

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request) C.U.P. 45-86
 for a Conditional Use Permit) FINDINGS OF FACT, CONCLUSIONS
 for O'CONNOR LIVESTOCK COMPANY.) OF LAW AND ORDER

This matter came before Hearings Officer William M. Ganong on May 4, 1989 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to the Notice given in conformity with the Klamath County Land Development Code and related ordinances. The Applicant was represented by John Bower. The Klamath County Planning Department was represented by Mr. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The Applicant was granted a Conditional Use Permit to operate a Rock Quarry on February 3, 1987. The Findings of Fact and Order issued for in CUP 45-86 are incorporated herein by this reference.
2. Said Order provided in part that if the Applicant intended to excavate rock after the date of the Order, it shall advise the County Planning Director and shall provide a reclamation plan if one is not required by the State. Said plan was to be submitted to the Planning Director no later than December 31, 1987.

The Order provided that if the (reclamation) plan was not submitted by said date, the Planning Director would refer this matter to the Hearings Officer for further review. No such plan was submitted to the Planning Director and the quarry was not used after the date of the said Order.

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3. In April, 1989 the Applicant advised the Planning Director that the subject Quarry had been leased to Bower Excavation & Fencing, Inc., that Bower had received a contract from the United States of America, Department of the Interior, Bureau of Reclamation to furnish approximately 32,000 yards of rock from the subject quarry to said Bureau. The Applicant submitted to the Planning Director a copy of the Report of On-Site Inspection of the Oregon Department of Geology and Mineral Industries and its permit #18-0086 which contains requirements for the reclamation of the site after said excavation.

4. The Planning Director determined that since no reclamation plan was submitted to the Planning Director by December 31, 1987, this matter should be referred to the Hearings Officer. Therefore, a public hearing was held on May 4, 1989.

5. At said hearing the Applicant and its witness reviewed the proposed excavation and the purpose for it.

6. Said testimony established that the Applicant was required to submit a reclamation plan to the State of Oregon, that the Applicant has done so and that said plan has been approved.

7. As a reclamation plan was required by the State of Oregon, CUP Order 45-86 does not require that the Applicant provide a reclamation plan to the County and no action by Klamath County is required by said Order.

8. At the hearing the Hearings Officer approved the excavation of said material.

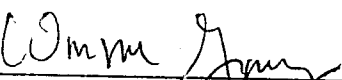
ORDER

The Klamath County Planning Director is Ordered to execute any documents required by the State of Oregon necessary to allow the Applicant and its lessee

to proceed with their intent to fulfill the requirements of the contract described above.

This Order shall be effective as of May 4, 1989.

DATED this 17th day of May, 1989.


 William M. Canong
 Hearings Officer

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of the Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 19th day
 of May A.D., 19 89 at 3:11 o'clock P.M., and duly recorded in Vol. M89,
 of Deeds on Page 8731.

FEE none

Evelyn Biehn County Clerk

By Pauline M. Mendenhall

Return: Commissioners Journal