

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of an Application by Knife)
River for a Temporary Permit (TP 13-09) to)
Site and Operate a Portable Ready Mix)
Concrete Batch Plant on Property Located on)
Kallunki Road, Clatskanie, Oregon)

ORDER NO. 38-2013

WHEREAS, on June 17, 2013, Knife River Corporation applied for a Temporary Permit (TP 13-09) to site a portable, ready-mix concrete batch plant on 1.5 acres of a 25-acre parcel at 80869 Kallunki Road, Clatskanie, Oregon (Tax Map Identification Numbers 8423-020-00500 and 8423-020-00600). The application was deemed complete on June 21, 2013; and

WHEREAS, the subject property is zoned PA-80 (Primary Agriculture - 80 acres) and is owned by the Port of St. Helens. The purpose of the proposed plant is to provide concrete for the construction of PGE's second power generation plant at Port Westward. Approval of Temporary Permit for a Use Not Allowed in District in accordance with Columbia County Zoning Ordinance (CCZO), Section 1505.1 is required because a concrete batch plant is not an allowed use in the PA-80 zone; and

WHEREAS, the Board of Commissioner took jurisdiction over the application on June 19, 2013, in accordance with Section 1612 of CCZO and Section 11 of Ordinance No. 91-2, as amended; and

WHEREAS, following proper public notice, the Board held a hearing on the application at its regularly scheduled meeting on July 10, 2013. The Board admitted evidence submitted prior to the hearing, a list of which was entered into the record as Exhibit 1, attached hereto and incorporated herein by this reference. After receiving evidence and testimony, the Board closed the hearing and deliberated; and

WHEREAS, following deliberations, the Board voted to tentatively approve the Temporary Permit (TP 13-09) requested by Knife River, subject to conditions.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- A. The Board of County Commissioners adopts the findings and conclusions in the Staff Report to the Board of County Commissioners dated July 3, 2013, which is attached hereto as Exhibit 2 and incorporated herein by this reference; and
- B. The Board of County Commissioners adopts and incorporates the above recitals as additional findings in support of its decision; and

C. Based on the foregoing and the whole record in this matter, the Board hereby **APPROVES** Temporary Permit (TP 13-09) to allow for the temporary siting of a portable concrete batch plant on approximately 1.5-acres of the 25-acre subject parcel in the PA-80 zone, **subject to the following conditions:**

1. No permanent new structures, nor any additions to existing structures, are permitted as a result of this application.
2. This Temporary Use Permit is valid for a period of 1 year from the date of issuance, and will need to be renewed if applicant wishes to continue the use beyond that period.
3. The applicant shall obtain a WPCF permit for the handling of this Temporary Use's surface water and wash waters. A copy of the approved WPCF Permit shall be submitted to LDS prior to the operation of the portable batch plant.
4. The applicant shall submit a Restoration Plan for the site that will be approved by LDS. This Plan shall detail how all introduced material will be removed from this site and will incorporate the applicable requirements of the related WPCF permit. This approved Restoration Plan will be finalized within one year after completion of the applicant's temporary construction contract or within one year of the date of expiration of this Permit, whichever occurs first.
5. If necessary, the applicant shall obtain building permits/siting permits for any job related trailers on the site.
6. If needed, the applicant shall submit a staging area lighting plan to LDS describing the type and placement of area lighting if applicable. The plan shall indicate how lighting will not be obtrusive to neighboring properties.

Dated this 24th day of July, 2013.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: 

Office of County Counsel

By: 

Henry Heimuller, Chair

By: 

Anthony Hyde, Commissioner

By: 

Earl Fisher, Commissioner

Legal Counsel's File - TP 13-09

1. Board Communication from Todd Dugdale, Director of Land Development Services, dated July 3, 2013, with the following attachments:
 - a. Board of Commissioners Staff Report for TP 13-09
 - b. Application
 - c. Maps
2. Notice of Public Hearing (Publication), dated June 20, 2013, and affidavit of publication
3. Notice of Public Hearing (Property Owner Notice), dated June 20, 2013, and affidavit of mailing

COLUMBIA COUNTY BOARD OF COMMISSIONERS

STAFF REPORT - PA-80 ZONE

07/03/13

Temporary Permit: Use Not Allowed in the District

FILE NUMBER: TP 13-09

APPLICANT: Knife River, Inc.
32260 Old Highway 34
Tangent, Oregon 97389

OWNERS: Port of St. Helens,
P.O. Box 190
Columbia City, OR 97018

PROPERTY LOCATION: The subject property is located at 80869 Kallumki Road approximately 2 miles east of the existing Port Westward facilities.

REQUEST: To allow a Temporary Ready Mix Concrete Batch Plant during the construction of the approved second PGE Power Generating Facility

MAP ID NUMBERS: 8423-020-00500 & 8423-020-00600

ZONING: Primary Agriculture (PA-80)

ACRES: 20.01 and 4.79

REVIEW CRITERIA:

Columbia County Zoning Ordinance (CCZO):	<u>Page(s)</u>
Temporary Permit for a Use not Allowed in District	
Section 1505.1 (A, B)	3
Section 1505.1 C, D, E)	4 - 5
Renewal of a Temporary Permit	
Section 1505.7	5

SUMMARY/BACKGROUND:

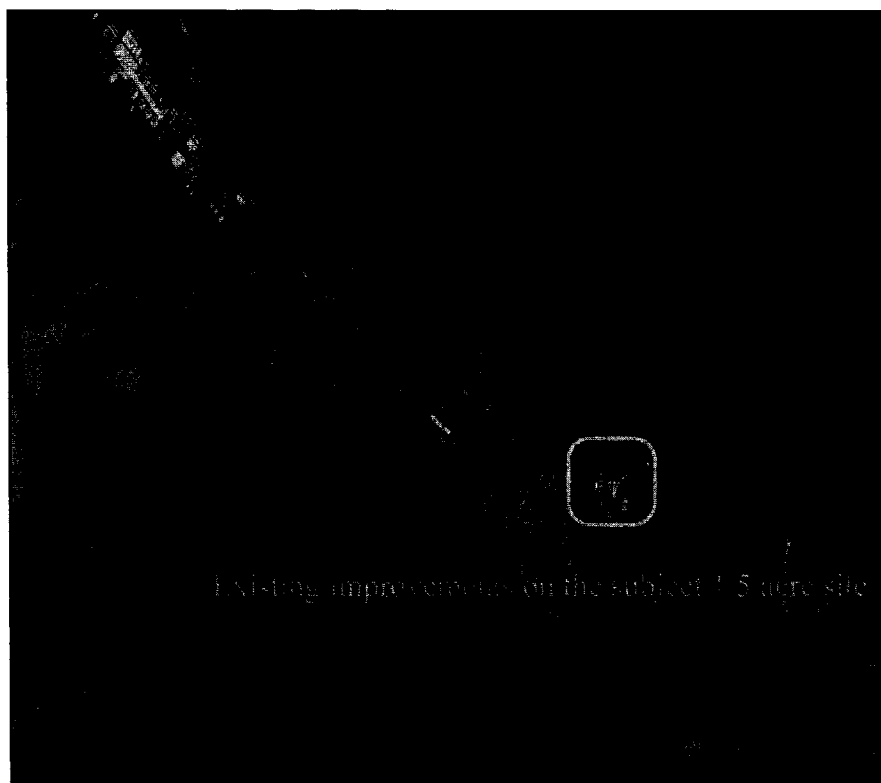
The applicant, Knife River, is requesting a Temporary Permit that will allow them to locate and operate a Portable Ready Mix Concrete Batch Plant on an approximate 1.5 acre portion of the approximate 25-acres associated with Map ID Numbers 8423-020-00500 and 8423-020-00600 in the Primary Agriculture (PA-80) Zone. Knife River proposes to establish this temporary use that will enable it to provide ready mix concrete on a

timely basis during the construction of PGE's second Port Westward Power Generation Facility located approximately 2 miles west of the proposed Temporary Batch Plant.

In June 2005, the Board conditionally approved TP 05-15 (through Board Order 41-2005) that authorized the temporary siting of the applicant's (a.k.a. Morse Brothers Inc.) concrete batch plant on the same property to provide ready mix concrete during the construction of PGE's Port Westward's first Power Generation Facility on Kallunki Road. This current TP application will authorize the same uses that were reviewed and conditionally permitted by the Board in 2005.

Condition (f) of Board Order 41-2005 required the applicant to restore the batch plant area site to agricultural useable conditions according to the approved Restoration Plan within one year of the completion of their contract work or expiration of TP 15-15. In addition to this Restoration Plan, the applicant requested the County allow them to leave some remaining site improvements that could be used for future agricultural uses of the surrounding PA-80 zoned properties. These improvements remain today for the applicant to use and include a modified water irrigation system from the Columbia River, overhead electrical utilities, and an approximate 300' by 180' rock and gravel work pad/parking area with concrete footings. Prior to the final approval of Board Order 41-2005 the County Planner verified that all of these remaining improvements were compatible with the surrounding area's future agricultural uses.

Since these site improvements (shown below) remain on the subject property, the applicant's current proposal, if approved, will allow the applicant to conduct the same temporary uses that were approved by the Board in 2005 and will facilitate the timely construction of the 2nd PGE Power Generation Facility at the Port Westward site on Kallunki Road.



FINDINGS:

The following sections of the Columbia County Zoning Ordinance are pertinent to this application:

Beginning with CCZO 1505 - Temporary Permits:

1. Use not allowed in District: The Planning Commission may allow a temporary permit for a period not to exceed one (1) year, for a use not otherwise allowed in the zoning district. The temporary permit may be allowed only after a hearing conducted pursuant to Section 1603 and provided that the applicant provides evidence substantiating the following, unless otherwise provided for in this Ordinance:

FINDING 1: The Board of Commissioners took jurisdiction of this application at their June 19, 2013 meeting, in accordance with Section 1612 CCZO, Special Hearings. A hearing date of July 10, 2013 was established, and notifications were published in the paper and sent to adjacent property owners in accordance with Section 1603 Quasi-judicial Hearings.

The Primary Agriculture (PA-80) zoning district does not allow batch plants, either outright or conditionally; therefore, a Temporary Permit for a Use not Allowed in the District is necessary.

Continuing with CCZO, 1505.1:

- A. There is no reasonable alternative to the temporary use;

FINDING 2: The applicant states that they had previously used this same location with the approval of Board Order 41-2005) to supply construction material of an earlier phase of the first PGE Power Generation facility. Knife River further states that *"This site still retains the necessary concrete pad for the portable plant and has good access to the (nearby) construction site. It is imperative that the concrete batch plant be close enough to the construction site and be able to provide adequate quantities of concrete on a timely basis during construction."*

With the Board's approval of the temporary proposal requested for TP 13-09, they will allow the applicant to utilize the remaining site improvements they installed 7 years ago that will, in turn, provide the construction of the 2nd Power Generation facility with timely access to ready mix concrete. Being able to utilize the site's existing improvements will also facilitate the timely siting of the temporary concrete batch plant with minimum site preparation costs. For these reasons, staff concurs with the applicant and finds that there is no reasonable alternative to the temporary use requested for TP 13-09 on the subject property in close proximity to the location of the 2nd PGE Power Generation Plant. This criterion has been satisfied.

Continuing with CCZO, Section 1505.1:

- B. The permit will be necessary for a limited time or will allow an occasional use, such as housing for seasonal farm labor;

FINDING 3: The proposed temporary use is needed for a limited amount of time for the duration of the construction of PGE's 2nd power generation plant at Port Westward. The applicant understands that a temporary use permit is valid only for a limited 1 year time period. This criteria is met.

Continuing with CCZO, Section 1505.1:

- C. The temporary use does not involve the erection of a substantial structure or require any other permanent commitment of the land;

FINDING 4: No permanent structures are proposed under this temporary use permit. Portable toilets will be used to meet sanitary needs on site, if needed. A portable batch plant will be used to prepare concrete on the site. Rocks and needed material will be stored on the site without any permanent structures. The applicant will be required to renew this temporary permit if the intention is to keep the batch plant on this site beyond the 1 year permit time. The county has already determined in 2005 that the site's existing improvements are compatible with the surrounding agricultural uses. These site improvements will also expedite not only the siting of the temporary concrete batch plant but the construction of the 2nd power generation facility. The submitted application states that the "portable concrete batch plant will be dismantled and removed for different projects at the conclusion of this construction project." For these foregoing reasons staff finds this criterion is met.

Continuing with CCZO, Section 1505.1:

- D. The temporary use will not be detrimental to the area or to adjacent properties; and,

FINDING 5: Staff does not believe that the proposed temporary use will be detrimental to the area or to adjacent properties because:

- It is not permanent.
- The site's existing improvements (water irrigation system, electrical facilities, and concrete parking/work pad) are compatible with the surrounding agricultural uses and will allow both the cost- efficient and expedited siting and utilization of the proposed temporary use.
- It is similar, in terms of impacts, to industrial uses already approved in the vicinity.
- This site is located within 2 miles of the proposed construction site along Kallunki Road and will help to minimize any off-site truck traffic on nearby agricultural uses.
- The Oregon DEQ has approved air emissions for the portable plant. A copy of this Permit was submitted to LDS on 6/27/13.
- The applicant shall obtain a WPCF permit for the handling of this Temporary Use's surface water and wash waters. LDS signed a Land Use Compatibility Statement for this WPCF Permit on 6/17/13 stating the applicant had submitted the necessary documentation and fees for TP 13-09. A copy of the approved WPCF Permit shall be submitted to LDS prior to the operation of the portable batch plant.
- Similar to the TP authorized in 2005, the applicant shall be required to submit a Restoration Plan for the site that will be approved by LDS. This Plan shall detail how all introduced material will be removed from this site and will incorporate the applicable requirements of the related WPCF permit.
- This approved Restoration Plan will be finalized within one year after completion of the applicant's contract or within one year of the date of expiration of this Permit, whichever occurs first.

Staff finds that by requiring these stated conditions to occur prior to the operation of the portable batch plant and within one year after this construction project is complete, the applicant will be able to satisfy this criterion for proposed temporary uses that are not allowed in the PA-80 zone.

Continuing with CCZO, Section 1505.1:

- E. The temporary use will comply with the Comprehensive Plan.

FINDING 6: The comprehensive plan lacks any policies directly addressing the proposed temporary use. The ordinance's temporary use provisions (section 1505.1) are part of Columbia County's acknowledged Comprehensive Plan and Zoning Ordinance. Section 1505.1, and temporary use approved under this section, are therefore consistent with the Comprehensive Plan, especially in the absence of specific policies to the contrary.

Agricultural Policy 16 requires that an applicant for a non-farm use on agricultural land must record a waiver of the right of remonstrance against accepted farm practices occurring on the property on which the temporary use is located. The applicant recorded this Waiver of Remonstrance in 2005 (Reference No. 2005-009313) as required by Board Order 41-2005 which runs with the subject property.

Economy Goal 1 promotes a strong, diverse and growing economy in Columbia County. A concrete batch plant is necessary for construction of the 2nd power generation plant project at Port Westward located approximately 2 miles further west on Kallunki road. Because the project will contribute to economic growth and diversity in the County, and the use of the property for a batch plant, equipment and supplies is necessary to construct the project, the approval of this application will help the County achieve this Comprehensive Plan goal.

The temporary use is consistent with the Comprehensive Plan and this criterion is met.

Following with CCZO:

1505.7 Renewal of a Temporary Permit: The Director may renew a temporary permit, for a period not to exceed one (1) year, except as provided in subsection 1505.6, according to the procedure stated in subsection 1601, provided the applicant provided evidence substantiating the following, unless otherwise provided for in this ordinance:

- A. The circumstances under which the original permit was granted remain substantially similar;
- B. The use will not be detrimental to the area or to adjacent properties; and
- C. The use will comply with the Comprehensive Plan.

FINDING 7: The applicant will be required to apply for a permit renewal if the applicant wishes an extension beyond the 1 year timeline of this permit. These criteria will be met prior to the authorized renewal of TP 13-09.

COMMENTS:

On July 19, 2013 notification of the request submitted for TP 13-09 was mailed to the Clatskanie CPAC, surrounding property owners, and affected governmental agencies. As of the date of this report, no comments or objections have been received by LDS from any of these parties.

CONCLUSION AND RECOMMENDATION:

Based on the above findings, the County Planning Staff recommends that the Board of Commissioners **APPROVE** the temporary use of a portable concrete batch plant as presented for TP 13-09 on an approximate 1.5 acres of the subject 25-acre PA-80 zoned properties addressed at 80869 Kallunki Road for 1 year from the date of this final approval, with the following conditions:

1. No permanent new structures, nor any additions to existing structures, are permitted as a result of this application.
2. This Temporary Use Permit is valid for a period of 1 year from the date of issuance, and will need to be renewed if applicant wishes to continue the use beyond that period.
3. The applicant shall obtain a WPCF permit for the handling of this Temporary Use's surface water and wash waters. A copy of the approved WPCF Permit shall be submitted to LDS prior to the operation of the portable batch plant.
4. The applicant shall submit a Restoration Plan for the site that will be approved by LDS. This Plan shall detail how all introduced material will be removed from the site and will incorporate the applicable requirements of the related WPCF permit. This approved Restoration Plan will be finalized within one year after completion of the applicant's temporary construction contract or within one year of the date of expiration of this Permit, whichever occurs first.
5. If necessary, the applicant shall obtain building permits/siting permits for any job related trailers on the site.
6. If needed, the applicant shall submit a staging area lighting plan to LDS describing the type and placement of area lighting if applicable. The plan shall indicate how lighting will not be obtrusive to neighboring properties.

cc: Port of St. Helens, P.O. Box 190, Columbia City, OR 97018

Attachments: Application submitted for TP 13-09
Vicinity, Site and Address Maps