

MAKAD: Morrow Power's first customer was Enron

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River Bank on Aug. 6, 2001, which MECS would end up purchasing a year later and adding it to the total Morrow Power owed the company.

This would not be the only time MECS would cover a loan for Morrow Power, according to the lawsuit.

"On or about August 28, 2003, Columbia advanced a second loan to Morrow Power in the amount of \$315,000 to allow Morrow Power to pay delinquent property taxes to Morrow County," Merz wrote. "To induce Columbia to advance the loan, (MECS) agreed to repay the loan if the plant was not sold by November 20, 2003. The sale did not take place and (MECS) repaid the loan to Columbia, again adding ... additional amount to the contract price."

Outside of the construction and loan costs, MECS advanced funds for telephone, insurance, property taxes, pest control, electricity, natural gas, security, maintenance staffing and payments required under the lease.

Six years after MECS finished building the power plant, Merz wrote that Morrow Power had neither "operated the plant for any significant period of time" nor "made any meaningful payment" toward its contractual obligations.

MECS pegged Morrow Power's total debt at \$25 million.

Merz wrote that MECS encouraged Morrow Power to find a buyer for the property, but despite potential purchasers expressing interest, it did not sell.

In a memorandum in support of a court-appointed receiver, Pahl continued to target Morrow Power's financial shortcomings

while declining to explain why the plant wasn't running, instead writing that reasons were "outside the scope of this proceeding," "complex" and "not pertinent."

Lawyers for Morrow Power and MECS would spend the next few days disputing the contractually correct way to solve the dispute, with MECS preferring a receiver and Morrow Power favoring informal negotiations or an independent panel of arbiters experienced in construction law.

In none of Morrow Power's memos do they dispute defaulting on its financial obligations, and Pahl would write in his own memo that Morrow Power "cannot deny that it is in default."

Despite being at an impasse, the case was put to rest when the two parties jointly filed a notice that they settled the matter out of court on Aug. 31, 2007.

Tawni Camarillo, Makad Corp. vice president of operations, declined to comment on the outcome of the lawsuit in an emailed statement, although she did add that it was "amicably resolved."

Camarillo wrote, "without understanding the ownership of Morrow Power, LLC (which is confidential) and the ultimate internal business, economic and tax goals of the parent company of MECS, there is no way for anyone to understand the lawsuit from publicly available sources."

"As has become fairly common, the public often confuses allegations set forth in early pleadings with actually established facts," she wrote.

Questions addressed to MECS were directed to general counsel Michael Feuer, who did not return a request for comment.

Contrary to a previous statement from a Port of Morrow official and MECS's court filings, Camarillo wrote the electric plant initially generated and sold power.

Camarillo wrote Morrow Power's first customer was Enron, which infamously declared bankruptcy after being caught up in an accounting fraud scandal.

After the Houston-based company declared bankruptcy in late 2001, Camarillo wrote Morrow Power sold power to other organizations like Avista, a Spokane energy company, before deciding to "mothball" the facility.

"The economics of the Morrow Power LLC plant were based upon the lucrative long-term purchase contract provided by Enron," she wrote. "When Enron breached the contract and power prices dropped dramatically, the plant became difficult to operate on an economically sound basis."

Although unsure of the date it was acquired, Port of Morrow General Manager Gary Neal said the power plant was eventually taken over by MECS. After it was sold to a venture capital firm, it was again sold over the summer to Langenburg Technologies in Eugene.

Camarillo also went into detail about the fertilizer and ethanol that never got off the ground, which Makad Corp. officials described in the early 2000s as future multi-million dollar facilities with a combined workforce of more than 150 full-time employees.

In both instances, plans were made when those industries boomed, only to be scrapped later when feasibility concerns and changes in the market made the

projects unprofitable.

Camarillo wrote Makad Corp. moved away from large scale industrial projects after the 2008 recession, choosing to focus on "other core business segments of food distribution and energy conservation."

With the economy improving, Camarillo wrote that Makad Corp. is looking into development opportunities again.

Pendleton City Manager Robb Corbett said the city vetted Makad Corp. by following up on a list of projects provided to the city by Makad, although he wouldn't reveal the specific projects examined.

Corbett said city employees did contact the Port of Morrow about Makad Corp.'s ventures, but he would not say what port officials told him. Corbett said he was unaware of the lawsuit filed against Makad Corp. in 2007. He wouldn't comment as to whether the lawsuit would have factored into discussion if the city was aware of them during negotiations.

Gary Neal, Port of Morrow general manager, didn't go into detail to describe the port's relationship with Makad Corp., besides saying owner Elie Makad had an "interesting personality" and pointing to the fact that they always paid their rent on time.

As for the city of Pendleton, the city offered a lucrative incentive package to CyDat Industries LLC, the Makad Corp. subsidiary that will manage the data center. Makad does not have to pay the \$2,460 monthly rent until 2018.

Makad Corp. Vice President and general counsel Allan Fulsher said at the Oct. 6 Pendleton City Council meeting that the corporation sought

out the rent-free period to give officials time to perform feasibility studies for power sources.

Although CyDat's rental payments start in 2018, it doesn't have to start the lease until Aug. 31, 2016. CyDat has the right to terminate the lease at any time within the first two years of the lease. The city can also terminate the lease in certain situations, including instances where CyDat fails to pay the rent or abandons the property, in which the city could take over any facility built on it.

Corbett said that even if the data center fails to come together, Makad Corp.'s interest in Pendleton demonstrates the larger business community's willingness to invest in Pendleton.

Corbett was also optimistic on the infrastructure the city was required to install at the project site, which includes an in-progress \$300,000 sewer extension, a water line extension and a gas line extension. He said that extending utilities to Airport Road has been a longtime goal of the city's, and this project helped achieve that goal, whether CyDat would be a longterm tenant or not.

Fulsher said at the meeting that Makad Corp. needs two years to perform feasibility studies and another 18 months to build the colocation data center, which Makad Corp. officials estimate will generate 45 permanent jobs.

Until construction begins, Camarillo wrote Makad Corp. and its various subsidiaries will not speak with the media about the data center.

Contact Antonio Sierra at asierra@eastoregonian.com or 541-966-0836.

Malheur County farmers support joining Idaho

By SEAN ELLIS
EO Media Group

ONTARIO — A recent effort to create a forum where people can discuss the idea of eastern Oregon and Washington counties joining Idaho was welcomed by farmers in Oregon's Malheur County.

If any county in the two states is a good fit for Idaho, it's Malheur County, farmers and agribusiness owners in that county told *Capital Press*.

"I guarantee you we'd be all for it," said Kay Riley, manager of Snake River Produce, an onion shipping-packing facility in Nyssa, a few hundred yards from Idaho. "We don't have anything in common with the western part of Oregon."

Farmers in this area grow the same crops, are in the same time zone and many of the Oregon farmers have Idaho cell phone numbers.

Malheur County farmers and ranchers are more conservative and identify more politically with their Idaho counterparts, said Shay Myers, general manager of Owyhee Produce, an onion shipper-packer in Nyssa.

"Everything about Malheur County is more identified with Idaho," he said. "I wish I knew how to actually make this happen. I wouldn't mind trying to help."

The major crops grown in this area — onions, sugar beets, mint, seed — are grown by farmers on both sides of the border and the industries are closely linked.

An onion processing facility in Parma, Idaho, for example, uses onions from

"There is absolutely no way that would ever happen, but it's fun to talk about."

— Bill Buhrig,
OSU researcher

farmers in both states and sugar beets grown in Malheur County end up at a processing facility in Nampa, Idaho.

"With the kind of agricultural industry they have over there, we'd take them in a heartbeat," said Idaho Rep. Gayle Batt, R-Wilder.

If Idaho annexed Malheur County, it would make life easier for farmers who have to deal with tougher Oregon regulations than Idaho growers do, said Paul Skeen, president of Malheur County Onion Growers Association.

"We would love to be in Idaho," he said. "Idaho is an agriculture-friendly state and Idaho has a governor that is looking to help agriculture in any way possible."

Oregon State University researcher Bill Buhrig, who has farmed in Malheur County all his life, said while it's a nice idea, the logistics of accomplishing that are formidable and incredibly complex.

"There is absolutely no way that would ever happen, but it's fun to talk about," he said.

Idaho elected officials and representatives of the state's congressional delegation said the effort has to originate on the Oregon side but they would be willing to help once it got going.

Banks not ready to relinquish Braves name, logo

By DILLON PILORGET
The Oregonian

BANKS — Even as the 2017 deadline for changing Native American-themed mascots in Oregon public schools approaches, people in Banks are saying, "Once a Brave, always a Brave."

It's a phrase they say out loud and, increasingly, on their shirts, declaring their dedication to a community that rallies around its high school and its mascot.

"Everybody's trying to get the Braves head on as many things as possible before we can't do it anymore," said Jaime Berning, co-president of the Banks Middle School Parent Teacher Organization. Her group has been selling T-shirts and sweatshirts inscribed with "Banks Braves Forever."

The hint of defiance in that message is not altogether unintentional,



AP Photo/Rick Bowmer, file

In this 2012 file photo, the Banks High School mascot is shown on the wall of their gym in Banks.

Berning said. But so far, it seems a message people want to hear. The PTO's first shipment of 80 shirts flew out of stock within one week. People bought multiple sizes for their kids so they'd have Braves gear to grow into.

But the Banks Braves and their associated logo, a Native American man's head in profile, will soon

be required to change along with 14 similar mascots in the state. The Oregon Board of Education voted in 2012 to ban mascots depicting Native Americans. As of now, school districts like Banks have until July 1, 2017 to eliminate their Native American mascots.

A district survey earlier this year in Banks showed that about 95 percent of

1,000 respondents wanted to keep the "Braves" name, while about 93 percent wanted to keep the current logo.

"Nobody likes change," said Paula Jacobs, Berning's co-president at the middle school PTO. "It's going to be a tough one to switch that over."

And Berning said even if the mascot does change, "People are still going to say they're Braves."

This sort of attachment makes sense for a town of 1,900 like Banks, said Trevor Beard, who volunteers to podcast all of Banks' home football games and most away games, along with some volleyball matches.

"Smaller towns, they get attached to high school sports really easily," Beard said. "Once they get attached to a team or a mascot, it becomes part of them. It kind of becomes a characteristic about the community."

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