department, hereinafter referred to as the "Cooperator", and the USDA, Forest Service, Mt. Hood National Forest, hereinafter referred to as the "U.S. Forest Service", under the provisions of Cooperative Law Enforcement Agreement # 12-LE-110606-010 executed on _____, 2013. This Annual Operating Plan is made and agreed to as of the last date signed below and is for the estimated period beginning January 1, 2013, through December 31, 2013.

Previous Year Carry-over: \$185.32

Fiscal Year Obligation: \$20,564.68

FY 2013 Total Annual Operating Plan: \$20,750

I. GENERAL:

- A. The following individuals shall be the designated and alternate representative(s) of each party, so designated, to make or receive requests for special enforcement activities:

Principle Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Lane Magill, Chief Deputy Address: 511 Washington Street Suite 102 City, State, Zip: The Dalles, OR 97058 Telephone: 541-506-2580 FAX: 541-506-2581 Email: lanem@co.wasco.or.us	Name: Brenda Borders Address: 511 Washington Street., Suite 102 City, State, Zip: The Dalles, OR 97058 Telephone: 541-506-2586 FAX: 541-506-2581 Email: brendab@co.wasco.or.us

**Principle U.S. Forest Service Contacts:**

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Andy Coriell, Captain Address: 16400 Champion Way City, State, Zip: Sandy, OR 97055 Telephone: 503-668-1789 FAX: 503-668-1738 Email: acoriell@fs.fed.us	Name: Maria Grevstad, Admin Assistant Address: 16400 Champion Way City, State, Zip: Sandy, OR 97055 Telephone: 503-668-1625 FAX: 503-668-1771 Email: mgrevstad@fs.fed.us

- B. Reimbursement for all types of enforcement activities shall be at the following rates unless specifically stated otherwise:

Wages at the prevailing rate of \$46.58 per hour and overtime rate of \$69.87.
Vehicle use rate of \$90.00 per 10 hour day.

II. PATROL ACTIVITIES:

- A. Time schedules for patrols will be flexible to allow for emergencies, other priorities, and day-to-day needs of both the Cooperator and the U.S. Forest Service. Ample time will be spent in each area to make residents and visitors aware that law enforcement officers are in the vicinity.

Timely reports and/or information relating to incidents or crimes that have occurred on National Forest System lands should be provided to the U.S. Forest Service as soon as possible.

The primary patrol activities will be during the summer months of May through September; the tour of duty will be ten hours per day on Friday, Saturday and Sunday, and include the national holidays of May 27, 2013, July 4, 2013 and September 2, 2013. Patrol activities may also occur during other months, as funding permits and as agreed to between the Cooperator and U.S. Forest Service. Patrol dates may be varied to address operational needs after mutual agreement between the Cooperator's and the U.S. Forest Service's representatives.

Each tour of duty should begin between 12:00 PM and 4:00 PM and remaining work hours may be varied as agreed to between the Cooperator and U.S. Forest Service.

The assigned Deputies will check in, as practical with the Ranger District Office or U.S. Forest Service Law Enforcement Officer when they begin their tour of duty, in person, by radio or telephone.

During scheduled vacations the cooperator, when possible, provide fill in Deputies for patrol.

The assigned Deputies would be available for other support and assistance as requested by the U.S. Forest Service.

There are patrol related activities, which will impact the Cooperating Deputy's time and will cause them to be away from the patrol route (court, reports, or responding to incidents off



National Forest). No adjustment to this plan will be required so long as the activities are held to, not more than 5 percent of the Deputy's scheduled time.

- Patrol in the following campgrounds, developed sites, or dispersed areas:

Clear Lake Campground	Rock Creek Campground
Eightmile Campground	McCubbins Gulch
Frog Lake Picnic Area	Barlow Crossing Campground
Barlow Creek Campground	White River Station Campground
Bear Springs Campground	Clear Creek Campground
Forest Creek Campground	Little Badger Campground
Fifteenmile Campground	Pebble Ford Campground
Knebal Springs Campground	Lower Crossing Campground
Underhill Site	

Patrol routes may be varied at the discretion of the assigned Deputy in order to effectively deal with incidents at other locations as they occur.

Search and rescue within the Mt Hood National Forest, within Wasco County, is the responsibility of the Wasco County Sheriff. The role of the assigned Deputies to this agreement is to take initial action on search and rescue incidents and to coordinate subsequent (short term) activities.

Total reimbursement for this category shall not exceed the amount of \$20,750.00

III. TRAINING:

See Cooperative Law Enforcement Agreement Provisions IV-K for additional information.

IV. EQUIPMENT:

See Cooperative Law Enforcement Agreement Provisions IV-K, IV-L and IV-M for additional information.

- A. The Forest Service agrees to reimburse Wasco County for equipment and supplies in an amount not to exceed \$1,000. All purchases must be approved by the Forest Service prior to purchase. Documentation of such purchases shall become part of the Cooperative Agreements' official file.
- B. The Forest Service may loan Wasco County equipment as needed, when mutually agreed. While in possession of Wasco County, maintenance of this equipment shall be the responsibility of the Cooperator and shall be returned in same condition as time of transfer.

V. SPECIAL ENFORCEMENT SITUATIONS:

- A. Special Enforcement Situations include but are not limited to: Fire Emergencies, Drug Enforcement, and certain Group Gatherings.
- B. Funds available for special enforcement situations vary greatly from year to year and must be specifically requested and approved prior to any reimbursement being authorized. Requests for funds should be made to the Forest Service designated representative listed in Item I-A of this Annual Operating Plan. The designated representative will then notify the Cooperator whether funds will be authorized for reimbursement. If funds are authorized, the parties will jointly prepare a revised Annual Operating Plan.



1. **Drug Enforcement:** This will be handled on a case by case basis. The request will normally come from the Patrol Captain; however, it may come from the Special Agent in Charge or their designated representative. Reimbursement shall be made at the rates specified in Section I-B. Deputies assigned to the incident will coordinate all of their activities with the designated officer in charge of the incident.

Authorized activities associated with Drug Enforcement will be identified separately on billings supplied by the Cooperator.

2. **Fire Emergency:** During emergency fire suppression situations and upon request by the Forest Service pursuant to an incident resource order, the Cooperator agrees to provide special services beyond those provided under Section II-A, within the Cooperator's resource capabilities, for the enforcement of State and local laws related to the protection of persons and their property. The Cooperator will be compensated at the rate specified in Section I-B; the Forest Service will specify times and schedules. Upon concurrence of the local Patrol Captain or their designated representative, an official from the Incident Management Team managing the incident, Cooperator personnel assigned to an incident where meals are provided will be entitled to such meals.
3. **Group Gatherings/Other Situations:** This includes but is not limited to situations which are normally unanticipated or which typically include very short notice, large group gatherings such as rock concerts, demonstrations, and organizational rendezvous. Upon authorization by a Forest Service representative listed in Section I-A for requested services of this nature, reimbursement shall be made at the rates specified in Section I-B. Deputies assigned to this type of incident will normally coordinate their activities with the designated officer in charge of the incident.

This includes but is not limited to situations which are normally unanticipated or which typically include very short notice, large group gatherings such as rock concerts, demonstrations, and organizational rendezvous.

C. Billing Documentation:

The billing for each incident shall include individual employee times and their agreement rate. Such times will be documented on Crew Time Reports, shift tickets or other agreed upon form, and must be approved by incident management personnel.

For billing done using procedures specified in Section V-B-2, original documentation will be maintained by the Forest Service in the appropriate fire documentation boxes or appropriate incident management personnel; the Cooperator will maintain copies of all such documentation.

VI. BILLING:

See Cooperative Law Enforcement Agreement Provisions IV-K, IV-L and IV-M for additional information.

- A. The Cooperator will submit invoices for reimbursement of services provided under Section II of this agreement monthly or quarterly, at the discretion of the Cooperator.



USDA Forest Service
Albuquerque Service Center
Payments-Grants and Agreements
101B Sun Ave NE
Albuquerque, NM 87109

Invoices may also be faxed to:
1-877-687-4894
FAX coversheet should be addressed to:
USDA Forest Service
ASC – Payments-Grants and Agreements

The Cooperator will prepare an itemized statement for each invoice submitted to the Albuquerque Service Center. The statement will be in sufficient detail to allow the Forest Service to verify expenditures authorized. The itemized statement for reimbursement will also include the following information:

1. Areas patrolled and miles traveled on NFS lands.
2. Person-hours worked in NFS patrol areas.
3. Copies of completed Daily Activity Reports.
4. Copies of invoice submitted.

By execution of this modification, Wasco County certifies that the individuals listed in this document, as representatives of Wasco County, are authorized to act in their respective areas for matters related to this instrument.

The statement should be sent to the following address:

USDA Forest Service, Law Enforcement & Investigations
Northern Oregon Zone
ATTN: Andy Coriell, Captain
16400 Champion Way
Sandy, OR 97055

- B. For reimbursement of services provided under Sections V-B-1 and V-B-3 of this agreement, billing instructions will be specified in the revised Operating Plan.
- C. For reimbursement of services provided under Section V-B-2 of this agreement, the following billing procedure will be used.

Incident management personnel will prepare an Emergency Use Invoice and, upon concurrence of the Cooperator, will submit the invoice for payment along with all required documentation using normal incident business procedures.

The designated representative, IMT official, or a designated forest incident business official, will approve the invoice and submit to the Albuquerque Service Center, Incident Finance, for payment along with a copy of the current Operating Plan.

- D. Any remaining funding in this Annual Operating Plan may be carried forward to the next fiscal year and will be available to spend through the term of the Cooperative Law



Enforcement Agreement, or deobligated at the request of the U.S. Forest Service. *See Cooperative Law Enforcement Agreement Provision IV-D.*



In witness whereof, the parties hereto have executed this Operating Plan as of the last date written below.

RICK EIESLAND, Sheriff
Wasco County

Date

Wasco County Commissioner

Date

Wasco County Commissioner

Date

Wasco County Commissioner

Date

LISA NORTHRUP, Acting Forest Supervisor
U.S. Forest Service, Mt. Hood National Forest

Date

Barb Seversen
BARB SEVERSON
Special Agent in Charge
Pacific Northwest Region

5/1/13

Date

The authority and format of this instrument have been reviewed and approved for signature.

jlg 4/18/13

JANELLE GEDDES (12LE11060600010_2013AOP)
U.S. Forest Service Grants & Agreements Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

**WASCO COUNTY BOARD OF COMMISSIONERS
REGULAR SESSION
MAY 8, 2013**

CONSENT AGENDA

- a. [No items for the Consent Agenda – RETURN TO AGENDA](#)

Agenda Item
Continuation of Public Hearing
Mass Gathering Permit

- [Supplemental Memo – Senior Planner](#)
- [Revised Application Narrative](#)



Wasco County Planning Department

"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058
(541) 506-2560 • wcplanning@co.wasco.or.us
www.co.wasco.or.us/planning

MEMORANDUM

TO: Wasco County Board of Commissioners
FROM: Joseph Shearer, Senior Planner
DATE: May 7, 2013
SUBJECT: Modifications to Findings and Conditions for PLAOMG-13-03-0001

This memo revises and amends findings and conditions contained in the Summary of Information and Staff Report published on April 24, 2013. Based upon revisions to the application, agency comment received after April 24, public testimony on May 1 and advice from legal counsel, Staff recommends that the findings and conditions herein replace the corresponding findings and conditions for the applicable criteria in the previously published Staff Report.

Upon further review of the statute and consultation with legal counsel, Staff recommends adding a condition related to liability insurance. If the Board of Commissioners (BOC) determines that the outdoor mass gathering creates the potential (broadly) for injury to persons or property, ORS 433.755(1) allows the BOC to require that the organizers obtain an insurance policy in an amount commensurate with the risk, but not exceeding \$1 million. Therefore, based on the information in the record, Staff recommends the following condition:

Applicant shall provide a Commercial General Liability insurance policy of not less than \$1,000,000, specific to What the Festival, and naming Wasco County, its officers, agents, volunteers and employees as an additional insured. Applicant shall furnish Wasco County Planning with a Certificate of Insurance including a copy of the Additional Insured Endorsements that is attached to, and part of, the insurance policy by July 1, 2013.

Summary of changes to findings and conditions addressing the following criteria:

333-039-0015 Water Supply – Applicant has proposed a new plan to truck in water and rely less on the existing well. Lab results have also confirmed that the well is free from contaminants.

333-039-0045 Fire Protection – Staff conducted a spatial analysis of the site plan via GIS to more accurately determine the size and number of proposed campsites. In response to public

comment and legal counsel, Staff expounded on findings related to compliance with fire regulations.

333-039-0050 Security Personnel – Sheriff Rick Eisland has provided a signed statement that security and traffic plans are satisfactory. The corresponding condition has been removed.

Revised findings and conditions addressing these criteria are included in their entirety below:

333-039-0015 Water Supply

(1) Required Amounts:

FINDING: Based on attendance estimates of 4,000-5,000, a minimum of 48,000-60,000 gallons of water per day will need to be available for attendees. Based on these same attendance estimates, water storage facilities of 20,000-25,000 gallons shall be provided and kept in reserve at all times.

Applicant has revised his original plans and now proposes using the existing well to provide no more than 5,000 gallons/day leading up to, and during, the event. Staff reviewed a 2005 State of Oregon Water Supply Well Report (WASC 51351) which confirms the well is approved for domestic water supply and is rated at 40 gallons/minute. In comments submitted on April 30, 2013, Watermaster Robert Wood states that flow rate of 40 gallons/minute resulted in a 100% drawdown over the course of an hour, and he estimates the well could sustain 10 gallons/minute over an extended period of time.

Applicant plans to supplement well water with water trucked in by Bishop Sanitation Services in a 4,000 gallon potable water truck. Applicant proposes having 25,000 gallons of water storage on site.

Staff finds the existing well and trucked water can satisfy the supply requirements for the event with estimated attendance up to 5,000. Staff recommends a **condition** that by July 1, 2013, Applicant will provide written documentation of contracts to supply adequate amounts of water, based on updated attendee estimates, from a source approved by the Public Health Division of the Oregon Health Authority.

(2) Bacteriological and Chemical Requirements:

FINDING: Applicant has submitted test results conducted by National Testing Laboratories, Ltd, a NELAC certified lab. In a May 6, 2013 email, John Zalaznik with North Central Public Health confirms the test results comply with the listed bacteriological and chemical requirements.

333-039-0045 Fire Protection

- (1) Each camping space shall be a minimum of 1,000 square feet or large enough to accommodate a parked camping vehicle, tent vehicle or tent, as the case may be, and to maintain at least 15 feet separation from any other camping vehicle, tent vehicle or tent, building, structure, or property line.*

FINDING: Based on their experience from last year and organizing similar events, Applicant estimates an average of 3.3 people per campsite, which would require approximately 1,212-1,515 camp sites if there are 4,000-5,000 attendees.

Staff conducted a GIS analysis of the site plan provided by Applicant. Per the site plan, Staff finds that Applicant is proposing 6.6 acres of car and RV parking, 1.6 acres of “Boutique Camping”, 1.4 acres of “Quiet Camp”, 18 acres of “Walk-In Camping”, and 12 acres of associated GA Car Parking. Standards in 333-039-0055(6) require parking spaces to be 200 square feet.

The 6.6 acres of car and RV camping provides 287 campsites (287,496 square feet / 1,000 square feet per campsite). For Boutique Camping, Quiet Camp, and Walk-In Camping, each associated vehicle will be located in the adjacent GA Car Parking area. Because each vehicle will be provided at least 200 square feet for parking, Staff finds it reasonable that Boutique Camping, Quiet Camp, and Walk-In Camping must only provide an additional 800 square feet of space per separate campsite. The 21 acres of Boutique Camping, Quiet Camp, and Walk-in Camping provides 1,143 campsites (287,496 square feet / 800 square feet per campsite).

Staff finds that camping areas designated on the site plan are sufficient for 1,430 campsites, or 4,719 attendees based on an estimated 3.3 people per campsite. Should Applicant reach the self-imposed limit of 5,000 attendees, an additional 83,000 square feet would be needed for the 83 additional campsites. Staff further finds that there is more than 150,000 square feet of excess parking capacity that could be converted to camping to fulfill this potential need.

- (2) The organizer shall secure a written statement from the local fire protection agency having jurisdiction that fire protection complies with state and local laws, ordinances, and regulations, and is satisfactory with respect to anticipated crowds and location of the outdoor mass gathering.*

FINDING: Between March 29 and April 4, 2013, the Oregon State Fire Marshal, Dufur Valley Fire and Oregon Department of Forestry (ODF) were sent the application, including estimated attendance and location, and were invited to provide comment. Adam Barnes, Protection Supervisor for ODF, submitted a letter on April 17, 2013 (Summary of Information, Attachment F), outlining ODF’s recommendations for on-site fire prevention during What the Festival:

“...ODF would appreciate the Boards [sic] consideration in the following site conditions necessary to insure [sic] a safe mass gathering at the What The Festival (WTF) event being organized during the period of July 22-30, 2013.” Applicant has included all recommendations from the April 17 ODF letter into the What the Festival Fire Prevention Plan. Consequently, Staff recommends a **condition** that Applicant comply with the Wildland Fire Prevention Plan detailed in the ODF letter (Summary of Information Attachment F).

Staff did not receive comment from any fire agency that the proposed outdoor mass gathering violates any specific state or local laws, ordinances and regulations. Furthermore, Staff interprets the ODF letter to stipulate that ODF’s recommended conditions will ensure that fire protection complies with applicable laws, ordinances, and regulation, and will ensure a safe mass gathering based on anticipated crowds and location.

333-039-0050 Security Personnel

- (1) The organizer shall maintain an accurate count of persons attending the outdoor mass gathering and shall provide adequate security arrangements to limit further admissions to the outdoor mass gathering when the anticipated number of persons have been admitted.*
- (2) The organizer shall secure a written statement from the chief law enforcement officer of the county in which the outdoor mass gathering is to take place that arrangements for security and the orderly flow of traffic to and from the outdoor mass gathering complies with state and local laws, ordinances, and regulations, and is satisfactory with respect to anticipated crowds and location of the outdoor mass gathering.*

FINDING: Applicant has contracted with Oregon Event Enterprise (OEE) to provide as many as 50 security personnel throughout the event site. There will be Oregon Department of Public Safety Standards and Training (DPSST) security staffed with non-DPSST certified security at a ratio of 1:5. Security personnel will be used to minimize conflicts, secure the event perimeter, and assist with on-site traffic management. If the event reaches its capacity of 5,000 attendees, OEE personnel will limit further admission to the event.

A second tier of security staff will also be on-site to reinforce messaging for patrons throughout the property. This second tier is comprised of volunteer “Rangers,” who will be in plain clothes roaming the event. They will be in radio contact with OEE to report any security issues or incidents.

Applicant and Staff have been coordinating with Chief Deputy Sheriff Lane Magill and Chris McNeel, who both attended the April 9, 2013 site visit. Applicant plans to station at least one

off-duty officer on site during peak hours, positioned at the access point to the property from Dufur Valley Rd.

Wasco County Sheriff Rick Eisland has provided a written statement that arrangements for security and the orderly flow of traffic to and from the event complies with state and local laws, ordinances, and regulations, and is satisfactory with respect to anticipated crowds and location of the event.

PLAOMG-13-03-0001
Outdoor Mass Gathering

Materials Received After 5/1/13

Revised Application Narrative

What The Festival Contact sheet

Name	Title	Phone #	Email
Peter J Clark	General Manager	503.438.8723	peter@whatthefestival.com
Keely Montgomery	Assistant to General Manager	503.804.5876	keely@whatthefestival.com
Glen & Tiffany Boyd	Property Owners (Wolf Run Ranch)	310.985.3711	reach.glenboyd@gmail.com
Sharif ZaWaideh	Operations Manager (Ingress/egress, Traffic & Parking)	206.799.5136	sharifiz@gmail.com
Greg C. Briggs	Fire Manager	208.866.8902	Idahomojo@gmail.com
Laurent Picard	Fire Manager (on call)	503.708.5925	imp@gorge.net
Chuck Gerard	Whitebird Medical coordinator	541.342.8255	chuckg@whitebirdclinic.org
Erik Hartman	O.E.E (Oregon Event Enterprise) Security	541.833.0101	oeesecurity@gmail.com
Lane Magill	Wasco County Sheriff's office	541.506.2584	lanem@co.wasco.or.us
Joey Shearer	Wasco County Planning office	541.506.2566	joeys@co.wasco.or.us

What The Festival Fire Prevention Plan

What The Festival event site located at Wolf Run Ranch, 78889 Dufur Valley Rd; in the Oregon State Forestry Dept (ODF) jurisdictional boundaries. In the case of a fire, What The Festival will provide the first layer of protection from wildland or structural fire. The second line of defense would be from ODF and the third line of defense would be the town of Dufur Volunteer Fire Dept.

The on-site fire management team consists of 2 primary responders: Greg Briggs and Laurent Picard, both of whom have a background in fire management and fighting fire in the region. They will work in conjunction with a team of three fire experienced volunteers and professional firefighters should it be deemed necessary as listed below. Our onsite wildland firefighting team will have a UTV/Gator equipped with a 350 Gallon Fire Suppression Trailer and 300 feet of hose. They will be on roaming fire watch where they will physically check on each smoking area and monitor our FIRE/EMS radio channel while on shift. It is important to point out that our hand to hand radio network on the property consists of 80 two way radios on 16 separated channels. This allows any personnel wearing a radio to also report any sign of fire immediately to the fire suppression team. 911 will be notified of any fire during the event regardless of size.

Leading up to the event, mowing will take place to keep grasses low and cut back to minimize fire hazard. Irrigation will take place throughout the inner event site according to our water rights. The back parking area will have the grass mowed where possible and during weeks prior to the event, we will irrigate the parking area to keep the surface moist and reduce risk of fire from inbound vehicles.

Our forestry management strategy is well underway. We currently have teams of people working to clear dead wood, brush and cutting back limbs up to 8 feet off the ground in all areas of the property. Our goal is to remove limbs to minimize a potential fire's ability to spread quickly. The property has a varying sized fire break surrounding itself. We will maintain the fire break and intend to increase its size with work crews between now and the event.

The "designated smoking areas" listed on our site plan consist of; a small seating area, ashtrays, a 5LB fire extinguisher and 2 x 5 gallon bucket of water labeled "Fire Only". These designated smoking areas are roughly 15 feet by 20 feet and will be delineated by signage and fencing. Placement of the designated smoking areas will be open and well ventilated non-forested area. There are 8 total designated smoking areas on site and a strict NO SMOKING & NO FIRE policy will be enforced throughout the event site.

General Fire Control: We will have 25 red 5 gallon buckets of water labeled "FIRE ONLY" at strategic points around the event site for anyone to use in the case of an emergency. This came at the recommendation of our fire manager and we feel this is a manageable solution to put the method of fire control into the hands of the staff and patrons as needed.

Our parking space size and fire lanes will comply with State Fire Marshal's office recommendations for no less than 20-foot lanes in-between rows of parked cars.

Fire prevention plan continued:

The following O.D.F. provisions will be adhered to for the duration of the event:

- In the event of a fire 911 will be contacted regardless of incident size or status.
- Festival will employ a team of qualified wildland fire responders to be on site and available to respond 24 hours a day. Responders will be centrally located at a designated post or on patrol with suppression equipment.
- Staffing will consist of no less than 4 wildland firefighters during periods of peak fire danger (11:00 am to 9:00 pm) and no less than two wildland firefighters during off peak times. PPE must be provided according to OR-OSHA standards.
- Fire trailer, continually hitched to a vehicle capable of pulling the trailer, will be on site and staged at a central location. The trailer will consist of 500-gallon water tank and functioning pump, 500 ft. of one-inch fire hose and nozzle. Required fire tools will be two shovels and two pulaskis. Additional fire tools are required for each firefighter on site.
- If Energy Release Components reach or exceed 55, during the week prior to the event a professional wildland contract engine, Type 6 resource, will be hired and staffed with two professional firefighters from 11:00 AM to 09:00 PM daily during the event.
- UTV's to be utilized during the event will have water tank and pump units installed to provide for fire suppression.
- Both Wolf Run irrigation ponds will have operating water pumps stationed at fill sites to provide a water source for fire suppression purposes. These pumps should have a minimum discharge of 1 ½ inch, contain 50' of discharge hose, suction hose, 1 fill spout, and 3 gallons fuel.
- All pumps and fire equipment will be tested daily to ensure proper operation.
- Existing road on property's North, East and West sides are to be brushed and clear of down woody debris. Must be passable by UTV.
- Removal of brush and down woody material around Forest Stage and throughout dispersed camping areas.
- Evacuation plan will be given to each attendee upon arrival by event greeters.
- Roads to be traveled by motorized vehicles will be clear of vegetation.
- Fire extinguishers will be co-located with all internal combustion engines, i.e. generators, ATV's, light plants, ect.
- No open flame policy: No campfires, No charcoal BBQ, No candles, No incense, No fireworks. Propane gas stoves or electric griddles are the only permissible cooking equipment.

- All vehicle parking areas will be mowed and thatched before the event. Irrigation will be maintained on fields 3-5 days prior to prevent drying and curing of vegetation.
- Non-irrigated parking areas will be mowed and thatched to remove flammable vegetation. Dry parking will be wetted down the five previous days to using parking area. During times when vehicles are being parked, fire personnel will patrol parking areas with suppression equipment.
- The dry parking area will have a fire break of no less than 2' wide dug down to bare mineral soil around the perimeter as a fuel break.
- Smoking will be allowed only within designated smoking areas. Smoking areas should number no less than eight available sites dispersed throughout event grounds.
- Designated smoking areas will consist of 15 by 20 fenced areas clear of flammable vegetation. Each area will have a fire extinguisher and cigarette receptacles at the entrances.
- ODF will conduct a pre-event inspection with WTF coordinators to ensure readiness and will have access to festival grounds for periodical inspections during the event.
- If chainsaws or heavy machinery is used for preparing the site for use a permit to operate power driven machinery (PDM) will be obtained through the local ODF office to meet requirements regarding internal combustion engines.

What The Festival Evacuation Plan

The site evacuation plan utilizes our on-site fire management team as well as all radioed personnel to quickly and effectively gather all patrons to the designated “rally point” (*see site plan: large open main field to the west of the Ranch house.*) In order to alert and educate patrons of the emergency, each stage will be ready to deliver a prepared emergency message loud and clear throughout the event site. At this point all staff will assist getting patrons safely to the rally point to await further instructions. Once at the “rally point” patrons will wait in safety for fire suppression support and directives from EMS agencies. Since it will be difficult to know that all patrons and staff are present, we will continue to keep the messaging going from the main stage (*unless it becomes a hazard itself*) to keep patrons and staff educated as to the status of the emergency. We will have an emergency water bottle cache available to patrons at the rally point.

As patrons arrive at our Greeters station (*after they have been searched and ticketed*) we will educate each patron to the following; No Fire or Open Flame and Smoking in designated areas only. In addition, a physical copy of the following will be delivered to each car: the emergency evacuation plan with map, Event Schedule, General do's and don'ts, any other relevant messaging needed.

At the recommendation of the Oregon State Fire Marshal's office we will do an “evacuation drill” for our staff prior to the event opening to the public. During this training we will go over the evacuation plan and make sure everyone is aware of the rally point location and protocol to assist participants in getting there.

We anticipate a full site evacuation to our rally point to take no less than 30-45 minutes.

Sanitation / Health and Safety Plan

In compliance with the regulations governing Health and Safety at Outdoor Mass Gatherings, What the Festival will provide all the necessary infrastructure for our patrons well being while at the event.

Regarding water, What the Festival will use water from three sources. First, the onsite well has been tested¹ and is free of contaminants. The well on site will be used at a rate of 3.4 gallons per minute during the mass gathering. At no point will more than 5,000 gallons per day be drawn from the on site well. A water flow meter will be used to verify how many gallons are pulled from the well each day. Second, Wolf Run Irrigation water will be used in areas that are within the site irrigation rights. Third, We have the option of Trucking in water. Our sanitation contractor Bishops Sanitation has quoted us the use of one 4,000 gallon potable water truck for dedicated use leading up to the event. If necessary, the event will employ water trucks to irrigate the back fields and driveways.

To supply our food vendor and patron drinking water on site we will use temporary above ground potable water storage tanks and appropriately regulated fixtures. Our food vendors will take water from our storage through above ground temporary food grade water hose. We will have 25,000 gallons of storage on site in two locations at a ratio of 60% in the camping areas and 40% in the heavy traffic areas inside the event. If at any time there is a concern regarding overuse of the on site well or wolf run irrigation sources we are prepared to utilize off site sources of water to remain in full compliance with our obligations stated here.

In compliance with ORS-333-039-0045 and based on our average campsites of 3.3 people, we estimate needing to utilize a maximum of 35 acres for camping if we reach our full goal of 5,000 people. We have identified this portion out of the 245 acres on the property. Additionally we are supplying 15 acres of car parking in our general parking lot. All parking areas will be clearly marked out and staff will be provided to assist participants and to maintain spacing among parked and camped vehicles.

Municipal solid waste (*trash, recycling & compost*) will be collected from the trash collection stations throughout our site on a continual basis for the duration of the event. Our "Green Team" are equipped with a golf cart (*workhorse*) and are capable of collecting trash throughout the day and night on an as needed basis. On-site storage is contracted through Mel's sanitation services and will consist of the following; 2 x 30 yard dumpsters for Trash, 2 x 30 yard dumpster for mixed Recycling and 1 x 20 yard dumpster for Compost.

Toilets and Handwashing units will be available throughout the event site for the duration of the event. Bishops Sanitation Services will be supplying 100 portable toilet units and 15 handwashing stations (*1 handwash station for each port-o-let grouping*) to the event. Bishops will station 2 x Sanitation truck (*800 gallons each*), 1 x septic truck (*3500 gallons*) and 1 x blackwater truck (*5000 gallons*) at the event with a team of operators to work as needed to meet the needs of the event. At a minimum we anticipate each portable toilet and hand wash station to be pumped out once per day and twice per day on Saturday 7/27 and Sunday 7/28 when the demand is at its peak.

Greywater disposal will be handled in two ways as there are two types of greywater present on site. We will supply food vendor's access to 5 x 300 gallon grey water tanks available within 75 feet from the back of food vendor booths. The above mentioned 300 gallon tanks will be pumped by Bishops Sanitation Services into their on site greywater pumping truck. The second type of greywater produced on site will be from our temporary shower facility. This greywater will be lightly used, free of large particles and toxins and we require all patrons to use biodegradable soaps while utilizing shower

¹ National Testing Laboratories Ltd, sample number: 835870

facilities. The shower water will be disposed via an onsite seepage pit built in compliance with regulations governing Health and Safety at Outdoor Mass Gatherings.

What The Festival Medical

White Bird will provide medical/crisis coverage for the "What The Festival" event in Dufur, Oregon from Thursday, July 25 at 1p.m. through Monday, July 29, 2013 at 4 p.m. Additionally, we will have at least one team on-site for setup (*July 22 at noon through opening day*) and for teardown (*closing day through July 30*).

Whitebird will provide Medical, Mental Health, Substance Use and First Aid care in all situations short of those requiring doctor, ambulance or hospital response. These services will be available through an on-site medical booth and holding tent, and also through dispatchable and roving teams responding throughout the property.

A staff of up to 25 workers will be utilized each day, with the ability to increase or decrease staffing depending upon the anticipated number of occupants and event activity. This staff will include Medical personnel such as Physicians, Nurses, EMT's and Paramedics working at ALS standards under our Doctor's standing orders, and Mental Health Professionals and Crisis Workers. White Bird will supply the requisite medical equipment, medical supplies and medications. Through White Bird the on-site facilities shall be equipped to handle the range from minor care to medical emergencies including, but not limited to treating individuals with chest pain, respiratory difficulty, trauma or cardiac arrest and specifically equipped to handle Advanced Life Support.

Moonshine Events LLC, as the event organizer, will provide a 20'X 20' tent with side walls for the medical station, with water and electricity supplied to the tent site and located with reasonable access by an ambulance. Whitebird will assist in the securing of proper Life Flight accessibility and ambulance services working with the Hired on site Ambulance crew and Dufer Volunteer ambulance as needed.

What The Festival Security Plan

At any given time during the festival O.E.E. (Oregon Event Enterprise) will have as many as 50 security personnel available and working in positions on-site at What The Festival. The DPSST certified guards will work with a number of non-DPSST certified guards in the proper ratios of 1 DPSST guard to 5 Non-DPSST guards. Our security personnel are available to minimize any conflicts, secure the event perimeter, assist with traffic management on-site and in general keep everyone safe.

As organizers, we have agreed with O.E.E. to a "graduated" security plan that allows us to increase or decrease the number of personnel depending on our attendance numbers as we get closer to the event. If the event reach's the capacity of 5,000 patrons, O.E.E. security personnel will make arrangements to limit further admissions to the event.

The second tier for our security staff is our volunteer Rangers who, while not being official security personnel, are on-site to reinforce messaging for patrons throughout the property. Rangers are plain clothed volunteers who work in shifts roaming the event site and assist patrons as needed. They are radio dispatched and able to call into OEE, as needed, to report any security issues or incidents.

We are in contact with Wasco county sheriff's reserve coordinator and are planning to have an off-duty officer on site during peak days/hours (7/26, 7/27 & 7/28) positioned at our event ingress point form Dufer Valley Rd.

Wasco County Board of Commissioners Appearance Record

NAME	ADDRESS	CITY	STATE
① DAVID WEHRLY	DUFUR VALLEY RD	DUFUR	OR
① Peter Livingston	805 SW Broadway, Ste 1900	Portland	OR 97205
① DARIN GARDNER	1108 ^{Port} WG th ST.	THE DALLES	OR
① Judy Moore	79009 Wolf Run Rd	Dufur	OR
① Glen Boyd	78889 DuPur Vly Rd	Dufur	OR
① PETER CLARK	4702 NE 39th AVE	PTX	OR
① Arathun Smith	520 NE WILLIAMS	mayor Dufur	OR

Tier: Thathope
Lane McGill -
 Virginia Whitely
 George Whitely
 Marty Matherly

DATE: May 8, 2013

B L A C K

H E L T E R L I N E LLP

A T T O R N E Y S A N D C O U N S E L O R S A T L A W

PETER LIVINGSTON
DIRECT DIAL: (503) 417-2153
E-mail: pl@bhlaw.com
Admitted in Oregon and Washington

May 7, 2013

By Email

Wasco County Board of Commissioners
511 Washington Street, Suite 302
The Dalles, OR 97058

Reference: Wolf Run Outdoor Mass Gathering

Dear County Commissioners:

We represent Ken Thomas. This letter comments further on the March 11, 2013 application filed by Peter Clark for the “What the Festival” outdoor mass gathering already scheduled by the applicant for July 25-28, 2013. Please consider it as a complement to the earlier letter we submitted and the testimony we gave at your hearing on April 30, 2013. The testimony then (in particular, by the applicant and the owner of the site) revealed material new facts and only heightened our concerns about the proposed event. It sharpened our awareness that the applicants are either unaware of or unconcerned with the requirements of federal, state and local law.

Existing Statutory Violations

ORS 433.745 states:

“(1) No organizer shall hold, conduct, *advertise or otherwise promote* an outdoor mass gathering or allow an outdoor mass gathering to be held on real property the organizer owns, leases or possesses *unless a permit to hold such outdoor mass gathering has been issued* by the county governing body in which the outdoor mass gathering is to take place.

“(2) A permit issued under this section *does not entitle the organizer to make any permanent physical alterations to or on the real property* which is the site of the outdoor mass gathering.” (Emphasis added.)



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The organizers of “What the Festival” have already violated both ORS 433.745(1) and (2). The printout of the website (*see* Attachment A) shows they have violated the prohibition in ORS 433.745(1) against advertising or otherwise promoting the festival prior to the issuance of a permit by the county’s governing body. They began to advertise and promote the festival even before they filed their application with the county.

By constructing (at least) the west road providing access from Dufur Valley Road, a permanent crossing of the Wolf Run Ditch and the “holding area” near the ticket booth, they have violated the prohibition in ORS 433.745(2) against “permanent physical alterations.” In addition, the applicant’s testimony and explanation of the site plan attached to the application indicate that further permanent land alteration will occur, although the application is unclear about the potential alterations that may be under way. Even if the county issues a permit, the only way to cure this violation is to stop immediately all construction and restore the landscape. ORS 433.770 provides, with respect to enforcement:

“(1) In addition to and not in lieu of the maintenance of other actions for any violation of ORS 433.745, the district attorney for the county in which an outdoor mass gathering is to be held may maintain an action in any court of general equitable jurisdiction to prevent, restrain or enjoin any violation of ORS 433.745.

“(2) Cases filed under the provisions of this section or an appeal therefrom shall be given preference on the docket over all other civil cases except those given equal preference by statute.”

The district attorney should take immediate action in this case.

Existing Land Use Law Violations

The permanent development on the property has nothing to do with forest use and is not allowed in the F-2 zone. It is also not allowed by the May 18, 2005 county decision, File No. FFD-05-106/TUP-05-105, which approved a “replacement dwelling” for applicants Mike and Patti Neary. That decision considered the existing driveway and adopted findings making clear that the *specific attributes* of the then-proposed driveway were being considered and approved. In fact, the “proposed driveway” already existed and is now used as the access to the dwelling. Even assuming the west access from Dufur Road is not, as the applicant calls it, a “road,” but is instead a “driveway,” it is still unlawful as a matter of land use law.¹ The 2005 decision did not open the door to the construction of additional driveways, particularly not one

¹ As stated in our April 30, 2013 letter, if it is a road, not a driveway, it violates Goal 4.



like the west entrance, which does not even go to the dwelling on the property. To gain county permission for more driveway construction, the property owner has to apply to the county for a modification to the original conditional use permit approval or, if for a nonforest road, for a new conditional use permit, which will require a Goal 4 exception.²

WCZO 3.120(K)(4)(a)³ states: “Siting shall result in the least possible impact on nearby or adjoining forest or agricultural lands.” In response, the 2005 decision finds: “As proposed, the new home will be clustered in the same area as existing structures which will result in less impact to adjoining resource lands *because it will utilize the existing driveway* and public power.” (Emphasis added.)

WCZO 3.120(K)(4)(a)(2)⁴ states: “Siting shall minimize the amount of forest or farm land removed from production for *access roads*, service corridors, the dwelling and accessory structures.” In response, the 2005 decision finds: “The proposed replacement dwelling will *utilize the existing driveway*, with a short (100-200’) extension. *No new roads are proposed.*” (Emphasis added.)

WCZOO 3.120(K)(4)(f)⁵ states: “If road access to the dwelling is by a road owned and maintained by the County, a private party, the Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or maintenance agreement allowing permanent access to a dwelling site. The road use permit or maintenance agreement may require the applicant to agree to accept full or partial responsibility for road maintenance.” In response, the 2005 decision finds: “Road access to the subject parcel is by Dufur Valley Road, identified as State Highway 44. *Access to the existing and proposed homesite is via a 25’ wide gravel driveway.*” (Emphasis added.)

The 2005 decision also contains this finding: “During the site visit to the property on May 10, 2005, Paul Halliday, ODF, looked at the *existing driveway* and determined that it is adequate for ODF trucks to be able to access the property in the event of a wildfire.” (Emphasis added.)

WCZO 3.920 states: “New dwellings shall be located within three hundred feet (300’) of public roads or easement or private roads or easements existing as of October 22,

² The numbering of WCZO sections changed between 2005 and the present. In the text of this letter, we use the current code section numbers. The former code section numbers are provided in footnotes. The text is the same regardless of the section number.

³ Former WCZO 3.120(a)(1)(a)(i)

⁴ Former WCZO 3.120(a)(1)(a)(iii)

⁵ Former WCZO 3.120(a)(1)(c)



1997, unless [states exceptions that are inapplicable].” In response, the decision finds: “The purpose of this requirement is to *eliminate long driveways that reduce habitat value and impact its use*. The proposed replacement dwelling utilizes an *existing private road and driveway*. According to aerial photographs, the road appears to have been in existence prior to 1997.” (Emphasis added.)

The criteria applicable to the construction of driveways make clear that even if the applicant for the outdoor mass gathering were to apply for a modification to the 2005 conditional use permit approval, the modification application would have to be denied. Because of the need to protect adjoining forest or agricultural lands, the WCZO does not allow the construction of unnecessary driveways.

Fire Hazard

As stated earlier, OAR 333-039-0045 (Fire Protection) requires that the organizer of the event “secure a written statement from the local fire protection agency having jurisdiction that fire protection . . . is satisfactory with respect to anticipated crowds and location of the outdoor mass gathering.” In this case, the statement has to come from Adam Barnes, the Protection Supervisor for the Oregon Department of Forestry (ODF).

Mr. Barnes’s April 17, 2013 letter includes two particularly striking statements. The first is “ODF does not provide structural fire protection.” The second is “There is a significant potential for wildfires resulting from this proposed mass gathering. ODF would prefer that this event occur at a different time of year when the risk of wildfires is minimal.” ODF representative David Jacobs testified at the hearing that an event of this nature at the proposed time of year is a “big concern.” He said there is a “high fire danger” this year and noted that late May to early June is the beginning of the fire season. He remarked that while ODF has suggested a fire protection plan, it is not condoning the event. The comments of Mr. Barnes and Mr. Jacobs make clear that the proposed event does not and cannot meet the requirements of OAR 333-039-0045.⁶

The fire statistics for 2013 published by ODF show that there have already been four fires in the Dalles Unit. *See* Attachment B. These statistics affirm the validity of ODF’s

⁶ To use power driven machinery, the applicants must have a permit. There is no evidence that they do and, given their general unconcern with legal requirements, reason to suspect that they don’t.



concerns about the proposed outdoor mass gathering in a forest zone at the height of fire season.⁷

Water

From the testimony at the hearing, it appears that the applicants have abandoned their decision to rely on water from the Wolf Run Water Users Association Water Right.⁸ That is fortunate, since state law prohibits using that water for anything but domestic use, irrigation and stock use. As discussed earlier, the definition of “domestic water use” in OAR 690-300-0010(14) limits the use to “human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses.” To the extent that the staff report⁹ assumes the festival uses are “domestic,” the staff report is simply incorrect. None of the proposed uses falls within this definition. The water can only be used by the residents of a house and their domestic animals.

The hearing testimony indicated that even if the water were legally available, there would not be enough of it to meet the requirement in OAR 333-039-0015(1) that there be a *minimum* of 12 gallons per person per day and that there be an “amount of water equal to one day’s total usage kept in reserve at all times.” In addition, the applicant plans to water the parking areas to keep them moist and reduce risk of fire from inbound vehicles. The applicant will also have to water the roads to suppress dust. Yet the applicant has made no attempt to quantify how much water is required for these additional purposes. (A possible analogy would be the amount of water used at the county fairgrounds in August.)

The application states “Expected attendance for 2013 is estimated around 5,000 people. With an event of this size, we will have approximately 600-800 highly trained professional event staff on-site before, during and after the event.” Apparently, up to the date of the hearing, no one considered the 600-800 staff members as needing water and a place to stay. If they are counted, the applicant projects the total number of people present to be as high as 5,800. That means there will have to be *at least* 69,600 gallons of water available every day of the event.

⁷ There is a now a fifth fire: Oregon Department of Fish and Wildlife (ODFW) White River Management Unit, Forest Zone, 160+ acres. ODFW initially failed to report it to ODF, but it is now of record. The forest cover there is very similar forest cover to that of the event site, and ODFW lands are managed by professionals who are highly trained about fire risk.

⁸ The Frank R. Gibbs water right Permit No. R-4805, is equally unavailable, as it is confined to just domestic use.

⁹ Staff Report, p. 4.



The applicant now proposes to truck in *all* of the water necessary to meet state law and for all other on-site uses, but it is unclear whether this is feasible, since the proposal surfaced for the first time at the hearing and had not been reviewed by planning staff or the county road department. The county should insist on having this information before making a decision on the application.

Space for Campers

As explained previously, the current proposal does not meet the requirements of OAR 333-039-0045 for a minimum amount of space for camping vehicles, tent vehicles or tents. The testimony at the hearing only heightens this concern, because it appears the expectation is that everyone (all 5,800 people) will spend the night on site. The property owner, Glenn Boyd, testified that there would be “no ins and outs” and that the people would “be there all weekend.”

As explained in our April 30, 2013 letter, given the space limitations in the proposal, there can be no more than 1,111 campsites. That means there will have to be an average of almost six persons per camping vehicle, tent vehicle or tent. This is completely unrealistic.

Traffic

The county road master, Marty Matherly testified that Dufur Valley Road is in good condition, and that the heavy passenger vehicle traffic from the festival would not damage it. However, Mr. Matherly did not have any information before him about the number of water trucks that would be necessary to provide the almost 70,000 gallons of water that state law requires as a daily minimum. Additional information must be provided on how much water will be used for ten days of watering roads, parking lots, etc., the size of the trucks that will be employed and the number of trips that will be required. The trucks will unquestionably be very heavy, and it is safe to say that there will be enough of them to potentially do real damage to the road. They will also impede traffic flow. Since the applicant has not submitted a traffic study, there is no way to know what the actual traffic impacts on the area will be. It would be unwise to proceed without knowing.

Drug Use

Oregon law prohibits the possession of marijuana and its derivatives, as defined in



ORS 475.005(16).¹⁰ It is a “Schedule II” substance under rules established by the Oregon State Board of Pharmacy. OAR 855-080-0022. The voters once again rejected legalized marijuana in a 2012 ballot measure.

At the April 30, 2013 hearing, there was testimony from both a representative of the county sheriff and the applicant that, notwithstanding the ready availability of marijuana from Washington State, where it is now legal, marijuana would not be tolerated at the event. The organizers’ sincerity can be questioned when on the plan they have submitted to the county, there is a “hookah lounge” situated adjacent to a specified smoking area. The likely presence of marijuana poses a conundrum. If the sheriff enforces the law, marijuana users will feel pressured to smoke outside of the smoking areas, which will drastically increase the fire risk. If the sheriff does not enforce the law, it will encourage contempt for the statutes that the voters recently chose not to change.

Federal Law

Testimony of the applicant at the hearing, which was corroborated by Bob Durham, the president of the Wolf Run Ditch Cooperative Association, indicated that the applicant has constructed a permanent crossing of the Wolf Run Ditch, in the form of a culvert covered with dirt. No information was provided regarding the engineering of the crossing, which raises concerns about whether it was done properly in a way that will avoid soil runoff that could result in turbidity affecting neighboring Eight Mile Creek. Another hazard to fish is potential fuel spills, since the food vendors will all require fuel to operate.

Rainbow trout/steelhead are listed under federal law as “threatened” in Eight Mile Creek. Not to consider the impacts the crossing may have as the water discharges from the Wolf Run Ditch into Eight Mile Creek violates the Endangered Species Act. Apparently, neither the applicants nor planning staff provided notice to the Oregon Department of Fish and Wildlife (ODFW), which has a significant role in protecting endangered aquatic species. Consequently, ODFW has not had an opportunity to evaluate the construction and provide comment.

¹⁰ ORS 475.864 provides, in relevant part:

- “(1) It is unlawful for any person knowingly or intentionally to possess marijuana.
- “(2) Unlawful possession of marijuana is a Class B felony.
- “(3) Notwithstanding subsection (2) of this section, unlawful possession of marijuana is a violation if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this subsection is a specific fine violation. The presumptive fine for a violation under this subsection is \$650.”



Economic Impacts

The only testimony in support of the unproved notion that the proposed event will have positive economic impacts came from the applicant and a county health official, Kevin Dworschak, who was apparently testifying (inappropriately) in his official capacity. If one rules out the applicant's testimony as self-interested and Mr. Dworschak's testimony as improper, which it certainly was, there is no reliable testimony. The traffic impacts, noise and likely illegal drug use are among the negative impacts that will not be outweighed by any hypothetical economic advantages associated with the event.

There are so many uncertainties and omissions associated with this application that they raise serious questions about the applicant's willingness to ascertain and then comply with the law. Information that is crucial to evaluating the application is simply omitted. The applicant's history so far gives no reason whatsoever to believe that it can be relied upon in the future to treat legal requirements with respect. As the scheduled date for the event draws near, the applicant has yet to provide a complete picture of what it has done and what it intends to do in the future. For this and all other reasons stated, we urge you to deny the application for a permit.

Very truly yours,



Peter Livingston

PL:pl
677137

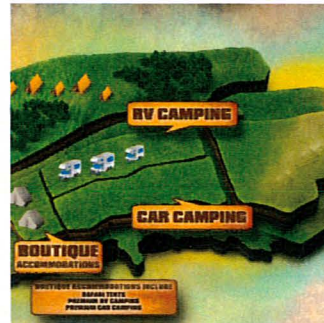




POOL PARTY VIDEO!



TICKETS ON SALE NOW!



INITIAL LINEUP ANNOUNCED!

WTF JULY 26-28

A-TRAK : PURITY RING
GRAMATIK : PANTYRAID : RJD2
CLAUDE VONSTROKE : YACHT : XYYYYX
JETS : POLISH AMBASSADOR : RANDOM RAB
MACHINEDRUM : CYRIL HAHN : STARKEY
KILL PARIS : GOTH-TRAD : ELIOT LIPP
LOWRIDERZ 2.0 : NIT GRIT : SHIGETO
J.PHILIP : AN-TEN-NAE : CLICKS & WHISTLES
WORTHY : RUSS LIQUID : FUNK HUNTERS
LYNX : BUKU : FUNGINEERS : JEREMY SOLE
SAQI : PUMPKIN : MEDIUM TROY : KEPI
LUSHBUNNY : OCTABAN : MUCH MORE TBA

FACEBOOK

What The Festival
 9,066 Likes

What The Festival
 Unfortunately, we have to postpone today's announcement until next week. Sorry for the inconvenience and please stay tuned. Thanks!
 4 hours ago

What The Festival
 TOMORROW! We will announce our 2nd wave of artists and more at Noon pdt tomorrow! Stay tuned!
 Yesterday at 12:15pm

INSTAGRAM

MARK YOUR CALENDAR!
 Lineup Announcement: July 26
 This is a 100% free event. No cover charge. No cash bar.

What The Festival
 Lineup Announcement: July 26
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What The Festival
 Lineup Announcement: July 26
 This is a 100% free event. No cover charge. No cash bar.

TWITTER

@WhatTheFestival RT @Polish_Ambass: Surprise. Ecozoid is a double album and officially out now. Enjoy! "Name Your Price" at Bandcamp... <http://t.co/FlmCncJZKx>

@WhatTheFestival Unfortunately, we have to postpone today's announcement until next week. Sorry for the inconvenience and please stay tuned. Thanks!

@WhatTheFestival TOMORROW! We will announce our 2nd wave of artists and more at Noon pdt tomorrow! Stay tuned!

@WhatTheFestival Hello weekend! Start your Friday night right with this mix from Dirtybird's Jessi Phillippe and a whole lot of... <http://t.co/CLQ9ngUk6l>

@WhatTheFestival If you're looking for a good time June 20th weekend, we suggest heading down to Cali for The Bounce

BUY TICKETS

MEDIA GALLERY

RSVP ON FACEBOOK

ATTACHMENT A



Select an Ending Year

2013 ▼

Longitude	Fuel * Model	County	Report Date	General Cause	ODF Acres	Total Acres
-121° 21' 21"		Wasco	4/26/2013 9:40:00 AM	Debris Burning	2	
			5/3/2013 2:20:00 PM	Debris Burning	0.5	
			5/3/2013 2:45:00 PM	Debris Burning	0.25	
			5/3/2013 10:00:00 AM	Miscellaneous	1.24	
-121° 29' 18"		Deschutes	3/12/2013 12:29:00 PM	Debris Burning	0.4	
-119° 25' 21"	L	Grant	3/2/2013 7:10:00 PM	Debris Burning	0.1	0.1
-118° 33' 16"	C	Grant	3/12/2013 4:59:00 PM	Recreationist	0.25	0.25
-121° 22' 25"		Deschutes	4/25/2013 12:08:00 PM	Miscellaneous	0.1	
-121° 32' 59"		Deschutes	4/27/2013 12:39:00 PM	Miscellaneous	0.1	
-121° 28' 59"		Deschutes	5/4/2013 1:46:00 PM	Under Invest	168	
			Total Fires	ODF Acres	Total Acres	
			10	172.94	1.10	

to get all the listings that you need (this could take multiple attempts).



State of Oregon
Office of State Fire Marshal
4760 Portland Road NE, Salem, Oregon 97305-1760

FIRE AND LIFE SAFETY CONSULTATION

HMM1305080604

Consultation Date

Page 1 of 1

May 8, 2013

Business Name and Address

What The Festival
78889 Dufur Valley Rd
Dufur OR 97021
(503) 438-8723
Responsible Person
Peter Clark

Principal Occupancy Type

A-3

County

Wasco

Fire Dept

Unprotected, Wasco

Property Owner

This State Fire Marshal consultation is advisory only and does not substitute for a fire and life safety plan review by the building official as required by ORS Chapter 455. Any advice provided is not an approval of omissions or oversights, or authorization of non-compliance with any rule, code, or standard adopted by this agency or any other agency.

Narrative

May 7, 2013

To Whom It May Concern:

The Oregon State Fire Marshal's Office is charged with enforcing the Oregon Fire Code as required by ORS 476.030, protecting citizens from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises. The organizers of the What The Festival have been given a list of requirements to adhere to in planning for their event in regards to the set up and operation of the venue, and compliance with those requirements will be confirmed with an on-site inspection before the event begins.

OAR 330-039-0045 addresses fire protection for the mass gathering site. The What The Festival organizers have been working with the Oregon Department of Forestry, which is the authority having jurisdiction to provide fire protection for the festival site, to create a wildland fire prevention plan to mitigate the increased hazard of having a mass gathering of people. ODF has the jurisdiction to say whether the plan complies with state and local laws, ordinances, and regulations, and is satisfactory with respect to anticipated crowds and location of the outdoor mass gathering.

While there is some overlap in what the OSFM and ODF enforce in regards to the prevention of fires, each agency has authority under different statutes and rules. The OSFM cannot say if the festival complies with ODF's rules, and ODF cannot say if the festival complies with the OSFM's rules. Each agency must give approval.

Sincerely,

Heather Miller
Deputy State Fire Marshal
Oregon Office of State Fire Marshal

☐ Presented to:

☒ Mailed to: Joey Shearer

DSFM: Heather Miller

(541) 420-4263

Distribution:

☐ Owner/Occupant

☐ OSFM File

☐ Deputy

☐ Fire Dept

☒ Agency

☐ Other



Joey Shearer <joeys@co.wasco.or.us>

Fwd: WTF Festival Approval

Cheryl Edwards <cherylanneedwards@gmail.com>

Mon, May 6, 2013 at 10:05 PM

To: joeys@co.wasco.or.us

Cc: Cheryl Edwards <cherylanneedwards@gmail.com>, tom edwards <tommy.edwards@daimler.com>

Mr. Shearer,

My husband Tom and I have great concerns after just learning of the WTF Festival that is going on adjacent to our property in Dufur on FR 44, Dufur Valley Rd. It lists you as the planner to contact, so we are contacting you to voice our concerns.

WHAT THE FESTIVAL WOLF RUN RANCH	PLAOMG-13-03-0001
-------------------------------------	-------------------

We see that this festival has been approved, but feel that the scope and size of it poses a huge danger to this area. We find it hard to believe it has been approved and wish the county would have been more specific as to what was going on at this. I want to point out this link

-- http://entertainment.nbcnews.com/_news/2012/08/07/13054841-wtf-is-this-the-millennial-generations-woodstock

or view their website to see for yourself!

<http://whatthefestival.com/experience/>

It describes the festival of last year that was very small in comparison as another Woodstock with nudity, etc....

Well, this is not something I want near our property, nor do we want fires and other dangers this could present.

I wish someone would have told us before your meeting that this is what was being planned, but it simply said a music festival with crafts!!! I think not!

We are building on our property and are still working in Portland. We have personal things out there and fear that with thousands of people roaming, trespass and damage may be likely.

We would like to know how you plan on preventing these people from trespass and will they be accountable to anyone in the area when there as it does not look like it. Also, there are four stages going on "through the night" as they call it, and say that this is their "new home!" While we are still building, we are out there often in our Yurt and Camper and don't relish this going on all night, especially while living there in the future. We will be there during this festival, but also wonder about our safety as well.

We cannot believe this was passed by the Wasco Board or that Dufur was approving this as they freak out if lights are shining on other properties and all the other strict rules for this area that are listed in anything we have seen.

We feel someone pushed this through without totally revealing the facts of the festival to us and since we live so far away and cannot attend a meeting, we were taken advantage of.

Had we known this was what was planned, we would have definitely come forward, but we simply had no idea until I called the company listed and found the website.....it is just unimaginable this was approved to us. Cannot see Fish and Wildlife & Forestry going along with the county on this one. Sound carries so far near this canyon and this festival will be heard for miles!

Please explain their thinking as I have read the reports online and it seems to be approved.

Yes, I know they say there are restrictions to fires and things, but reading what went on last year with drugs and drinking and nudity, I highly doubt these rules will be adhered to and we are very worried. We understand it was previously in Tygh Valley in a more open area without residences nearby....that is where it should have remained, but they probably were not allowed back. I mean, we are talking THOUSANDS....not to mention the workers and other vendor people....this is nuts!

Please address our concerns and let us know who else we need to reach out to. We imagine that with your approval came 'some' type of way to address neighboring properties and the issues this will cause?? We need this assurance.

Cheryl and Tom Edwards
79360 Dufur Valley Rd.....
503-628-7243
cherylanneedwards@gmail.com

♥ Pet Partners...touching lives, improving health
NAAT.ORG - Saving lives through education

MY NAME IS DAVID WEHRLY.

I WOULD LIKE TO CLARIFY, AND ADD TO THE COMMENTS I MADE AT THE PREVIOUS HEARING ON MAY 1.

FIRST - WITH RESPECT TO MY CONCERNS AS TO THE POTENTIAL FOR FIRE, I WOULD LIKE TO ADD SOME SPECIFICS REGARDING THE CURRENT AND ANTICIPATED FIRE CONDITIONS.

THE NUMBERS I WILL REFERENCE ARE SOURCED FROM THE OREGON STATE UNIVERSITY EXTENSION, AND ARE SPECIFIC TO THE AREA IN QUESTION.

OVER THE PRECEDING TEN YEARS, THE AVERAGE RAINFALL OR MOISTURE EQUIVALENT FOR THE PERIOD SEPTEMBER 1ST TO MAY 1ST HAS BEEN - 14.57 INCHES, FOR THE PERIOD JANUARY 1ST TO MAY 1ST - 7.24 INCHES.

FOR THOSE SAME PERIODS SO FAR THIS YEAR, SEPTEMBER 1ST 2012 TO MAY 1ST 2013, ONLY 9.61 INCHES HAVE FALLEN, A DEFICIT OF 4.96 INCHES, OR ROUGHLY ONE THIRD THE NORMAL AMOUNT.

FOR THE PERIOD JANUARY 1ST 2013 TO MAY 1ST 2013, EQUIVALENT MOISTURE HAS BEEN 3.05 INCHES, ONLY 41% OF NORMAL, A DEFICIT OF TWO-THIRDS AS COMPARED TO THAT SAME PERIOD LAST YEAR.

WITH THE PROPOSED FESTIVAL THREE MONTHS AWAY, AND SUMMER RAINFALL MEASURED IN THIS AREA, UNLIKELY TO MAKE-UP ANY DEFICITS, WE SHOULD BE SEEKING TO ELIMINATE ANY UNNECESSARY ACTIVITIES THAT MIGHT HEIGHTEN THE POSSIBILITY OF FIRE. WHAT IS THE VALUE TO THE COMMUNITY IN PERMITTING AN ACTIVITY THAT CLEARLY PUTS OUR HOMES

AND LIVELIHOODS AT GREATER RISK, WITH NO BENEFIT WHATSOEVER TO THE AREA RESIDENTS OR OUR PROPERTY.

SECOND - WITH RESPECT TO MY CONCERN TO THE RURAL ROAD, DUFUR VALLEY ROAD. DURING THE LAST HEARING WASCO PUBLIC WORKS INDICATED THAT THEY WERE NOT CONCERNED FOR THE POTENTIAL DAMAGE 2500 - 3000 AUTOMOBILES MIGHT CAUSE OTHER THAN THE ASSOCIATED WEAR AND TEAR WITH THAT NUMBER OF VEHICLES. WHAT WAS NOT ADDRESSED HOWEVER WAS THE VOLUME OF HEAVY TRUCKS BUILDING AND SUPPORTING THE INFRASTRUCTURE FOR THE PROPOSED FESTIVAL. THE PROMOTERS HAVE INDICATED THAT THEY WOULD MEET SPECIFIED WATER REQUIREMENTS BY TRUCKING IN SUPPLEMENTAL WATER. A 6000 GALLON WATER TANKER, OFTEN USED BY FIRE FIGHTERS, HAS A GROSS WEIGHT OF APPROXIMATELY 45 TONS.

LIKE MOST RURAL ROADS IN WASCO COUNTY, DUFUR VALLEY ROAD'S BASE IS SUBJECT TO DAMAGE FROM SUCH HEAVY TRAFFIC, ESPECIALLY IN THE HEAT OF THE SUMMER WHERE TEMPERATURES CAN EASILY EXCEED 100 DEGREES. AT THOSE TEMPERATURES, EVEN THE ADDITIONAL AUTO TRAFFIC IS POTENTIALLY DAMAGING

THIRD - AS A POINT OF CLARIFICATION, MY EARLIER COMMENTS REGARDING THE RESIDUAL IMPACT THAT THE WOODSTOCK FESTIVAL HAD ON THAT AGRICULTURAL AREA OF NEW YORK, HAD LESS TO DO WITH THE HIPPIES THAT ATTENDED THE 1969 FESTIVAL, THAN THE EVER INCREASING NUMBER OF GATHERINGS THAT ADOPTED THE VENUE. I FIND IT IMPLAUSIBLE TO

BELIEVE, GIVEN THE INVESTMENT IN INFRASTRUCTURE, THAT MR. BOYD INTENDS THE PROPOSED FESTIVAL TO BE A ONCE IN A LIFETIME EVENT AT THIS LOCATION, OR THAT ONCE IN PLACE THAT OTHER EVENTS WOULD NOT BE HOSTED. THE NOISE, TRAFFIC AND GENERAL TURMOIL OF SUCH ACTIVITIES IS, AS I PREVIOUSLY INDICATED TOTALLY INCOMPATIBLE WITH EITHER THE DESIGNATED AND RESTRICTED AG AND FOREST USE, OR WITH THE RESIDENTS OF THIS AREA.

FINALLY - I AM TRULY CONCERNED WITH THE '*FAIT ACCOMPLI*' APPROACH THAT HAS SURROUNDED THIS PERMITTING PROCESS. I AM ALSO CONCERNED ABOUT SOME CONFLICTS OF INTEREST THAT MAY EXIST AND SOME SHORT CUTS THAT MAY HAVE BEEN TAKEN AROUND THE PROCESS.

I ENCOURAGE THE COMMISSIONERS TO BOTH REJECT THE PERMIT AND AT THE SAME TIME, IF THEY FEEL THERE IS BENEFIT TO WASCO COUNTY, ASSIST THE FESTIVAL ORGANIZERS IN FINDING A MORE APPROPRIATE VENUE.

THANK YOU.

5/8/2013

Dufur Oregon

<u>Crop year</u>	<u>Total rainfall(9/1 to 8/31)</u>	<u>Sept 1 to May 1</u>	<u>Jan1 to May1</u>
09/10	16.72	13.20	7.40
10/11	17.26	14.27	6.92
11/12	17.04	14.51	9.58
12/13	not over yet	9.61	3.05

Source: OSU extension |