

BEFORE THE HEARINGS OFFICER KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use Permit by)
)
) CUP 12-96
)
) ORDER
 TUSCARORA GAS TRANSMISSION COMPANY,)
)
 Applicant.)
 _____)

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1. NATURE OF THE REQUEST:

The applicant wishes to install 7.34 miles of 4" diameter natural gas transmission pipeline within a 30' easement extending west from Malin to provide natural gas service connection. The request was heard by the Hearings Officer March 15, 1996 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 applicant's representatives, Greg Galbraith, Terry Woolverton and Kristine Ransom appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl, and the recording secretary was Karen Burg. Those offering written material, testimony or objection with reference to the application included Teddy Walker, Jim Ottoman and Henry O'Keefe.

3. LOCATION:

The property under consideration is a 30' easement extending south from Malin to the Oregon-California state line, then west parallel with the Oregon-California state line.

4. EVIDENCE RECEIVED:

Exhibits A (the Staff Report) through D

5. RELEVANT FACTS:

The property is within the Agricultural Plan Designation and has an implementing zone of EFU-C. The project easement is 30' in width and is under farm tax deferral. The portion of the easement running parallel to the Oregon-California state border had originally been envisioned as being located near the existing roadway easement. However, in recognition of the needs and preferences of the property owners through whose property the

easement will run, certain modifications have been made by the applicant to that location of the easement.

6. FINDINGS:

All evidence submitted as the Staff Report, Exhibits B through D and offered testimony show that the approval criteria as set out in Code Article 54 and 47 have been satisfied.

The Hearings Officer finds this application:

A. 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.

B. 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 the facility. However, 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 farm practices on nearby lands. The Hearings Officer finds that this will mitigate impact on farm operations.

C. 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.

D. Certain conditions will further mitigate the impact of the project upon adjoining agricultural lands, such conditions being incorporated within the Order below.

7. ORDER:

Therefore, it is ordered the request of Tuscarora Gas Transmission Co. for CUP 12-96 is approved subject to the following conditions:

A. 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 (see Section 54.040 D).

B. Compliance with the following:


1. The applicant shall bury its proposed single 4" natural gas pipeline to a depth of 60" through any agricultural lands; and

2. The applicant shall, in constructing the facility through agricultural lands, separate top soil from subsoil; in replacing soils into the trench, subsoil shall be returned to the trench first, followed with topsoil replaced at the top of the trench; and

3. The applicant shall incorporate within all easement documents a provision that the applicant will remove all foreign material and debris on the right-of-way, work space areas, and any other areas disturbed by the installation, construction, maintenance, inspection, repair, operation, reconstruction and/or removal activities and clean up the disturbed area in a workmanlike manner.

C. This 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 18 day of MARCH, 1996.



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 21st day
of March A.D., 1996 at 10:54 o'clock AM., and duly recorded in Vol. M96
of Deeds on Page 7688

Bernetha G. Letsch County Clerk
By 

FEE No Fee

Commissioners Journal