

27226

BEFORE THE HEARINGS OFFICER  
KLAMATH COUNTY, OREGON

Vol. 483 Page 14026

1  
2 In the Matter of Request for )  
3 Conditional Use Permit 81-17 )  
4 (renewal) for JNS Excavation Co.)  
5

Klamath County Planning  
Findings of Fact and Order

6 A hearing was held on this matter on July 21, 1983, pursuant  
7 to notice given in conformity with Ordinance No. 45.1, Klamath  
8 County, before the Klamath County Hearings Officer, Jim Spindor.  
9 The applicant was present. The Klamath County Planning Department  
10 was represented by Jonathan Chudnoff. The Hearings Reporter was  
11 Sharon Cosand.

12 Evidence was presented on behalf of the Department and on  
13 behalf of the applicant. There were no adjacent property owners  
14 present.

15 The following exhibits were offered, received, and made a  
16 part of the record.

17 Klamath County Exhibit 1, Staff Report

18 Klamath County Exhibit 2, Hearings Officer Order Dated 7-26-83

19 The hearing was then closed, and based upon the evidence  
20 submitted at the hearing, the Hearings Officer made the following  
21 Conclusions of Law:

CONCLUSIONS OF LAW:

- 22  
23 1. The proposed use is conditionally permitted within the  
24 zone within which it is proposed to be located.  
25 2. The location, size, design and operating characteristics  
26 of the proposed use are in conformance with the Klamath County  
27 Comprehensive Plan.  
28 3. The location, size, design and operating characteristics

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1 of the proposed use will be compatible with and will not adversely  
2 affect the liveability of abutting property owners in the surround-  
3 ing neighborhood.

4 4. The location, design and site planning of the proposed  
5 use will provide a convenient and functional living environment  
6 and will be as attractive as the nature of the use and its  
7 location and setting warrant.

8 5. The granting of this conditional use permit is consistent  
9 with the goals of the LCDC.

10 6. This conditional use permit is granted subject to the  
11 following conditions:

12 CONDITIONS:

13 a. This Conditional Use Permit is granted for a period of  
14 one year, subject to renewal after a review of the applicant's  
15 operation at a public hearing.

16 b. Applicant shall obtain approval from the Department of  
17 Environmental Quality and continue to have said approval for a  
18 site.

19 c. Applicant shall comply with all conditions written or  
20 oral imposed by him by the Department of Environmental Quality and  
21 the Klamath County Health Department. Any violation of the  
22 conditions imposed by the Department of Environmental Quality or  
23 the Klamath County Health Department, by the applicant or any  
24 persons using the facility, shall be considered to be a violation  
25 of the conditions of this Conditional Use Permit and shall subject  
26 the applicant to revocation of the Conditional Use Permit.

27 d. The applicant shall maintain approval of the facility  
28 by the Klamath County Health Department.

1 e. This site shall be inspected and approved at least once  
2 a month by the Department of Environmental Quality and by the  
3 Klamath County Health Department. It is requested that they  
4 immediately advise the Klamath County Planning Department of any  
5 violations or alleged violations which they have found to occur on  
6 the site.

7 f. There shall be no more than three (3) disposal permits  
8 upon this site, only two (2) of which may be actively dumped into  
9 at any one time.

10 g. The area of the site shall be fenced sufficiently to keep  
11 persons, livestock and deer off the site. The fence which is  
12 built shall at least meet the specifications of the Oregon State  
13 Department of Fish and Wildlife with regard to deer. The  
14 applicant shall build an additional gate and any appropriate  
15 related fencing at least 200 feet away from the disposal pits and  
16 construct it along the access road so that vehicles could not  
17 avoid the gate and dump into the pits by use of hose or other  
18 apparatus. This gate shall be locked at all times. The applicant  
19 shall additionally place a gate and fencing around each of the  
20 pits and each of these gates shall additionally be locked at all  
21 times.

22 h. The applicant shall maintain permission to use an adequate  
23 access road to the site and shall have written proof thereof  
24 available to the Planning Department upon request.

25 i. The applicant shall follow the direction of the Klamath  
26 County Public Works Department with regard to the access road  
27 from the private property to Lower Lake Road. The applicant shall  
28 obtain liability insurance sufficient to cover all prospective

1 claims in the amount of at least \$1,000,000.00.

2 j. The applicant shall require all users of the solid waste  
3 disposal pits to sign agreements with him wherein they contract  
4 to indemnify him for all penalties and all other damages and  
5 losses which he or neighboring or surrounding property owners may  
6 incur from the user's use of the facility. Copies of these  
7 contracts shall be filed with the Klamath County Planning Depart-  
8 ment within five (5) days of their signing. The applicant shall  
9 not allow anyone to use the facility without their signing of  
10 these contracts. The applicant may provide other conditions and  
11 terms in these agreements as he sees fit.

12 k. The applicant shall immediately report to the Klamath  
13 County Planning Department and the Department of Environmental  
14 Quality and the Klamath County Health Department when he has any  
15 reason to believe whatsoever that material has been dumped into  
16 any of the pits which is not authorized under his Department  
17 of Environmental Quality operating permit.

18 l. Prior to the dumping of any material into any of the pits,  
19 other than septic tank effluent, the applicant shall obtain  
20 written permission from the Klamath County Hearings Officer or  
21 the Assistant Hearings Officer after appropriate notice and Hearing.  
22 This written permission shall be in addition to any permission  
23 which the applicant must obtain from the Health Department,  
24 Department of Environmental Quality or other Federal agencies.  
25 m. If the applicant constructs a third pit, it shall be  
26 located as close as physically possible midway between the two  
27 existing pits on the facility.

28 n. The applicant shall devise a form which he shall require

1 all users of the facility to fill in and deposit in some type of  
2 depository box on the site each time the user makes any type of  
3 dump into the facility. This form shall include, but is not  
4 limited to, the following:

- 5 1. A statement as to where the effluent came from  
6 including all the various pieces of property from which the user  
7 obtained material to be dumped;
- 8 2. A statement as to when the material to be dumped was  
9 picked up;
- 10 3. The total amount of material to be dumped; and
- 11 4. The time in which he has dumped the material into  
12 the ponds/pits.

13 The applicant shall then file these forms with the Klamath  
14 County Planning Department on a monthly basis. The applicant as  
15 a user of the facility is also required to fill out these forms  
16 and file them as set forth above.

17 o. The applicant shall, to the extent reasonably possible,  
18 use the facility during the daylight hours. This condition is  
19 not intended to prevent the applicant or other users from using  
20 the facility during the hours after sunset or before sunrise.  
21 However, it is intended only to recommend to the applicant and  
22 his authorized users that they use the facility as much as possible  
23 during the daylight hours.

24 FINDINGS OF FACT:

25 The requested use has been granted with conditions based on  
26 the following findings of fact:

- 27 1. The findings of fact as set forth in Klamath County  
28 Exhibit "B" are adopted for the purpose of the approval with

1 conditions herein.

2 2. There was testimony that all of the conditions set forth  
3 in Klamath County Exhibit "B" are still necessary, and that there  
4 are no new conditions needed at this time.

5 3. There was testimony that there have been no complaints  
6 with regard to the operation of the applicant during the last  
7 year. No one testified in opposition to the renewal of this  
8 conditional use permit, and there was no evidence presented that  
9 there would be any detrimental affect to the surrounding neighbor-  
10 hood.

11 The Hearings Officer, based on the foregoing Findings of  
12 Fact, accordingly orders as follows:

13 That real property described as:

14 "being generally located in the Klamath Hills east  
15 of Lower Lake Road approximately 1½ miles south of  
16 its junction with Cross Road, and more particularly  
described as a parcel of land located in the NE¼ of  
Section 17, Township 40, Range 9, Klamath County, Oregon,"

17 is hereby granted a Conditional Use Permit renewal in accordance  
18 with the terms of the Klamath County Zoning Ordinance No. 45.1,  
19 and, henceforth, will be allowed renewal of operation of solid  
20 waste disposal site.

21  
22 Entered at Klamath Falls, Oregon, this 19th Day of  
23 August, 1983.

24  
25  
26 KLAMATH COUNTY HEARINGS DIVISION

27 D. D. Spindler

Hearings Officer

STATE OF OREGON: COUNTY OF KLAMATH :ss

I hereby certify that the within instrument was received and filed for  
record on the 19 day of August A.D., 1983 at 4:20 o'clock P. M.  
and duly recorded in Vol M83, of DEEDS on page 14026.

Fee \$ no fee

EVELYN BYRN COUNTY CLERK

by A. Lewis Deputy