

# COMMISSIONERS PROCEEDINGS 1

## BOARD OF COUNTY COMMISSIONERS Minutes of Meeting September 5, 2017

The Board of Morgan County Commissioners met Tuesday, September 5, 2017 at 9:04 a.m. with Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt in attendance. Chairman James Zwetzig called the meeting to order and asked Morgan County citizen Terry Winberg to lead the meeting in the Pledge of Allegiance.

### **ADOPTION OF THE AGENDA**

Commissioner Teague made a motion to adopt the agenda as presented, with Commissioner Arndt seconding the motion. Motion carried 3-0.

### **CONSENT AGENDA**

Ratify the Board of County Commissioners approval of meeting minutes dated August 29, 2017

Ratify the Board of County Commissioners approval on Contract 2017 CNT 188, A & R Automotive, alignment on unit #17, Term of Contract August 29, 2017 until completed

Ratify the Board of County Commissioners approval on Contract 2017 CNT 189, Recycle Systems, LLC, identify electrical problems with the baler, Term of Contract August 31, 2017 until completed

Ratify the Board of County Commissioners approval of assignment of debt collections to State Collections, Client #162254, #170765, #170524, #170665, #170882, #170766, #170621, #170802, #170024, #170691, #170564, #170567, #170866, #170787, #170884, #170714, #171158

Commissioner Teague made a motion to approve all items on the Consent Agenda as presented. Commissioner Arndt seconded the motion and motion carried 3-0.

### **GENERAL BUSINESS AND ADMINISTRATIVE ITEMS**

#### **Consideration of Approval – RIGHT OF WAY - 2017 PMT 28 – Wildcat Dairy**

Morgan County Roads Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2017 PMT 28, with Wildcat Dairy. Mr. Goodman stated this right of way permit is to trench across County Road 24, starting at 250 feet south of County Road Y trenching east to west across County Road 24, for the purpose of installing a 2 inch water line. He stated the fees are attached in the amount of \$150.00 and the location has been inspected.

Commissioner Arndt made a motion to approve Right of Way Permit 2017 PMT 28 with Wildcat Dairy as outlined in the narrative of the permit noting the fees are attached as presented by Morgan County Roads Supervisor John Goodman and authorized the Chair to sign. Commissioner Teague seconded the motion. Chairman Zwetzig asked if the paving project would create any issues with Mr. Goodman stated there would be no problems. At this time, the motion carried 3-0.

#### **Consideration of Approval – RIGHT OF WAY - 2017 PMT 29 – Xcel Energy**

Morgan County Roads Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2017 PMT 29, with Xcel Energy. Mr. Goodman stated this right of way permit is to trench in the south right of way of County Road J, starting at a point ½ mile west of County Road 13 trenching 2,150 feet located in the south barrow ditch of County Road J ending ¼ mile west of County Road 13, for the purpose of installing a new gas line.

Commissioner Teague made a motion to approve Right of Way Permit 2017 PMT 29 with Xcel Energy as outlined in the narrative of the permit noting the fees are attached as presented by Morgan County Roads Supervisor John Goodman and authorized the Chair to sign noting the fees are attached. Commissioner Arndt seconded the motion and motion carried 3-0.

#### **Consideration of Approval – RIGHT OF WAY - 2017 PMT 30 – Morgan County Quality Water District**

Morgan County Roads Supervisor John Goodman presented to the Board for approval, a Right of Way Permit 2017 PMT 30, with Morgan County Quality Water District. Mr. Goodman stated this right of way permit is to trench in the south right of way of County Road Q, starting at a point 140 feet east of Country Road 10 connecting to the existing 12 inch main located in the south barrow ditch of County Road Q, for the purpose of installing pressure reducing valve and bypass valve.

Commissioner Arndt made a motion to approve Right of Way Permit 2017 PMT 30 with Morgan County Quality Water District as outlined in the narrative of the permit noting the fees are attached as presented by Morgan County Roads Supervisor John Goodman and authorized the Chair to sign noting the fees are attached. Commissioner Teague seconded the motion and motion carried 3-0.

### **COUNTY OFFICIAL AND DEPARTMENT HEAD REPORTS**

Commissioners reviewed the calendar dated September 1, 2017 through September 12, 2017 with changes.

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## UNFINISHED BUSINESS

There was no unfinished business.

## LIQUOR LICENSES

At this time, the Board of County Commissioners convened as the Morgan County Liquor License Authority in the matters of:

### **Liquor or 3.2 Beer License Renewal – Hotel & Restaurant (County)**

**Licensee: Graciela Cerna dba Home Plate Restaurant 1**

**Operating Manager: Graciela Cerna**

Morgan County Clerk and Recorder Susan Bailey presented to the Board a Liquor License or 3.2 Beer License Renewal Application submitted by Graciela Cerna dba Home Plate Restaurant 1 for a Hotel & Restaurant (county) license. Ms. Bailey stated that she has received the necessary documents and all fees have been submitted. Ms. Bailey stated she has had no issues with this licensee and then asked the Morgan County Sheriff's Department to report at which time Under Sheriff Dave Martin indicated he had nothing to report and no known violations.

Chairman Zwetzig opened the matter for public comment at which time no comment followed.

A motion was made by Commissioner Teague to approve the liquor license renewal for Graciela Cerna dba Home Plate Restaurant 1 and authorized the Chair to sign noting the fees are attached. Commissioner Arndt seconded the motion and motion carried 3-0.

### **Liquor or 3.2 Beer License Renewal – Liquor Store (County)**

**Licensee: 10G, Inc dba Wayward Wind Liquor**

**Owner: Amanprit Kaur**

**Operating Manager: Amanprit Kaur**

Morgan County Clerk and Recorder Susan Bailey presented to the Board a Liquor License or 3.2 Beer License Renewal Application submitted by Amanprit Kaur owner and operating manager for 10G, Inc dba Wayward Wind Liquor for a Liquor Store (county) license. Ms. Bailey stated that she has received the necessary documents and all fees have been submitted. Ms. Bailey stated she has had no issues with this licensee and then asked the Morgan County Sheriff's Department to report at which time Under Sheriff Dave Martin indicated he had nothing to report noting the issue at hand last year has been resolved satisfactorily.

Chairman Zwetzig opened the matter for public comment at which time no comment followed.

A motion was made by Commissioner Arndt to approve the liquor license renewal for Amanprit Kaur owner and operating manager for 10G, Inc dba Wayward Wind Liquor and authorized the Chair to sign noting the fees are attached. Commissioner Teague seconded the motion and motion carried 3-0.

## CITIZEN'S COMMENT

There was no citizen's in attendance to provide citizens comment.

At this time, the Board recessed at 9:14 a.m. until the Public Hearing scheduled at 9:30 a.m.

## PUBLIC HEARING

Chairman Zwetzig called the hearing to order at 9:30 a.m. in the Assembly Room of the Morgan County Administration Building. Present were Chairman James Zwetzig, Commissioner Laura Teague and Commissioner Mark Arndt. Also present was Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry and staff.

**Application is for a Special Use Permit to construct an additional Sequencing Batch Reactor for Cargill operations. The property is located in the E1/2 of the NE1/4 of Section 8 Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado. The property is also known as 1505 E Burlington Ave, Fort Morgan, Colorado 80701**

**Applicant: Felimon Castaneda**

**Landowner: Cargill Meat Solutions Corporation**

Chairman Zwetzig asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry to present the file at which time Ms. Cherry stated the applicant is not present at this time and asked the Board to move the matter to the end of the agenda today. Commissioner Teague made the motion to move the matter to the end of the agenda with Commissioner Arndt seconding the motion and motion carried 3-0.

**Application is for a Minor Subdivision of Abe's Place Minor Subdivision Lot 2 which is 23.7 acres and is located in the NW1/4 of Section 21, Township 3 North, Range 60W of the 6<sup>th</sup> P.M., Morgan County, Colorado. The property is also known as 2276 County Road P, Wiggins, Colorado 80654.**

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**Applicant: Thomas A. Jude**  
**Landowner: Thomas A. Jude**

Chairman Zwetzig asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

## **Background Information**

Ms. Cherry stated this application is for a Minor Subdivision of Abe's Place Minor Subdivision Lot 2 which is 23.7 acres and is located in the NW1/4 of Section 21, Township 3 North, Range 60W of the 6<sup>th</sup> P.M., Morgan County, Colorado. The property is also known as 2276 County Road P, Wiggins, Colorado 80654.

Ms. Cherry explained that Thomas A. Jude is the applicant and land owner and is requesting approval of a Minor Subdivision of 23.7 acres. The request is to create three lots; Lot 1) 11 acres, Lot 2) 1.75 acres, 3) 11 acres. Each lot will be for residential purposes in the Agriculture Production zone district.

Ms. Cherry explained the file contains all documentation required for a Minor Subdivision application. There is a permit to use an existing well, Permit #305617 (issued on May 31, 2017) as well as a new well Permit #305612 (issued on May 23, 2017) both of which may be used for domestic purposes inside three single-family dwellings, the watering of the owner's own large non-commercial domestic animals and irrigation of 1 acre of lawn and garden. The well is also permitted for the watering of livestock on range and pasture.

Ms. Cherry stated that Morgan County Road and Bridge has permitted the continued use of the existing driveway for Lot 1 and two new driveways for Lots 2 and 3 to be located on Morgan County Road P. If at a future date, Morgan County determines a culvert is needed for drainage, or an existing culvert needs repairs, the landowner will assume all costs; and the culvert and driveway must meet Morgan County specifications. There is a will serve letter from Northeast Colorado Health Department stating each lot owner shall obtain an application to install or repair an Onsite Wastewater Treatment System prior to building a residence. The site of the minor subdivision is not located within the 100-year floodplain. Subject property is located within the Wiggins Rural Fire District. Taxes are current.

Ms. Cherry explained that all appropriate notice requirements have been completed. Objection to the subdivision was expressed by some members of the Planning Commission as well as Richard Neb, an adjoining landowner. The objections were based on the water use and the North Kiowa Bijou basin being a closed basin. Neb's suggested that Jude's be required to connect to Morgan County Quality Water. An estimate of the cost to extend the water mains to Jude's was requested from Morgan County Quality Water. The final cost estimate is between \$73,320.00 and \$103,456.00, which does not include the cost of individual taps. Ms. Cherry mentioned the attached e-mail from the Kent Pflager of Morgan County Quality Water.

Ms. Cherry explained that two motions were offered by Planning Commission at the public hearing on August 14, 2017, this project does not come to the governing board with a recommendation. One motion was to approve the minor subdivision subject to the formation of a water district with a vote of two members voting for and four against; the second motion was to approve the application as presented (3-3). Neither motion passed.

Ms. Cherry stated the State Engineer has issued the permits for the wells that will provide water service to the residential uses. The Planning Department has not received objection to the subdivision from the North Kiowa Bijou.

At this time Ms. Cherry recommended the approval of Jude's Minor Subdivision. Ms. Cherry stated that Mr. Neb did make contact with her this morning and explained the information she received from him this morning indicating the well capacity and the use for residential use. Commissioner Teague asked if the well permit can serve all three parcels with Ms. Cherry stating it can and further explained the confusion at hand stating she believes there may be some misunderstanding at the state level regarding the well permits. There are two wells and between the two wells Ms. Cherry stated they can serve up to five parcels. Ms. Cherry attempted to contact the State with no success this morning.

Chairman Zwetzig asked the applicants to come forward, and Thomas Jude introduced himself as residing at 2276 County Road P, Wiggins, CO 80654. He stated the information presented this morning is new information and Ms. Cherry stated it was to her as well. He stated he understood the agreement was already in place and the concern as shared that it is the acreage that is being served by the wells, not the number of wells.

Yvonne Jude-Lorenzini introduced herself as residing at 2276 County Road P, Wiggins, and further stated she did the permits with the State for the well and outlined what she did knowing they had the shared well with the Tate's and stated the original well had 35 acres which included their property and the Tate's property and knew they had to apply for a new one. She further stated that the State explained to them that the process and the information that was presented to them by the State by reading aloud information she received from the State. She stated they had to make contact with the Tate's and they worked with them to update the application and submitted the application to change the acreage to the Tate's land and the deed still has the shared joint well agreement naming that document. In the property deed, it is a shared well, the state requested that the acreage show how many acres the well is on not how many the acres it is serving. The permit was changed at the state level as per Ms. Jude-Lorenzini. It was asked if the applicant had documentation to reflect the amended information, with Ms. Jude-Lorenzini stating it is amended to show the acreage not to who uses the wells.

At this time, Ms. Jude-Lorenzini read aloud the approved permit language and provided this document to the Board for their review and consideration. She stated the new well they have placed is intended to serve three residences

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stating they have two wells to serve two homes each. Commissioner Arndt clarified that it will be 22.92 acres that the existing well will serve after the creation of the subdivision. Ms. Jude-Lorenzini stated the state wanted to change the original permit to show the information that the acreage was not overlapping and there is not two wells for the larger amount of acreage.

Ms. Cherry indicated that 11.92 acres is the original well, and stated it is statement #3 that says it is on 11.92 acres but it does not sound like it is restricting the use of that well, the restriction is that it is providing water for two residences. Ms. Jude-Lorenzini explained they want to divide their current parcel into two parcels explaining which document to refer to in regards to the well permit.

Commissioner Teague stated she wants to be sure there is no confusion at the state level of what these wells are being permitted for with Ms. Cherry stating she does not believe there is any confusion explaining the permits and which lots they are being permitted for. It will allow one lot to use either well as per Ms. Cherry. Ms. Cherry stated that the state issues a permit based on the basin rules as it is located and those rules allow for up to three residences on each well. Discussion followed that the State needs to identify that there are not five lots being served, that there are two wells serving three lots and two lots. Mr. Jude explained that Lot 1 of Jude Subdivision is what they are using at this time to serve their residence from the existing well, and the new well will serve 1.75 acres of Lot 2 and 11 acres of Lot 3 as clarified by Commissioner Arndt.

Discussion followed with Ms. Jude-Lorenzini stating that both pumps will be serving two houses to help with the stress and flow of the water. Commissioner Teague stated the Board is here to prove that there is proof of quality and quantity to all parcels in question with that being proven, any other issue would be at the state level with Ms. Cherry stating correct.

Chairman Zwetzig asked about the easement for Lot 2, with J.D. Lorenzini, 211 Logan Avenue, Hiff, CO explained the roadway back they have not determined they would like to bring the easement back to 70 feet and then 95 feet bringing it at an angle towards the well, explaining that would create a windbreak and they could continue with the pipeline. The location of the easement has not been determined nor has the joint well agreement, with Chairman Zwetzig stating it must be noted the location of the easement and the joint well agreement with the joining owner for the well.

Ms. Jude-Lorenzini stated they have completed the requirements necessary to meet the County's process.

At this time, Chairman Zwetzig opened the matter for public comment.

Andy McClary, 507 Warner, Fort Morgan, representing North Kiowa Bijou Ground Water Management District, stated there is a water issue and provided information to the Board regarding his concerns. He stated he would have been present at the Planning Commission Hearing and explained he did not receive timely notice. He stated the applicant must show availability and sources of water explaining that Mr. Jude applied for small capacity well which is appropriate. He further explained that they deal with large capacity wells, not small capacity wells, the permit was granted for one well on the 23.75 acre of property for three houses, explaining the purposes. His issue is it comes from the Kiowa Creek alluvium water this location is within their basin,

He made reference to a letter in the Board's packet explaining information Ms. Cherry provided which was noticed 25 days prior to the State, and the time frame did not allow for review of the application. The information is an email between Ms. Cherry and the State Engineer as per Ms. Cherry. Commissioner Teague asked about the permit conditions received from the State Engineer as being at the end of May and asked Mr. McClary to clarify what he believed occurred. Mr. McClary stated that he will touch on that information once he gets there.

The Board stated they did not have the letter in reference in the packet provided today with Mr. McClary providing the Board with a copy. This information was then copied and provided to the Board to be referred to in today's hearing. Chairman Zwetzig asked that all parties involved be provided a copy of any documentation that is being presented to the Board, which was referenced as an email dated August 22<sup>nd</sup>, which was a response to the letter dated August 21<sup>st</sup>.

Commissioner Arndt commented in response to Commissioner Teague's statement, stating that even though it may not be at the discretion of the County, it is important that the trail of information be clear to indicate that all three lots are being served now and in the future.

Chairman Zwetzig clarified that the email from Ms. Cherry dated on August 22<sup>nd</sup>, was a response to the letter she received dated August 21<sup>st</sup>. The referral was sent to the State on July 19<sup>th</sup> and it has been two and a half months since the referral request was sent as per Ms. Cherry.

At this time, Mr. McClary proceeded to report to the Board stating there was a response to the Planning Administrator's request stating they need a completed water information summary providing an estimate of the water requirements of the subdivision. One of the things that statute requires was then outlined by Mr. McClary, there should be collaboration between all parties and stated that when he received the information from Ms. Cherry was the first time he was notified and feels the State failed to notify them of this information given this is alluvium water.

Mr. McClary further stated he has not seen the water supply survey and stated that when he spoke to the State last week, they have not gotten to this as of yet. He stated that the permit was signed by Shannon Johnson in the permitting department in July and further stated the Planning Administrator has to make inquiry of the State engineer explaining that requirement. He stated it goes on later in the statute, which highlights his point, Section 2 of that information, State Engineer shall make recommendations within 20 days, the failure of the agency to respond

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within 21 days is to be noted as it is deemed approval and he is concerned about this language. He is concerned that the appropriate staff was not provided the information to review and referenced information reading aloud, the subdivision information for which a water supply plan is being sought. He read aloud verbatim the section in reference. He stated he thinks he understands what the State Engineer is currently doing with the Jude's, but the existing permit they have now is for three dwellings, with Ms. Jude-Lorenzini stating the permit they received is for up to three dwellings.

Mr. McClary stated the Tate well and it being within the subdivision and having two wells planned for four houses, and Chairman Zwetzig stated the Tate well is on Abe's place, Mr. McClary stated this is not a complaint about the subdivision, only a water issue and provided information to the Board regarding the 2015 Groundwater levels in the North Kiowa Bijou Designated Groundwater Basin.

He summarized the information in detail in reference to the handout. He stated the Tate well and the Jude well is about a mile and a half to the west. Page 2 indicates a ten year history stating that in 1936 the water level was much higher expressing the concern that the water levels at this time as having dropped considerably. He stated the issue here southern end of the basin about five to six years ago, an applicant down south got a permit for a replacement well, with the State issuing a permit as requested but placed it in the wrong township, where there was concerns expressed and the farmers met with the State, and it was found that this well had not pumped within 20 years, and the permit was issued, but when it was sent to the State for review statutorily, the permit was amended which then amended the permit and gave it to him right where he drilled the well, no acre feet, no acreage.

He stated his board is present today and they are charged with protecting the interests of the decreed water rights within the district, explaining the problems he sees at hand at this time, naming there is a burdensome problem at the state, and the permit was issued without an analysis and believes it is important to analyze this permit to ensure water source and the Board would then be able to make a recommendation based upon what they receive from the State's analysis.

Commissioner Teague clarified that Ms. Cherry does not have a response from the State after asking for further information with Ms. Cherry stating she has not.

Ms. Jude-Lorenzini stated that when she worked with the State, on May 25<sup>th</sup>, 2017, she was told that they were waiting back from the hydro based team regarding the information and stated she was waiting for their response before it could be approved and indicated it was the next week their well permit was approved stating there was some reviewing by the State.

Richard Neb, 1905 74<sup>th</sup> Avenue, Greeley, CO, adjoining landowner to this property, stated getting back to the water issue, the Board needs to understand there is a chronological order on the wells naming the application and the detailed information and the ongoing change of use to the well in question. He stated that when Jude's applied for the new well permit, the chronological order is the well stays with the adjudicated land, the original was for 35 acres, the second was to be split between two parcels and he believes it creates a dry lot to go to another subdivision. So in order for the Jude's to get water, they had to go to Mr., Tate to get approval, which he stated the well on Tate's land is an adjudicated well to be designated to that lot 1 only explaining the issue. He stated as he brought up in the planning and zoning meeting, Mr. McClary has expressed the same information regarding the legal side of this well.

Mr. Neb stated the Board has to follow the purpose of the comprehensive plan to promote health, safety and welfare to continue on with best practices of the land. He stated the land is unsuitable for anything other than pasture land explaining the soil is a class six soil which is suitable only for pasture land and by breaking the soil up it will become highly erodible and there will be numerous things that will need to be done. He also stated there is an animal density issue where the state will only allow a certain amount of animal units and explained that process. Central water, when going for minor subdivisions, the County has always said they should try to put in a public water system. He spoke about driveway access, expressing his concern about the plan for three driveway accesses. Ms. Cherry stated she reviewed the information this morning and there are no restrictions in place for this. He stated there is also a major water line that goes through this location an 18-20 inch pipe on the north side that runs along the parcel which will need to be addressed and indicated that it is on private property. Ms. Jude-Lorenzini stated she believes that is indicated in the information. Mr. Neb stated should this have been a PUD as they are taking an area that is isolated and they are not addressing the other property owners in this area, to have three houses on the land in question, if any of those are sold off, there should be covenants or something in place so there does not become unsightly presentations of the land. He mentioned junk cars being placed on the land in the subdivisions and being unsightly. He also addressed vegetation cover, when construction should begin, there should be vegetation cover to avoid erosion problems. He also spoke about one other concern about the water issue, stating he has a water sample of a fairly close adjoining well that the nitrates on that well has 9.84 nitrates, the suggested maximum being 10. He stated this well had been tested ten years prior and those levels were somewhere between 5.6 and 5.8. He is concerned there is a concern the water will not be potable with Commissioner Teague asking if he is suggesting the water is not potable, with Ms. Cherry stating the tests did come back satisfactory. Mr. Neb stated his concern is in the future it may not be potable.

Commissioner Arndt asked Mr. Neb at this time they are saying there is the issue there could be five residences on these wells, with Mr. Neb stating he did speak with the State and the well on Mr. Tate's land is adjudicated on that lot for two houses and his concern is Mr. Tate could go to the State and ask for another house, so that could result in five houses.

Yvonne Jude-Lorenzini asked to respond to Mr. Neb's remarks stating this is a family lot of 23 acres; they want to subdivide for three parcels for family use. She stated it would not have to be subdivided if the bank did not ask that it be done for mortgages reasons and explained why they are not asking for covenants, due to the things the family would want is in the county's plan. The vegetation is approved for an acre of lawn and there are already the grass

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and weeds left to hold down the soil. The animal units, they were recommended for three animal units on the two 11 acres parcels, Lot 2 the 1.75 is only recommended for one animal unit.

Robert Loose, Director North Kiowa Groundwater Management District, owns property in Weld County, 42075 County Road 26.5, speaking as the Director, stated his concern is with the acre foot permitted. At five gallons per minute that is allowed for 8 acre. He stated he believes there is a lack in the application process, stating he used to be on the commission for the State of Colorado, stating they went through a major change, and with new leadership things are smoothing out but they are not there yet. As far as their basis goes, he would like to see the Board deny this or at least table it to February. He believes it will take this much time to get the permits straightened out, to get the permits accurate possibly needing a meter installed to ensure they are held to three acres per feet mentioning the erodible sand.

Chairman Zwetzig stated that the 8 acre being in reference, to a five gallon per minute well will harvest this amount of water as per Mr. Loose.

Mr. Neb, 1905 74<sup>th</sup> Avenue, Greeley, pointed out this land keeps reselling and reselling and just because this family thinks they will be there for a long time does not address what could take place in the future and asked that this be looked at for future covenants.

Glenn Frihauf, representing North Kiowa Bijou Groundwater District, residing at 7125 Road G Wiggins, as a board member, they are concerned about the process, the subdivision is in order, but they are concerned that the state be able to process this application and they ask that everything being looked at have the time to fully review so things are put in place appropriately.

Clark Green, 5687 County Road P, Wiggins, CO, also a director for the basin expressed his concern about the water situation as well, stating his mother owns a farm there and the water has diminished quite a bit. The nitrates are increasing and stated he would like to see the applicant pursue Quality Water as other residents have done and would like to see the permitting process is done.

Ms. Jude-Lorenzini asked if Mr. Green would like to go into the costly process to obtain Quality Water, with Mr. Green stating they have already incurred those costs to provide Quality Water to their homes and residences they own.

J.D.Lorenzini again spoke stating he wanted to address some things; he mentioned the question about covenants by Mr. Neb, indicating they would agree that they put in the covenants and the land never be divided again, as that is the plan for now. He further mentioned from his understanding the homes in the area none of them have Quality Water and expressed his concerns about the cost to do so and the fact it is difficult to place the infrastructure under the railroad tracks and the fairness of putting the costs into quality water.

At this time, Chairman Zwetzig moved to discussion and decision.

Commissioner Teague commented that the last letter indicates the State does have some concern and would like additional information to make sure these well permits are correct and not causing injury and knows the State does have the power to withdraw the permit and if that should occur, the County would be creating a dry lot.

Commissioner Arndt stated that he does believe there is a great amount of confusion about the number of lots being created per well permit and believes the letter dated August 21<sup>st</sup> does state they need additional information at the state level. As for the covenants, he believes that things do change, even among families and does believe that covenants are important, and explained his reasons why. The other thing he believes is missing whenever there is a shared well, there should be a good agreement in place that is recorded that indicates the maintenance and who needs to be responsible. The applicants stated this would not be a problem.

Chairman Zwetzig asked about the covenants being optional, covenants are not enforced by the County, they are construed as optional and Chairman Zwetzig stated these would be part of the subdivision and that is something the Board could not enforce what is put in place.

Ms. Cherry stated to require covenants would fall under a PUD, which these applicants chose not to do.

Chairman Zwetzig stated that the issue regarding animal units, the process requires an applicant to follow the regulation as recommended by the Extension Agent to set those numbers in a subdivision and that being a part of the subdivision process. He stated that if someone was to violate the animal units that would be enforceable by the County, not by covenants.

Chairman Zwetzig stated there was a question about driveways, and the fact the county does not have any regulations about driveways but do have a person designated by the County who will inspect for drainage and safety and there could be the cost incurred for a culvert and that would be up to the Public Works Department whether or not a culvert is needed. Chairman Zwetzig stated what the Board is dealing with at this point is the concern about the water issues being quantity and quality with both Commissioner Teague and Commissioner Arndt in agreement with that being their primary concern. Ms. Cherry stated the new well permit is permitted for three properties explaining the date that was received with Commissioner Teague stating there is confusion about it being across shared lots and further discussion followed regarding the letter received from the State dated August 21<sup>st</sup> and Commissioner Teague read aloud the following language as written in the letter: "The State Engineer has not received enough information on the water requirements of and proposed water supply to this subdivision to render an opinion regarding the adequacy of water supply and material pursuant to C.R.S. 30-28-136(1)(h)(I) regarding the adequacy of the water supply and the material injury likely to occur to decreed water rights. In order for our office

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to provide an opinion, a completed Water Supply Information Summary Form or equivalent report must be provided.”

Ms. Cherry stated she did discuss this with the County attorney and the question was asked do they not review this information prior to the permit being issued, indicating the applicant must pay the initial investment to be able to obtain the quality and quantity information and that creates a concern.

Commissioner Arndt stated he needs more information regarding these well permits and feels he needs clarification to be sure there are only four residences being served, and given the information presented today indicates that it could be for five residences and one well would be shared.

Tom Jude, 1201 W. Thornton Parkway, Thornton, CO asked if this application could be amended today with the Board stating it will need to be sent to the State. Chairman Zwetzig stated the State could issue a permit for three residences and Ms. Cherry stated the permit issued is in compliance with North Kiowa Bijou Water Management, and Chairman Zwetzig stated the confusion needs to be cleared up as to how many residences will be on each well permit. Ms. Jude-Lorenzini asked about the shared agreement that is in place, with Chairman Zwetzig asking Ms. Cherry if there is anything in the regulations regarding an existing shared agreement, with Ms. Cherry stating there are none at this time. Ms. Jude-Lorenzini stated she understands that the wells on the road in this location are all shared wells but does not know if there are any shared agreements. Chairman Zwetzig stated that the North Kiowa Bijou Water Management also wants to be involved in the process and did hear willingness from one of the board members they would be willing to assist.

Commissioner Arndt suggested that the matter be tabled to give time for all parties to resolve the issues at hand with Commissioner Teague asking if a continuance for 60 days would give everyone the amount of time, with Ms. Cherry stating if not sooner.

Commissioner Arndt made a motion to table the matter for up to 60 days noting that if the landowners and the State that all materials can be submitted to the Board satisfactorily, then that date could be moved up to reflect with Chairman Zwetzig stating he would prefer to have a date certain set today with Ms. Cherry stating that to have the date certain, public posting would not be necessary. Commissioner Arndt amended the motion to continue this matter to Tuesday, October 3, 2017 at 9:30 a.m. with Commissioner Teague seconding the motion and motion carried 3-0.

Ms. Jude-Lorenzini clarified what the Board will need addressed as being a shared agreement indicating maintenance and location of easements for access to the well. Tom Jude, stated the easements would depend on the placement of the house itself, stating they cannot do any of this until they get soil tests and actually subdivide. Ms. Cherry stated that one of the easements in concern was that of the City of Fort Morgan's easement and stated that it could be made a condition of approval of when the plat is recorded with the Clerk and Recorder.

**Application is for a Conditional Use Permit to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas. The property is located in the SE1/4 of Section 33, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado. The property is also known as 20738 County Road N, Fort Morgan, Colorado, 80701.**

**Applicant: Starlight Energy Corporation  
Landowner: Peter V. and Karen V. Anderson**

Chairman Zwetzig asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam Cherry to present the file at which time Ms. Cherry read aloud the following information.

## **Background Information**

Ms. Cherry stated this application is for a Conditional Use Permit to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas. The property is located in the SE<sup>1</sup>/<sub>4</sub> of Section 33, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 20738 Morgan County Road N, Fort Morgan, Colorado 80701.

Ms. Cherry explained the applicant also seeks to request the cancellation of the prior Conditional Use Permit on five acres of this tract that was issued on May 9, 2014.

Ms. Cherry stated the property is zoned Agriculture Production and twenty acres will be leased for a thirty year term to Starlight Energy. Solar panels, gas processing equipment and electric generation equipment will be constructed on the property. Solar electricity will be produced from solar panels that will pass through an electrical interconnect and proceed via existing overhead lines to a connection with Morgan County Rural Electric Association. The equipment moves to track the sun during the day at a very slow speed, no noise results.

Ms. Cherry explained an e-mail from Brian Bentley dated August 4, 2017: (a clarification request as to how this process works)

- Gas will be produced from the well at exactly the rate it is consumed by the generator, estimated at 100 MCF/D. No gas storage will be required.
- The gas stream from the well will pass through a standard 3-phase separator located on the lease. This is primarily as a precaution to separate crude oil and/or water, if any, from the gas stream (which will pass on the generator). There will be a crude oil tank and produced water tank on the lease to collect both,

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respectively. The email referenced they ran a production test in 2014, running the well essentially wide open into a temporary tank for about 1/2 hour, mainly to test for liquids production. The well-produced much gas, but no detectable crude oil or water. When the well is producing, there should be eventual water and/or crude production, but at least based on the flow test, they have no basis to estimate any. There are no nearby wells of comparable age and production history upon which they could base an estimate.

- As we accumulate a truckload of water, which may take several months, it will be hauled to an approved produced water disposal well, most likely in Weld County as I am unaware of any such facilities in Morgan County. Ms. Cherry stated the email references they estimated a couple of truckloads of water per year, but that is on the high side based on what we know now.

Ms. Cherry explained impacts on adjacent properties are not anticipated. Access currently exists; no additional access will be required.

Criteria for approval of Conditional Use:

- A. The application documents are complete and present a clear picture of how uses are to be arranged on the site.
- B. The Site Plan conforms to the design standard of these Regulations.  
*The Site Plan meets requirements. More detailed construction drawings will be submitted prior to development of the site.*
- C. There are no off-site impacts imposed by the conditional use proposed that require additional infrastructure or upgrades by the County of Special Districts.  
*Unimproved Morgan County Road 21 will be used as is.*
- D. The use proposed is compatible with the surrounding uses and adequately buffered as necessary. The property is located in Agriculture Production zone district. There will not be a visual impact to adjoining properties.  
*All referrals and notifications were distributed and there have been no comments received as of 8-4-2017.*

Ms. Cherry suggested conditions of approval:

1. Produced water will be stored in tanks onsite, above the ground and will be transported to a Weld County disposal site, as needed. This is anticipated to be once every several months. No more than one tank of produced water is to be onsite at any one time.
2. Crude oil will be stored in tanks onsite. No more than one crude oil storage tank to be onsite at any one time.
3. Reporting of production of electricity sold is required on a quarterly basis, beginning within three months of initiating production at the facility.
4. The Conditional Use for five acres on this tract issued on May 9, 2014 will be cancelled.
5. This construction will also require a storm water management plan that would be issued through the State which is a State requirement.

At this time Ms. Cherry recommends granting the Conditional Use application subject to the conditions stated.

Peter V. Anderson, applicant, stated that in speaking about the site, it is the well site being spoken of, not the photovoltaic site. Brian Bentley, Starlight Energy Corporation, 11677 Golden Eagle Lane, Littleton, CO 80127 shared a slide show presentation of where the proposed facility will be placed and where the activities will take place. He summarized the solar facility itself and the other caterpillar gas generator which both will be combined together and they will be set by a line to Morgan County REA. (Handout provided to each board member with the information to be archived with minutes as an attachment on file).

Mr. Bentley indicated the location will be on Peter and Karen Anderson's property, six miles south of Fort Morgan in Morgan County. He indicated those who have shown interests in what the project will offer.

Ms. Cherry confirmed the applicant is requesting a conditional use permit for the solar energy business with Chairman Zwetzig asking if Mr. Bentley could provide information as to what the project will entail. Mr. Bentley stated there will be a 20 acre site with 15 acres of solar panels indicating the spacing of the panels being necessary so not to shade each other. Chairman Zwetzig asked about the Weld County requirement of 18 acres with Mr. Bentley stating he is aware of a project they approved in Fort Lupton of 130 acres. The location of the generator was revealed on the slide presentation as questioned by Chairman Zwetzig who also asked about the decibel level, with Mr. Bentley stating it would be a residential approved decibel, indicating there is a double level of protection being provided and could provide a decibel level at a later time.

The landowners within the vicinity of this project were named and Mr. Bentley stated the panels themselves face south and stated they may not even be visible and the generator should not create any sound. Chairman Zwetzig asked about how the panels handle hail storms, with Mr. Bentley stating they are rated to withstand 150 mile per hour wind, as far as hail, they are designed to resist normal hail, indicating that those placed in other locations may be able to better answer his direct question. He stated that the way the panel sits; the hail would hit it and bounce off it since it would hit it vertically.

Commissioner Teague asked about traffic impact, with Mr. Bentley stating there is almost no maintenance and indicated that the road would be used for construction which is proposed to take about three months, dependent upon weather, and is hopeful it is running by end of year. They plan to use County Road 21 for the construction traffic with Commissioner Teague stating those residents who live on County Road N are highly sensitized to traffic that is



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already traveling in this location, with Mr. Bentley stating he predicts that traffic would follow County Road 21 as there is access off of Highway 34.

Chairman Zwetzig asked about issues with birds, with Mr. Bentley stating he has not seen any impact on birds given these do not reflect the sun. Mr. Bentley stated they will graze sheep to control vegetation and not having to put anything down on the ground. Mr. Bentley further summarized the structures of the solar panels outlining the cabling and the different parts and how they work and where they are driven into the ground and installation.

The panels are made of a glass like substance, there is a silica sub strength that converts the sunlight into electricity as per Mr. Bentley and they do not weigh much.

Commissioner Arndt asked about a lightning strike, are there fire break rows to protect the panels, with Mr. Bentley stating that would be designed by the installers and indicated when they build it they will have access roads to get inside the 20 acre area. Chairman Zwetzig asked about the control of dust, with Mr. Bentley stating he had asked why Northern Colorado works with the installer and designer stating this area is not as bad as the Southern area. He stated they do not plan to disturb the soil; the land will not look much different than it does now. Commissioner Teague asked about those pieces that are disturbed with Mr. Bentley stating the intent is not to disturb the area in any way.

The project cost is mainly due to the solar part of the project as per Mr. Bentley. He stated that Poudre Valley currently has three of these solar facilities and he also named other areas that have them. He explained that the electrical cooperatives can purchase up to five percent solar energy. Discussion followed with Mr. Bentley stating a project has to be 2 megawatts or less, solar rejuvenates renewable energy credits. Mr. Bentley stated one of the things that make the economics work is the fact it is automated. Discussions are being held with Morgan County Rural Electric Association as to what the kilowatt will cost. Mr. Bentley stated he is here today requesting the conditional use permit for 20 acre solar facility and the zoning variance for 10 acre structure limitation on AG zoned land.

Discussion followed in regards to the storage on the 20 acres, and the fact there was a permit approved by the Board three years ago, and the reason for the conditional use for the five acres being abandoned, was due to that is part of the 20 acres, with Mr. Bentley explaining why. Commissioner Teague asked about the reporting piece, with Ms. Cherry stating that is basically based on the megawatts and how the Assessor needs to keep track of the property information. Mr. Bentley stated that somehow with the Oil and Gas Commission they will need to report but they will have to work that out with them. If the well no longer produces gas, and Mr. Bentley stated they expect to drill more wells, to be sure they have the liability for the contract with MCREA, and explained what they will be doing. He stated they will be using the well and the solar facility to demonstrate the ways to bring value.

Chairman Zwetzig asked the question about when the life span of the facility should end what happens with Mr. Bentley stating the insurance companies insure solar facilities and in their policy they commit to take the racks away and for panels that are not functioning that things are kept cleaned up with Mr. Bentley stated the panels would be lifted out and replaced, they are not left behind. Mr. Bentley stated they will be placing sheep and goats on the land to maintain the property. Number of tanks, Ms. Cherry stated that does not apply to these 20 acres.

Commissioner Arndt asked about the conditional use permit if there was a number to be referred to, with Ms. Cromwell researching the information for a resolution that was passed, and that conditional use permit being CU-2014-05.

At this time, Chairman Zwetzig opened the matter for public comment at which there was public comment.

Pete Anderson, 20738 County Road N, Fort Morgan, CO stated that Kris Kraft was present at the Planning Commission Hearing and was in favor of this matter and has no objections indicating this application as an adjoining landowner and was not able to attend today's hearing.

At this time, Chairman Zwetzig moved to discussion and decision. Planning and Zoning staff provided a copy of the conditional use that was approved in 2014 administratively for the Board to review. CU 2014-05 is the conditional use that is being requested to be canceled.

At this time, a motion was made by Commissioner Arndt to approve the application is for a Conditional Use Permit to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas. The property is located in the SE¼ of Section 33, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 20738 Morgan County Road N, Fort Morgan, Colorado 80701, naming the applicant as being Starlight Energy Corporation and Landowner as being Peter V. and Karen V. Anderson. As a condition of the approval of this permit, the conditional use, noted as CU-2014-05 shall be rescinded at this time. Commissioner Arndt also stated the conditions of approval will be contingent upon the reporting of all production of solar electricity. Commissioner Teague seconded the motion, and the motion carried 3-0.

**Application is for a Variance to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas. The property is located in the SE1/4 of Section 33, Township 3 North, Range 57 West of the 6th P.M., Morgan County, Colorado. The property is also known as 20738 County Road N, Fort Morgan, Colorado, 80701.**

**Applicant: Starlight Energy Corporation  
Landowner: Peter V. and Karen V. Anderson**

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Chairman Zwetzig asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam to present the file at which time Ms. Cherry read aloud the following information.

## **Background Information**

Ms. Cherry stated this application is for a Variance to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas. The property is located in the SE¼ of Section 33, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 20738 Morgan County Road N, Fort Morgan, Colorado 80701.

Ms. Cherry explained that pursuant to Section 3-650 Bulk Lot Requirement Table 1 Appendix B, maximum lot coverage in the A Agriculture Production zone is 10%. The applicant proposes lot coverage of not more than 50%.

Ms. Cherry explained the property is zoned Agriculture Production and twenty acres will be leased for a thirty year term to Starlight Energy. Solar panels, gas processing equipment and electric generation equipment will be constructed on the property. Solar electricity will be produced from solar panels that will pass through an electrical interconnect and proceed via existing overhead lines to a connection with Morgan County Rural Electric Association. The equipment moves to track the sun during the day that causes modification of the lot coverage due to the angle of the panels.

Ms. Cherry explained the impacts on adjacent properties are not anticipated. Access currently exists; no additional access will be required.

Criteria for granting of a Variance:

- (A) Relief from the provision of these Regulations may not be granted when the hardship is brought about through the actions of the appellant or applicant.
- (B) Nor may relief be granted when the result of granting the requested relief is detrimental to the public good or when relief is contrary to the purpose and intent of these Regulations.
- (C) In granting any variances, the Board of Adjustment may prescribe appropriate conditions, safeguards and permit time limits in conformity with these Regulations. Violations of such conditions, safeguards, and time limits when made part of the terms under which the variance is granted, shall be deemed a violation of these Regulations and punishable under Chapter 6 of these Regulations.
- (D) No nonconforming use of neighboring lots, structures, or buildings in the same district, and no permitted or nonconforming use of lots, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- (E) Criteria for review of variance to the floodplain regulations are contained in Section 3-740 and following.
- (F) The appellant has prepared a complete and well documented application.

At this time Ms. Cherry recommends granting of the variance with the following conditions:

1. Prior to any future expansion of the solar farm the applicant shall submit any application required by the Morgan County Zoning Regulations.

Lot coverage by panels and any additional equipment shall not exceed 50%.

Mr. Bentley stated the panels are spread apart far enough that they do not exceed the 50 percent.

At this time, Chairman Zwetzig opened the matter for public comment at which there was no public comment in favor or against the application being presented today.

At this time, Chairman Zwetzig moved to discussion and decision.

Chairman Zwetzig asked the question that in the future for solar farms if they would be anywhere they are built they would be required to meet these requirements. Ms. Cherry stated she could certainly draft an amendment to the regulations to change this and further stated it is approved on a case by case basis. Discussion followed whereas this may be a change to the regulations as it relates to utility variances. Chairman Zwetzig suggested that this be looked at as a use by right and not as a variance as there is not any hardship demonstrated here.

At this time, a motion was made by Commissioner Teague to approve the application is for a Variance to construct a facility of a public utility for the generation of electricity from photovoltaic solar and natural gas. The property is located in the SE¼ of Section 33, Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 20738 Morgan County Road N, Fort Morgan, Colorado 80701, naming the applicant as being Starlight Energy Corporation and Landowner as being Peter V. and Karen V. Anderson noting the variance to move the coverage of land from the allowed amount of 10 percent in the AG zone to the 50 percent on the parcel, with the conditions as outlined by Ms. Cherry and the lot coverage will not exceed the 50 percent. Commissioner Arndt seconded the motion, and the motion carried 3-0.

**Application is for a Special Use Permit to construct an additional Sequencing Batch Reactor for Cargill operations. The property is located in the E1/2 of the NE1/4 of Section 8 Township 3 North, Range 57 West of**

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the 6<sup>th</sup> P.M., Morgan County, Colorado. The property is also known as 1505 E Burlington Ave, Fort Morgan, Colorado 80701

**Applicant: Felimon Castaneda**

**Landowner: Cargill Meat Solutions Corporation**

Chairman Zwetzig asked Morgan County Planning and Zoning Planning Director/Floodplain Administrator Pam to present the file at which time she read aloud the following information:

## **Background Information**

Ms. Cherry stated this application is for a Special Use Permit to construct an additional Sequencing Batch Reactor for Cargill operations. The property is located in the E½ of the NE¼ of Section 8 Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado, located at 1505 E Burlington Ave., Fort Morgan, Colorado 80701.

Ms Cherry explained this property is zoned Light Industrial and three other Sequencing Batch Reactors are currently in use on the property. With construction of the fourth reactor a backup will be available for use in case of maintenance needs and will provide Cargill flexibility for operations. Impacts on adjacent areas are not anticipated.

Ms. Cherry stated that the proposal is in compliance with the Morgan County Comprehensive Plan and the criteria for approval of the Special Use permit.

- a. The use and its proposed location are in conformance with the Morgan County Comprehensive Plan. Specifically:
  - i. The project will broaden employment opportunities for residents and will further economic growth.
  - ii. The proposed use is compatible with existing land uses and there is access to established public infrastructure.
  - iii. The use will protect existing agriculture operations by allowing it to continue while not restricting private property rights.
- b. The Application is complete and presents a clear picture of how the use is to be arranged on the site.
- c. The site conforms to the district design standards of Section 4-555 through 4-570 of the Morgan County Zoning Regulations. Specifically:
  - i. The proposed Sequencing Batch Reactor is located in excess of three hundred and fifty feet (350') from any residence or one hundred fifty feet (150') from the property line, whichever is greater.
  - ii. The proposed Batch Sequencing Reactor is located in excess of one hundred fifty feet (150') from domestic water wells.
  - iii. The Applicant shall construct the facility according to the final design plans as submitted to Morgan County, and as approved by the Colorado Department of Public Health and Environment.
- d. The special use is compatible with surrounding uses and is adequately buffered from any incompatible uses by distance and topography.
- e. The special use poses no or minimal risk to the public health, safety and welfare.
- f. The special use will not be located on a nonconforming parcel of land.
- g. The applicant has adequately documented a public need for the project. The Applicant has submitted all pertinent technical information, has demonstrated that it has adequate financial resources to implement the project, and has paid all County fees and review costs.

Ms. Cherry explained the use is an expansion of the existing operation which has been in place for many years. The addition of the Sequencing Batch Reactor will provide redundancy for Cargill which will protect the health, safety and welfare of the residents of Morgan County.

All on and offsite impacts are determined to be satisfactorily mitigated, provided the following conditions are met:

- a. The Applicant shall rigorously follow the engineered plans as submitted and accepted by Morgan County and the Colorado Department of Public Health and Environment.
- b. Access to the facility shall be limited through property owned by Cargill Meat Solutions Corporation.

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- c. The entire batch reactor area shall be securely fenced with a six foot (6') chain link fence with three strands of barbed wire atop in excess of the 6' fence. Gate access shall be securely locked and monitored for security.
- d. The Sequencing Batch Reactor shall be monitored for leaks by the leak detection system submitted in the design plan, as monitoring wells to assure water quality. All leak detection design and monitoring wells shall be approved and in compliance with the Colorado Department of Public Health and Environment.
- e. The Applicant shall submit quarterly Salinity Rest results from the batch reactor to the Morgan County Planning and Zoning Department.

## GENERAL PROVISIONS.

- a. The Board of Commissioners retains continuing jurisdiction over this Permit to ensure compliance with this Permit and the Morgan County Zoning Regulations. County representatives are authorized to inspect the Property at any reasonable time upon notice to the Applicant.
- b. The Applicant shall comply with all governmental and regulatory agency requirements and permits, including without limitation those promulgated for the protection of health, safety and welfare of the inhabitants of Morgan County. Such compliance shall include without limitation compliance with the regulations of the Colorado Department of Public Health and Environment and the United States Environmental Protection Agency.
- c. Material alterations to the proposed development as set forth in this Application shall require an amendment to this Permit, after hearings before the Morgan County Planning Commission and the Board of County Commissioners. Nonmaterial alterations may be approved by the Morgan County Planning Administrator, upon receipt of written application requesting approval of the proposed alterations.
- d. The Applicant shall comply with all the requirements, conditions and design standards set forth herein. Noncompliance shall be grounds for revocation of this permit by the Morgan County Board of Commissioners after notice and hearing.

Ms. Cherry stated Planning Commission held a public hearing on this application at their meeting on August 14, 2017 and recommends granting the Special Use application subject to the conditions stated.

Chairman Zwetzig asked if the City of Fort Morgan was notified with Ms. Cherry stating they were consulted and were very closely involved with this application process and have provided statements and approved the drainage plan as submitted which was part of the parking lot. Ms. Cherry stated they were notified and noticed appropriately. Gene Guerrero, Director of Wastewater Operations, stated they were notified indicating that Jeff Wells was present during a walk through.

Felimon Casteneda, applicant, clarified the testing and where it comes from. Upon questions by the Board, Gene Guerrero, Director of Wastewater Operations, stated that #4 basin will still be on the same property as #1, #2, and #3, and it will not require any additional permitting, they are only using it to alleviate issues with the other basins, there will be no more flow into the river. He stated that they have the same engineering firm as 1, 2 and 3.

Chairman Zwetzig stated he would like to comment that this property should be annexed into the City of Fort Morgan.

At this time, Chairman Zwetzig opened the matter for public comment.

Terry Winberg, 16093 Highway 34, Fort Morgan, CO, stated the permit calls for a six foot fence and the parking lot required an 8 foot fence and will that be the same for this. Ms. Cherry explained this information is included in this application and it is being reviewed further to change from a six foot fence to an eight foot fence in Industrial Uses and Commercial Use.

At this time, Chairman Zwetzig moved to discussion and decision.

Commissioner Arndt asked the question that really this is an expansion of what was granted in 2015, which Mr. Guerrero stating that was for the brine operation. Commissioner Teague asked if this was included in their original permit, with Ms. Cherry stating it was not and that is why we are here today reviewing this application.

Chairman Zwetzig asked where this is located in reference to the Kiowa Plats and asked if the roads were vacated with Ms. Cromwell stating the plat was vacated.

Surrounded by the six foot fence, and the fact they are just not going to build a fence around this reactor, and this will be a part of the other fence for the entire facility and this was a requirement in a variance process for the height of the fence, and are we now reviewing the regulations on fencing for the commercial and industrial uses to permit 8 foot instead of 6 foot. Ms. Cherry stated they are doing an 8 foot fence on the parking lot, Commissioner Teague asked what is the recommendation of the requirement of the six foot fence they are not just fencing this new batch reactor, with Mr. Guerrero stating the entire facility is fenced at this time, so Ms. Cherry stated this requirement

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could be removed as well. Commissioner Teague asked if the access requirement could be removed as the access is within the property whereas the property is fenced with Ms. Cherry in agreement.

Mr. Casteneda stated this pond will process their wastewater and answered Chairman Zwetzig's question about odor issues as stating there will be very minimal to no odor and lives very close to there and would not be hesitant to say that. He stated they do conduct annual maintenance on the SBR's and they will use this to recycle through. The property owner to the east did not make comment as per Ms. Cherry and she further stated there were approximately 40 landowners notified with no comments received from any of them.

At this time, a motion was made by Commissioner Teague to approve the Application for a Special Use Permit to construct an additional Sequencing Batch Reactor for Cargill operations. The property is located in the E1/2 of the NE1/4 of Section 8 Township 3 North, Range 57 West of the 6<sup>th</sup> P.M., Morgan County, Colorado. The property is also known as 1505 E Burlington Ave, Fort Morgan, Colorado 80701, naming the applicant as being Felimon Castaneda and Landowner as being Cargill Meat Solutions Corporation and requested the preparation of a resolution. Commissioner Arndt seconded the motion. Chairman Zwetzig asked about the conditions that were stated as being included, with Commissioner Teague adding to the motion they are required to follow the site plan and designs and follow the jurisdiction that relates to them and monitor leaks feeling these are daily maintenance requirements with Chairman Zwetzig stating this was offered as an amended motion, at this time, the amended motion carried 3-0.

Commissioner Teague offered a suggestion to the Planning Commission meeting minutes, expressing a concern about the Northeast Colorado Health Department approving the wells, and to clarify what was approved was for an onsite wastewater permit, not the wells. Ms. Cherry stated she is certain this was only mistyped.

Being no further business, the meeting was adjourned at 12:28 p.m.

Respectfully Submitted,  
Susan L. Bailey  
Clerk to the Board

**(Minutes ratified September 19, 2017)**

## THE BOARD OF COUNTY COMMISSIONERS MORGAN COUNTY, COLORADO

\_\_\_\_\_  
s/ James P. Zwetzig  
James P. Zwetzig, Chairman

\_\_\_\_\_  
s/Laura D. Teague  
Laura D. Teague, Commissioner

\_\_\_\_\_  
s/ Mark A. Arndt  
Mark A. Arndt, Commissioner

(SEAL)

**ATTEST:**

\_\_\_\_\_  
s/ Susan L. Bailey  
Susan L. Bailey