

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WA 98802-4109

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-23-02)	DECISION AND
Waterville Wastewater System)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on December 21, 2023, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The applicant is the Town of Waterville.
2. General Description: This is an application for a Condition Use Permit (CUP) to allow for a new wastewater treatment system. The new wastewater treatment plant will include a new headworks structure with a mechanical screen and an influent lift station. The influent lift station will pump screened wastewater through a 3,300-foot pressure sewer to a 60-mil HDPE lined, three-cell lagoon system. The first two cells will be aerated lagoons, while the third cell will provide storage for treated wastewater. Treated wastewater will be disinfected using a 12.5-percent sodium hypochlorite chlorine disinfection system and then land-applied via a 30-acre center pivot irrigation system.
3. Location: The subject property is located approximately 1 mile south of the Town of Waterville and is further described as being located within Section 27, Township 25N, Range 22E, W.M. Douglas County Assessor's Parcel Numbers: 25222740002 and 25223410001.
4. Site Information: The subject properties include an existing irrigation spray field and vacant land. The properties include an existing access road traversing through the site. The subject properties are relatively flat.
5. Site Access: Access to the site will begin off of Rd O NW (S Waterville Rd) then traverse through private property, via access easements, to the treatment site.
6. Zoning: The subject property is located within the Dryland Agriculture (A-D) zoning district.
7. Comprehensive Plan – The Douglas County Comprehensive Plan designates this property as Dryland Agriculture and is zoned Dryland Agriculture (A-D) under Douglas County Code.

The following goals and policies set forth in the comprehensive plan are relevant to this development:

7.1 GENERAL LAND USE:

- 7.1.1 POLICY G-9: Rural developments should only occur where adequate access to transportation systems, rural levels of utilities and facilities are available. Appropriate facilities/services may include domestic water, sewage disposal, fire and police protection, schools, and power, etc. depending on the scale and impact of the development.
- 7.1.2 POLICY G-11: Establish siting and design criteria to provide buffering or other mechanisms that will protect adjacent land uses from potential conflicts between incompatible uses.

7.2 RURAL LANDS:

- 7.2.1 POLICY R-3: Establish land use designations that represent rural character and that protect the integrity of rural areas.
- 7.2.2 POLICY R-6: Encourage development in rural areas to be served by rural levels of service.

7.3 RURAL DEVELOPMENT:

- 7.3.1 POLICY RD-4: Rural developments will not impact existing public facilities/services to the extent that the level of service for that facility is reduced below the adopted threshold and/or an acceptable operation capacity.
- 7.3.2 POLICY RD-5: The costs associated with implementing a rural development and providing the necessary utilities, facilities and/or services will be borne by the developer.

7.4 UTILITIES:

- 7.4.1 POLICY U-5: Provide utilities at service levels that are appropriate for the specific land uses and areas, thereby avoiding excess capacities that may encourage growth beyond the desired densities of an area.
- 7.4.2 POLICY U-6: Promote multi-jurisdictional cooperation between cities, the County, special purpose purveyors and other private utilities for utility planning and implementation.
- 7.4.3 POLICY U-8: Utility planning activities should include an on-going analysis of the overall system physical condition.
- 7.4.4 POLICY U-9: The cost of on-site utility improvements or site preparation for developments will be the responsibility of the development benefiting from the improvement.
- 7.4.5 POLICY U-12: Encourage State agencies to streamline their requirements for provision of services by including flexible standards that are based on specific situations, as opposed to strict application of statewide standards.

8. Applicable provisions of DCC 18.80.030 "Evaluation Criteria"

- 8.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.

- 8.2 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
 - 8.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
 - 8.4 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use will provide adequate services.
 - 8.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
 - 8.6 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
 - 8.7 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.
 - 8.8 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
 - 8.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
 - 8.10 The hearing examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of DCC Title 17 and RCW Chapter 58.17.
9. Douglas County issued a Determination of Non-Significance on October 9, 2023, in accordance with WAC 197-11-355 (Optional DNS). No appeal was filed.
10. Applicable agencies have been given the opportunity to review this proposal. These agencies have identified mitigation or project design requirements for the project that have been included as conditions of approval where appropriate.

Agency Notified	Response Received	Agency Notified	Response Received
Washington Department of Fish and Wildlife	08/08/2023	Douglas County Transportation	09/12/2023
Douglas County Fire Marshal	10/03/2023	Douglas County PUD	08/30/2023
Douglas County Planning	10/10/2023	WA State Dept. of Ecology	08/09/2023
Chelan Douglas Health District	09/13/2023	Douglas County Assessor	N/R

Douglas County Treasurer	N/R	Douglas County GIS	10/11/2023
Colville Confederate Tribes	08/11/2023	DAHP	N/R

11. No comments were received from members of the public.
12. Comprehensive Plan consistency: The project is designated *Dryland Agriculture* by the Douglas County Comprehensive Plan. The proposal is supported by multiple policies related to general land use, rural development, and utilities. The proposal is consistent with Section 4.1 “Rural Land Use”, section 4.3 “Rural Development”, and section 8.3 “Utilities Goals and Policies” of the Douglas County Comprehensive Plan.
13. Consistency with DCC Chapter 18.80.030 “Conditional Uses – Evaluation Criteria”. The proposed land use is permitted as a Conditional Use Permit in the A-D zoning district. The following analysis details how the project is consistent with DCC 18.80.030 – CUP Evaluation Criteria.
 - 13.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.
 - 13.1.1 The proposal is supported by multiple goals and policies out of the Douglas County comprehensive plan regarding Rural Land Use, Rural Development and Utilities.
 - 13.2 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.
 - 13.2.1 The current property already has a wastewater system on site, the modifications proposed by the applicant are consistent with the existing character of the general vicinity. Operation of the site will be monitored and controlled by the Town of Waterville for the life of the project.
 - 13.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.
 - 13.3.1 The Douglas County Transportation and Stormwater Department has reviewed the project for impacts to the existing transportation system/ traffic. The Transportation and Stormwater Department has indicated preliminary approval of the project, subject to suggested conditions of approval.
 - 13.4 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use shall provide adequate services.
 - 13.4.1 The project will be served by a network of private road easements to provide access from Road O (public) to the proposed Treatment Plant. Fire protection will be provided by Douglas County Fire District #1. Law Enforcement will be provided by the Douglas County Sheriff’s Office.

- 13.5 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
- 13.5.1 All development requirements/ costs will be borne by the developer and will not create excessive additional requirements at public cost for public facilities and services.
- 13.6 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
- 13.6.1 The proposed wastewater system has been designed consistent with applicable local and state law. The facility will be designed to ensure it will not be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
- 13.7 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.
- 13.7.1 The Douglas County Transportation and Stormwater Department has indicated preliminary approval of the project subject to certain conditions. The transportation system will be designed in accordance with all applicable standards of DCC Title 20. In addition, the Douglas County Fire Marshal has indicated preliminary approval of the project, subject to certain conditions, to provide an adequate road system for emergency vehicle access.
- 13.8 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place to mitigate and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects. (Refer to DCC Chapter 20.40, Landscaping standards, for specific requirements.)
- 13.8.1 The proposed treatment plant will include adequate separation standards to avoid detrimental impacts to adjacent properties. The sites natural topography generally screens to property from view of the general public. Additionally, due to the existing facility currently operating on-site, the proposal will not be significantly different from the operations that currently exist. Minimal auditory effects will occur from operations of the proposed treatment system.
- 13.9 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
- 13.9.1 The proposal has been conceived and designed to conform to local, state and federal regulations. Proposed development will meet applicable local, state, and federal regulations.
- 13.10 As conditioned, the proposal appears consistent with the requirements of this section.

14. Consistency with DCC 19 – Environment: The project will have impacts to multiple critical areas specified by Douglas County Code. The proposed system will impact wetlands and shrubsteppe habitat in the vicinity.
15. Wetlands and Shrubsteppe. The applicant has provided a critical areas report (Prepared by Anderson Perry dated October 2023) addressing the impacts and specifying mitigation measures that will be implemented. A total of 0.05 acre of permanent impact to Wetland 1 and 0.38 acre of permanent impact to the Wetland 1 buffer are expected, as construction of the proposed new treatment lagoons will remove the wetland and its buffer. Mitigation for this impact will be provided by grading down a portion of the abandoned treatment lagoons and the lagoon dike to match the elevation of the adjacent Wetland 2, seeding with an appropriate mix of native species (see Table 5-1), and allowing this area to develop wetland characteristics. A minimum of 0.075 acre of new wetland will be constructed to meet the 1.5:1 minimum mitigation ratio required by the Douglas County Critical Area Ordinances. No permanent impacts to Wetland 2 or its buffer will occur from the installation of the proposed forcemain. The temporarily impacted areas of Wetland 2 will be restored to pre-construction contours and reseeded with an appropriate native wetland seed mix. The wetland mitigation area will be monitored by the Town of Waterville for a period of five years to ensure that wetland vegetation, hydric soil indicators, and wetland hydrology are established. Approximately 18 acres of existing shrubsteppe habitat will be permanently impacted by construction of the new treatment lagoons. Of these 18 acres, 9.22 acres are higher quality habitat. Installation of the new 30-acre irrigation pivot is anticipated to improve the quality of the existing lower quality shrubsteppe habitat currently present in this area, similar to what has occurred at the Town's existing wastewater spray field, and this 30-acre area will provide mitigation for the 10 acres of permanent impacts to lower quality shrubsteppe habitat. Approximately 9.22 acres of higher quality shrubsteppe habitat will be permanently impacted by construction of the new treatment lagoons. To mitigate this impact, an area of similar shrubsteppe habitat will be established on 15 acres of Town-owned property located immediately east of the proposed new irrigation pivot. The proposed mitigation area consists of 15 acres within the 20-acre tax lot (parcel number 25223520003), providing a greater than 1.5:1 mitigation ratio for the impacted higher quality shrubsteppe habitat. Measures taken in this area will include initial site preparation and weed control, seeding with an appropriate native seed mix, and planting with big sagebrush (*Artemisia tridentata*) plugs at a density of approximately 435 plants per acre. The higher quality shrubsteppe mitigation area will be monitored by the Town of Waterville for a period of five years to ensure a diverse shrubsteppe habitat area is established. Monitoring methods will include herbaceous species transects, large plots for sagebrush, and photopoints to provide an overall assessment of the mitigation area. A monitoring report (including both the wetland mitigation area and higher quality shrubsteppe mitigation area) documenting the results of the vegetation monitoring plots will be submitted to Douglas County and applicable permitting agencies each year.
16. Geologically Hazardous Areas: The subject property is encumbered by geologically hazardous areas as identified by Douglas County Critical Area maps. The applicant has submitted a geotechnical report (Prepared by Anderson Perry dated April 2023) outlining the projects impacts and recommended mitigation measures. The report provides various recommendations for site preparation, excavation, and construction activities. As conditioned, the proposal appears consistent with the requirements of DCC 19 – Environment.

17. Consistency with DCC 18.40 A-D: The purpose of the A-D dryland agricultural district is to recognize and acknowledge the importance of dryland agricultural lands and related activities to the economic livelihood of Douglas County. Existing and future agricultural activities are permanent land uses as well as a significant economic function within the community. The predominant uses within this district will be grain crop production and livestock production, with some areas participating in the federal conservation reserve program. This district is intended to preserve and encourage these activities as viable operations and to protect them from the encroachment of incompatible uses. As conditioned, the proposal appears consistent with the requirements of the zoning district.
18. Douglas County Transportation Department has evaluated the proposal and recommended approval of the project with applicable conditions.
19. Douglas County Land Services: The application materials demonstrate compliance with adopted codes, standards, and specifications applicable to this project. As conditioned, the proposal is consistent with the provisions of Douglas County Code.
20. Initial application materials reviewed by Douglas County Transportation and Land Services and admitted into the record at the open record public hearing include:
 - 20.1 Ex. 1 Master application prepared by the applicant, submitted on May 23, 2023.
 - 20.2 Ex. 2 SEPA Checklist prepared by the applicant, submitted on May 25, 2023.
 - 20.3 Ex. 3 Project Narrative prepared by Anderson Perry, submitted on May 26, 2023.
 - 20.4 Ex. 4 Project Site Plan prepared by Anderson Perry, submitted on May 26, 2023.
 - 20.5 Ex. 5 Preliminary Construction Plans prepared by Anderson Perry, submitted on May 26, 2023.
 - 20.6 Ex. 6 Preliminary Stormwater Report prepared by Anderson Perry, submitted on September 1, 2023
 - 20.7 Ex. 7 Geotechnical Report prepared by Anderson Perry, submitted on May 26, 2023.
 - 20.8 Ex. 8 Critical Areas Report prepared by Anderson Perry, submitted on October 12, 2023.
 - 20.9 Ex. 9 Cultural Resource concurrence Email, submitted by the applicant on May 26, 2023
 - 20.10 Ex. 10 Staff Report.
21. The preliminary construction plans include a layout and conceptual grading for a network of private road easements to provide access from Road O (public) to the proposed Treatment Plant. Access easements shall be recorded with Douglas County Auditor's office prior to building permit issuance.
22. The preliminary stormwater report adequately demonstrates stormwater management feasibility for the subject property. Ditches along the gravel access roads are proposed to completely hold and infiltrate the stormwater runoff.
23. Surrounding property owners were given the opportunity to comment on the proposal, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
24. No members of the public commented on the proposal.
25. Comments from reviewing agencies have been considered and addressed where appropriate.

26. Proper legal requirements were met and surrounding property owners, affected agencies, and interested parties were given the opportunity to comment on the proposal at a public hearing.
27. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
28. After due legal notice an open record public hearing was held on December 21, 2023.
29. The entire Planning Staff file was admitted into the record at the public hearing.
30. Appearing and testifying on behalf of the Applicant was Steve Smith. Mr. Smith testified that he was the agent for the Applicant and was authorized to appear and testify on its behalf. Mr. Smith stated that he agreed with all representations in the staff report and had no objection to any of the proposed Conditions of Approval.
31. No member of the public testified at this hearing.
32. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 18 "Zoning", Title 19 "Environment", and Title 20 "Development Standards" of the Douglas County Code.
6. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 2023-02 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. The project shall proceed in substantial conformance with the plans and application materials of file except as amended by the conditions herein.
2. The applicant, and site operators, are responsible for compliance with all applicable local, state and federal rules and regulations and shall acquire all applicable permits.
3. The applicant shall abide by the conclusions, recommendations, and proposed mitigation measures outlined in the October 2023 Revised Critical Areas Report submitted by Anderson Perry. The applicant shall provide monitoring reports to Douglas County, per the schedule outlined in the report, for the impacts to wetlands and shrubsteppe habitat.
4. All future modifications to the project shall be reviewed by Douglas County Land Services Department.
5. The applicant shall obtain commercial building permits for all structures being built as a part of the proposal.
6. The applicant shall complete an application for service with the Douglas County PUD. The applicant shall coordinate with the District on the electrical design for the project. The applicant shall coordinate with the District to address any utility easements needed to serve the proposal.
7. The applicant shall coordinate with the Washington State Department of Ecology to address the State Waste Discharge Permit.
8. At time of building permit submittal, the applicant shall submit an address request form.
9. In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, up to 5,000 gallons per day used for industrial purposes, stock watering, and for the irrigation of up to one-half acre of non-commercial lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology. If you have any questions or would like to respond to these Water Resources comments, please contact Christopher Kossik at 509-379-1826 or email at christopher.kossik@ecy.wa.gov.
10. Under RCW 90.03.350, a Dam Safety construction permit is required for those dams or ponds which can impound a volume of 10 acre-feet or more of water or other liquids, above ground level. This also includes ponds that share a common berm which in combination the volume is 10 acre-feet or more. If the Waterville Wastewater Treatment System Expansion project, meets or exceeds the above referenced criteria you will need to apply for a dam construction permit. To determine if a Dam Safety construction permit is required, the applicant must submit a set of construction plans to:

WA Department of Ecology
Dam Safety Office
P.O. Box 47600
Olympia, WA 98504-7600

For more information, please contact Charlotte Lattimore by e-mail at clat461@ecy.wa.gov or by telephone at 360-407-6066.

11. The road shall be constructed of 6" of gravel to withstand a 75,000 lb fire apparatus.
12. Final site-specific civil construction plans and a stormwater report prepared by a Professional Engineer (PE) licensed in the State of Washington that conforms to Douglas County Code and the current edition of the Stormwater Management Manual for Eastern Washington (SWMMEW) shall be submitted to and accepted by Douglas County prior to construction and prior to issuance of any building permit.
13. Access easements shall be acquired, recorded, and submitted with the building permit application.
14. A County Access Permit is required at the time of the building permit submittal. Driveway construction shall comply with standard figure 4-1, including paving the portion of the access road within County ROW. The width of the driveway access within ROW shall be 20 feet minimum and not exceed 50 feet.
15. Field infiltration tests shall be performed in the location of the proposed infiltration facilities in accordance with the guidance presented in the SWMMEW. The infiltration rate derived in this manner shall be utilized in the design process with an appropriate factor of safety/correction factor applied. This information shall be included as an appendix to the stormwater report and contain, at a minimum, the name of the testing agency, the methodology utilized, and the recorded time step information.
16. Prior to any on-site grading occurring, a Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control Plan (TESC Plan) shall be submitted to and accepted by Douglas County. The SWPPP and TESC Plan shall be kept on-site at all times and updated as necessary to address and prevent sediment and sediment laden water from leaving the project site.
17. The Engineer of Record shall monitor construction and shall provide as-built drawings and report as necessary along with certification that the transportation and stormwater improvements have been completed in accordance with the applicable codes, regulations, and accepted plans. UIC registration shall be provided as applicable.
18. Prior to occupancy, a Private Stormwater Operation and Maintenance Agreement shall be executed on standard Douglas County forms. The site plan, details, certification, and operation and maintenance recommendations are provided to the County. County staff then prepares the agreement for signature and recording by the applicant.
19. Individual/common plan development for this proposal may exceed 1-acre of disturbed ground. This would meet the threshold by the Washington State Department of Ecology (WSDOE) in administering their general permit to discharge stormwater associated with construction activity. The applicant is responsible for acquisition of all applicable permits prior to beginning ground breaking activities, including but not limited to: Construction Stormwater General Permit, Sand & Gravel Stormwater General Permit, and/or Industrial Stormwater General Permit. Compliance with the Washington State Department of Ecology's regulations is the responsibility of the applicant.

Dated this _____ day of December, 2023.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.