



Memorandum

To: Hearings Officer Gregory Frank
Files 247-21-000637-TP, 948-A
Files 247-21-000537-SP, 998-A, and 1009-A

From: Angie Brewer, Senior Planner

Date: December 17, 2021

Subject: December 8, 2021 Public Hearings - Summary of Actions

For context, please see Staff's December 8, 2021 memo to the Hearings Officer: *Request to address typographical error and procedural defect* (attached).

This memorandum provides a summary of actions taken at the December 8, 2021 public hearings for Files 247-21-000637-TP, 948-A and 247-21-000537-SP, 998-A, and 1009-A.

Staff initiated the meeting at 6pm as scheduled and noticed to the parties and general public. Hearings Officer Greg Frank made participants aware of Staff's memorandum and requested Staff read it into the record to ensure all audiences were provided access to the information. Senior Planner Angie Brewer read the memorandum and introduced County staff present to assist with questions and direction: Planning Manager Will Groves, and Assistant Legal Counsel for Deschutes County, Adam Smith.

When called upon, Mr. Smith shared with the Hearings Officer he had been notified just prior to the hearing that the parties had reached agreement to continue the hearings to January 4, 2022, avoiding any infringement on the rights of either party. He noted there had been some back and forth between the parties as to whether both hearings needed to be continued or if one should be cancelled and rescheduled, but as long as the parties reach agreement as to how it should be addressed, Staff is not concerned.

At Mr. Smith's recommendation, the Hearings Officer requested and both parties verbally acknowledged on record their consent to proceed with both hearings this evening and continue them to January 4, 2022. The appellant for file 537-SP was represented by Jeff Kleinman; the appellant Christine Larson represented herself; the applicant was represented by Ken Katzaroff.

Mr. Kleinman noted on the record Staff's handling of the notice for 537-SP, 998-A and 1009-A was inappropriate and a special courtesy to the applicant that should not have been granted.

Mr. Katzaroff noted for the record the applicant has filed a continuance request for 637-TP and pursuant to DCC 22.24.140(A) it must be granted. He shared there was some discussion about rescinding that request if an agreement could not be reached with the appellant but that an agreement had been reached and his client is comfortable proceeding with a continuance of both files to January 4, 2022.

At the Hearings Officers request, Mr. Katzaroff clarified timeline extensions for both files: 15 day extension for 537-SP and a 27 day extension for 637-TP to ensure both may be heard on January 4, 2022.

Mr. Katzaroff requested a consolidated public hearing with two decisions so public comment can be consolidated for both records. At the Hearings Officer's request, Mr. Smith voiced general comfort with the request so long as both parties have consented. Staff confirmed procedural consistency of this request, noting the need to maintain separate records with separate decisions. Hearings Officer Frank requested all parties verbally consent on record:

Mr. Kleinman consented to consolidated public comment so long as commenting parties identify the case number specifically identified.

Ms. Larson voiced agreement with Mr. Kleinman's comments. She shared a shorter meeting would ensure more public participation.

Mr. Katzaroff confirmed, the applicant consents to opening both hearings and continuing both hearings to January 4, 2022.

At Mr. Smith's request, the Hearings Officer requested parties to verbally consent on record to opening both hearings and continuing both hearings to January 4, 2022; all parties voiced consent.

To keep the hearings and associated records organized, the Hearings Officer requested that Staff add language to the hearing notice asking commenting parties to specify the intended file number. Staff agreed to this direction.

At 6:36 PM, Hearings Officer Frank opened the public hearing for the appeal 948-A made to 247-21-000637-TP for any comments by the parties and the by the public. Mr. DeLashmutt, Central Land and Cattle made comment, noting a recent addition to the record of a Final Order from the Oregon Water Resources Board to transfer 327 acre feet of water rights to the subject property. No other comments were received. The Hearings Officer noted the record remains open while the hearing is closed and continued to January 4, 2022 at 6pm, using the Zoom format. No objections were voiced by parties or members of the public.

At 6:40 PM Hearings Officer Frank opened the public hearing for appeals 998-A and 1009-A made to 247-21-000537-SP and continued the hearing to January 4, 2022 at 6pm via Zoom. The Hearings Officer stated the cases are consolidated with 637-TP, 948-A for testimony but documents must be maintained separately for those two document and appeal files, which are: (1) 948-A and (2) 998-A/1009-A.

At Mr. Smith's request, the Hearings Officer re-opened the hearing to ensure any comments could be heard. Ms. Rima Givot provided comment in response to Mr. DeLashmutt's water rights information provided today. No other comments were provided. The Hearings Officer closed the hearing again and continued the hearing to January 4, 2022 at 6pm via Zoom.

The Hearings Officer summarized the next steps:

- A consolidated hearing for both cases on January 4, 2022
- Staff send out notice of a consolidated hearing that includes language asking comments to be directed to intended file numbers.

/AB