

BEFORE THE BOARD OF COUNTY COMMISSIONERS

25748

KLAMATH COUNTY, OREGON

Vol. m83 Page 16555

Findings of Fact and Order

1
2 In the Matter of Amending A)
3 Condition of Approval for)
4 Conditional Use Permit 8-82))
5)

6
7 On September 9, 1982, the Klamath County Board of
8 Commissioners granted a Conditional Use Permit to JNS Excavation
9 Company to operate a quarry in the E½ of Section 17, Township 40,
10 Range 9. Because portions of the proposed quarry were planned to
11 be as near as two-hundred feet to sewage disposal lagoons on the
12 same property, the Board of County Commissioners imposed the
13 following condition on its approval: "That a seismograph be set
14 up at the sewage lagoons to record the effects of any blasting
15 and that the Oregon Department of Geology and Mineral Industries
16 is to review the seismograph record to determine the possibility
17 of any damage to the rock under the lagoons."

18 On June 2, 1983, Paul Lawson of the Department of Geology
19 and Mineral Industries sent the Board of Commissioners a letter
20 stating, in part, that "the Department...is not empowered to
21 regulate blasting and that I do not anticipate such authority in
22 the foreseeable future." As a result of this letter, JNS Excava-
23 tion petitioned the County to modify the condition of approval
24 to allow a "private consulting and blasting firm that is licensed
25 and acceptable to Klamath County " to read and evaluate the seis-
26 mograph results.

27 The Board of County Commissioners held a hearing on this
28 request on August 15, 1983. On the same day, the Board of County
Commissioners visited the proposed quarry site, accompanied by

'83 SEP 26 PM 4 31

1 Jonathan Chudnoff of the Klamath County Planning Department
2 and John Nickelson of JNS Excavation Company. Testimony at the
3 hearing was received from John Nickelson; Ray Dillon, a Midland
4 resident supporting the applicant, and from Fran Gorham, co-
5 chairman of the Midland-Worden-Lower-Lake Area Citizen Committee.
6 The Board of County Commissioners also reviewed the exhibits and
7 transcribed minutes which are part of the record of the earlier
8 hearings on this matter.

9 Having considered the testimony and exhibits, the Board
10 of County Commissioners agreed to modify the condition of approval
11 based on the following Findings of Fact:

12 1. This matter was reviewed before the Hearings Officer
13 on March 18, 1982, and April 15, 1982. Hearings before the
14 Board of County Commissioners were held on June 14, 1982, and
15 August 15, 1983.

16 2. The request is for a gravel pit on a parcel
17 approximately 80 acres in size.

18 3. The property is located in the Klamath Hills, east
19 of Lower Lake Road and about 1½ miles south of Cross Road.

20 4. The property consists of ridges of moderate to steep
21 slope running northwest to southeast.

22 5. The present use of the property consists of a cinder
23 pit, sewage-disposal lagoons and seasonal grazing.

24 6. Access to the property is via a cinder road, built
25 and maintained by the applicant, leading to Lower Lake Road.

26 7. The nearest dwellings to the proposed quarry are the
27 Veda Gray home about 1/3 mile to the west, and the Phil Bumgardner
28 home, just under ¼ mile to the west. Both of these dwellings are

1 on the west side of a steep ridge along Lower Lake Road. The
2 proposed quarry will be on the east side of the ridge and will
3 not be visible from these homes.

4 8. The proposed quarry will be no closer than two-
5 hundred feet to the sewage lagoons operated by JNS Excavation
6 Company. A letter from the Oregon Department of Geology and
7 Mineral Industries (Klamath County Exhibit F) states that "given
8 an adequate setback of perhaps two-hundred feet the operation
9 should have no impact on the sewage lagoons."

10 9. The applicant testified that it may be possible to
11 operate the quarry without blasting, but that his crushing
12 equipment could not handle the many large rocks which could
13 have to be set aside. Blasting would fracture the rock and
14 allow for fuller use of the resource.

15 10. As expressed by Fran Gorham, the main concern of
16 area residents is that blasting may affect the sewage lagoons
17 and cause leaking.

18 Based on the foregoing, the Klamath County Board of
19 Commissioners modifies the condition of approval to read as
20 follows:

21 During any blasting a seismographic test be run and
22 the results of that test be submitted to the Board of County
23 Commissioners through the Klamath County Planning Department,
24 and further that a written measurement of the pond level daily
25 for a week before the blast, immediately after the blast and
26 daily for a week after the blast be made, and if any significant
27 drop is noted, JNS Excavation Company be required to notify

28 ///

16558

1 the Klamath County Planning Department and the Department of
2 Environmental Quality.

3 DONE AND DATED THIS 21st DAY OF September, 1983.

6 BOARD OF COUNTY COMMISSIONERS

7 Nell Kuonen
8 Nell Kuonen, Chairman

10 Roger Hamilton
11 Roger Hamilton, Commissioner

13 Carroll Zon Gerbert
14 Commissioner

16 APPROVED AS TO FORM:
17 BOIVIN & BOIVIN

18 BY: Robert Boivin

19 STATE OF OREGON,)
20 County of Klamath)

21 Filed for record at request of

22 on this 26th day of Sept. A.D. 19 83
23 at 4:31 o'clock P M, and duly
24 recorded in Vol. M 83 of Deeds
25 Page 16555

26 EVELYN BIEHN, County Clerk

27 By Ann Smith Deputy

28 Fee None