

COMMISSIONERS APPROVAL

KANENWISHER 

FOSS

CHILCOTT 

IMAN 

STOLTZ 

Members Present.....Commissioner Matt Kanenwisher, Commissioner Suzy Foss, Commissioner J.R. Iman and Commissioner Ron Stoltz

Date.....January 5, 2012

► Minutes: Glenda Wiles

► The Board met for a public hearing at 9:00 a.m. to take public comment on an application to the Department of Environmental Quality for a motor vehicle wrecking facility license by Bitterroot Valley Recycling at 211 Humdinger Lane in Victor, Montana. Present at this hearing was Sanitarian Rod Daniels, Environmental Health Director Lea Guthrie, Applicant Clint Nickerson and numerous citizens.

Commissioner Kanenwisher called the hearing to order asking for disclosure of any conflict of interest from any Board Members. None were noted. Glenda stated the legal notice for this public hearing was posted in the Bitterroot Star on December 21st and December 28th which was precipitated by the letter received from the Montana Department of Environmental Quality on December 13, 2011.

Staff Report: Lea Guthrie submitted a staff report (attached). Lea reported that if the Commissioners pass a resolution approving of this location, the Montana Department of Environmental Quality will prepare a full site evaluation. Discussion included a previous site evaluation by Sanitarian Rod Daniels for septic approval. Rod stated at this point he does not see any reason that a septic system could not be completed on this particular piece of property. Lea noted this parcel up for consideration is utilizing a porta potty which is not allowed, so if the business is going to stay at this location the applicant will need to comply with the septic permit process.

Clint Nickerson and Sherry Ireland (applicants) stated they have changed their business name to Bitterroot Valley Recycling. Clint stated he is researching whether he can move dirt at this location, he has looked all over the valley and this is the perfect location for this type of business. He is willing to work with the neighbors and plans to build a fence. Recently at this location he attempted to tear down a mobile home and it turned into a mess so they don't plan to do that again.

Commissioner Stoltz made a motion to approve of this site for permit from DEQ. Commissioner Foss seconded the motion.

Discussion: Commissioner Iman read from the warranty deed on this parcel which addressed this parcel as a superfund site and noted that those issues have been mitigated. In his opinion the applicant has found a site for this type of business, and while there are existing conditions on the property the applicant must follow those requirements. Commissioner Iman noted this recycling business will have an impact on the road, and the county does not maintain this road, thus he would like the recycling business to assist with the maintenance of this road when the applicant owns the property. He further noted the location is a good place for this business but his concerns are how the business interacts with the neighbors, i.e., having storage for materials being disposed of, installation of a fence and any materials that might end up on someone else's property.

Commissioner Foss stated until the license is approved by DEQ the applicant cannot build a fence nor mitigate other concerns. She supports this recycling location.

Commissioner Kanenwisher stated as an individual he will not have much patience if the necessary requirements, such as septic, fencing etc. are not done in the proper time frame.

Public Comment was now called for.

Bitterroot Star Publisher Michael Howell asked for clarification on the location of the property within a superfund site, as well as asked about septic permit being approved so quickly.

Gene Honey of Honey Enterprise (Towing and Wrecking) stated he wants the business to follow the same rules he has to follow as a business.

Tony Scales lives in the area and asked if cardboard will be recycled. He has extensive experience in this area and fencing will be important for cardboard recycling.

Ben Shultz lives in the area and asked if the actual site has been filled and covered with a dump underneath. He stated there is garbage buried under this site. Also, does the applicant have to post some sort of a bond so when and if he moves proper clean up is done?

Gail Hayes lives right across from this proposed facility. She asked if DEQ does not approve of the motor vehicle portion to the permit, will the applicant still be able to do recycling?

Jim Peterson lives in the area and asked how many cars will be stacked there for wrecking purposes or will there be a limit to the number of vehicles parked there. He also asked about gasoline and oil that must be disposed of properly. He feels these are serious problems, and this superfund site is finally being cleaned up. He too asked if the applicant must post a bond for this site in regard to future clean up. He also expressed concern over the lack of zoning.

Michael Howell asked about the written public comments received.

Public Comment was now closed.

Questions posed were now presented. Lea stated she does not know about the bonding requirements but the land owner is responsible for any clean up. Lea stated if the BCC approves of the site, then DEQ does a full assessment (how fluids are disposed of, structural requirements for dismantling vehicles). Upon license of recycling, DEQ will monitor the activity on the site for contamination. In regard to the groundwater and any garbage under the ground, when the site evaluation was done by the Ravalli County Environmental Health Department a 10' hole was dug and no garbage was found. Ground water is approximately 30-35' below the ground and a septic system only requires a 4' ground to water separation. In regard to water contamination, that is a question for DEQ. This parcel is identified as a superfund site.

Clint Nickerson stated as far as cardboard is concerned a 30' fence will not hold cardboard if a wind comes in, so they plan on building an area to contain the cardboard. He stated DEQ had advised him there can be no garbage in the ground. If he receives the Commissioners approval of this site today, then he will build a fence tomorrow. He will follow all the requirements set upon him from the State and Ravalli County and plans to develop this site for a large recycling and motor vehicle wrecking facility. As the business starts he will probably only have 4-5 vehicles at a time, but as he builds his business, he plans to have a high volume of cars. A solid fence is required 6' above the center of the adjoining roadway.

Ben Schultz stated the State advised him if there are problems on this site, the county will be responsible to work with the business.

Commissioner Iman addressed the written public comments which included a petition by residents not wanting the facility located there; pictures of materials on neighboring property as a result of the wind carrying them out of the facility location and concerns over the superfund site.

Clint stated he has insurance and it covers up to 2 million dollars of liability.

Lea stated Ben is correct about the county being the eyes on the ground due to the junk vehicle contract, but the state is the ultimate enforcer.

Commissioner Kanenwisher stated he understands the neighbors concerns and they will be addressed within the requirements of the permit. To him this is the perfect location.

Commissioner Stoltz made a motion to call the question. Commissioner Foss seconded the motion to call the question and all voted "aye". (4-0)

All voted "aye". (4-0) See Resolution No. 2822 to support this location.

Lea advised those present that when DEQ does their assessment, they will have an opportunity to voice those concerns cited at this meeting.

The public hearing was adjourned.

► The Board met with I.T. Director Joe Frohlich for an Information Technologies update at 10:30 a.m. Present at this meeting was Chief Financial Officer Klarryse Murphy, Citizens William Menager and Ren Cleveland. Commissioner Stoltz was not present for this meeting. Currently Joe is working on video cameras for the jail and intoxilizer room, non-permissive outside access to the web server which requires hardware to protect the server and issues of potential replacement of the generator at the courthouse which serves the I.T. server room due to some loss of equipment that is now in need of replacement.

It was agreed Joe will contact Mechanical Engineer Alan Bronec of CTA in regard to the power and UPC back up at the courthouse in order to make a decision for expending funds for the hardware and other server room equipment at a Commission meeting on January 9th.

► The Board met at 11:20 a.m. for the following administrative items: Present at this meeting was Chief Financial Officer Klarryse Murphy, Accountant Verona Stromberg, Drug Free Communities (DFC) Coordinator Charmell Owens and DFC Youth Coordinator Brandon Dewey.

- Approval of Enforcing Underage Drinking Laws Grant (EUDL): **Commissioner Foss made a motion to accept the EUDL grant award for "Project 21" with proper signature. Commissioner Iman seconded the motion and all voted "aye". (3-0)**
- WIC Amendment #1 to Contract #12-07-5-21-015-0 which addresses reporting for compliance with the Federal Transparency Act: **Commissioner Iman made a motion to approve of the amendment to this Task Order. Commissioner Foss seconded the motion and all voted "aye". (3-0)**
- Federal Equitable Sharing Agreement: Glenda brought forth an agreement with the Federal Government which allows the county to receive the drug forfeiture funds for drug cases worked in conjunction with the FBI. Signatures required include the Sheriff and the Local Governing Body. **Commissioner Iman made a motion to execute this form. Commissioner Foss seconded the motion and all voted "aye". (3-0)**
- **The Board concurred to order a new credit card for Planning Administrator Terry Nelson due to one of his staff members taking another position at the Road Department.**

**SITE ASSESSMENT
211 HUMDINGER LANE (PARCEL NO. 939920)**

RAVALLI COUNTY ENVIRONMENTAL HEALTH STAFF REPORT

Site Assessment by: Rod Daniel

Report Prepared by: Lea Guthrie

**PUBLIC HEARINGS/
MEETINGS:**

Board of Commissioners Hearing 9:00 a.m. January 5, 2012

OWNER: Stanley and Jewel Bauer

APPLICANT: Clint Nickerson
211 Humdinger Lane
Victor, MT 59875

**PROPERTY
DESCRIPTION:**

The property is located on Humdinger Lane. The parcel consists of 1.93 acres. *(See Enclosed Map)*

**LEGAL DESCRIPTION
OF PROPERTY:**

In SE SW Index 64, CS#4971-SO Parcel A, Ravalli County, Montana.

**APPLICATION
INFORMATION:**

Montana DEQ notified Ravalli County Commissioners on December 6, 2011. Section 75-10-516(2), MCA, provides that the governing body of the County may: (a) conduct a public hearing to determine whether the proposed facility will significantly affect the quality of life of adjoining landowners and the surrounding community, and (b) adopt a resolution in support of or in opposition to the location of the proposed facility and transmit a copy of the resolution to the Department. The Department may **not** grant a license to a facility that a governing body has opposed under this section of the law.

LEGAL NOTIFICATION: Notice of the hearing was posted in the Bitterroot Star on December, 21, 2011 and December 28, 2011.

INTRODUCTION

The subject property is a 1.93 acre parcel. In 1993, the parcel was created through an occasional sale, and therefore was exempt from sanitation review under ARM 16.16.605(2)(e): "Divisions for the purpose of acquiring additional land to become part of a parcel that does not have sanitary restrictions imposed provided that no dwelling or structure requiring water or sewage be erected on the additional acquired parcel".

The parcel is located within the Bitterroot Valley Sanitary Landfill Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) facility. This site was designated as a CERCLA facility due to groundwater contamination by chloroform and volatile organic compounds (VOCs) discovered in 1987. This site is continually monitored and groundwater remediation is ongoing.

According to Bill Hammer of Montana Department of Environmental Quality, "Parcel A is located entirely within Zone 1 of the Bitterroot Valley Sanitary Landfill Controlled Groundwater Area (CGWA) which was issued by the Montana Department of Natural Resources and Conservation (DNRC). The southern half of Parcel A lies within the approximate boundary of the dissolved chloroform plume. In Zone 1 of the CGWA, no new wells are allowed for domestic use; however, a new non-domestic well may be allowed if the applicant can demonstrate to DNRC that pumping the new well will not cause the plume boundary to change."

Five wells currently exist on the parcel: four groundwater monitoring wells and one domestic well (GWIC #158863).

On March 3, 2011, Ravalli County Environmental Health conducted a site evaluation for a potential on-site wastewater treatment system. While the site passed for an on-site system, the sanitary restrictions placed on the parcel when created will have to be removed before a septic system can be installed. Currently, there is a port-a-potty on site that is utilized by workers and by a night watchman that will reside on site in a mobile home until a security fence is built.

If the Ravalli County Board of Commissioners adopts a resolution in support of this facility, Montana DEQ will conduct a full environmental assessment as part of the permitting process.

General Findings of Fact Applicable to the Property

1. The property that is the subject of this hearing is located on Humdinger Lane.
2. The property is approximately 1.93 acres legally described as SESW Index 64, CS #4971-SO, located in Section 31, T8N, R20W, Ravalli County, Montana. (*See Enclosed Map*)
3. The Parcel lies within the Bitterroot Valley Sanitary Landfill Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) facility that limits additional domestic wells from being drilled on the property.
4. Groundwater remediation and monitoring is ongoing on the property due to chloroform and VOC contamination.
5. A site evaluation exists for the parcel.
6. There are five wells on the property: four monitoring wells and one domestic well that is approximately 267 feet deep.
7. No septic system currently exists on the parcel.

