



COUNTY COMMISSIONERS

Cathy Wolfe
District One
Sandra Romero
District Two
Karen Valenzuela
District Three

HEARING EXAMINER

Creating Solutions for Our Future

BEFORE THE HEARING EXAMINER IN AND FOR THE COUNTY OF THURSTON

In the Matter of the Application of)	No. 2013102726
)	
Lakeside Industries)	Waldrick Mine
)	Five Year Review
)	
For Approval of a Requested)	
Five Year Review of)	FINDINGS, CONCLUSIONS, AND
<u>the Waldrick Mine</u>)	DECISION

SUMMARY OF DECISION

The request for approval of a five year review of the 50-acre gravel mining operation known as the Waldrick Mine is **APPROVED** subject to conditions; however, as spelled out in detail in the findings, conclusions, and conditions below, review is only approved for one year on the limited issue of the missing DNR-approved reclamation plan.

SUMMARY OF RECORD

Request

Lakeside Industries (Applicant) seeks approval of the five year review of the 50-acre mining operation known as the Waldrick Mine.

Hearing Date

The Thurston County Hearing Examiner held an open record public hearing on the request on April 21, 2014.

Testimony

The following individuals submitted testimony under oath at the open record public hearing:

Tony Kantas, Resource Stewardship Department
Sara Brallier, Environmental Health Department
Dawn Peebles, Environmental Health Department
Arthur Saint, Public Works Department

Karen Deal, Lakeside Industries
Dean Smith, Lakeside Industries

Exhibits

The following exhibits were admitted in the record of this matter:

EXHIBIT 1 Resource Stewardship Department Staff Report, dated December 6, 2010, with the following attachments:

- Attachment a Notice of Public Hearing
- Attachment b Master Application
- Attachment c Special Use Permit Application
- Attachment d Notice of Application
- Attachment e Aerial Photo
- Attachment f Site plan
- Attachment g October 16, 2013 Comment Letter from the Thurston County Health Department
- Attachment h March 3, 2014 Comment Memorandum from the Thurston County Public Works Department
- Attachment i August 19, 2013 Comment Letter from the Thurston County Noxious Weed Control Department
- Attachment j March 17, 2014 Comment Email from the Thurston County Noxious Weed Control Department
- Attachment k October 1, 2013 Comment Email from Lisa Bielski
- Attachment l June 26, 2013 Comment Letter from the State of Washington Department of Ecology
- Attachment m Project No. 2006100954 Hearing Examiner Decision, dated January 9, 2008
- Attachment n Project No. SUPT 98-0681 Hearing Examiner Decision, dated November 22, 1999
- Attachment o SEPA Determination (MDNS) dated September 2, 1999

Attachment p Project No. SUP 14-88 Hearing Examiner Decision, dated September 23, 1988

Attachment q Determination of Non-Significance, dated August 3, 1988

EXHIBIT 2 Applicant Narrative Addressing Compliance with Conditions of permit approval

EXHIBIT 3 Addendum to Hydrogeologic Study, prepared by Farallon Consulting, dated January 16, 2009

EXHIBIT 4 Hydrogeologic Study, prepared by Farallon Consulting, dated December 12, 2007

EXHIBIT 5 Site Weed Management Plan, Lakeside Industries, 2010

EXHIBIT 6 Site photos taken by Tony Kantas on date of posted notice

EXHIBIT 7 Site plans, including:

- a. Figure 4, Mining Sequence, Waldrick Pit DNR# 70-012614
- b. Figure 2, Waldrick Road Overview Map (aerial photo with site depicted in yellow)

Upon consideration of the testimony and exhibits submitted at the open record hearing, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicant requested approval of five year review for the Waldrick Mine required pursuant to Thurston County Code (TCC) 20.54.070.21.e, which states:

Any permit issued pursuant to this chapter shall be reviewed by the approval authority no less frequently than every five years from the date of the decision to approve the permit. The approval authority shall determine the frequency of permit review. The director may authorize a reasonable fee for this review. At the time of such review, the approval authority may impose additional conditions upon the operation if the approval authority determines it is necessary to do so to meet the standards of this chapter, as amended.

The instant application was submitted June 5, 2013. *Exhibit 1, pages 1-2; Exhibit 1, Attachments b, c, and d.*

2. The existing 50-acre mining operation is located on 122.62 acres addressed as 11006 SE Old Highway 99, Olympia, located north of Waldrick Road and east of the Burlington Northern Railroad Tracks and Old Highway 99 in Thurston County, Washington.

Surrounding land uses include farmland, pasture land, and single-family residences on larger agricultural parcels. The Deschutes River is located approximately 900 feet to the northeast of the approved mining area. *Exhibit 1, pages 1-2; Exhibit 1, Attachments b and c; Exhibit 7.b; Exhibit 3.*

3. The subject property is zoned Long Term Agricultural (LTA). Mineral extraction activities are not a permitted use in the LTA zone. At the time SUPT 98-0607/SUPT 99-0681 were reviewed, the County official deemed the mining operation approvable via special use permit review. *Exhibit 1, page 2.*
4. The Waldrick mine was initially approved through special use permit review on September 23, 1988 (SUP 14-88), authorizing a 20-acre gravel mine site. Conditions of approval imposed in SUP-14-88 required, among other items: a 100-foot buffer separating the approved mine site from adjacent properties; a ten-year initial approval period with a hearing examiner review at five years to determine whether the use was in compliance with conditions of approval and with an option for the Applicant to request extension of the life of the permit. *Exhibit 1, Attachment p.*
5. In 1998, the Applicant applied for a five year review of SUP 14-88 and requested a new special use permit (SUPT-98-0607/SUPT98-0681) to allow the following amendments (among others) to the approved mine: removal of the ten-year time limit; change of the approved hours of operation; and expansion of the approved mining site by 30 acres. The five year review and SUP amendment (SUPT-98-0607/SUPT-98-0681) were approved on November 22, 1999 with conditions. The area approved for mining was expanded to 50 total acres, but not more than 20 acres were to be in active mining at one time. Maximum depth of mining below ground level was set at 60 feet. Mining activities were required to provide a 100-foot buffer from all property boundaries and a 50-foot buffer from any Oregon White Oak stands. *Exhibit 1, Attachment n.*
6. On November 22, 2004, the Applicant applied for five year review of the mine (SUP 2006100954); review included both of the previously approved permits. On January 9, 2008, the mine was determined to be in compliance with all adopted conditions related to the gravel mine as well as all County, State, and Federal regulations by the Thurston County Hearing Examiner. *Exhibit 1, Attachment m; Exhibit 1, page 3; Kantas Testimony.*
7. The mine was previously reviewed for compliance with the requirements of the State Environmental Policy Act (SEPA) during the review of both the original permit (SUP 14-88) and the 30-acre expansion (SUPT 98-0607/SUPT 98-0681). In review of the instant application for five year review, Resource Stewardship Staff reviewed the mine for compliance with conditions of both mitigated determinations of non-significance, issued on August 17, 1988 and September 2, 1999 respectively. The instant five year review is exempt from further review pursuant to SEPA. *Exhibit 1, page 3; Kantas Testimony; Exhibit 1, Attachments o and q.*

8. In the course of the most recent five year review, the Applicant was required to provide a hydrogeologic study to determine whether mining activities had breached the seasonal high water table and to provide recommendations on the target mining depth to prevent future breaches. The professionally prepared 2007 study included: a topographic survey of the mine site and down gradient properties; installation of three groundwater monitoring wells; surveying the elevation of the water in the three wells and estimating flow direction; and comparing the lowest elevation at the base of Waldrick mine to the inferred groundwater elevation under the site. The lowest point of the mine site is at an elevation of 215 feet above mean sea level. The 2007 study determined that the groundwater table, at its shallowest, was eight to 12 feet below the ground surface and that no groundwater discharged to the site's surface. Groundwater elevations in the three monitoring wells were measured monthly from December 2007 through June 2008. Monitoring well 2 was closest to the Deschutes River; of the three, it exhibited the least seasonal fluctuation and did not appear to be affected by water levels in the river. Monitoring results confirmed that ground water does not discharge to the ground surface of the mine site, indicating mining has not breach the water table. *Exhibits 3 and 4*. Based on concerns about potential impacts to groundwater, the Applicant revised the mining plan to allow extraction to a maximum depth of 40 feet in an attempt to provide at least 10 feet of separation between mining and the groundwater table. This revision was made a condition of permit approval in the most recent five year review. *Exhibit 1, Attachment m*.
9. No amendments to the Thurston County Code's special use chapter for mineral extraction or the mineral extraction code have been adopted since the most recent five year review (2006100954) approval. *Exhibit 1, page 4*. During site inspections, Resource Stewardship Staff determined that the Waldrick pit has been actively mined since the last five-year review. *Exhibit 1, page 3; Kantas Testimony; Exhibit 6*.
10. The instant request for five year review does not propose any changes to, expansion, or increase of intensity of the existing mining operation. *Deal Testimony; Exhibit 2*.
11. The Applicant submitted a narrative addressing the mine's compliance with each of the conditions of the three previous permits. The initial SUP (SUP-14-88) contained 15 conditions. The narrative asserts that the operation is in compliance with all 15, except to the extent that those have been revised by subsequent permits. The narrative specifically calls out the following information: no equipment other than permitted in SUP-14-88 is operated on-site; all site traffic accesses the mine via Waldrick Road; crushing activities are conducted by a contractor operating under a current Olympic Region Clean Air Agency permit; no equipment maintenance occurs on-site and there are no permanent fueling facilities on-site; spill response equipment is available on-site in the event of a fuel spill; and a water truck is used to manage dust. *Exhibit 2*.
12. The first five year review in the record was issued together with the decision on the SUP amendment that expanded the mining area (SUP98-0607/SUP 99-0681). That combined permit contains 10 conditions, and the MDNS issued in association with the expansion

contained six additional conditions. The Applicant's narrative for the instant review contends that operations are in compliance with all 16 conditions. Specifically called out are the following items: no more than 20 acres are presently disturbed; permanent buffers and reclamation setbacks are shown on the reclamation plan maps; mining activities are conducted in accordance with a Washington State Department of Ecology- issued NPDES Sand & Gravel General Permit; and there has been no mining intrusion into the groundwater and no expansion north towards the Deschutes River. *Exhibit 2*.

13. The most recent five year review (SUP 2006100954) contained eight conditions. The Applicant's narrative claims operations to be in compliance with all eight. The narrative notes the following information: mining activities have remained above 215 feet above the mean sea level; no expansion or alteration of the use is proposed; there are no current plans to add a shop or other activities that would involve on-site maintenance of equipment or vehicles; and no noise complaints have been received. *Exhibit 2*.
14. Condition number 6 of the SEPA MDNS 98-0607 required operations to comply with all requirements of the approved Department of Natural Resources Reclamation Plan. At the time of the 2007 hearing (SUP 2006100954), Planning Staff contended that the Applicant was out of compliance with this condition because no DNR-approved reclamation plan for the revised, expanded mining area had been obtained. The Hearing Examiner in that case concluded that there was compliance because the Applicant had submitted the revised reclamation plan to DNR on December 21, 2007. *Exhibit 1, Attachment o*. The Applicant narrative submitted with the instant application notes that DNR rejected the 2007 reclamation plan on September 19, 2009 and required additional information, which the Applicant submitted to DNR on January 11, 2011. As of the date of the instant hearing, DNR had not yet approved the reclamation plan, but the Applicant indicated that they were "actively working with DNR" to obtain an updated reclamation permit. *Exhibit 2*.
15. Condition number 3 of SUP 2006100954 required:

The Applicant shall consult with the Thurston County Noxious Weed Control Department and establish a vegetation management plan to control noxious weeds on the mine site. The vegetation management plan shall be submitted to the [Department] within 90 days of hearing examiner approval of the five year review.

Exhibit 1, Attachment m. County Staff indicated that there was a copy of the timely submitted document in the project file for the previous five year review, but that Planning Staff had failed to forward the plan to the Weed Control Unit. Staff asserted that the Applicant was in compliance with the condition despite the fact that the Unit did not receive the plan said to have been submitted within 90 days. *Deal Testimony; Kantas Testimony; Exhibit 2*.

16. At some point, the Applicant submitted a Site Weed Management Plan for all its mining sites; the document is dated 2010. *Exhibit 5*. This plan was routed to the Noxious Weed Control Unit for review of the instant application. The Unit concluded that it does not satisfy the required standards and requested a revised, site-specific plan including the following additional steps: pre-operation site inspections; plans for inspecting and controlling noxious weeds when new infestations are discovered; plans for preventing future infestations when the mine is shut down and/or abandoned; mitigation plans for preventing off-site movement of materials contaminated with noxious weeds, to include designated sacrifice areas for containment; and annual site inspection around June 15th to specifically survey for and control outbreaks of tansy ragwort, which has historically been a problem on-site. *Exhibit 1, Attachments i and j*. An Applicant representative indicated that the property is owned by a trust that was previously responsible for weed control, but going forward the Applicant would assume vegetation management of the mine site. Planning Staff recommended as a condition of approval that the Applicant be required to submit a revised vegetation management plan complying with the Unit's comments. *Kantas Testimony; Smith Testimony; Exhibit 1, pages 3-4*.
17. The record contains no evidence that an initial five year review occurred after the 1988 approval of the original permit. Presumably addressing this, conditions number 9 and 10 of SUP 98-0607/SUP 98-0681 required as follows:
9. It is the responsibility of the owner/operator to request a review every five years. Failure to submit the application may be justification for the County to begin compliance action against the project.
10. This permit will be valid indefinitely. However there is to be an administrative review conducted every five years by the County to determine if the operation and facility are consistent with all permits and conditions and all applicable laws of the State of Washington and Thurston County. Should the County determine that there are inconsistencies with the permit, conditions, or laws and regulations, there shall be a public hearing on the continued validity of the permit.

The decision was issued November 22, 1999. *Exhibit 1, Attachment n*.

18. On November 22, 2004, the applicant applied for the subsequent five year review (SUP2006100954), but the hearing did not occur until September 11, 2007 and the record did not close until December 21, 2007. The decision was issued January 9, 2008, more than three years past the five year deadline. Condition number 5 of SUP2006100954 addressed this delay, stating (in part):

The Applicant is responsible to initiate the five year review process. The next five year review shall occur no later than January 2013.

Exhibit 1, Attachment m (emphasis in the original).

19. The notice of application states that the application was submitted on June 5, 2013 and was not deemed complete for review until July. The master application in the instant case was signed by the Applicant representative on April 3, 2014. *Exhibit 1, Attachments b and d*. The five year review hearing did not occur until April 14, 2014. Planning Staff submitted the opinion that the delay did not render the operation out of compliance with the previous permit conditions, in part, because County staffing difficulties contributed to the delay. *Kantas Testimony*.
20. Staff from the Thurston County Public Works and Public Health and Social Services Departments submitted comments on the proposal and testimony at hearing. Both departments found the mining operation to be in compliance with conditions recommended on the previous permit applications and recommended approval of the instant five year review. *Exhibit 1, Attachments g and h; Brallier Testimony; Saint Testimony*.
21. Notice of application was mailed to all property owners within 2,600 feet from the subject property August 13, 2013. *Exhibit 1, Attachment d*. The County received one comment email expressing concerns, particularly with regard to traffic, based on the mistaken belief the proposal would expand operations and result in increased impacts. *Exhibit 1, Attachment k*. Thurston County Roads Department Staff testified that the instant permit would not result in any expansion of the use or increase traffic beyond that already approved. Public Works Staff found the mine to be in compliance with all adopted conditions of the previous permit approvals. *Saint Testimony; Exhibit 1, Attachment h*.
22. Notice of public hearing was sent to all property owners within 2,600 feet of the site, posted on-site, and published in The Olympian on April 11, 2014, at least ten (10) days prior to the hearing. *Exhibit 1, page 2; Exhibit 1, Attachment A*.
23. Resource Stewardship Staff determined the mine to be in compliance with the standards of the County's mineral extraction ordinance and the conditions of SUP 14-88, SUPT 98-0681, and SUP 2006100954, with exception of the noxious weed control plan requirement of the last five year review. Staff recommended approval with conditions addressing noxious weed control and other items. *Exhibit 1, page 4; Kantas Testimony*. The Applicant waived objections to the recommended conditions of approval. *Deal Testimony*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to conduct the five year review of mineral extraction operations pursuant to Sections 2.06.010 and 20.54.070(21)(e) of the Thurston County Code.

Criteria of Approval For Five Year Review

Pursuant to TCC 20.54.070(21)(e), a special use permit for a mine “shall be reviewed by the approval authority no less frequently than every five years from the date of the decision to approve the permit.... At the time of such review, the approval authority may impose additional conditions upon the operation if the approval authority determines it is necessary to do so to meet the standards of this chapter, as amended.”

Special Use Permit Criteria

TCC 20.54.040, General Standards

In addition to the specific standards set forth hereinafter with regard to particular special uses, all uses authorized as special uses shall meet the following standards:

1. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan and all applicable federal, state, regional, and Thurston County laws or plans.
2. Underlying Zoning District. The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.
3. Location. No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:
 - a. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though the adverse effects may occur.
 - b. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

TCC 20.54.070.21, Use Specific Standards

Mineral Extraction. Mineral extraction (including expansions of existing conforming and legal nonconforming mines) and their accessory uses are subject to the following provisions and the provisions of Chapter 17.20 of this code, the Thurston County Mineral Extraction Code:

- a. Accessory Uses.
 - i. The following accessory uses are allowed only when expressly permitted in a special use permit issued by the approval authority: washing, sorting or crushing of rock or gravel, concrete batching, storage or use of fuel, oil or other hazardous materials, and equipment maintenance. Limited manufacturing of concrete products from sand and gravel excavated on-site may be allowed by the department as an accessory use to a permitted concrete batching facility; provided, that retail sales of such products are prohibited. All other accessory uses are allowed only when approved after administrative review by the department.
 - ii. Accessory uses are permitted only in conjunction with an existing mineral extraction operation. The permit for the accessory use expires when the SUP for the mineral extraction expires, is revoked, or when significant mineral extraction activity as defined in Section 17.20.150 ceases. Recycling of concrete is permitted as an accessory use only in conjunction with a permitted crusher and in accordance with any health department requirements.
- b. Reports. Copies of any reports or records, except financial reports, required to be submitted to federal, state, regional or county officials or agencies pursuant to any laws or regulations shall be made available to the county upon request. Information required shall be limited to that pertaining to operations within Thurston County. The public disclosure of such information shall be governed by applicable law. The operator shall keep a record of the source of any asphalt, concrete or soils imported from off-site and stored on-site.
- c. Application and Review Procedures. In addition to the information required in Chapter 20.60 of this code, the application to the county for a special use permit for mineral extraction shall include:
 - i. A contour map, drawn to the scale of one hundred feet to the inch and contour intervals of two feet, or at a scale and topographic interval determined to be adequate by the department. The map must show current field topography, including the location of water courses of the tract intended for the proposed operation and estimated thickness of overburden and mineral-bearing strata in the tract intended for the proposed operation;
 - ii. The rehabilitation and conservation plans described in Section 17.20.140 of this code;
 - iii. A list of all proposed activities anticipated or planned to occur on the site, including but not limited to the method of mineral extraction, washing, sorting, crushing,

- concrete batching, equipment maintenance, or any activity that could result in a potential, significant, adverse environmental impact;
- iv. A preliminary drainage plan in accordance with Chapter 15.05 of this code;
 - v. A copy of the applicant's DNR reclamation permit application, as required by RCW 78.44.080.
- d. Bonds. In cases where rehabilitation requirements of the county exceed those of the Department of Natural Resources, a performance bond may be required in an amount to be sufficient to insure rehabilitation in accordance with the plan submitted pursuant to Section 17.20.140 of this code, subject to applicable law. With the approval of the county and for such period or periods as may be specified, the owner may be permitted to post its own bond without corporate surety.
- e. Permit Review. Any permit issued pursuant to this chapter shall be reviewed by the approval authority no less frequently than every five years from the date of the decision to approve the permit. The approval authority shall determine the frequency of permit review. The director may authorize a reasonable fee for this review. At the time of such review, the approval authority may impose additional conditions upon the operation if the approval authority determines it is necessary to do so to meet the standards of this chapter, as amended.
- f. Designated Mineral Lands Status. In accordance with Chapter 20.30B, an application for designation as mineral resource lands of long-term commercial significance may accompany an application for a special use permit for mineral extraction. Refer to Chapter 20.30B for requirements.

Conclusions Based on Findings

1. The mineral extraction use-specific standards of the special use chapter require mines to be reviewed "no less frequently than every five years from the date of the decision to approve the permit." *TCC 20.54.070.21.e*. Timeliness of the five year review has been an issue since the initial permit for the Waldrick mine was approved. After the original September 1988 approval, there should have been five year reviews in 1993, 1998, 2003, 2008, and 2013. Instead, the instant proceeding is only the third review. The first five year review was conducted 11 years after the permit issued. The application for the next five year review was submitted on the five year anniversary of the previous permit's approval. The hearing examiner who reviewed the most recent five year review (SUP2006100954) expressly required that the next review occur "no later than January 2013" (emphasis in the original). Planning Staff's assertion that Resource Stewardship staffing issues contributed to the delay in the hearing is no doubt true. Regardless of this fact, the instant application wasn't submitted until June 2013 and the County lacked the information needed to initiate review until July 2013. As noted in the conditions of the two previous five year reviews, it is the Applicant's responsibility to initiate five year review in a timely manner. The instant decision maker notes submittal of an application

does not constitute "review" and interprets both the code and condition number 5 of the previous permit to require the "five year review" hearing to be conducted within five years of the approval of the last permit review (or by January 9, 2013). The operation is therefore out of compliance with both the requirements of mineral extraction use-specific special use criteria at TCC 20.54.070.21.e and condition 5 of the previous five year review permit. A condition of approval is necessary to ensure timely review at the next five year review. *Findings 4, 5, 6, 7, 17, 18, and 19.*

2. The mine is out of compliance with condition number 3 of SUP 2006100954, which established an express deadline of 90 days from January 9, 2008 to submit a vegetation management plan to the Noxious Weed Control Unit. More than six years later, there is still no management plan in existence that satisfies the County's weed control standards. A condition of approval would be adequate to address this error. *Findings 15 and 16.*
3. When the most recent five year review was approved, the hearing examiner noted that Planning Staff argued the lack of DNR-approved reclamation plan rendered the mine out of compliance with condition number 6 of the SEPA MDNS 98-0607, but approved the five year review anyway on the grounds that the application for revised reclamation plan had been submitted to DNR in December 2007. Six and one half years later, the mine is still operating without a DNR-approved reclamation plan. While obvious, the import of having required compliance with a DNR-approved reclamation plan as a SEPA condition of approval bears restatement here: the operation would not result in probable, significant, adverse environmental impacts *if* it remained in compliance with the enumerated mitigation measures. While acknowledging that the Applicant has little control over DNR timelines other than its own timely submissions to that agency, it is true that the mine is operating in violation of condition number 6 of the SEPA MDNS 98-0607 and has been out of compliance for an unidentified majority of the 13 years since the permit was issued (possibly the entire time). Pursuant to TCC 20.54.070.21.e, the "approval authority shall determine the frequency of permit review" and "may impose additional conditions upon the operation if the approval authority determines it is necessary to do so to meet the standards of this chapter". On the limited issue of compliance with SEPA MDNS 98-0607 condition number 6, the Applicant shall have one year to submit to the County a DNR-approved plan, or if no plan has yet been approved, a hearing shall be convened to establish the record of the Applicant's attempts at compliance. The requirements will be fully established in the condition of approval below. *Finding 14; TCC 20.54.070.21.e.*
4. As conditioned, the mine would operate in compliance with the County's mineral extraction ordinance, with the previous permits' conditions of approval, and with the standards of the special use chapter of the County Code. *Findings 1, 4, 5, 6, 7, 8, 9, 10, 20, 21, and 23.*

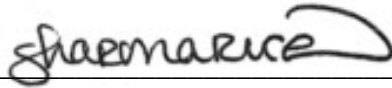
DECISION

The five year review of the 50-acre gravel mining operation known as the Waldrick Mine is **APPROVED** subject to the following conditions:

1. In order to remediate this mine's history of non-compliance with five year review deadlines, the hearing on the next five year review must occur within five years of the date of the instant approval or no later than May 2019. If the hearing is conducted later and the Applicant can present evidence of factors beyond its control resulting in delay of hearing, this condition will be satisfied if the Applicant submits the application for five year review at least one year before the five year deadline (May 5, 2018).
2. The Applicant shall consult with the Thurston County Noxious Weed Control Unit to establish a vegetation management plan in accordance with Attachments i and j to control noxious weeds on the mine site. The vegetation management plan shall be submitted to the Noxious Weed Control Department within 30 days of Hearing Examiner approval of the five-year review. The Applicant shall engage in the required site inspection for tansy ragwort in mid June 2014 and submit the requested tansy ragwort control plan, if required based on conditions in the field, within 30 days of the site inspection.
3. The Applicant shall have one year from the date of the instant approval to submit a DNR-approved reclamation plan for the Waldrick mine. If no plan has yet been approved, the instant five year review proceeding shall be reconvened for hearing on the limited issue of the DNR reclamation plan. At the reconvened hearing, the Applicant will have the opportunity to demonstrate through testimony and evidence the complete history of its good faith efforts to obtain DNR approval of its reclamation plan (last submitted to DNR in 2011). Based on the record established at that hearing, five year review approval may be granted for the remainder of the review period, extended for one more year subject to reconvened hearing, or it may be revoked until an approved reclamation is in place.
4. All mining activity shall be in compliance with the conditions established through SUP 14-88, SUPT 98-0681, SUP 2006100954, and SUP 2013102726.
5. The operation of the gravel mine shall remain in compliance with the Thurston County Mineral Extraction Ordinance, Chapter 17.20.
6. All development on the site shall be in substantial compliance with the approved site plan. Any expansion or alteration of the use will require approval of a new or amended Special Use permit. The Resource Stewardship Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
7. Any future increase in activities on this site will be reviewed with respect to all applicable requirements of the Thurston County Code Title 17.20 Mineral Extraction Ordinance.

8. Any future expansion of the mine and/or intensification of mining activities may require a hydrogeologic report and ground water monitoring plan be developed for this site.
9. Any future expansion of the mine and/or intensification of the mining activities may require a detailed noise study and noise monitoring plan be developed for this site.
10. Future proposals to add buildings may require an approved public water supply and approved on-site sewage systems.
11. Any future proposals for a shop or for activities that will involve extensive on-site maintenance or repair of vehicles and equipment will require development and approval of a hazardous materials storage, handling, disposal, and spill response plan.

DECIDED May 5, 2014.



Sharon A. Rice
Thurston County Hearing Examiner