

Hannah Elliott



From: Rory Isbell <rory@colw.org>
Sent: Monday, April 3, 2023 10:00 AM
To: Plan; Will VanVactor
Subject: Application File No. 217-21-000321-PLNG - Motion to Admit Additional Testimony
Attachments: COLW_MotionToAppear_TSRNorthSolar_CountyCourt_4.3.23.pdf

Hello Will,

Please find attached a precautionary Motion to Admit Additional Testimony in Application File No. 217-21-000321-PLNG, which is scheduled for a hearing before the Board on Wednesday morning at 9am.

Regards,

Rory

CROOK COUNTY
APR 03 2023
PLANNING DEPT

Rory Isbell (he/him)
Staff Attorney & Rural Lands Program Manager
Central Oregon LandWatch
2843 NW Lolo Drive, Suite 200
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April 3, 2023

Filed by email: plan@co.crook.or.us, Will.VanVactor@co.crook.or.us

Crook County Court
Attn: Will Van Vactor
Crook County Community Development Department
300 NE 3rd Street, Room 12
Prineville, OR 97754

CROOK COUNTY
APR 03 2023
PLANNING DEPT

**Re: Motion to Admit Additional Testimony; Application File No. 217-21-000321-PLNG;
TSR North Solar**

Dear Judge Crawford, Commissioner Brummer, and Commissioner Barney:

Central Oregon LandWatch submits this written motion to admit additional testimony pursuant to CCC 18.172.110(12)(a)(vi). This code section governs the Court's scope and standard of review on appeal and provides that the appellate body may admit additional testimony and other evidence from a party of record:

"The appellate body may, at its option, admit additional testimony and other evidence from an interested party or party of record to supplement the record of prior proceedings. The record may be supplemented by order of the appellate body or upon written motion by a party. The written motion shall set forth with particularity the basis for such request and the nature of the evidence sought to be introduced. Prior to supplementing the record, the appellate body shall provide an opportunity for all parties to be heard on the matter. The appellate body may grant the motion upon a finding that the supplement is necessary to take into consideration the inconvenience of locating the evidence at the time of initial hearing, with such inconvenience not being the result of negligence or dilatory act by the moving party."

LandWatch does not seek to supplement the record with new evidence, but only written testimony. In fact, LandWatch already submitted its written testimony to the Court in the form of a comment letter dated August 16, 2022. Those written comments, which did not contain new evidence, were assigned an exhibit number and included in the meeting packet for the August 17, 2022 hearing, indicating that LandWatch's additional testimony was already admitted by the appellate body. See attached (screenshot of county website showing agenda for August 17, 2022 hearing and including "Exhibit 1 – COLW"). Those same August 16, 2022 written comments are again assigned an exhibit number and included in the meeting packet for this April 5, 2023 hearing. See attached (screenshot of county website showing agenda for April 5, 2023 hearing and including "Exhibit 1 – COLW").



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LandWatch is a party of record that participated in the proceedings below before the Planning Commission. LandWatch also received notice of this hearing from the County. As a precautionary measure, because LandWatch's August 16, 2022 comment letter has already been added to the record, we move the County Court to admit that additional testimony pursuant to CCC 18.172.110(12)(a)(vi).

We also note that LandWatch has a statutory right to participate in the hearing. ORS 197.763(7) requires that "[w]hen a local governing body, planning commission, hearings body or hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue." In allowing the applicant and appellant to present new evidence, arguments, or testimony, the County must also allow "any person" to also participate in the hearing.

Thank you for your consideration of this motion.

Regards,

Rory Isbell
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