

**BEFORE THE HEARING EXAMINER  
FOR THURSTON COUNTY**

In the Matter of the Application	)	
of Great Western Supply	)	No. SUPT-97-1791
for a Five-Year Review of a	)	
Special Use Permit	)	FINDINGS, CONCLUSIONS
_____	)	AND DECISION

**SUMMARY OF DECISION**

The five-year review of a Special Use Permit for a gravel mining facility is complete and the renewal of the Special Use Permit is **APPROVED** with one amendment to eliminate a 10-year sunset clause, a portion of Condition 2 of the original permit.

**SUMMARY OF RECORD**

Request:

Great Western Supply (Applicant) requested a five-year review of a Special Use Permit (SUP), effective June 11, 1991, for a gravel mining operation. The five-year review is required as a condition of approval of the original SUP. The operation is located in the vicinity of 4600 - 103rd Avenue SE, northerly of the western terminus of 103rd Avenue SE from Steadman Road, Thurston County, Washington.

Hearing Date:

A hearing on the request was held before the Hearing Examiner of Thurston County on January 20, 1997.

Testimony:

At the hearing, the following individuals presented testimony under oath:

Robert Smith, Thurston County Development Services;  
Dan O'Neill, applicant; and  
Alexander Mackie, representative.

Exhibits:

At the hearing, the following exhibits were admitted as part of the official record:

Exhibit 1:     Development Services Report

- a.     Notice of Hearing and Mailing List
- b.     December 11, 1997 Comment Letter from Environmental Health Department
- c.     October 20, 1997 Memorandum from Scott Davis of Roads & Transportation Services
- d.     July 9, 1996 Letter from Owens Davies Mackie

- e. May 6, 1997 Letter from Owens Davies Mackie
- f. August 4, 1992 Letter and attachments from Washington State Department of Natural Resources

Based upon the exhibits and the testimony submitted at the public hearing, the following Findings and Conclusions are entered by the Hearing Examiner.

### **FINDINGS**

1. On June 11, 1991, a Special Use Permit (SUP) was issued for a gravel mining operation on the property described in the summary of record. Condition 2 of the SUP required a five (5) year review of the SUP and set a life of the SUP at 10 years. The Applicant requested a five-year review of the SUP to determine if the Applicant is complying with the required conditions of approval and if the conditions assigned to the SUP are adequate. The Applicant has also requested deletion of the portion of Hearing Examiner Condition 2 that sets the life of permit approval at 10 years. *Exhibit 1, Staff Report; Exhibit 1, Attachment f; Mackie Testimony.*
2. The subject property is zoned Rural Residential Resource--One Dwelling Unit Per Five Acres which permits mineral extraction facilities by Special Use Permit. Surrounding zoning is Rural Residential Resource--One Dwelling Unit Per Five acres. Surrounding land uses include vacant timbered lands to the north and west; scattered single-family residences to the south; and, County Parks property (Chehalis Western Trail) and scattered single-family residences to the east. The subject property is not located within any shoreline, floodplain, or environmentally sensitive area. *Exhibit 1, Staff Report.*
3. A letter submitted for the Applicant by Owens Davies Mackie, dated July 9, 1996, states that all the conditions of approval are being met. The Development Services Department reviewed the operation for compliance with all conditions and determined that all conditions have been met. The Department also found no need exists to change or amend any conditions with the exception of Condition 2. The County recommends that the clause limiting the permit to 10 years be deleted. *Mackie Testimony; Exhibit 1, Attachment d; Smith Testimony; Exhibit 1, Staff Report.*
4. Changes have been made to the Thurston County Special Use Chapter for mineral extraction facilities. Ordinance Number 11398, adopted on April 14, 1997, added standards of review for new applications. The standards are not applicable to the instant application with the exception of 20.54.070(21)(c)(v.), which requires: A copy of the applicant's DNR operating permit application, as required by RCW 78.44.080. The

Applicant has submitted the Department of Natural Resources operating permit. *Exhibit 1, Staff Report; Exhibit 1, Attachment f.*

5. A Mineral Extraction Code was adopted June 28, 1993 (Ordinance 10368, TCC Chapter 17.20). The County staff reviewed the application pursuant to the provisions in the ordinance and determined that additional conditions are not warranted to comply with the ordinance. *Exhibit 1, Staff Report.*
6. In the original application for the SUP, the Applicant stated that the life of the mine would be 10 years. Based on this statement, the 10 year life became a condition. In 1993 with the adoption of TCC 20.30B.020, the subject property was classified as mineral lands of long-term commercial significance, which designated the site as suitable for long term commercial mining operations. No reason exists to limit the site to a 10-year period. The County agrees that deleting the 10-year clause is appropriate. *Exhibit 1, Staff Report; Exhibit 1, Attachment d; Smith Testimony.*
7. Written notice of the public hearing was sent to all property owners within 2,700 feet of the site on January 6, 1998 and notice was published in The Olympian on January 7, 1998, at least ten (10) days prior to the hearing. Notice was posted on January 9, 1998. *Exhibit 1, Attachment A.* No testimony was submitted indicating noncompliance with any condition of approval or any need for additional conditions.

## **CONCLUSIONS**

### Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for special use permits pursuant to Chapter 36.70 of the Revised Code of Washington and Chapter 20.54 of the Thurston County Code.

### Conclusions Based on Findings

1. On June 11, 1991, a Special Use Permit (SUP) was issued for a gravel mining operation on the property described in the summary of record. Condition 2 of the SUP required a five (5) year review of the SUP and set a life of the SUP at 10 years. The Applicant requested a five-year review of the SUP to determine if the Applicant is complying with the required conditions of approval and if the conditions assigned to the SUP are adequate. The Applicant has also requested deletion of the portion of Hearing Examiner Condition 2 that sets the life of permit approval at 10 years. *Finding of Fact #1.*
2. The instant application is the first five-year review of the SUP for the operation. The Applicant and the County staff reviewed the operation and determined it to be in compliance with all conditions of the SUP. No changes in the gravel mining operation

nor in any applicable codes and regulations were identified. There is no reason to amend the existing conditions or add new conditions. However, the clause of Condition 2 that limits the permit length to 10 years shall be deleted as a condition. *Finding of Fact # 1 - 7.*

### **DECISION**

Based upon the above Findings and Conclusions, the Hearing Examiner **APPROVES** the renewal of the approved Special Use Permit for a gravel mining facility operated by Great Western Supply, subject to the following conditions:

- A. All requirements of the Thurston County Environmental Health Department, Thurston County Roads and Transportation Services Department and the Thurston County Fire Marshal's Office shall be met prior to or in conjunction with the start of the operation.
- B. The permitted activities and machinery shall consist of 1 - 240 square foot scale building, front end loaders, diesel trucks, tractors and crusher.
- C. No gravel, trees or ground cover shall be removed within the 100-foot setback buffer area from all property lines.
- D. Access to the site shall be limited to 103rd Avenue SE via a new private road. The private road will be constructed to County Rural Road Standards and shall be located adjacent to the railroad right-of-way (which is now County Parks trail property). No trees shall be removed from the area between the new access road and the residences to the west.
- E. Hours of operation shall be limited to 7:00 a.m. to 5:00 p.m., Monday - Friday and 9:00 a.m. - 5:00 p.m. on Saturday. Except for emergencies, the applicant must receive authorization of approval from the Development Services Department - Land Use and Zoning Section, within 48 hours of the emergency.
- F. The Special Use Permit shall be reviewed by the Hearing Examiner each five years after the effective date of the permit to determine whether the conditions of approval have been complied with or should be amended. The applicant is responsible to ensure that such review has been within the five year time period.

- G. Any lighting of the facility shall be limited to low intensity lights and shall be shielded and directed so that the illumination only affects the premises of the permit.
- H. All operations must be operated in conformance with the Olympic Air Pollution Authority regulations.
- I. During dry periods, the operation shall have remedies for dust control including but not limited to water trucks or sprinklers.
- J. One sign not to exceed 32 square feet in area which may be located at the entrance on 103rd Avenue SE.
- K. The Reclamation Plan shall include but not be limited to replanting trees. This condition shall not preclude other reclamation measures required by the Washington State Department of Natural Resources and their issuance of a surface mining permit. Prior to commencement of any mining activities on the property the applicant shall provide proof to Thurston County that a reclamation plan for the site has been approved by the Washington State Department of Natural Resources.
- L. The floor of the extraction area shall be designed and maintained in such a manner that stormwater drainage will flow to the sedimentation pond and will be retained on-site.
- M. All new slopes on the sites of the reclaimed area of the site shall be a minimum of 2-to-1 or as required by the Department of Natural Resources, whichever is more restrictive.
- N. For protection of surface and ground water, all turbid water and all stormwater shall be retained within the sedimentation pond shown on the site plan.
- O. An Erosion and Sediment Control Plan shall be prepared by a qualified engineer and submitted to and approved by the Roads & Transportation Services Department prior to the commencement of any grading activity.
- P. For the protection of surface and ground water, any future composting operation shall be covered and run-off generated shall be contained on-site.
- Q. Noise levels shall comply with standards set forth in WAC 173-60-040.
- R. Prior to the commencement of any rock or gravel washing on the site, the applicant shall submit proof to the Thurston County Development Services Department - Land Use Section that the applicant has obtained all required water rights permits from the State

Department of Ecology.

- S. All equipment used on the site shall be equipped with mufflers and be properly maintained to limit noise.
- T. The Operation of the facilities on the site shall be consistent with the site plan as approved by the Hearing Examiner for only the mineral extraction activities.

Dated this 28th day of January, 1998.

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James M. Driscoll  
Hearing Examiner for Thurston County