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Skagit County Auditor

AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
1800 CONTINENTAL PLACE
MOUNT VERNON, WA 98273

DOCUMENT TITLE: SPECIAL USE PERMIT SU08-0075
HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER
APPLICANT: REXVILLE FARM POWER, LLC
ASSESSOR NOS: P15363

LEGAL DESCRIPTION: The subject property is located at 19020 Beaver Marsh Road within Section 3, Township 35 North, Range 3 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Farm Power Rexville, LLC
c/o Daryl & Kevin Maas
1030 W. Blackburn Road
Mount Vernon, WA 98273

File No: PL08-0075

Request: Special Use Permit

Location: 19020 Beaver Marsh Road, west side of the road
north of the intersection of Beaver Marsh and Summers
Drive – approximately 1300 to 1400 feet north and west of
the Skagit River. The site is within a portion of Sec. 3,
T35N, R3E, W.M.

Parcel No: P15363

Land Use Designation: Agricultural – Natural Resource Land (AG-NRL)

Summary of Proposal: To construct an anaerobic digester facility to process cow
manure, extract methane gas and burn it to create
electricity. The electricity will be fed into the local
power grid.

Public Hearing: After reviewing the report of Planning and Development
Services, the Hearing Examiner conducted a public hearing
on June 18, 2008.

Decision: The application is approved, subject to conditions.



FINDINGS OF FACT

1. Daryl and Kevin Mass for Farm Power Rexville LLC (applicants) seek to construct a facility for using cow manure to generate electricity.

2. The site is along the west side of Beaver Marsh Road, north of the intersection of Beaver Marsh and Summers Drive and approximately 1,300 to 1,400 feet north and west of the Skagit River. The property is within a portion of Sec. 3, T35N, Range 3E, W.M. The parcel number is P15363. The zoning is Agricultural Natural Resource Land (Ag-NRL). Surrounding land uses are agricultural in nature.

3. The project site occupies approximately 2.8 acres of leased land at an existing 39.2-acre dairy. The facility will include a concrete digester vessel measuring approximately 290 feet by 75 feet, a concrete pit for receiving manure, a small mechanical building and a smaller "fiber building." Two piston "gensets" within the mechanical building will create 1.5 megawatts (MW) of electricity that will be fed into the local power grid. The applicants testified that there are several other similar facilities in successful operation in the state. Under the County Code the facility is a "major utility development."

4. The anaerobic digester will produce biogas which will power the generators. Generation will be continuous. Employees will be on site only during the day, but the system will be remotely monitored at all times and will be shut down if any problems occur.

5. The process will not only produce gas for electricity, but will also create fiber livestock bedding as a by-product, replacing sawdust bedding presently hauled into dairies. The fiber bedding will be delivered back to the farms that furnished the manure, with any excess being sold.

6. One employee will be present at the site for 1 to 2 hours for maintenance Monday through Saturday between the hours of 8 a.m. and 5 p.m. That same employee will also drive the truck which makes manure and fiber transfers to and from the site. Scheduled maintenance requiring more than two hours of onsite work will take place about twice a month.

7. The facility will take manure from up to five nearby farms. Two farms adjacent to the facility will pump manure to the site through pipes. Manure will be trucked in only from the more remote farms. The project will generate 4 to 8 truck round trips per day to haul manure and deliver fiber bedding. The project will eliminate 1-2 truck round trips per day generated presently by farmers hauling their manure solids and 1-2 additional truck round trips per day currently required to haul sawdust to farms. The net estimated 2-4 additional round trips per day will all be limited to the immediate vicinity, replacing the hauling of sawdust from more distant locations. Hauling will be



restricted to the 8 a.m. to 5 p.m. time frame, Monday through Saturday. Employee auto round trips to the site each day will be between 1 and 4.

8. The project's generators will produce some noise, but they will run at low (1200 RPM) speed and employ modern noise-reduction technology. The generators will be contained in a commercial-grade building. The applicants do not believe that noise from the power generation will be audible at any neighboring parcel.

9. The manure handling will create some odors at the site. However, the anaerobic digestion of the manure will largely eliminate the gradual emission of methane that normally occurs at storage lagoons on dairies. The digestion process will also greatly reduce manure odors when the manure is later spread on fields. It is unlikely that any odors from the biogas facility will be distinguishable from the existing odors from the two operational dairies adjacent to the site. Both of these dairies will continue to collect, store and spread manure.

10. The project will generate exhaust from the burning of methane in its two generator engines. The emissions to the ambient air will be similar to those created by a 1.5 MW natural gas-fired power plant. At certain temperatures and humidity levels, the exhaust will be visible as a white plume similar to the plume from a large boiler. Waste gas will be flared, a process that can occur day or night. The flares should be scarcely visible by day, but will create some light at night. Northwest Clean Air Agency rules will be followed.

11. The physical appearance of the facilities will resemble the adjacent dairy facilities to the north and south. The digester vessel will be surrounded by grass-covered earthen berms like a manure lagoon. The mechanical and fiber buildings will be steel-covered pole structures, colored white or red like farm buildings. Manure will be moved from the receiving vessels and trucks using pumps and pipes of the type generally used by dairy manure handling systems. An outdoor solids separator will send manure fiber to trucks. Overall, the site will look like an extension of the adjacent farms. The only part visible to the public from Beaver Marsh Road will be grass berms surrounding the digester vessel.

12. Storm water at the site will drain away from the structures. There will be a gravel driveway entering from and exiting to Beaver Marsh Road. Three or four gravel parking spots will be provided near the mechanical building. No biogas will be stored on site. It will all be burned in the engines or flared. Motor oil, new or used, will be stored in sealed containers inside the locked mechanical building. Appropriate spill control measures will be taken. No water pollution or excessive drainage problems are anticipated.

13. The project site is located with a designated flood hazard area. The facility will not use land that is in agricultural production. The facility is best situated to serve



local dairies within minimum impact. No available non-agricultural designated land would provide a viable site.

14. After environmental review, the County produced a Mitigated Determination of Non-Significance (MDNS) pursuant to the State Environmental Policy Act (SEPA), on March 27, 2008. The MDNS was not appealed. It contained the following conditions:

1. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works shall be in place prior to the start of work. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measure shall remain in place until completion of the project.
2. The applicant shall comply with Northwest Clean Air Agency requirements.
3. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance;
4. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).
5. The applicant shall comply with the Fire Marshal's requirements.
6. An engineered soils compaction report shall be required for all structures placed on fill material.
7. The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed.
8. Operation of equipment/construction and daily operations shall comply with Maximum Environmental Noise Levels, Chapter 173-60 WAC, and address noise and vibration limitations and Skagit County Code 14.16.840 for light and noise conditions. This includes ventilation for safety, heating and cooling of any office and storage/garage/preparation barns or recreational buildings, as well as operation of daily use and activities.
9. Washington State WAC's 173-201A and 173-200 shall be complied with, as required to address surface water quality issues and ground water issues. Best management practices shall be utilized to prevent interference and/or degradation of water quality.
10. Shall comply with conditions of Skagit County Health Department.

15. The application was routed to various County departments. Their comments are reflected in conditions of approval.

16. There was one public comment letter. In general the writers supported the project but urged that steps be taken to prevent trucks from dripping cow manure on public roads. At the hearing there was testimony from the owner of an adjacent residence who was concerned about noise from trucks and from the generators. Another interested citizen testified in support of the plan. He suggested that other materials such as fruit and



vegetables might eventually be digested and noted that heat produced by the process could be pumped into a greenhouse for producing vegetables.

17. The criteria for Special Use Permit approval are set forth at SCC 14.16.900(1)(b)(v), as follows:

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy of surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in ... Natural Resource Lands ..., the impacts on long-term natural resource management and production will be minimized.
- (g) The proposed use is not in conflict with the health and safety of the community.
- (h) The proposed use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

18. The Staff Report analyzes the application in light of the above criteria and finds that, as conditioned, the project will be consistent with them. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

19. The Examiner is convinced that, with appropriate conditions, the concerns raised by public comments can be effectively addressed. The innovative project has many pluses and deserves a chance to succeed. It will not replace agricultural production but will create needed energy using a renewable resource. It will be of benefit to the dairies it serves while imposing little additional impact on public roads or other public facilities. It will kill most of the pathogens in the raw manure it processes while reducing



manure odors on participating farms. Overall, the public health, safety and welfare will be increased.

20. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding. SCC 14.06.060(1)(b)(ii).

2. The requirements of SEPA have been met.

3. A Special-Use Permit is required in the Ag-NRL zone for a major public utility. SCC 14.16.400(4)(f).

4. The proposed facility, as conditioned, meets the criteria of SCC 14.16.400(4)(f) and the criteria for Special Use Permit approval of SCC 14.16.900(1)(b)(v).

5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The project shall be constructed and operated as described in the application materials, except as the same may be modified by these conditions.

2. The applicants shall obtain all other necessary permits and approvals, including County building permits.

3. The applicants shall comply with all conditions of the MDNS, issued March 27, 2008. (See Finding 14).

4. Pre-digested manure shall be stored in a surface impoundment or tank managed according to a farm management plan written in conjunction with the Skagit Conservation District.

5. Manure shall be hauled in a vacuum truck's sealed container to prevent leaks or spills during transit.

6. The applicants shall comply with all requirements set forth in the letter of the Skagit County Public Health Department, dated March 10, 2008.



7. The applicant shall contact the Northwest Clean Air Agency regarding requirements for air emissions and for any permits required.

8. If, after operations are commenced, the generators are causing noise sufficient to disturb neighboring residents, the applicants shall install additional engineered noise abatement measures to assure compliance with Chapter 173-60 WAC.

9. The applicants shall comply with all flood proofing requirements identified by the Skagit County PDS Building Division.

10. If drinking water is to be provided, the applicants shall furnish a current Public Utility District letter and all requirements for water shall be completed before any building permit is issued.

11. If the applicants decide to use a private well, the appropriate review of that source shall be required before any drinking water facilities are added to the site.

12. The applicants shall comply with the requirements of the International Fire Code.

13. This permit shall be void if the use permitted has not been established or a complete building permit application has not been filed with Planning and Development Services within two years of permit approval.

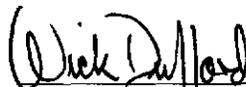
14. A copy of this permit decision shall be submitted with the building permit application.

15. Failure to comply with any permit condition may result in permit revocation.

DECISION

The requested Special Use Permit (PL08-0075) is approved, subject to the conditions set forth above.

DONE this 17th day of July, 2008


Wick Dufford

Hearing Examiner

Date Transmitted to Applicants: July 17, 2008



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RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.

