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BEFORE THE HEARINGS OFFICER

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KLAMATH COUNTY, OREGON

In the Matter of Violation 24-86/)
Thad Chestnut) Klamath County Planning
Findings of Fact and Order

A hearing was held on this matter on June 5, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Jim Spindor. The respondent was present. The Klamath County Planning Department was represented by Kim Lundahl. The Hearings Reporter was Janet Libercajt.

The conclusion that Thad Chestnut is in violation of the Klamath County Land Development Code is based on the following

Conclusions of Law:

CONCLUSIONS OF LAW:

1. Mr. Chestnut is in violation of the Klamath County Land Development Code for operating a solid waste project in the Exclusive Farm Use-Cropland/Grazing zone, Section 51.018.

2. Mr. Chestnut shall conform his use of the property in question to the Klamath County Land Development Code, Section 51.018, within 90 days from the date of this Order; that is, he shall remove all discarded tires from his land within said 90 days (this includes both piles of tires mentioned at the hearing).

3. Mr. Chestnut shall not remove these tires by burning them.

FINDINGS OF FACT:

Mr. Chestnut has been found in violation of the Klamath County Land Development Code, based on the following Findings of Fact:

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1 1. The property consists of 70 acres in the EFU-CG zone.
2 The property is located on the bank of the Williamson River.

3 2. Mr. Chestnut has been cited for dumping discarded tires
4 on his property on the east bank of the Williamson River. The
5 zoning of the property neither permits nor conditionally permits
6 the creation of a solid waste project. A previous file,
7 Violation 13-85, also concerned the same type of violation at the
8 same location (See Exhibit "G" herein). These previous tires
9 were burnt or caught fire. The current case concerns dumping of
10 additional tires at the same location.

11 3. Mr. Chestnut was given warnings on March 27, 1986, and
12 April 5, 1986, and was cited before this Hearings Officer on
13 April 30, 1986.

14 4. The Oregon State Department of Environmental Quality
15 advised Mr. Chestnut that his activities were in violation of
16 ORS 459.205 by letter dated April 18, 1986.

17 5. The Oregon Department of Fish and Wildlife map indicates
18 the site is within $\frac{1}{4}$ mile of an active bald eagle nest site. A
19 solid waste disposal site is not compatible with Goal V policies.

20 6. Notice of this hearing was sent to surrounding property
21 owners, to concerned public agencies, and published in the Herald
22 & News, the Klamath Falls newspaper.

23 7. Mr. Chestnut appeared and stated that he did not place
24 the tires on his property, nor did he burn the tires which were
25 previously there. Further, Mr. Chestnut stated that he was not
26 aware of a second pile of tires which was testified to at the
27 hearing. Mr. Chestnut also stated he did not believe it was
28 fair ~~for~~ ^{to force} him to remove tires which he did not place on the land.

1 8. Neighbors to the property stated that they desired to
 2 have all tires removed and that to burn them would be a great
 3 fire hazard. It was these neighbors who testified that there
 4 were two separate piles of tires on the property.

5 9. Testimony was given that Mr. Chestnut was the operator
 6 of a business in Klamath County which sells tires.

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

9 That real property described as

10 "Being generally located on the bank of the Williamson
 11 River, and more particularly described as a Portion of the
 12 SW $\frac{1}{4}$, Section 15, Township 35 South, Range 7 East, Klamath
 County, Oregon,"

13 is to be cleared of all discarded tires (including both piles
 14 mentioned at hearing) within 90 days of this order.

15 Entered at Klamath Falls, Oregon, this 8th Day of July, 1986.

KLAMATH COUNTY HEARINGS OFFICER

16 Jim Spindor
 17 Jim Spindor, Hearings Officer
 18
 19

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 8th day
 of July A.D., 19 86 at 3:28 o'clock P M., and duly recorded in Vol. M86
 of Deeds on Page 11979
 By EVELYN BIEHN County Clerk
Bernetha Schetch

FEE No Fee

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Commissioners Journal

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