

BEFORE THE HEARINGS OFFICER  
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 9-95 FOR  
TUSCARORA GTC TO PLACE A GAS TRANSMISSION LINE

ORDER

**1. NATURE OF THE REQUEST:**

The applicant wishes to place a 20" diameter gas transmission line within a 50' easement extending from the PGT Malin Meter Station south to the California State Line, a distance of 2.6 miles m/l.

This request was heard by the Hearings Officer MARCH 17, 1995 pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Article 54.

**2. NAMES OF THOSE WHO PARTICIPATED:**

The Hearings Officer in review of this application was Neal G. Buchanan.

The applicants representatives appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg, Administrative Secretary. Henry and Patricia O'Keefe also appeared.

**3. LOCATION:**

The property under consideration is a 50' easement extending north/south from Malin to the California state line, a distance of 2.6 miles m/l. The easement lies within T 41S R 12E.

**4. RELEVANT FACTS:**

The property is within the Agriculture plan designation and has an implementing zone of EFU-C. The project easement is 50' in width and IS under farm tax deferral.

The easement/facility in question is parallel to an existing 100' easement controlled by Pacific Gas Transmission containing two existing natural gas transmission lines.

#### 5. FINDINGS:

All evidence submitted as the staff report, exhibits b-e, and offered testimony show that the approval criteria as set out in Code Article 54 and 45 has been satisfied. The Hearings Officer finds this application;

1. Is compatible with farm use because:

The natural gas transmission line proposed will be installed to a depth of 60" and the surface will not be taken out of permanent agricultural production by this installation.

2. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use because:

A temporary disruption will occur during the installation of this facility. Subsequent covering of the facility will allow the agricultural use to revert.

The permit holder has proposed as a condition of this approval to file a restrictive covenant which will prohibit the permit holder and successors in interest from filing complaint concerning valid farming practices on nearby lands.

The Hearings Officer finds this will mitigate impact to farm operations.

3. Does not alter the stability of the overall land use pattern of the area because:

The overall land use of part of this area is found to be large lot rural residential and commercial farming. The land use pattern of the area will not be modified as the predominant land use of the area, agriculture, will only be temporarily destabilized.



**6. ORDER:**

Therefore, it is ordered the request of TUSCARORA GTC for CUP 9-95 is approved subject to the following conditions:

1. The applicant shall file a restrictive covenant with the County Clerk prohibiting the permit holder and their successors in interest from filing complaint concerning accepted resource management practices that may occur on nearby lands (Sec. 54.040D).
2. Compliance with the following indicated in a memo dated 3-17-95 to the Hearings Officer:
  - a. Tuscarora agrees to bury its proposed 20" natural gas pipeline to a depth of 60" cover thru the agricultural lands identified in CUP 9-95 permit.
  - b. Tuscarora agrees to sperate the topsoil from the subsoil as requested on those lands of Mr. & Mrs. O'Keefe, Klamath County APN 4112-11-1700 & 4112-14-100.
3. The CUP granted will expire two years from the date below unless a development permit is obtained or an extension of time is approved by the Planning Director.

DATED this 28 day of MARCH, 1995

Neal G. Buchanan  
Neal G. Buchanan, Hearings Officer

**NOTICE OF APPEAL RIGHTS**

You are hereby notified this application may be appealed to the Klamath County Board of Commissioners by filing with the Klamath County Planning Department a Notice of Appeal as set out in Section 33.004 of the Klamath County Land Development Code, together with the fee required within seven days following the mailing date of this order.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 29th day  
of March A.D., 19 95 at 2:18 o'clock P M., and duly recorded in Vol. M95  
of Deeds on Page 7428.

FEE None

RETURN: Commissioners Journal

Bernetha G. Ketsch, County Clerk

Bernetha G. Ketsch