



60196 Old Wagon Road
Coos Bay, OR 97420
541-404-6105
bsdd.bos@gmail.com

June 20, 2024

Coos County Board of Commissioners
250 N. Baxter Street
Coquille, Oregon 97423

Re: Beaver Slough Drainage District (BSDD) response to 5.23.2023 BoC request to **address what it asserts are** “procedural errors” regarding ACU-23-074/FP-23-012.

BSDD understands the BoC requests additional information regarding the following:

- Identify the use and the future intent of the property
- Clarification of the Applicant
- Compliance with Section 5.0.175
- Application fees required to be paid”

Before responding to the issues of interest to the BoC noted above, BSDD wishes to make its position clear on some procedural points. First, BSDD asserts that it properly and completely filed the subject permit application on December 21, 2023. Second, BSDD asserts that Coos County has deemed the permit application submitted on December 21, 2023, properly filed and complete for a variety of reasons, including but not limited to its failure to advise BSDD of any irregularities or missing information within 30 days of December 21, 2023, and because the County has been “processing” that application. The CZLDO is clear in the duty of the County to advise if an application is complete and provide details within 30 days of any concerns. It is also clear in the CZLDO that “processing” cannot occur until an application is complete. With multiple hearings and public notices, the BoC has clearly been processing this permit application. Finally, BSDD has not consented to any waiver or extension of the CZLDO and statutory timelines for action on its permit application submitted on [same date here]. The response of BSDD below is not an agreement to extend or waive those timelines for BoC action. The BSDD response to the BoC requests for clarification are:

1. Identify the use and the future intent of the property

The applicant has provided extensive information regarding the current and future uses of the properties in the project area. In addition, extensive detail regarding the proposed actions subject to the requested permit and potential impacts on affected properties and properties outside the project area has been provided. Please refer to the ACU 23-074_FP-23-12 Application, the 404 JPA and related attachments, the floodplain Analysis, the testimony in support of the application provided at the March 5,

2024, BoC Work Session, and other supplemental submissions to the record. BSDD declines to augment the information previously supplied.

2. Clarification of the Applicant

BSDD is the applicant and has been treated as such at every step in the application process. This is in accordance with past practice and at the request of the various permitting agencies (ten plus and counting, including the Coos County Planning Department) to have only one application to process, rather than multiple individual applications, to facilitate the administration and implementation of the permitting process. This also allows BSDD the ability to co-ordinate the project design and implementation on behalf of the district and affected landowners as well as provide the necessary oversight after construction is completed. Beaver Slough Drainage District is the applicant on behalf of the affected landowners, who have all signed on to the project actions on their individual parcels, as well as the district itself to cover project actions that are the responsibility of the district such as main channel dredging, berm repair, etc.

Affected Landowners:

- Fred Messerle & Sons, Inc.
- Evertt-Ona Isenhardt Ranch, Inc.
- Isenhardt Living Trust
- Oregon Department of Fish & Wildlife
- The Bridges Foundation
- Oregon Department of Transportation

The Coos Soil and Water Conservation District, Caley Sowers, District Manager, is the agent for Beaver Slough Drainage District and affected landowners, for the purpose of facilitating project development and permitting. The Coaledo Drainage District does not have any project actions included in this application and is not an applicant. The two parcels in the Coaledo Drainage District are included in the application as accommodation to The Bridges Foundation as owners. Table 1 in Appendix A to the Application correctly includes all the affected project parcels.

3. Compliance with Section 5.0.175

The affected landowners have all signed agreements approving of the proposed project actions and are considered as having given their consent. To require additional notice, etc. is redundant and unnecessary. The *Williams v. Coos County* (LUBA No. 2018-141/142) case makes clear that both Coos County and LUBA interpret 5.0.175 to provide an “alternative pathway” for entities to apply for a permit when individual landowner consent for the permit is not secured. Here, landowner consent has been secured as outlined above.

4. Application fees required to be paid

All application fees due were paid in full on May 23, 2024. Again, as noted above, BSDD does not agree that payment on that date changes the date of the permit application or the CZLDO or statutory timelines for a BoC decision.

Regards,



Fred R Messerle

Fred R. Messerle, District Manager

60196 Old Wagon Road, Coos Bay, OR 97420

Phone (541)-404-6105

Email: bsdd.bos@gmail.com