

1 73802

BEFORE THE HEARINGS OFFICER

2 FOR KLAMATH COUNTY, OREGON

3 In the Matter of a) C.U.P. No. 8-87
 4 CONDITIONAL USE PERMIT) FINDINGS OF FACT, CONCLUSIONS
 5 for) OF LAW AND DECISION
 6 WEYERHAEUSER COMPANY)

7 THIS MATTER came on for hearing before Assistant
 8 Hearings Officer, JAMES R. UERLINGS, on the 16th day of April,
 9 1987, at 10 A.M. in the Klamath County Commissioners' Hearing
 10 Room. The hearing was held pursuant to notice given in
 11 conformity with the Klamath County Development Code and related
 12 ordinances. The applicant was represented by John D. Monfore and
 13 the Planning Department was represented by Kim Lundahl.

14 The following exhibits were marked, entered and
 15 received into evidence: Exhibits "A" through "D".

16 The Assistant Hearings Officer, after reviewing the
 17 evidence presented, makes the following findings of fact,
 18 conclusions of law and decision.

19 FINDINGS OF FACT:

20 1. The applicant is requesting this conditional use
 21 permit for the establishment of a non-forest use for the
 22 placement of a mineral and aggregate extraction site upon the
 23 property pursuant to Land Development Code Section 51.020(D)(1).

24 2. The property is generally located approximately 2
 25 miles South of Camp 14 and South of Silver Lake Road in Klamath
 26 County, Oregon. The legal description of the property is "W 1/2,
 27 NE 1/4, Section 34, Township 28S, Range 11 East of Willamette
 28 Meridian, Klamath County, Oregon".

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3. The Plan Designation of the property is Forestry and the Zone Designation is Forestry.

4. The property consists of approximately 30 acres, irregular in shape. The topography is irregular due to current extraction activities.

5. Access to the property is off Silver Lake Highway, a paved Klamath County road.

6. The Soil Classification of the property is SCS Class VIII and the Timber Site Productivity Rating is VII.

7. Unique physical characteristics of the surrounding land consist of scattered pine, bitterbrush and native grass.

8. Adjacent and surrounding zoning is Forestry.

9. Public facilities and services to the property are not applicable.

10. The aggregate taken from the site will be primarily sold by the applicant to contractors who are performing work on county and state highways in the area.

11. The site will produce approximately 20,000-50,000 cubic yards of aggregate material over its lifetime.

12. The extraction of aggregate material from this site will save the state and county several thousand dollars in the cost for aggregate material in the reconstruction and improvement of highways in the area.

KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

1. Klamath County Development Code Section 44.003 sets forth the criteria for consideration in the application of a conditional use permit:

A. That the use is conditionally permitted in

1 the zone in which it is proposed.

2 B. That the location, size, design and operating
3 characteristics of the proposed uses is in conformance with the
4 Klamath County Comprehensive Plan.

5 C. That the location, size, design and operating
6 characteristics of the proposed development will be compatible
7 with, and will not adversely effect, the livability or
8 appropriate development of abutting properties in the surrounding
9 neighborhood. Consideration shall be given to the harmony in
10 scale, bulk and utilities; to harmful effects, if any, upon
11 desirable neighborhood character; to the generation of traffic
12 and the capacity of surrounding streets and to other relevant
13 impact of development.

14 2. Additionally, Section 81.004 allows for the
15 addition of conditions to the granting of conditional use permits
16 where those conditions are deemed necessary for the protection of
17 the health, safety and welfare of the citizens of Klamath County.

18 3. Klamath County Development Code Section 51.020(E),
19 Conditional Use Permit Criteria, states that the uses
20 conditionally permitted shall be subject to review in accordance
21 with the following criteria. The review authority must find that
22 each such use:

23 A. Is compatible with forest uses;

24 B. Does not interfere seriously with the
25 accepted forestry practices on adjacent lands devoted to forest
26 use; and does not significantly increase the cost of forestry
27 operations on such lands;

28 C. Does not materially alter the stability of

1 the overall land use pattern of the area;

2 D. Is situated on generally unsuitable land for
3 the production of forest crops and livestock, considering the
4 terrain, adverse soil or land conditions, drainage and flooding,
5 vegetation, location and size of tract;

6 E. Considers forest site productivity, minimizes
7 the loss of productive forest lands; and is limited in size to
8 the area suitable and appropriate to the needs of the proposed
9 use;

10 F. Meets the standards relating to the
11 availability of fire protection as set forth in Article 69 of
12 this Code and other rural services and will not overtax those
13 services; and

14 G. Complies with such other conditions as the
15 review authority considers necessary to protect forest uses.

16 KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

17 See Exhibit "A" attached hereto and incorporated by
18 this reference.

19 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

20 1. The proposed use is compatible with forest uses as
21 the size of this site prevents it from being used as an economic
22 unit for forest production.

23 2. The use does not interfere seriously with accepted
24 forestry practices on adjacent lands devoted to forest use as
25 those uses do not exist and are not contemplated on the subject
26 property or adjacent lands.

27 3. The proposed use does not materially alter the
28 stability of the overall land use pattern in the area as the

1 Timber Productivity Rating and the Soil Classification are so low
2 that timber cannot be grown profitably on the property.

3 4. The proposed use is situated on generally
4 unsuitable land for the production of forest crops. The Timber
5 Site Productivity Rating is VII and SCS Soil Classification is
6 VIII, indicating that the property is extremely poor for the
7 production of forest crops.

8 5. Considering the Timber Site Productivity Rating of
9 VII, the loss of this land does not constitute a loss of
10 productive forest land and the size of the parcel has been
11 limited to the area suitable and appropriate to the establishment
12 of an aggregate extraction site.

13 6. The property meets the standards relating to the
14 availability of fire protection as contained in Article 69 of
15 this Code and the establishment of this site will not overtax
16 available rural services.

17 7. The Hearings Officer has considered the
18 establishment of conditions on the granting of this conditional
19 use permit and they will be discussed subsequently in this Order.

20 8. The proposed use is conditionally permitted under
21 the Klamath County Land Development Code for the zone in which it
22 is proposed.

23 9. The location, size, design and operating
24 characteristics of the proposed use are in conformance with the
25 Klamath County Comprehensive Plan.

26 10. The location, size, design and operating
27 characteristics of the proposed development will be compatible
28 with, and will not have a significant adverse effect on, the

1 appropriate development and use of abutting properties in the
2 surrounding neighborhood.

3 CONCLUSIONS OF LAW AND DECISION:

4 1. This request for a conditional use permit on the
5 subject property meets all applicable Klamath County Development
6 Code criteria and policies governing such.

7 2. This request for a conditional use permit on the
8 subject property is consistent with, and complies with, all
9 applicable Klamath County land use planning policies.

10 3. The following conditions are deemed appropriate to
11 protect the health, safety and welfare of the citizens of Klamath
12 County:

13 A. The applicant follow its plot plan, Exhibit
14 "B", filed with the Application for Change of Land Use.

15 B. The applicant shall obtain and maintain a
16 permit from the Oregon Department of Geology and Mining and shall
17 follow all conditions contained within that permit.

18 C. The applicant shall gravel the access road to
19 the site in order to reduce the generation of dust in the area of
20 the site.

21 D. The applicant shall maintain a buffer zone
22 between the site and any public highways.

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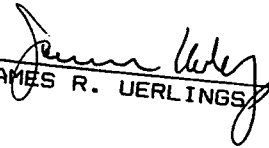
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NOW, THEREFORE, IT IS HEREBY ORDERED that this request
for a conditional use permit on the subject property is granted,
subject to the applicant following the conditions as set forth
above.

DATED this 21 day of April, 1987.


JAMES R. UERLINGS

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Conformance with Relevant Klamath County Policies:

6902

Goal 1 - Citizen Involvement:

A public hearing on this matter has been set for April 16, 1987. Notice has been sent to surrounding property owners, concerned public agencies, posted in public places, and published in the Herald & News.

Goal 2 - Land Use Planning:

The property is zoned for forest use. The Hearings Officer must find the application for non-forest use complies with Section 51.021(D) of the Land Development Code.

Goal 4 - Forest Lands:

Relevant Policies:

1. The following lands shall be designated Forestry and shall be subject to the regulations of the Forestry and Forest/Range zones contained in the Land Development Code:
 - (1) Public or private industry forest lands located contiguously in large blocks, i.e., National Forest Service, BLM, Weyerhaeuser, Gilchrist timber lands;
 - (2) Significant wildlife and fishery habitat areas;
 - (3) Land having a predominant timber site productivity rating of I-VI;
 - (4) Isolated pockets of land within forest areas which do not meet the above criteria;
 - (5) Lands needed for watershed protection of recreation;
 - (6) Lands where extreme conditions or climate, soil and topography require the maintenance of vegetation cover irrespective of use;
 - (7) Other lands needed to protect farm or forest uses on surrounding designated agricultural or forest lands.
3. Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath County Comprehensive Plan.
4. The County shall regulate development of non-forest uses in forested areas.

Conformance with Relevant Klamath County Policies Continued:

6903

Goal 6 - Air, Water and Land Resource Quality:

Use of the property as an extraction site is subject to yearly review by the Department of Geology and Mineral Industries.

Goal 7 - Natural Disaster and Hazards Area:

The County shall consider site constraints in evaluating land use in fire hazard areas.

The conditional use permit site is not within a fire protection district. The intensity of use proposed does not pose a significant fire hazard.

Goals 3, 5, and 8-14 do not pertain or are not affected by this application.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 23rd day
of April A.D., 19 87 at 2:41 o'clock P M., and duly recorded in Vol. M87
of Deeds on Page 6895.

FEE NO FEE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk
By [Signature]