

VOL: CJ2001 PAGE: 405
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES



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Printed: 05/08/2001 14:32:46

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received and duly recorded in Deschutes County records:

DATE AND TIME: May. 4, 2001; 1:10 p.m.

DOCUMENT TYPE: Ordinance (CJ)

NUMBER OF PAGES: 5

A handwritten signature in black ink that reads "Mary Sue Penhollow". The signature is written in a cursive, flowing style.

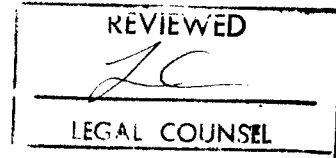
MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

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MAY 2001

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MARY SUE FERRIOLLO
COUNTY CLERK

CJ2001-405



BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, Section *
 18.52.050 Conditional Uses Permitted, of *
 the Deschutes County Code to change *
 the Uses Permitted in a Surface Mining *
 Zone And Declaring an Emergency. *
 *

ORDINANCE NO. 2001-020

WHEREAS, sites are needed to locate water storage facilities to serve neighboring communities as well as provide water sources for firefighting needs; and

WHEREAS, surface mining sites are often good locations for water storage facilities when they can be located in such a manner as to have no impact on the surface mining operations; and

WHEREAS, the mineral and aggregate found at surface mining sites are protected resources under the Oregon Statewide Planning Goals and Guidelines (Goal 5, Oregon Administrative Rule 660-015-000(5)), the Deschutes County Comprehensive Plan (Title 23, Section 23.40.040), and Title 18 of the Deschutes County Code (Section 18.52.050). Therefore, water storage facilities have not been allowed under current regulations in accordance with Section 18.52.050 of the Deschutes County Zoning Code; and

WHEREAS, the Deschutes County Planning Commission held a work session on April 12, 2001, to consider a proposal to amend the Deschutes County Code to allow water storage facilities to be located on surface mining sites when it can be demonstrated that there will be no impact on the surface mining operations. The Planning Commission unanimously agreed to forward a recommendation to the Deschutes Board of County Commissioners to approve the proposed amendment attached as Exhibit "A", to Section 18.52.050 of the Deschutes County Code; and

WHEREAS, a notice was given and a public hearing was conducted on May 2, 2001, before the Board of County Commissioners in accordance with applicable law, the Board of County Commissioners has considered the proposed amendments; and

WHEREAS, the Board of County Commissioners has determined that there would be substantial benefit to neighboring communities if water storage facilities are allowed to locate on surface mining sites, where there is no impact to the surface mining operations, in order to provide water for nearby residences and greatly enhance firefighting capabilities in areas currently threatened by wildfires;

WHEREAS, the Board of County Commissioners has determined that there is an urgency for additional water storage facilities to meet the fire suppression needs of Deschutes County; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY,
OREGON, ORDAINS as follows:

Section 1. AMENDMENT. Section 18.52.050, Conditional Uses Permitted, of the Deschutes County Zoning Ordinance, is amended to read as shown in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and deleted language shown in ~~strikethrough~~.

Section 2. This Ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 2nd day of May, 2001.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON



TOM DEWOLF, Chair



DENNIS R. LUKE, Commissioner



MICHAEL M. DALY, Commissioner

ATTEST:


Bonnie Baker
Recording Secretary

EXHIBIT "A"

18.52.050. Conditional uses permitted.

- A. The following uses are permitted subject to the conditions set forth in chapter 18.128:
1. Public uses consistent with or dependent upon outright uses allowed in the SM zone.
 2. Operations and exploration of geothermal resources.
 3. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland subject to DCC 18.120.050 and 18.128.040(W).
 4. Construction, expansion and operation of a Disposal Site as defined in this title, for which the operator possesses a valid DEQ permit on the effective date of Ordinance No. 92-066 for a Land Disposal Site.
 5. Wireless telecommunications facilities that are necessary to be sited in the SM Zone for the public service to be provided.
 6. **Water storage facilities, owned or operated by a public, private or cooperative water company for the distribution of water, where such placement will not interfere with or be detrimental to the mining of the resource.**

(Ord. 2001-020 §1, 2001)

**STAFF REPORT
DESCHUTES COUNTY BOARD OF COUNTY COMMISSIONERS
CONDITIONAL USES PERMITTED**

File Number: TA-01-4

Ordinance No. 2001-020: Amendment to Section 18.52.050, Conditional Uses Permitted, of Title 18 of the Deschutes County Zoning Code, to propose changing the uses permitted in a surface mining zone to allow the placement of water storage facilities where it can be demonstrated there will be no impact to the surface mining operations.

HEARING DATE: May 2, 2001 at 10:30 A.M. in the Board Hearing Room, 1130 NW Harriman, Bend, Oregon 97701

APPLICANT: Deschutes County

SUBJECT: Requesting amendment to Section 18.52.050, Conditional Uses Permitted, of Title 18 of the Deschutes County Zoning Ordinance.

Apache Water Systems approached the Board of County Commissioners to seek assistance in locating a water storage facility in a surface mining (SM) zone. The facility would be used to provide water to the Deschutes River Woods subdivision and could be used for firefighting capabilities in the area as well, thereby meeting the goals of Project Impact.

It appears that the best location for this facility is in an SM zone, and although public uses are currently allowed under Section 18.52.050, Conditional Uses Permitted, of Title 18 of the Deschutes County Code, the placement of a water storage facility would not be considered an allowed use. This text amendment proposes to add water storage facilities as an allowed use to Section 18.52.050 of Title 18 of the Deschutes County Code. If approved, a conditional use permit would only be issued if an applicant could demonstrate that the placement of a water storage facility would have no impact on the current surface mining operations, and would provide substantial benefit in terms of the water and firefighting needs of the neighboring community.

On April 12, 2001, the Deschutes County Planning Commission held a work session to consider this proposed amendment and unanimously voted to forward a recommendation of approval to the Board of County Commissioners.

STAFF RECOMMENDATION

Staff recommends that the Deschutes Board of County Commissioners take the following actions:

1. **Conduct a public hearing** on May 2, 2001, on the proposed ordinance.
2. **Consider testimony** received on this proposal submitted at the hearing and before the close of the record.
3. **Adopt** the proposed ordinance with revisions based on issues raised or changes proposed through public testimony.

PROPOSED AMENDMENTS

File Number: TA-01-4

Ordinance No. 2001-020: Amendment to Section 18.52.050, Conditional Uses Permitted, of Title 18 of the Deschutes County Code, to allow the placement of water storage facilities in a surface mining zone.

Attachments:

1. Ordinance 2001-020
2. Exhibit A to Ordinance 2001-020