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**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR KLAMATH COUNTY, OREGON**

IN THE MATTER OF CONDITIONAL USE)
 PERMIT (FILE NO. 27-10) FOR SOUTH)
 CHEMULT PUMICE TO AMEND CUP 57-09)
 TO ALLOW AN ADDITIONAL 40 ACRES TO)
 BE MINED FOR PUMICE AND CINDERS ON)
 A 640 ACRE TRACT OF PROPERTY)
 ZONED FORESTY (F) AND IDENTIFIED AS)
 R-2808-00000-00500.)

FINAL ORDER

WHEREAS, applicant South Chemult Pumice, LLC applied for conditional use permit (CUP) approval to amend CUP 57-09 to allow an additional 40 acres to be mined for pumice and cinders on a 640 acre tract of property zoned Forestry (F); and,

WHEREAS, the subject property is described as Tax Lot 500, in Township 28 South, Range 08 East Willamette Meridian; and

WHEREAS, the Klamath County Planning Department provided proper notice for an administrative decision; and

WHEREAS, the Planning Director approved the application (File No. CUP 27-10) per Final Order dated October 29, 2010; and

WHEREAS, Bruce Cully Moore, attorney for Sierra Cascade, LLC (Appellant), filed an "Intent to Appeal" on November 9, 2010; and

WHEREAS, Bruce Cully Moore, attorney for Sierra Cascade, LLC (Appellant) submitted written grounds for the appeal on November 16, 2011; and

WHEREAS, the Klamath County Planning Department provided proper notice for the appeal, being the first evidentiary hearing; and

WHEREAS, the *de novo* appeal hearing was held on January 19, 2011 before the Klamath County Board of County Commissioners; and

WHEREAS, the Board of County Commissioners heard public testimony, as well as the arguments of counsel for both applicant and appellant, and then closed the public hearing and allowed the record to remain open for 7 days, and scheduled deliberations for February 2, 2011; and

WHEREAS, Bruce Cully Moore, attorney for Sierra Cascade, LLC (Appellant), submitted additional material received on February 1, 2011. The record was closed on January 26, 2011, Therefore, the Board of County Commissioners did not review the material and it was rejected; and

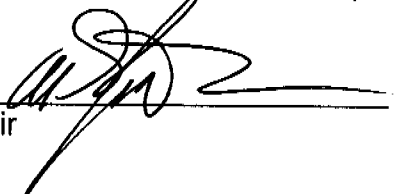
WHEREAS, based on testimony entered and consideration of the whole record, the Klamath County Board of Commissioners held public deliberations on February 2nd, 2011, and unanimously DENIED the Appeal and allowed the administrative approval of Planning File CUP 27-10 to stand, and

WHEREAS, the Klamath County Board of Commissioners make the following findings of fact:

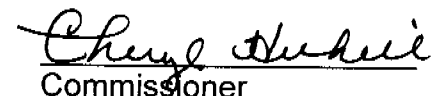
1. We adopt the proposed Findings of Fact in the Staff Report, and the Staff Report for the Appeal.
2. We adopt the proposed Findings of Fact and Conclusions from the applicant, in both the original application submittal as well as that in response to the grounds for appeal.
3. We conclude the application was in conformance with State Law, the Klamath County Land Development Code and Comprehensive Plan.
4. We REJECT the Appellant's grounds for appeal, listed below, based on the Findings of Fact and Conclusions contained in the Staff Report for Appeal, and the Letters from Stoel Rives, LLP dated December 10, 2010 and January 14, 2011:
 - a. *The applicant and the Klamath Planning Department failed to correctly address the criteria contained in KCLDC Article 44.030.*
 - b. *The application fails because it is not signed or initiated by the owner of the subject property as required by KCLDC Article 44.040(A).*
 - c. *Klamath County Planning must not discriminate between CUP applicants.*
 - d. *Klamath County failed to follow the Klamath County Land Development Code Articles regarding appeal.*
 - e. *Klamath County failed to follow the Klamath County Land Development Code Article 22.040(B).*

NOW, THEREFORE IT IS HEREBY ORDERED that the Appeal of the approval of CUP 27-10 is DENIED and the administrative approval stands.

DONE AND DATED THIS 7th day of February, 2011.


Chair


Commissioner


Commissioner