

1
2 **BEFORE THE LAND USE BOARD OF APPEALS**
3 **OF THE STATE OF OREGON**

4 NEZ PERCE TRIBE,)
5)
6 Petitioner,) LUBA No. _____
7)
8 v.)
9)
10 WALLOWA COUNTY,)
11)
12 Respondent.)

13 **NOTICE OF INTENT TO APPEAL**

14 **I.**

15 Notice is hereby given that Petitioner, Nez Perce Tribe, intends to appeal the Findings
16 of Fact, Conclusions, Decision, and Order of Respondent, Wallowa County, in the matter of
17 the appeal of the approval of a preliminary plat for the Marr Ranch Subdivision (K&B
18 Family Ltd. Partnership, Subdivision #03-01(Order 2004-028)), which became final on
19 February 12, 2004 and involves the approval of a preliminary plat to subdivide 62-acres of
20 lands located on the banks of the Wallowa River adjacent to the Old Chief Joseph cemetery.

21 **II.**

22 (a) Petitioner, Nez Perce Tribe, is a federally-recognized Indian tribe
23 headquartered in Lapwai, Idaho. The Old Chief Joseph cemetery site, located next to the
24 proposed Marr Ranch Subdivision (Marr property), is held in trust by the U.S. Bureau of
25 Indian Affairs for the benefit of the Nez Perce Tribe and the Confederated Tribes of the
26 Umatilla Indian Reservation.

(b) Petitioner is represented by Richard Kirk Eichstaedt, Nez Perce Tribe, Office

of Legal Counsel, P.O. Box 305, Lapwai, Idaho 83540, (208) 843-7355.

III.

(a) Respondent, Wallowa County, has its mailing address and telephone number at:

Wallowa County Board of Commissioners
Wallowa County Courthouse
101 South River Street
Enterprise, Oregon 97828
Telephone: (541) 432-4543, ext. 11

(b) Respondent is represented by Daniel Ousley, Wallowa County District Attorney's Office, 101 South River Street, Enterprise, Oregon 97828, (541) 426-4543, ext. 26.

IV.

(a) Applicant, K&B Family Ltd. Partnership, was represented in the proceeding below by D. Rahn Hostetter, 203 East Main Street, P.O. Box 400, Enterprise, Oregon 97828, (541) 426-4548.

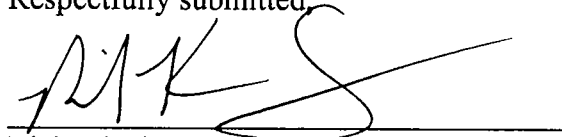
(b) A list of other persons mailed written notice of the land use decision by Wallowa County, as indicated by its records in this matter, is included as Attachment A to this Notice.

(c) Anyone designated in § 4 of this Notice who desires to participate as a party in this case before the Land Use Board of Appeals must file with the Board a Motion to Intervene in this proceeding as required by OAR 661-10-050.

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1 Submitted this 27th day of February, 2004.

2 Respectfully submitted,

3 

4 Richard Kirk Eichstaedt
5 Attorney for the Nez Perce Tribe
6 OSB # 97255
7 P.O. Box 305
8 Lapwai, Idaho 83540
9 Phone: (208) 843-7355
10 Fax: (208) 843-7377

11 **CERTIFICATE OF SERVICE**

12 I hereby certify that on February 27, 2004, I served a true and correct copy of this
13 Notice of Intent to Appeal on all persons listed sections III and IV of this Notice pursuant to
14 OAR 661-010-0015(2) by first class mail.

15 Dated this 27th day of February, 2004, at Lapwai, Idaho.

16 
17 Marlene Trumbo
18 Marlene Trumbo, Administrative/Legal Assistant

WALLOWA COUNTY PLANNING DEPARTMENT

WALLOWA COUNTY COURTHOUSE

101 S. River St. Rm. B-1

Enterprise, OR 97828

541-426-4543 x24 Fax: 541-426-6046


plansec@co.wallowa.or.us

I, Chrystal Jones, Planning Department Secretary, being first duly sworn, depose and say:

The attached FINDINGS OF FACT, CONCLUSIONS AND DECISION OF THE WALLOWA COUNTY BOARD OF COMMISSIONERS, ORDERS 2004-028 / 2004-029 / 2004-030 / 2004-031 / 2004-032, and Bill Oliver's memo dated February 12, 2003 were sent to related appellants. All non-appellants were sent the Findings, Bill Oliver's memo, and a Sample Order (2004-028). The Findings, memo, & Orders are in regard to the K&B Family Limited Partnership SUBD#03-01. All documents were sent by first class mail, email, or hand delivered on Friday, February 13, 2004 to each person on the attached list.

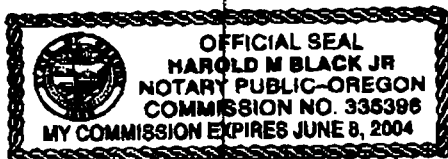
The attached list represents all persons who have standing on this issue.


Dated this 13TH day of February, 2004.



Chrystal Jones, Planning Secretary
Wallowa County Planning Department

SUBSCRIBED AND SWORN to before me this 13TH day of February, 2004.





Notary Public of Oregon
My Commission Expires: 6-08-04

Attachments: Findings of Fact, Conclusions and Decision of the
Wallowa County Board of Commissioners
Orders 2004-028/2004-029/2004-030/2004-031/2004-032
Bill Oliver's Memo dated 2-12-04
Mailing List

*Rahn Hostetter
PO Box 400
Enterprise, OR 97828*

*Paula Krieger
PO Box 89
Joseph, OR 97846*

*Mildred Fraser, Lynn Price,
& Liam O'Callaghan
PO Box 507
Joseph, OR 97846*

*Rick Eichstaedt
Nez Perce Tribal Exec. Committee
PO Box 305
Lapwai, ID 83540-0305*

*Kevin Herkamp
DSL
20300 Empire Ave. Suite #1
Bend, OR 97701*

*City of Joseph
C/O Kevin Warnock
PO Box 15
Joseph, OR 97846*

*Dennis Griffin, Ph.D, RPA
SHPO Archaeologist
725 Summer St. NE, Suite C
Salem, OR 97301-1271*

*Christopher L. Burford
Confederate Tribes of the Umatilla
PO Box 638
Pendleton, OR 97801*

*ODOT
Mike Barry
3012 Island Ave.
LaGrande, OR 97850*

*National Park Service
Tim Nitz
PO Drawer U
Joseph, OR 97846*

*Stephen H. Suagee, Attorney
Confederated Tribes, Colville Reser.
PO Box 150
Nespelem, WA 99155*

*Mark Tipperman
1108 Adams Ave., Suite 204
LaGrande, OR 97850*

*US Army Corps of Engineers
Mary J. Headley
PO Box 2946
Portland, OR 97208-2946*