

**GRANT COUNTY  
LAND USE HEARING EXAMINER**

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW AND,</b>
P 19-0182	)	<b>DECISION AND</b>
P 19-0189	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on September 11, 2019, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

**I. FINDINGS OF FACT**

1. A Conditional Use Permit and SEPA checklist to allow the construction of two (2) storage lagoons sized for one (1) million gallons of septage each of septic waste on 86.53 acres. These storage ponds will be holding ponds for the eventual land application of the septage materials.
2. The proponent is Basin Septic Services, Inc., Attn: Jake Yager, 220 S. Hamilton Road, Moses Lake, WA 98837.
3. The site address of the subject parcel is currently unassigned. The site is located in the West half of the Northeast quarter of Section 2, Township 20 N, Range 29 E, W.M., Grant County, WA Parcel #18-0283-000.
4. The zoning for the property is Rural Resource.
5. The zoning for neighboring parcels is to the north, Rural Remote; to the south, Rural Resource and Agriculture; to the east, Rural Remote and Agriculture; to the west, Rural Remote.
6. The Comprehensive Plan designation for the subject property is Rural Resource.
7. Environmental Review was completed by Grant County Development Services. A SEPA Mitigated Determination of Non-Significance was issued on August 9, 2019.
8. The property subject to the Conditional Use Permit review was reviewed for Critical Areas and not found to be located within 300 feet of any Critical Area as defined by Grant County Code.
10. A Public Notice containing information on this project was published in the Columbia Basin Herald on June 27, 2019, was mailed to property owners within 300 feet of the subject property, and was posted on the subject property. Information on this project was also mailed to applicable agencies of jurisdiction for their review and comment.

The following agencies and County departments provided comments:

- 10.1 Grant County Fire Marshal responded on June 25, 2019
- 10.2 Grant County Health District responded on June 26, 2019
- 10.3 Grant County Public Works Department responded on June 25 & August 8, 2019
- 10.4 Grant County Assessor's Office responded on June 27 & August 9, 2019
- 10.5 WA State Department of Ecology responded on July 11, 2019
- 10.6 WA State Department of Health responded on June 25, 2019
- 10.7 Grant County Conservation District responded on July 10 & August 6, 2019

11. The following agencies were notified but did not respond:

- 11.1 Grant County Building Official
- 11.2 Grant County Treasurer's Office
- 11.3 Grant County Sheriff's Office
- 11.4 Grant County Auditor's Office
- 11.5 Grant County Emergency Management
- 11.6 Grant County Noxious Weed Control Board
- 11.7 Grant County P.U.D.
- 11.8 U.S. Bureau of Reclamation
- 11.9 WA State Department of Fish and Wildlife
- 11.10 Quincy Columbia Basin Irrigation District
- 11.11 Grant County Fire District #3

12. **Agency Comments:** The following is a summary of agency comments received:

12.1 **Grant County Fire Marshal:**

- 1. I have no adverse comments or concerns about this project.

12.2 **Grant County Health District:**

- 1. On the "Analysis of Criteria for Approval" page, with items listed 1-10, there should be a statement included that states they will operate the site in conformance with all requirements with DOE's General Permit.
- 2. On the same page, note number 8 is an existing disposal site and is permitted by Ecology. Grant County Health District previously concurred with Ecology's permitting of the site. Ecology is the agency for reviewing and approving Bio-Solid sites.

12.3 **Grant County Public Works Department:**

- 1. An approach permit shall be obtained for County road access.

12.4 **Grant County Assessor's Office:**

- 1. Parcel 18-0283-000 is a 86.53 acre parcel of classified land only.
- 2. Owners are J & J Farming.
- 3. No issues.

**12.5 WA State Department of Ecology:**

1. Ecology submitted an information letter identifying contacts within the agency that may need to be consulted during the construction and operation phases of the project. Please see Attachment B for this comments in its entirety.

**12.6 WA State Department of Health:**

1. DOH's Office of Drinking Water seeks information regarding the nearest drinking water well. No other official questions or comments.
2. I am not certain of their capability to keep the pond(s) "aerobic". Even with aeration, this "material" is not going to suddenly become saturated with oxygen and avoid odors. Plus, aerating would possibly liberate more odors.

**12.7 Grant Conservation District (7/10/2019):**

1. Lagoons shall be designed to hold 1 million gallons net, not gross.
  2. Have an odor abatement plan developed.
  3. If using mechanical agitators to keep ponds aerobic only, use between hours of 7 am and 2 pm when air is rising.
  4. Do not apply septage during non-growing seasons; Nov. 1 – March 1.
13. A letter dated August 6, 2019 clarified the recommendations presented in the July 10, 2019 comment. Stating that the comments made concerning this application consisted of maintenance recommendations and protocols that the Conservation District has found that work in managing these kinds of waste structures. The recommendations are considered Best Management Practices and are part of standard farming practices accepted within the dairy industry in the Columbia Basin.
  14. The application was determined to be Technically Complete on June 25, 2019.
  15. This proposal was processed as a Type III Quasi-Judicial Decision, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
  16. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. The project boundary as defined in the site plan was not found to be located within 300ft of any Critical Areas.
  17. The proposal is not located within any Urban Growth Area.
  18. The project site is located in the Rural Resource Zoning District.
  19. Pursuant to Grant County Code 23.04, Table 4, "Storage & Treatment of Sewage Sludge and Septage " is allowed as a Conditional Use in the Rural Resource Zoning District.

20. A site visit was conducted on August 8, 2019 by GC Development Services staff.
21. A SEPA MDNS was issued for this project on August 9, 2019.
22. Information about this application was sent to all applicable agencies of jurisdiction for their review and comments. Agency comments and/or requirements specific/applicable to this proposal have been included as Conditions of Approval. All comments received have been included as part of this Staff Report, and will be made available to the applicant. No adverse comments were expressed by any agency that would prohibit development.
23. The comments generated by the Grant County Conservation District were inappropriate for this land use activity, and they have clarified that their comments regarding waste water management are consistent with certain agricultural uses. The use of this site as a septage handling facility will be directed by requirements from the Grant County Health District, Washington State Department of Health, and the Washington State Department of Ecology.
24. This site was previously approved for Conditional Use Permit and SEPA for a Biosolids/Septage Management Land Application Site under Grant County A portion of this site was previously approved for surface mining, rock crushing and stockpiling of aggregates to be used for road maintenance and construction under Grant County Planning File #10-5383 and approved on April 15<sup>th</sup>, 2010.
25. No public comments were received.
26. As mentioned above, this Conditional Use Permit application is for the construction of two (2) storage lagoons sized for one (1) million gallons of septic waste on 86.53 acres s in the Rural Resource Zoning District.
27. Grant County Development Services staff has reviewed and considered the application materials and the comments received for the proposal. Based on the proposed Conditions of Approval specified below, and the current design of the project, staff recommended approval of subject Conditional Use Permit.
28. The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
  - 28.1 This is an active land application site of Bio-Solids that has a Conditional Use Permit, State DOE Permit and is monitored by Grant County Health and State DOE. The storage of septic waste at this site zoned agriculture meets the purpose of section 23.04.560 is allowed Conditional Use in Table 4 of Grant County Code.
  - 28.2 The land application of bio-solids to land zoned Rural Resource is a use that is contemplated in the Grant County Code. It is allowed in the Rural Resource Zoning District with a Conditional Use Permit.
29. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.

- 29.1 The storage and application is appropriate with the goals and policies for areas with an agricultural land use designation.
- 29.2 The proposal is appropriate in design, character and appearance with the goals and policies for the applicable land use designation. Pursuant to Chapter 4.4.3.7 of the Comprehensive Plan, the uses in the Rural Resource land are for those use that are not as suitable for intensive farming as Agricultural Resource lands but some agricultural use can occur with land management. The use is listed as a Conditional Use Permit in the Rural Resource Zone.
- 30. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
  - 30.1 The storage and land application of Bio-Solids is a practice that has been used nationwide for decades with no case of significant impacts on humans or the natural environment. DOE will permit and closely monitor the process as well as Grant County Health.
  - 30.2 The proposal has been conditioned so that the application meets all Department of Ecology and other State requirements regarding the application of bio-solids to agricultural lands. Provided that the applicant complies with the conditions mentioned above, staff believes that this application will not have adverse impacts.
- 31. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
  - 31.1 The storage of Bio-Solids is less likely to produce significant adverse effects to the environment than other Bio-Solid sites without storage lagoons that can't hold their waste during adverse weather conditions.
  - 31.2 The cumulative impact of additional requests for like actions will not produce significant adverse effects to the environment, provided those similar requests are adequately conditioned, or have appropriate mitigation measures applied to them at the time of approval.
- 32. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
  - 32.1 The storage and land application of Bio-Solids will not require any additional facilities than what is in place.
  - 32.2 No infrastructure facilities are needed for this proposal. This facility is currently an operating land application site for septage. The proposal adds ponds to more effectively contain and control storage and spreading of the materials.

33. The location, size, and height of buildings, structures, walls and fences and screening vegetation for the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties.
  - 33.1 The construction of two (2) in ground storage lagoons with a six (6) foot fence will meet all county guidelines as to not interfere with allowable development or use of neighboring properties. A Grading Permit has been applied for on this project.
  - 33.2 No buildings will be constructed as part of this application. Fencing will be provided for security and limiting unwanted access to the site for safety purposes.
34. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
  - 34.1 This is an active Bio-Solids application site and the addition of storage lagoons is not anticipated to increase pedestrian or vehicular traffic. The proposed use shouldn't be hazardous to existing or anticipated traffic in the neighborhood.
  - 34.2 Pedestrian and vehicular traffic resulting from this project should not change from the existing amount of traffic that is already being generated from the use as this land is currently being operated under an existing approval. This is a modification to the existing Conditional Use Permit already in place. Comments received from Grant County Public Works Department do not indicate any issue with road traffic and no comments were received from neighbors indicating that there is an issue with traffic.
35. Land uses, activities, and structures that are allowable as conditional uses must also comply with any required performance standards in GCC § 23.08.
  - 35.1 The storage of Bio-Solids at this land application site shall comply with required performance standards specified in GCC 23.08.230 and 23.08.375, but is also subject to approval by Grant County Board of Health. Bio-Solids are incorporated within six (6) hours and ponds will be kept in an aerobic state.
  - 35.2 The proposal, as conditioned, will meet all applicable performance standards found in GCC § 23.08.
36. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70).
  - 36.1 This Conditional Use Permit is not proposing the storage or land application of Bio-Solids adjacent to any airport or airfield.
  - 36.2 This proposal is not adjacent to an airport/airfield. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield.

37. The proposal conforms to the standards specified in GCC § 23.12.
  - 37.1 The construction of two (2) 1 million gallon storage lagoons will conform to standards specified in GCC 23.12 and a Grading permit has been applied for.
  - 37.2 The project, as conditioned, complies with all applicable development standards found in GCC § 23.12.
38. An open record public hearing after due legal notice was held on September 11<sup>th</sup>, 2019.
39. The entire Planning Staff file was admitted into the record at the public hearing.
40. Appearing and testifying on behalf of the applicant was Jarod Cox. Mr. Cox testified that he was an agent and was authorized to appear and testify on behalf of the property owner and applicant. Mr. Cox testified that the applicant is in full compliance with the prior Conditional Use Permit. Mr. Cox testified that the applicant had no objection to any of the proposed conditions of approval.
41. No member of the public appeared at the hearing.
43. 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 proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. 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, Conditional Use Permit Application P 19-0182 and 19-0189 is hereby **APPROVED** subject to the following Conditions of Approval.

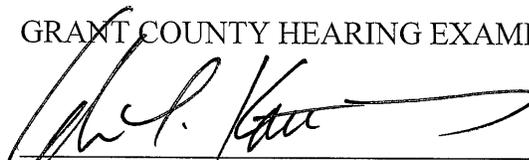
#### IV. CONDITIONS OF APPROVAL

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

1. The landowner/applicant is responsible to determine if other permits and/or licenses will be required by other local, state and Federal agencies. The landowner/applicant shall acquire all such permits and/or licenses.
2. Application of septage waste shall be confined to the parcel listed in the application, so as not to adversely affect adjoining parcels in the area.
3. Bio-solids shall be incorporated into the soil within six hours of application as stated by the applicant.
4. The applicant shall prevent run-off from the site entering adjoining properties.
5. Storm water shall be contained, treated, and disposed of on-site to current local, state, and Federal standards.
6. The landowner/applicant shall comply with all requirements deemed necessary by the Grant County Health District, the Washington State Department of Health, and the Washington State Department of Ecology regarding spreading of septage, sewage systems and storm water control and treatment including, but not limited to: RCW 90.48.080 "Discharge of Polluting Water Prohibited," WAC 173-201 "Surface Water Standards," WAC 173-201A "Ground Water Quality Standards," WAC 173-308 "Biosolids Management," and Chapter 70.95J RCW "Municipal Sewage Sludge—Biosolids."
7. This proposal shall comply with GCC § 23.08.375, Performance and Use Standards for Storage and Treatment of Sewage Sludge and Septage.
8. The applicant shall comply with all mitigation measures listed in the SEPA Mitigated Determination of Non-Significance issued by Grant County for this proposal on August 9, 2019.
9. Applicant/Owner shall operate the site in conformance with all requirements with DOE's General Permit.
10. An approach permit shall be obtained for County road access.

Dated this 12<sup>th</sup> day of September, 2019.

GRANT COUNTY HEARING EXAMINER



---

Andrew L. Kottkamp

**Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant 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.**