

May 25, 2022

The Lincoln County Board of Commissioners met for a regular session on May 25, 2022 in the Lincoln County Courthouse, Libby, Montana. Present were Commissioner Teske, Commissioner Letcher, Commissioner Bennett, County Administrator Jim Hammons and Clerk and Recorder Robin Benson.

Meeting allows for teleconferencing and VisionNet availability.

Commissioner Bennett opened the meeting with the **Pledge of Allegiance and Prayer**.

**9:30 AM Open Cut #3383:** Present were Steve Lauer, Jeff Koskela, Mark Mohr, Stan Hudson, Solomon Alcaín, Rebecca Nelson, and Ray Stout.

Jeff expressed that the gravel pit is a bad deal, and we were not prepared for it. Jeff thanked commissioners for their efforts, and commented that HB599 is unconstitutional, takes away his right for clean air and water. Jeff said he is not sure what or if there is anything we can do. Jeff said the 310 permit was not renewed by the Port Authority and explained how that permit could benefit the property owners and clarified how the permit can be renewed and reenacted. Jeff asked commissioners if there was something commissioners can do to renew the 310 permit.

Commissioner Bennett explained they are looking at that, and the county has also discovered plans for Flower Creek and Libby Creek. The commissioners are looking at how we can establish a work plan not only for Libby and Flower Creek, but other creeks.

Jeff commented if commissioners could move something forward, meet with Levi Thompson and ask him to hold back for a little bit.

Commissioner Bennett said he would be happy to chat with Levi for discussion not only about this issue now but down the road.

*Stan Hudson submitted and read the following letter:*

LINCOLN COUNTY COMMISSIONERS MEETING  
GOOD MORNING EVERYONE!

I ASKED IN EUREKA, HAVE YOU RECEIVED A PLAN OF ACTION OR LETTER OF INTENT? COLLEEN DID NOT FEEL THE LETTER MAILED OUT TO THE RESIDENTS WITHIN 1/2 MILE RADIUS OF PROPOSED SITE WAS SUFFICIENT FOR A LETTER OF INTENT. LEVI HAS NEVER, IN ANY OF HIS DOCUMENTS, DISCLOSED SIZE OF WELL, HOW MUCH WATER HE INTENDS TO USE ON A DAILY, WEEKLY, AND/OR MONTHLY BASIS. LEVI HAS NEVER DISCLOSED HIS HOURS OF OPERATION.

I ASKED IN EUREKA, HAS LEVI SUBMITTED ANY DOCUMENTATION OR CONTACTED LINCOLN COUNTY WEED CONTROL DEPARTMENT? HE HAS NEVER DISCLOSED THE TYPE OF NOXIOUS WEEDS ON THE PROPOSED SITE AND HOW HE PLANS TO CONTROL THEM. THIS IS A REQUIREMENT OF THE APPLICATION, AND IF YOU HAVE, COULD I RECEIVE A COPY BECAUSE ONE HAS NEVER BEEN RECEIVED?

HAS ANYONE TALKED TO LEVI, THOMPSON CONTRACTING, OR GRANITE CONCRETE REGARDING DUST, NOISE AND/OR TRAFFIC AT GRANITE CONCRETE? HAVE ANY WRITTEN WARNINGS BEEN GIVEN OUT? JERRY YOU HAVE MENTIONED TALKING WITH LEVI, HAVE YOU EVER DOCUMENTED THIS VISIT OR VISITS?

PART OF APPROVING THIS APPLICATION IS ASSUMING LEVI'S TRUCKS ARE LEGAL FOR DOT INSPECTIONS AND SAFE FOR OUR ROADS. WOULD IT SURPRISE YOU TO KNOW THAT ONE OF HIS TRUCKS LAST DOT INSPECTION HAS 2019 ON THE STICKER?

310 PERMIT

LEVI STATED IF ANOTHER SOURCE OF MATERIAL WAS FOUND HE WOULD CONSIDER SELLING THE FIRE PIT PROPERTY. CAN THE MOUTH OF LIBBY CREEK BE MINED? WOULD YOU COMMISSIONERS CONSIDER OPENING A 310 PERMIT. ...

DEQ DNRC, AND THIS PANEL OF COMMISSIONERS ARE ALLOWING THE APPLICATION PROCESS TO MOVE FORWARD WHEN ALL OF YOU KNOW HE HAS NOT SUBMITTED THE REQUIREMENTS OF THE APPLICATION. ALL OF YOU ARE ALLOWING HIM TO DESTROY THE PROPOSED SITE WHEN IT LOGICALLY MAKES NO SENSE. THE LOCATION IS IN A RESIDENTIAL AREA, THE SIZE OF LAND IS NOT DEQUATE FOR HIS USE, THE AIR AND NOISE QUALITY WILL BE HORRIFIC, NOT TO MENTION EVERYONE'S WELLS, QUALITY OF LIFE, DEPRECIATION OF HOME VALUE.

I AM ASKING YOU COMMISSIONERS TO PLEASE SUBMIT A LETTER TO DEQ INFORMING THEM YOU HAVE NOT RECEIVED REQUIRED DOCUMENTATION AND LEVI HAS NOT TAKEN THE PROPER STEPS IN COMPLETING HIS APPLICATION. HE HAS YET TO FILE AN AFFIDAVIT OF PUBLICATION WITH THE CLERK AND RECORDER'S OFFICE. UNTIL SUCH TIME, THIS APPLICATION HAS TO BE TERMINATED.

Commissioner Teske, talked about Libby Creek, stopped cleaning it up, don't know why, maybe it was a port permit, not sure, but there is going to be a problem eventually. Glad everyone is thinking outside the box.

Stan expressed frustration about continued permitting violations and DEQ letters of deficiencies not being addressed, and questioned if dust control is a citable offense. Reenacting the 310 permit has to happen sooner than later.

Mark said that the commissioners need to send a letter to DEQ, (not the citizens) that deficiencies are not being corrected. DEQ, DNRC and county commissioners are allowing the application to move forward knowing there are deficiencies and violations in the permitting process. Mark said he is asking commissioners to send a letter to DEQ to stop the process or this will probably have to be settled in court.

*Commissioner Teske submitted and read the following email from John McKay:*

5/25/22, 9:24 AM

Commissioner Meeting 5/25/2022 jmckay

Wed 5/25/2022 9:03 AM

To: Brent Teske <bteske@libby.org>; Jerry Bennett <jbennett@libby.org>; Josh Letcher <jletcher@libby.org>

Commissioners, I can't make the meeting. I'm in Missoula on family issues. Mark Mohr and I did meet with DEQ last week and presented 20 questions regarding the permitting process for the Fire gravel pit. There will be no official responds from DEQ because it was stated they don't respond in writing to submitted questions.

Mark Mohr will submit that letter to you today. After a two hour meeting with the Open Cut Section regarding these questions the bottom line was that a permit will be issued and there will be an EA completed. The EA will not contain any analysis on any of the comments received to date on this project. The rationale for no analysis was they don't have time to complete it because of the time frames demanded by the new regulations. They do recognize the fact that the Montana Environmental Protection Act (which is also a state law) requires that it be done. They also recognized that there may be "potential significant" impacts to the water wells but they are not going to address them in the EA therefore ignoring the requirement in MEPA, thus are going to ignore that law.

The first question I have to the commissioners is: Will the County allow the state to issue a permit that authorizes an action in Lincoln County that violates MEP

The second question is: Does the county have a county-wide ordinances on commercial operational work hours and noise levels? If so, and DEQ doesn't require them are they implemented?

Commissioner Teske handed out guidelines to initiate the zoning process.

9:45 AM **Steve Lauer / LCRFD Annexation Granite Creek:** Present were Solomon Alcain, Ray Stout, and Rebecca Nelson.

Steve thanked the commissioners for their time and commended Ashley Bache (OutlawGIS) and Land Specialist Noah Pyle for their help and assistance.

Robin thanked Steve for that comment because it is good to hear that transition is providing good service.

Steve submitted a letter from the LCRFD Board requesting approval of the annexation of 40 private properties that are located adjacent to our existing District. Steve provided a property listing and a map showing the annexation area. A meeting of the LCRFD Board was held on May 9, 2022 to approve the annexation request of the citizens. The commissioners directed Clerk Robin Benson to prepare a Resolution of Intent for next week's commissioner meeting. Per 7-33-2125 MCA, a public hearing date will be scheduled with public notice per 7-1-2121 MCA.

10:15 AM **County Forester Update:** Present were County Forester Jennifer Nelson, Stu Crismore, Veronica Bovee-Anderson, Solomon Alcain, Ray Stout and Rebecca Nelson.

*Jennifer submitted and gave an overview of the following report:*

County Forester Update to the Commissioners 5/25/22

Landfill – Cell 2 Timber sale – Sale is completed. 100,000 mbf

J. Neils Park –13 acres completed this year. FEC treated the powerline ROW. County crew decked all the logs. A small deck of logs went to the mill with the landfill logs. A few non-merch logs remain on site along with dead standing larch hazard trees (4). Ideas?

Beetle grant award agreement came through May 5<sup>th</sup> for \$22,000. The work in the west side of the park will not start until fall.

County Burn Permits – 850 permits were issued through the site. 432 in March and 418 in April. Cost for issuing permits \$2550 (850 x \$3). IVR minutes logged were 2,686 at a cost 0.15/min was \$402.90. Total invoiced cost of service \$2952.90. Avg. cost to county per permit was \$3.47. Next step is to develop the service for county-wide permitting. Well-received by the public and people like having the service.

Joint Chiefs – NRCS moving ahead with the private ground while Ripley injunction request is sorted out. Six landowners and approx. 600 acres. Connected to the Clay Day GNA sale will go ahead. 5-miles along the eastside of Libby. Mike McMann, retired DNRC Stillwater will fill in for Derek Luchik temporarily, as Derek is the new GNA forester hire.

Cost-share grants – KFRI – 32 agreements, 460 acres under agreement, 301 acres completed. Grant projected outcomes 30-40 landowners and 450 acres. Approx. \$200,865 paid out of the grant, \$69,456 from landowners for a total of \$270,321 paid to 18 contractors and 3 do-it-yourself landowners. Average price per acre is \$1021 but has recently been adjusted for fuel costs and inflation, so price per acre will increase. A portion of KFRI funding (\$265,000) closes on June 1. Approx another 70 acres in agreements will be closed out prior to the June 1 deadline. A long break-up and landowner/contractor issued has pushed completion of projects to the deadline.

City fuel reduction work – 22 acres of City of Libby along County Shop Road, KPFL and River Road is completed. Very nice thinning and mastication job. Cumming/Ekstedt/Avants did the work. FEC assisted.

Western States grant which is targeted to Farm-to-Market area has begun and will tie in with FS and NRCS work in that area. Working toward agreements with four landowners currently.

CWPP and DNRC Roadmap – Met with DNRC Monday-Tuesday to work on the Roadmap and figure out how to display gaps and areas of overlap with FS 5-year plan. Need to move forward with the CWPP revision. Next step is a public meeting to discuss proposed WUI area boundary and proposed priority areas. Looking toward the end of June for that event. Consider approving WUI mapping and priority areas prior to written document approval.

Other - Era of Mega Fires – April 14 -about 60 people attended. Mixed feelings about the effectiveness.

Forest Counties Annual meeting – Well attended and well organized. Several counties talked with me about the county forester position. Met the Ravalli County forester. Invited to Mineral County to address the commissioner on June 7.

**10:30 AM Administrative Issues/Old Business:** Present were Stu Crismore, Veronica Bovee-Anderson, Solomon Alcain, Ray Stout and Rebecca Nelson.

- Robin submitted the minutes for May 18 regular meeting and May 23 special session/insurance meeting for approval. **Motion** by Commissioner Letcher to approve minutes as submitted. Second by Commissioner Teske, motion carried unanimously.

**10:45 AM Public Comment Time:** Present were Stu Crismore, Solomon Alcain, Ray Stout and Rebecca Nelson. There were no public comments.

**11:00 AM Audit Exit Review:** Present were County Auditor Bob Denning, Treasurer Sedaris Carlberg, Stu Crismore, Solomon Alcain, Ray Stout, and Rebecca Nelson. CPA Bob Denning presented the 2021 Exit Audit. Bob said special thanks goes out to Finance Officer Wendy Drake and Treasurer Sedaris for their effort and help providing documents to the auditing process. Bob said 2021 was a federal audit because of the original CARES Act funding. Bob expressed the federal government throws out money and then sets up the rules later, and the rules changed up to 19 times. Counties submit paperwork to the state, but the feds did not submit auditing rules until a year later. Bob said the good news is Lincoln County spent federal funds in accordance.

Bob commented that although ARPA funds will apply to next year's audit, he does want to talk about it. Money goes to counties to be reimbursed. Final rule now says the first 10 million dollars can be used for any governmental purpose. Bob expressed frustration and said he was angry that feds could not come up with rules early on. But from an auditing standpoint it is easy to audit "for any governmental purpose".

Bob said he is giving Lincoln County an unqualified opinion for the FY 2021 audit which is the highest rating an auditor can give a county; should be very proud of your staff.

Bob questioned the TEDD District which mirrors the Port Authority District and if commissioners are the primary board members, is it really a separate entity if commissioners control the board. Commissioner Bennett explained that the port board is changing that and is already moving forward with advertising for citizen board members and when he retires, he will be a citizen member. There was a brief conversation regarding the auditing process for the Port Authority. Bob said currently, the port can be part of the county audit upon commissioner request, as long as commissioners are on the port board.

Bob noted that GASB sets accounting rules, and 7000 funds are used when holding money for someone else, not county.

Bob said he has directed finance to look at funds that routinely have negative cash balances. Funds are US Forest Service Patrol, Land Use Planning and Crime Victim. Bob questioned the EMPG grand fund that had a 50% match, so that money should be put in first so it is not reflected as a negative. Rabbit Tracts fund spent more than its cash amount; it's a grant reimbursement fund. Bob directed the commissioners to closely monitor grant reimbursement funds.

Outstanding Warrants is people who did not cash their checks over a one-year period of \$8,000 total. Bob clarified the correct process for handling this. Bob commented that anyone can go to: [www.missingmoney.com](http://www.missingmoney.com) and type in their name.

**12:00 PM Break**

**1:30 PM Preliminary Budget Meeting with Commissioners:** County Forester 1:30 PM / EMA 2:00 PM

**County Forester Budget:** Present was County Forester Jennifer Nelson. Jennifer presented and discussed anticipated expenditures and revenues for the county forester budget for FY 22/23. Jennifer said all of her funds are grant funds and amounts for FY 22/23 are very similar. Jennifer said her repair/maintenance line item is for the vehicle; it was a used vehicle when purchased. Professional services are contracted services and is an acceptable use for match requirements in her grants. Commissioner Bennett suggested setting up a CIP for a vehicle down the road. Commissioner Bennett said they are looking for a place at the courthouse to locate the county forester, instead of paying rent at the City Hall. Jennifer said the benefit at City Hall is the use of the smartboard, the ponderosa room and the EMA office. Publicity and subscription increase is due to outreach for grant opportunities; there is a lot of unknown right now. Commissioners suggested increasing to a lesser amount. Jennifer mentioned Title II as being the primary funding source for the County Forester. Jennifer said Black Mountain made changes to their software and she had to add a 355-fuel reduction code in order to generate 1099's. Commissioner Bennett mentioned the Rabbit Tracts issue with the county auditor and that Jennifer needs to make her drawdowns so there won't be a negative.

**Justice Court:** Present were Roiyn Schiferl.

Robin presented and discussed anticipated expenditures and revenues for the JP budget for FY 22/23. Robin talked about her phone bill going up, but other than that, the budget would be about the same as last year. Jerry talked about eliminating the online visionnet and using the conference room to do the in-person conferences. This would save over \$2,000 a year. The Judge would like to replace the door in his office to the outside for security.

**2:30 PM Meeting Adjourned**

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

\_\_\_\_\_  
Jerry Bennett, Chairman

**ATTEST:** \_\_\_\_\_  
Robin Benson, Clerk of the Board