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10-11-93A11:27 RCVD

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## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the violation/  
citation of

TRAIN MOUNTAIN, INC.

) VIOLATION/CITATION  
) NO. VC 9-92 and VC 41-89  
)  
)  
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)

This matter came before Michael L. Brant, Hearings Officer for Klamath County, Oregon, on September 17, 1993, in the Klamath County Commissioners' Hearing Room in Klamath Falls, Oregon. The hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related statutes and ordinances. The Klamath County Planning Department was represented by Mr. Kim Lundahl, and the recording secretary was Ms. Karen Burg. The respondent, Train Mountain, Inc., was represented by Mr. Quentin L. Breen. Testimony was taken and exhibits were received. The hearings officer recessed the hearing and continued the proceeding to October 1, 1993, at the hour of 10 a.m. to be convened upon the Train Mountain, Inc., property which is the subject of conditional use permit 21-86. The hearing was reconvened on the Train Mountain, Inc., property, at which time the hearings officer viewed the site of conditional use permit 21-86. Further testimony was taken and exhibits were received.

## FINDINGS OF FACT

1. On July 3, 1986, respondent obtained conditional use permit no. 21-86 to establish a private park on approximately 160 acres southwest of Chiloquin. The property is south of State Highway 422 and one-quarter mile west of Highway 97.

2. The zone of the property is EFUCG.

3. Respondent has developed a one-eighth scale railroad complex, including railroad right-of-ways and accessory buildings. Respondent has also placed several railroad cars, including cabooses, tank cars, and flat cars about the site to stimulate the perception of a railroad park.

4. There was no evidence of any structures or buildings for overnight accommodations.

5. The location, size, design, and operating characteristics of the use do not appear to have a significant adverse impact upon the livability, value or appropriate development of abutting properties in the surrounding area.

6. The use does not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

7. The use does not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

8. The installation of the railroad system is as ecologically compatible with the area as is reasonably possible.

9. On March 12, 1987, respondent obtained conditional use permit 46-86. No substantial development was made on the property which is the subject of conditional use permit 46-86 during the two years following the 12th day of March, 1987.

10. Respondent is storing railroad cars upon the property which is the subject of conditional use permit 46-86.

#### CONCLUSIONS OF LAW

1. Respondent is not in compliance with the conditions of the

granting of the conditional use permit no. 21-86 because respondent has failed to obtain the approval of a site plan.


2. Conditional use permit no. 46-86 is void because no substantial development of the subject property took place during the two years immediately following the approval of said conditional use permit. The storage of railroad cars on agricultural land outside the private park is not allowed by the Klamath County Land Development Code and related statutes and ordinances.

#### ORDER

1. Conditional use permit 21-86 shall be void 61 days after the date of this Order unless respondent obtains from the Klamath County Planning Department approval of a professionally prepared site plan for the property which is the subject of conditional use permit 21-86.

2. Conditional use permit 46-86 is void. Respondent shall remove the railroad cars from the property which is not the subject of conditional use permit 21-86 within 90 days of the date of this Order unless respondent obtains approval of a new conditional use permit to allow expansion of respondent's private park for development, construction, operation, and maintenance of the one-eighth scale model railroad on the property upon which the railroad cars are stored.

DATED THIS 6th day of October, 1993.

  
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Michael L. Brant  
Hearings Officer

## KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.060 PROVIDES:

"An Order of the Hearings Officer may be appealed to the Board of County Commissioners within seven (7) days of its mailing as set forth in Article 33."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 11th day  
of Oct. A.D., 19 93 at 11:27 o'clock AM., and duly recorded in Vol. M93  
of Deeds on Page 26411.

FEE none

Return: Commissioners Journal

Evelyn Biehn County Clerk

By Pauline Mullendore