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FINAL ORDER AND FINDINGS

**APPLICANT:** Crown Pacific Ltd.

**FILE NO:** MJP 66-91

**REQUEST:** Major partition 66-91 dividing 24,620 acres into three parcels; one approximately 40 acres being the sanitary landfill site, another being 256 acres being the existing sawmill site and the third, of 24,324 acres containing the commercial forest lands owned by the applicant West of U.S. Highway 97.

**REVIEW AUTHORITY:** Article 45 of the Klamath County Land Development Code.

**PROJECT LOCATION:** Gilchrist Timber Company landfill, Crown Pacific of Oregon, Ltd. Sawmill and Crown Pacific, Ltd. timber lands, all West of Highway 97, Klamath County, Oregon.

**LEGAL DESCRIPTION:** On file.

**ZONE/PLANNING DESIGNATION:** Forestry.

I. FINDINGS

A. General

1. Nature of Request

This request is for a major partition to create three parcels of land: one containing a 40 acre parcel, developed and committed as a sanitary landfill and licensed by the Oregon Department of Environmental Quality, under license number SWDP 1084, the ownership of which shall remain vested in Gilchrist Timber Company; the second, 256 acres comprising the old Gilchrist Timber Company mills, ponds and appurtenances to be owned by a subsidiary of Crown Pacific, Ltd., Crown Pacific Lumber Limited Partnership; the third, 24,324 acres being the commercial forest lands of the former Gilchrist Timber Company to remain in the ownership of Crown Pacific (Oregon) Limited Partnership. The gross site acreage is approximately 24,620 acres, all of which was previously described and known as parcel 3, or the remanent parcel created in the application of Gilchrist Timber Company MJP 53-91 which was final and effective November, 1991.

2. Current Zoning

All parcels are zoned Forestry (F). No change of land use designations are contemplated.

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3. Current Use

- (a) Parcel 1. This parcel contains the existing mill site, administration facilities, appurtenant structures and mill pond owned by Crown Pacific Lumber Limited Partnership. The facility is generally bounded by properties zoned CT (commercial transportation) and IL (light industrial) to the West, which properties front on Highway 97; to the South, F (forestry) and IH (heavy industrial) abutting Crescent Cutoff Road; and to the East and North, parcel 3 consisting of Forestry (F).
- (b) Parcel 2. This parcel is owned by Gilchrist Timber Company and consists of the existing developed and committed sanitary land fill, developed by Gilchrist Timber Company and being operated by Gilchrist Timber Company under Solid Waste Disposal Permit No. 1084 since 1977. The permit was renewed most recently August 24, 1984 and expires March 31, 1994. The existing permit authorized Gilchrist Timber Company to accept wood waste, bark ash, log yard debris, tire and similar non-trutesible mill site waste. The cover sheet of this solid waste disposal permit is attached hereto and marked Exhibit A. The existing landfill is not in current use and is in the process of being reclaimed under a reclamation plan filed with the Department of Environmental Quality.
- (c) Parcel 3. Parcel 3 has a comprehensive plan and zone designation of forestry (F) and contains the commercial timberland of Crown Pacific (Oregon Ltd. Partnership) west of U.S. Highway 97.

4. Proposed Use.

No change in use is being proposed in conjunction with this application. The sole purpose of this application is to allow the executory portion of the sale by Gilchrist Timber Company of its assets in northern Klamath County to Crown Pacific Ltd. and its related subsidiaries (with retention of some property by Gilchrist Timber Company) to be completed. No change in the use of the real property is contemplated.

5. Physical Characteristics.

The physical characteristics of the three parcels are shown in the aerial maps previously submitted with MJP 53-91 and the vicinity maps submitted with this application.

6. Services and Access.

Access to Parcel 1 is by existing 60-foot wide access easement dedicated in partition MJP 53-91, including other legal access to U.S. Highway 97. Applicant will grant easements to Parcel 2 and 3 along existing roads through Parcels 1 and 3. Parcel 1 has potable water provided by a private water system previously owned by Gilchrist Timber Company. Sewage disposal on Parcel 1 is provided through seven separate septic systems, all of which have received D.E.Q. approval. Fire protection to Parcel 1 is provided by the Crescent Rural Fire Protection District. Parcel 2 does not require potable water, nor subsurface sewage disposal. Parcel 3 similarly does not require potable, domestic water or subsurface sewage disposal.

7. Surrounding Properties and Uses.

The area to the southeast of the three parcels, adjacent to the town of Crescent is a marsh area through which the Little Deschutes River meanders. The unincorporated town of Crescent is located approximately one-half mile to the south of the mill site and the Gilchrist town site. To the southwest and north are commercial forest lands and various ownerships, including Crown Pacific Ltd., the U.S. Department of Agriculture, Forest Service and some other private ownerships. Native tree species include ponderosa and lodgepole pine and other vegetation consistent with forest growing in pumice soil at higher elevations. Adjoining uses and ownerships are further reported in MNP 52-91 and MJP 53-91 with the existing townsite of Gilchrist, the water distribution system and sewage treatment facilities and lagoons owned by Ernst Brothers, Inc; the sanitary landfill described in Parcel 2 owned by Gilchrist Timber Company; proposed Parcel 2 to be owned by Crown Pacific Lumber Limited Partnership and Parcel 3 by Crown Pacific (Oregon) Ltd. Partnership. Properties to the west and south along U.S. Highway 97 are in various private ownerships and consist of commercial highway (CH) and light industrial (IL) uses.

8. Review Procedures.

- A. This request is being processed through a Type III Administrative Review pursuant to Article 22.050 of the Klamath County Land Development Code (LDC). Agencies/parties notified of this application included:

Public Works  
O.D.F.W.  
Dept. of Forestry  
Health Services

D.L.C.D.  
D.S.L.  
Highway Division  
U.S.F.S.

Telephone Utilities  
Northwest Pipeline  
Walker Range Patrol  
B.L.M.

Pacific Gas Trans.  
Crescent R.F.P.D.  
N.C.R.F.D.  
342 Property Owners

B. Public Comments.

1. No public comment was received to the notice of administrative review, an opportunity to comment which closed at 5:00 p.m. of January 21, 1992.
2. Subsequent comment was received pertaining to Klamath County Planning Director Findings under "code requirements" indicating that the size of Parcel 1 should be increased from 40 to 80 acres. Comments received from Mel Lucas and Doug White of the Department of Land Conservation and Development question this requirement and recommended instead that parcel size be limited to the area of the sanitary landfill site, retaining the remainder of the property as a portion of Parcel 2 devoted to forest production.

C. Compliance with Klamath County LDC Article 45.030.

Upon recordation or reservation of the easements described herein, adequate access exists sufficient to waive the road standards of Article 71 and partition restrictions of LDC Article 45.030.

D. Compliance with Klamath County LDC Article 45.040.

1. Compliance with Klamath County Comprehensive Plan.

(a) Goal 2, Policy 8 (P.9) provides:

"All legally existing land uses shall be allowed to continue as either conforming or non-conforming land uses."

Finding: Gilchrist Timber Company developed Parcel 2 as a solid waste disposal permit and has been licensed since 1977 by the Oregon Department of Environmental Quality under permit no. 1084. This use was developed and committed prior regulation under the Klamath County Comprehensive Plan and Land Development Code, as such, is a developed committed use.

(b) Goal 4, Policy 2 (P.22) provides:

"Forest lands as identified (by the Comprehensive Plan) shall be designated Forestry and Forest/Range and shall be subject to the regulations of those zones."

Finding: Parcel 1 is designated in the Comprehensive Plan as industrial and zoned IH (heavy industrial). Parcel 2 is zoned F (forestry). Use of the property as a solid waste site is lawfully permitted under the code as either a non-conforming, developed and committed use or a permitted use in the forest zone. All of Parcel 3 is designated in the Comprehensive Plan and zoned as forestry.

Nothing proposed by this major partition will effect removal of the lands from productive forest use or result in a change of forest management practice.

- (c) Goal 4, Policy 3 (P.23) provides:

"Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath County Comprehensive Plan."

Finding: Granting this partition will not effect continued commercial forestry operation on Parcel 3 or take developed or committed lands out of production as to Parcel 1.

- (d) Goal 4, Policy 6, (P.24) provides:

"The County shall encourage optimum utilization of existing utility rights-of-way and, whenever possible, shall design all rights-of-way so as not to preclude forest growth."

Finding: No additional utility rights-of-way have been identified or proposed by the applicant.

- (e) Goal 4, Policy 8, (P.24) provides:

"The County shall allow for the processing of forest products in forest areas."

Finding: Granting of this partition will not adversely effect this goal.

- (f) Goal 9, Policy 9, (P.63) provides:

"The County shall encourage plans and methods that emphasize expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional development."



Finding: Approval of this application will complete the transfer of the forest lands into Crown Pacific (Oregon) Ltd. Partnership and the lumber mill into Crown Pacific Lumber Ltd. Partnership. It will also permit the various properties to be owned, managed and operated as separate economic units.

2. Conformance with Applicable Code Standards and Statutes.

The applicable standards for this partition as to each of the three partitions are found at Klamath County Land Development Code Article 55 (LDC 55.010 - 55.090). Applicable findings to each of the three parcels are as follows:

- (a) Parcel 1 - The minimum lot area for property in the forestry zone is 80 acres (LDC 55.090A.1.) Conditional uses in the zone include permanent facilities for primary processing of forest products (LDC 55.040A); permanent facilities for logging equipment, repair and storage (LDC 55.040B); and 13 other enumerated conditions. Without limitation to any of the others, applicant and its successors in interest have operated a commercial lumber mill and related facilities on the site since prior to the effective date of Land Use Planning in Klamath County. Hence, the existing uses developed, committed activity for which no conditional use permit is necessary.
- (b) Parcel 2 - This parcel has been designated in the Comprehensive Plan and zoning ordinance as forestry (F). While the minimum lot area for property in the forestry zone is 80 acres (LDC 55.090A.1.); non-forest use divisions are authorized by LDC 55.090B which include conditional uses authorized under LDC 55.040, including LDC 55.040(C) solid waste disposal sites, authorized by Oregon Department of Environmental Quality Permit. Applicant has provided evidence of issuance of valid, pre-existing permit (SWDP 1084) which dates back to 1977. Klamath County Land Development Code Article 13 provides standards for non-conforming lots, uses and structures lawfully existing prior to July 1, 1990. To approve the partition as a non-conforming use would require that the landfill site remain 80 acres to meet the minimum lot size requirements or alternatively require the issuance of a conditional use permit to permit the size of the parcel to be reduced. Such interpretation would however be contrary to the contingency and

purpose of the forestry zone as set forth in LDC 55.010. It provides:

"The intended purpose of this zone is to preserve and protect lands for continued timber production, harvesting and related uses..."

Increasing the size of the parcel beyond that necessary for the landfill and related reclamation activities, would be contrary to the purpose of the code. Accordingly, the Planning Director concludes that the appropriate criteria is to recognize the non-conforming use in the same fashion as a conditional use and approve the partition with a 40 acre parcel size.

- (c) Parcel 3 - This parcel is proposed at 24,324 acres, well in excess of the 80 acre minimum lot size established for forest use divisions at LDC 55.090A. In addition, the proposed division is consistent with the forest use policies of the Comprehensive Plan; does not materially alter the stability of the overall land use pattern in the area; provides for resultant parcels of sufficient size to insure forest uses and practices and may take place in a cost effective manner.

Finding: Parcel 3 contains approximately 24,324 acres. The only other large commercial forest enterprise in private ownership within two miles is held by Crown Pacific, Ltd., containing approximately 4,480 acres. The proposed parcel is substantially larger than the existing commercial forest enterprises within a two-mile radius.

- (1) The proposed division is compatible with forest uses in the area and does not interfere with forest practices as defined and regulated under ORS 527.610 or 527.730.

Finding: The proposed division will have no effect on existing forest uses or forest practices as defined and regulated under ORS 527.610 or 527.730. Parcel 3 will continue to remain in forest use as it has since the property was acquired by Gilchrist Timber Company in 1930. The proposed acquisition of this property by Crown Pacific, Ltd. will mean that the major private forest land holdings in this area will be consolidated in one company, which will result in greater efficiencies of use.

- (2) The proposed division is consistent with the forest use policies as provided in the Klamath County Comprehensive Plan and with ORS 527.630(1).

Finding: The proposed division's consistency with the Comprehensive Plan is discussed above. ORS 527.630(1) provides that "(i)t is ... the public policy of the State of Oregon to encourage economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forest land for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water and fish and wildlife resources that assures the continuous benefits of those resources for future generations of Oregonians." As stated above, by allowing the consolidation of forest land holdings, this proposal will result in greater efficiencies of uses. Gilchrist Timber Company has been given awards for outstanding land management, and forest management practices for Parcel 3 are not expected to change under new ownership.

- (4) The proposed division does not materially alter the stability of the overall land use pattern in the area or substantially add to the demand for increased roads or other public facilities and services.

Finding: The proposed Parcel 3 will continue to be by far the largest forest land parcel in the area. The removal from ownership of the heavy industrial lands will not affect forest use or forest production. Creation of Parcel 2 at 40 acres is consistent with forestry uses by minimizing the amount of land taken out of commercial forest production.

### 3. Compliance with Other Applicable Law and Procedures.

The property was previously partitioned by MJP 53-91 during November, 1991. This review and approval occurs in 1992; hence, the application is consistent with the provisions of ORS 92.012.

### E. Conclusion

Based upon the foregoing findings, the proposed partition complies with all standards and criteria in the Klamath County Comprehensive Plan, Klamath County Land Development Code, the Planning Director does hereby:



## II. ORDER

MJP 66-91 is hereby approved, subject to the following conditions:

1. Parcels, as described including the acreages set forth in the preliminary plat are hereby approved. No adjustment in size as to Parcel 2 shall be required.
2. An easement providing for access from Parcel 2 and 3 to U.S. Highway 97 along the existing main access road to the Gilchrist mill shall be recorded prior to or upon the recording of the final plat.
3. A final plat shall be prepared and recorded within one year of this decision. The final plat shall conform with all applicable standards in Article 45 and ORS Ch.92.

## III. NOTICE OF APPEAL RIGHTS

Notice of Appeal. The decision reached herein, may be appealed pursuant to Land Development Code section 22.050C to the Board of County Commissioners within seven days from the date of mailing of the final decision. All rights of appeal are governed by the Land Development Code section 33.030 et. sec.. All persons desiring to appeal must demonstrate they have participated, either orally or in writing in the Planning Director review procedure and show that their interest may be adversely affected by the decision. If this order is not appealed within seven days, the decision becomes final.

DATED this 13th day of March, 1992.

By: Carl Shuck  
Carl Shuck, Planning Director

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 16th day  
of March A.D., 19 92 at 2:20 o'clock P M., and duly recorded in Vol. M92,  
of Deeds on Page 5417.

Evelyn Biehn, County Clerk

By Pauline Nielsen

FEE none

Return: Commissioners Journal