

NOTICE OF PUBLIC HEARING
BEFORE THE LATAH COUNTY ZONING COMMISSION
Wednesday, April 1, 2009
5:30 p.m.

The Latah County Zoning Commission will hold a public hearing on Wednesday, April 1, 2009 in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

5:30 p.m. – CUP #791 – A request by Ploughshare Institute for Sustainable Culture for a conditional use permit to conduct the following activities on 462.61 acres in the Agriculture/Forest (A/F) zone: school, visitor center, bed and breakfast, campground, and an agricultural/forestry related commercial business. The property is located at 1311 Brush Creek Rd., Deary, Idaho in Sections 30, 31, and 32 of Township 40 North, Range 01 West, B.M., in Latah County, and referenced as Assessor's Parcel Numbers RP40N01W307204A, RP40N01W307244A, RP40N01W309254A, RP40N01W309494A, RP40N01W310005A and RP40N01W323101A

5:45 p.m. – CUP # 792 – A request by Verle Koehn for a conditional use permit to operate a mineral resource development to include excavation on a portion of a 79.35-acre parcel in the Agriculture/Forest zone. The property is accessed off of Highway 9, approximately 2.5 miles south of the unincorporated town of Harvard, Idaho. The property is located in Section 20, Township 41 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP41N03W207272A.

All interested parties are encouraged to attend the hearings. Accommodations for individuals who qualify under the Americans with Disabilities Act are available upon request. Notice is required in the Planning Office three working days prior to the hearings in order to acquire accommodations.

These hearings will be held pursuant to the Latah County Hearing Procedures Ordinance and under authority of the Idaho Local Planning Act, the Latah County Comprehensive Plan and the Latah County Land Use Ordinance. The Latah County Zoning Commission reserves the right to limit the length of testimony.

Additional information on this request, including full copies of the proposal, is available from the Planning and Building Department at the Latah County Courthouse, Moscow, Idaho. Phone (208) 883-7220. Written comments will be accepted at the above office prior to the public hearing.

Drew Blankenbaker
Associate Planner

(This is a public service announcement)

**VERLE KOEHN
CONDITIONAL USE PERMIT APPLICATION #792
STAFF REPORT**

SUMMARY OF APPLICATION:

A request by Verle Koehn for a Conditional Use Permit (CUP #792) to operate a mineral resource development to include excavation on a portion of a 79.35-acre parcel in the Agriculture/Forest zone. The property is accessed off of Highway 9, approximately 2.5 miles south of the unincorporated town of Harvard, Idaho. The property is located in Section 20, Township 41 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP41N03W207272A.

Site Characteristics:

Size of Parcel(s): 79.35 acres
Soils: Klickson silt loam, 25-35% slopes
(Latah County Soil Survey Sheet #16)
Floodplain: Zone "C" (FIRM Panel #160086 0165B)

Land Use and Regulations:

Comprehensive Plan Designation: Productive
Existing Zoning: Agriculture/Forest (A/F)
Existing Uses: Gravel Pit, Timber and Pasture
Neighboring Zoning: Agriculture/Forest (A/F)
Neighboring Uses: Agriculture, Forestry and Rural Residences

Infrastructure/Services:

Water: Pond and Water Truck
Sewer: Not Applicable
Access: Highway 9, Idaho Transportation Dept.
Schools: Potlatch School District #285
Fire Protection: Potlatch Fire District
Law Enforcement: Latah County Sheriff

EXHIBITS:

Exhibit #1. Staff Report
Exhibit #1A. Criteria Worksheet
Exhibit #1B. Vicinity and Comprehensive Plan Land Use Map
Exhibit #1C. Zoning Map
Exhibit #1D. Aerial Photograph and Adjacent Property Owners Map
Exhibit #1E. Photos of Subject Property
Exhibit #1F. Soils and Topographic Map
Exhibit #2. Application Form (Submitted by Applicant)
Exhibit #2A. Applicant's Narrative (Submitted by Applicant)
Exhibit #2B. Vicinity Map (Submitted by Applicant)
Exhibit #2C. Plat Map (Submitted by Applicant)
Exhibit #2D. Site Plan (Submitted by Applicant)
Exhibit #2E. Notice of Approved Reclamation Plan from Idaho Department of Lands, dated February 12, 2009

Exhibit #3. Declarations of Consent to Location of Mineral Resource Development
Exhibit #4. Staff Introduction for Latah County Zoning Commission hearing for CUP #792 held on April 1st, 2009

NOTE: Exhibits not included in the staff packet are available for review in the Planning Office, and will be entered into the record during the public hearing.

APPLICABLE STATUTE, ORDINANCE, AND COMPREHENSIVE PLAN SECTIONS:

Local Planning Act: Idaho Code 67-6512

Latah County Land Use Ordinance #269, as amended:

Section 3.01 Agriculture/Forest Zone
Section 4.03 Mineral Resource Development
Section 7.01 Conditional Use Permits

Latah County Comprehensive Plan

CRITERIA WORKSHEET

Note: This criteria worksheet does not represent staff analysis of information provided by the applicant supporters, or opponents; however, staff has identified policies which may be applicable to this particular request. Information submitted to the Planning Department prior to the mailing of the staff packet has been organized herein in relation to the applicable criteria for approval or denial. This worksheet is intended only to help identify if all relevant criteria have been addressed with supporting factual information and to provide a juxtaposition of any conflicting testimony that has been presented.

Type of request:

Conditional Use Permit for Mineral Resource Development

Description of application:

A request by Verle Koehn for a Conditional Use Permit (CUP #792) to operate a mineral resource development to include excavation on a portion of a 79.35-acre parcel in the Agriculture/Forest zone. The property is accessed off of Highway 9, approximately 2.5 miles south of the unincorporated town of Harvard, Idaho. The property is located in Section 20, Township 41 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP41N03W207272A.

Facts of application and the information submitted

1) Section 7.01 requires that specific uses within a particular zone require special consideration prior to being permitted in that zone (Section 3.01, Latah County Land Use Ordinance)

The Latah County Land Use Ordinance, under section 3.01.02(7), lists mineral resource developments subject to Section 4.03 as a conditionally permitted use in the Agriculture/Forest (A/F) Zone.

2) Section 7.01.01 requires that an application for a conditional use be made by the owner of the affected property.

The conditional use permit application was signed by Verle Koehn, owner of the subject property.

3) Section 7.01.02 requires:

1. A conditional use permit may be granted if the Zoning Commission finds that the proposed use conforms to each of the following criteria:

- A. The use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone;
- B. The use will not require facilities or services with excessive costs to the public;

C. The use is consistent with the goals and policies of the Latah County Comprehensive Plan.

2. **If the Zoning Commission finds that a proposed use is essential to the public health, safety, or welfare, such use may be permitted even if the use is not found to meet the criteria listed above.**
3. **The Zoning Commission shall have the authority to set an expiration date for any conditional use permit so long as the reasons for such are included in their findings of fact and conclusions of law.**

4) Section 4.03.03 New Mineral Resource Developments states the following:

Any mineral development which is not registered as an existing development or does not qualify to be registered as an existing development, not exempt as per Section 4.03.04 of this ordinance, or does not have an existing conditional use permit, shall be considered a new development. Prior to operation, all new developments must obtain a conditional use permit under the provisions of Section 7.01 of this ordinance. In addition the Zoning Commission shall, as a minimum, place the requirements of Section 4.03.02 upon any newly permitted mineral development, unless making specific findings supporting the omission or alteration of the requirements of Section 4.03.02. Mineral resource developments which have been granted a valid conditional use permit prior to one year after adoption of this ordinance shall be considered permitted and shall observe all conditions previously established. New mineral resource developments shall be exempt from the provisions of Section 7.01.07 of this ordinance. The following are requirements for operation of all new mineral resource developments:

1. Activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant submits a signed notarized form, approved by the Planning Department, from all owners of record of any residential building within 1000 feet of the development consenting to the location of the mineral resource development. Each form shall be recorded in the Latah County Recorder's Office by the Planning Department. Approval of a distance less than 1000 feet shall be within the discretion of the Zoning Commission, even if all owners of residential buildings within 1000 feet approve of the location of the development.
2. The operator of a mineral resource development must provide at least a 75 foot undisturbed or natural buffer on the perimeter of mineral resource development operations. The buffer and the area of mineral resource development operations shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent. Frontage on a public road does not require a buffer. Activities associated with a mineral resource development shall not be allowed within the 75 foot buffer area. Location and specifications for access road(s) shall be determined by the Zoning Commission.

3. To protect aquatic and terrestrial habitat and other biological resources, all mineral resource developments and mineral resource development operations shall be set back at least 75 feet from perennial streams and 30 feet from any intermittent streams shown on USGS 7.5 minute maps; except for stream crossings that are regulated by a state or federal regulatory system and those activities permitted under the Idaho Placer and Dredge Mining Protection Act from the Idaho Department of Lands, a Stream Channel Alteration Permit from the Idaho Department of Water Resources, a Dredge and Fill Permit from the U.S. Army Corps of Engineers, a Development Permit from the Latah County Planning Department, and / or a National Pollution Discharge Elimination System permit from the U.S. Environmental Protection Agency. Applicable permit documentation shall be provided to the Zoning Administrator prior to onset of mineral resource development.

4. The applicant shall prepare and submit the following plans with the application for a conditional use permit:

- A. Dust abatement plan to include mineral resource development operations and all access roads.
- B. A plan for coordination with County response units for hazardous materials transport and use and emergency spill response.
- C. A plan for procedures and protocols for spill containment and storage of oil, fuels, and/or chemicals; and documentation of compliance with the state and federal laws or documentation of exemption from requirements.
- D. A plan for fire suppression and response, including an inventory of tools stored on-site to implement planned suppression and response.

5. The applicant may be required to post a bond with the Latah County Planning Department to assure full compliance with the proposed plans and provisions of this section. The amount of the bond shall be determined by the Latah County Zoning Commission.

5) Section 4.03.02 requires the following

- 1. Hours of operation are limited to 9 AM to 6 PM daily. An operator may vary from this requirement by applying for a conditional use permit under the provisions of Section 7.01 of this ordinance.
- 2. Written verification of compliance with the Idaho Surface Mining Act, including filing of any reclamation plan required by the Idaho Surface Mining Act.
- 3. The excavation site, any overburden and stockpiles, and a 50 foot buffer strip surrounding these areas shall be maintained so that they are continuously free of all

noxious weeds as determined by the Latah County Noxious Weed Control Superintendent.

4. The operator shall provide, by certified mail, written notification to all residences within one mile of any blasting. The notification shall be distributed and in the possession of the occupants of these residences at least 72 hours prior to any blasting. The notification shall give the date and time of the planned blast.

5. Blasting shall be restricted to the hours of 9:30 AM to 4:30 PM, Monday through Friday. No blasting shall occur on Saturdays, Sundays, or the following holidays: January 1, Memorial Day, Labor Day, Thanksgiving Day, and December 25.

6. An owner or operator may request, and the Director may grant, an exception to provide for additional hours of operation for a mineral resource development when additional hours of operation are needed to alleviate a public emergency. Public emergencies include the following:

- A. Damage to public roads or structures that require immediate repair.
- B. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.

7. Signs, upon approval of the signs by the Planning Department, warning of truck entrances shall be posted within one-quarter ($\frac{1}{4}$) mile of the site's entrance onto a public road.

8. The mineral resource development shall be marked by warning signs posted 200 feet from mine operations.

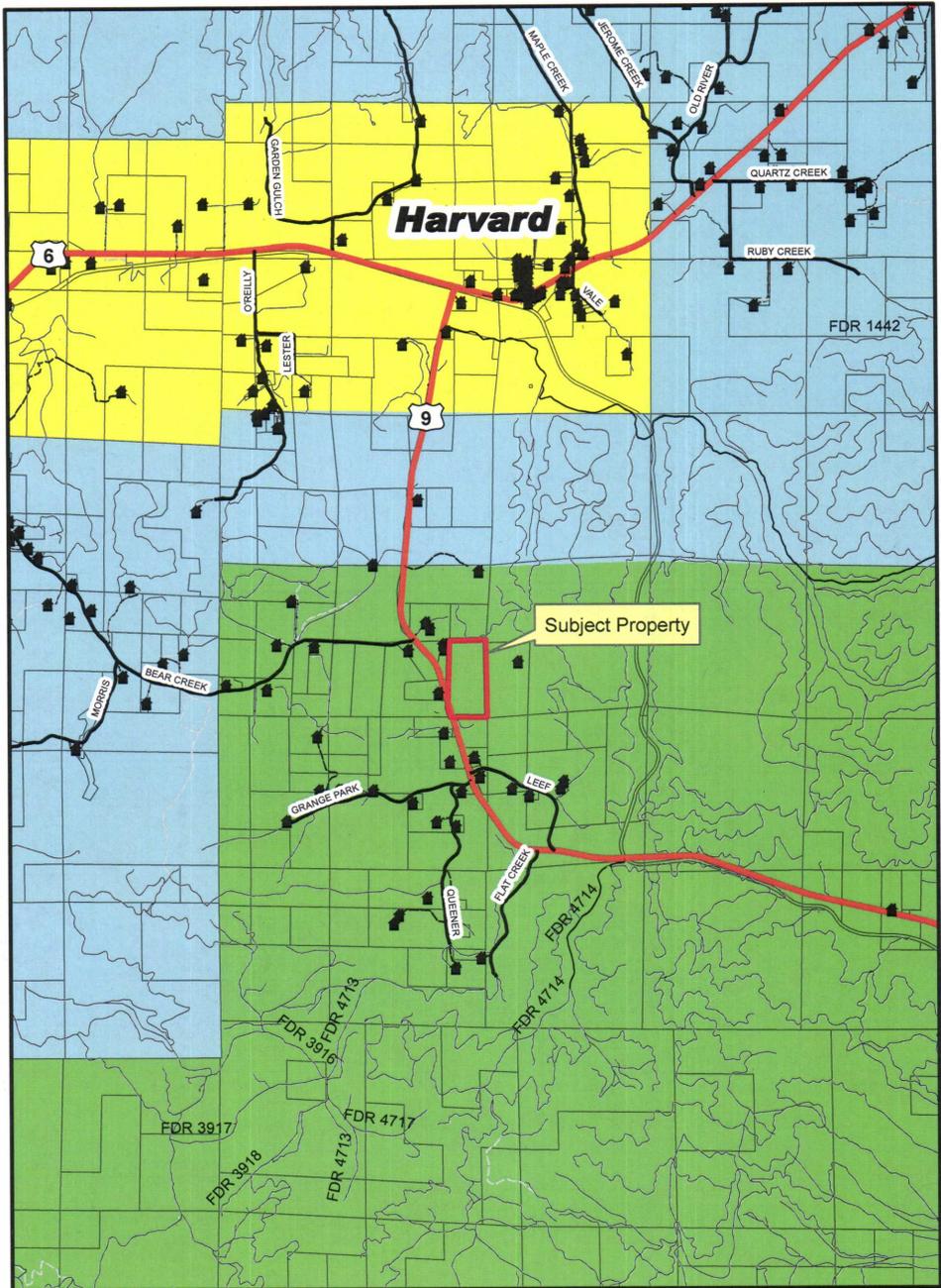
9. A plan to retain storm water runoff within the mineral resource development boundaries.

CUP # 792 Vicinity and Comprehensive Plan Land Use Map



Legend

- Rural Addresses
 - Parcel
 - Subject Property
- Comprehensive Plan**
- Rural
 - ICR
 - Productive
 - AOI

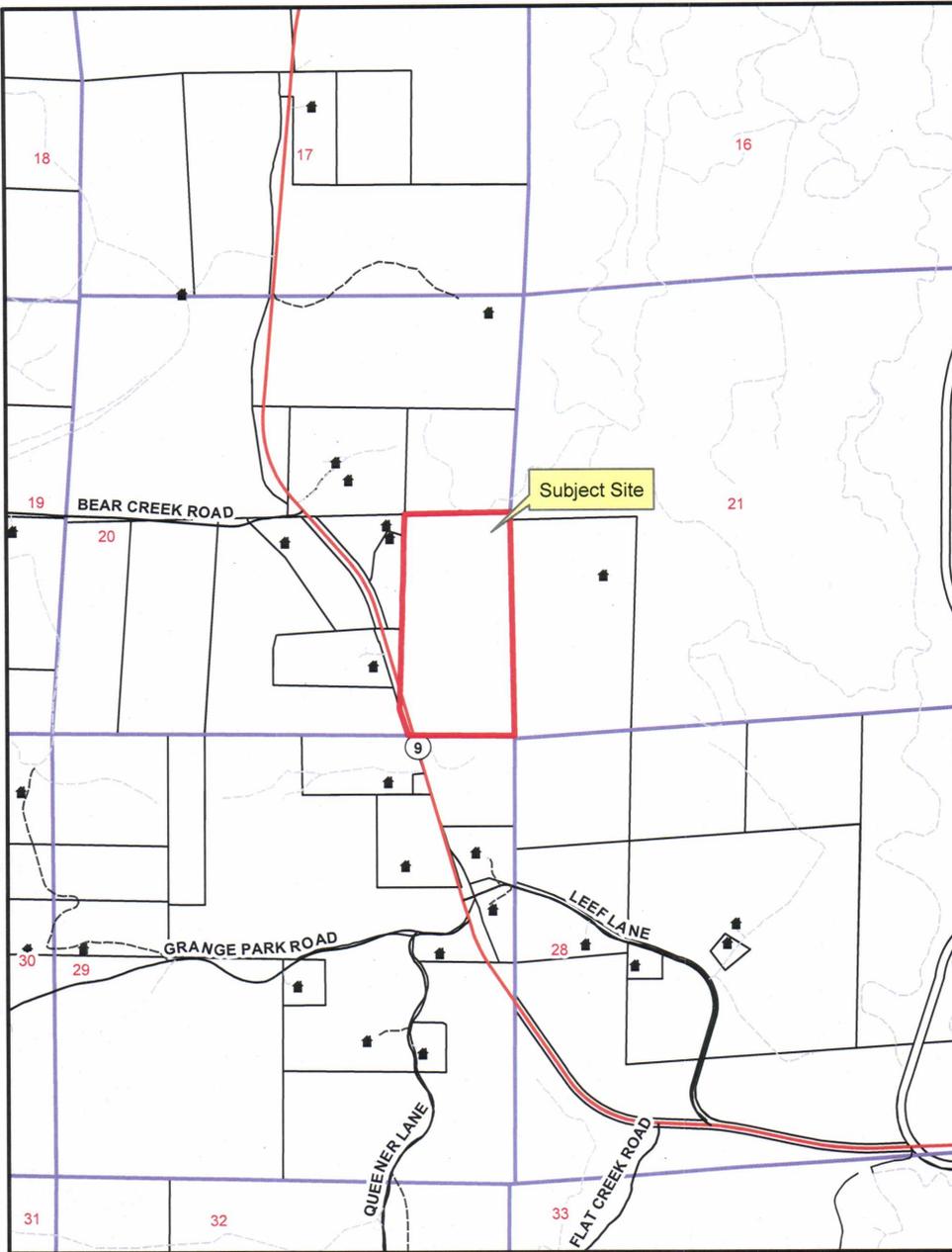


NOTE: This Document is a representation only. Latah County bears no responsibility for errors or omissions.

*Created on 3/26/09 by DB

LCZC Hrg: CUP 792
 Applicant: Koehn
 Exhibit #: 1B
 Date: 4/1/2009

CUP #792 Zoning Map



Legend

- Rural Addresses
- Parcel
- Subject Property
- Agriculture / Forestry
- Sections

2,600 1,300 0 2,600 Feet

NOTE: This Document is a representation only.
Latah County bears no responsibility for errors or omissions.
*Created on 3/26/09 by DB



LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 1C
Date: 4/1/2009

CUP # 792 Aerial Photo and Adjacent Property Owners Map



Legend

- Rural Addresses
- Parcel
- Subject Property

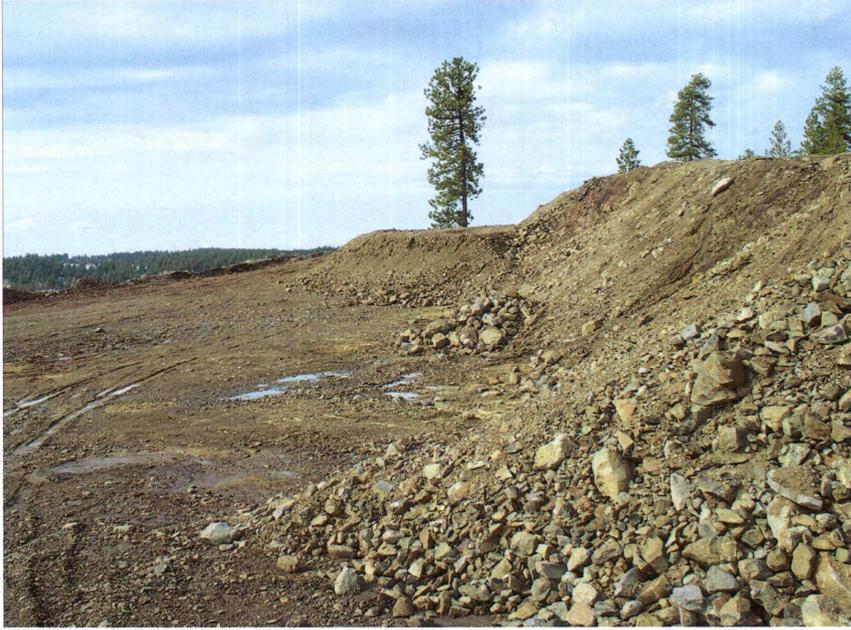
1,000 500 0 1,000 Feet

NOTE: This Document is a representation only.
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*Created on 3/26/09 by DB



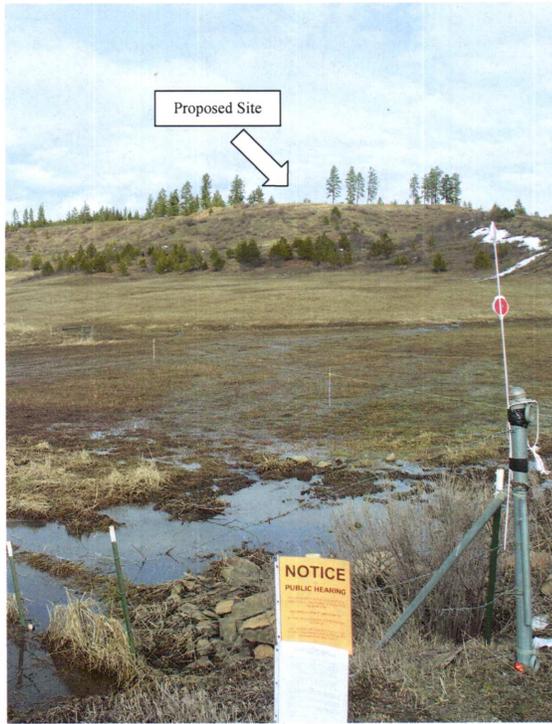
LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 1D
Date: 4/1/2009

PHOTOS OF SUBJECT PROPERTY FOR CUP # 792



Highway 9

LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 1E
Date: 4/1/2009



(Photo taken from Highway 9 looking NE)

Access Road to Rock Pit and Mr. Koehn's Residence



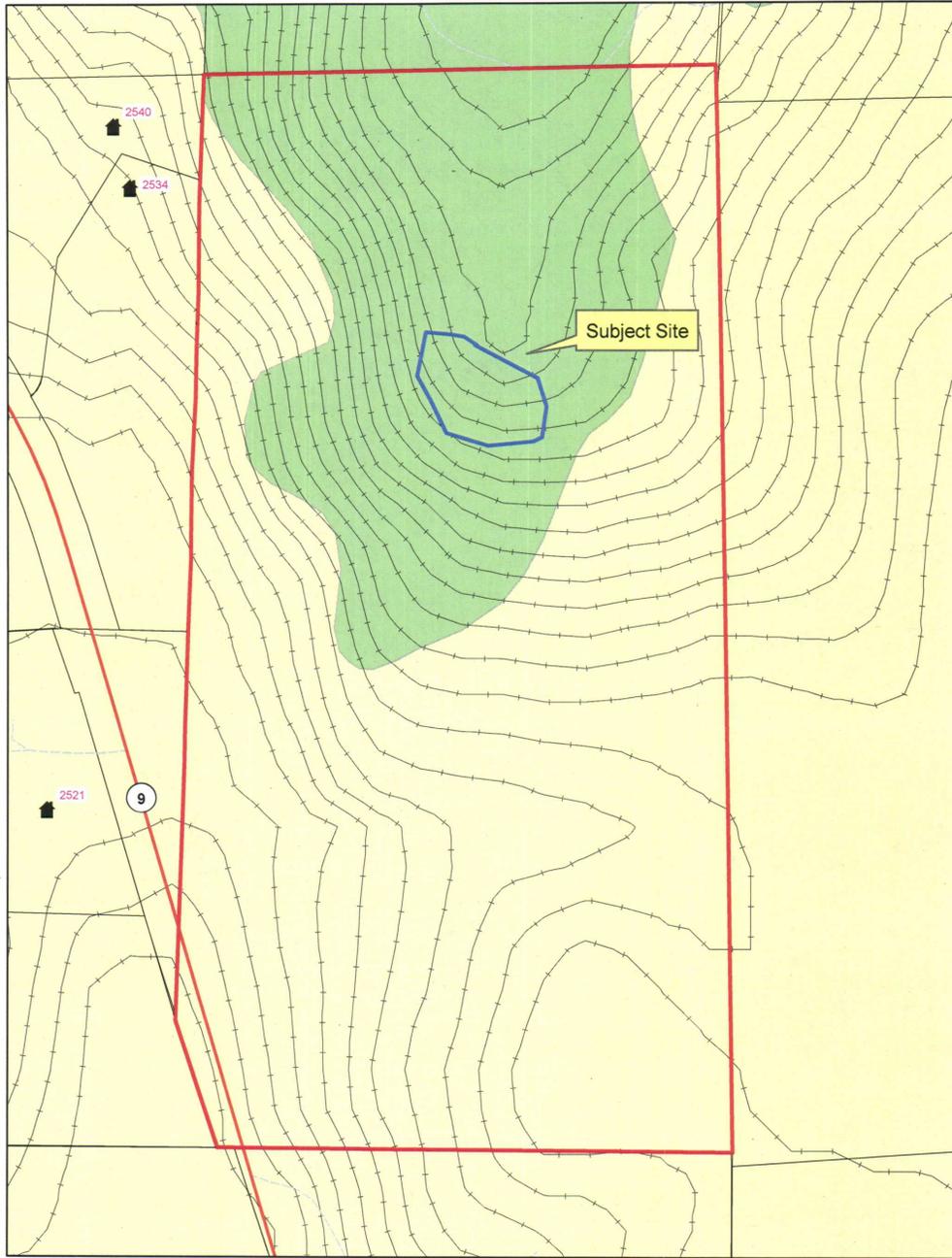
(Photo taken from Highway 9 looking East)

CUP # 792 Soils and Topographic Map



Legend

- Rural Addresses
- Parcel
- Subject Property
- 10 ft contour
- Soils**
- Less productive
- Productive



500 250 0 500 Feet

NOTE: This Document is a representation only.
Latah County bears no responsibility for errors or omissions.

*Created on 3/26/09 by DB



LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 1F
Date: 4/1/2009



Application for Conditional Use Permit

Instructions

Please complete the application and required attachments. For certain uses, additional information may be necessary. Incomplete applications or applications without all required attachments will not be accepted. A public hearing will be scheduled only after Staff has determined the application is technically complete.

Please submit to: **Latah County Department of Planning & Building**
Latah County Courthouse 522 S Adams, Room 205, P.O. Box 8068, Moscow, ID 83843 (208) 883-7220

| | | | |
|---|--------------------------------------|--------------------------------------|--------------------------------------|
| 1. Applicant Information | | | |
| a. Applicant Name <i>Verle Koehn</i> | b. Home Phone <i>208-875-1480</i> | c. Work Phone <i>208-875-1480</i> | |
| d. Mailing Address <i>Box 37</i> | e. City <i>Princeton</i> | f. State <i>ID</i> | g. Zip code <i>83857</i> |
| h. Property Owner (if different than applicant) | | i. Home Phone | j. Work Phone <i>FAX 875-1517</i> |
| k. Mailing Address | l. City | m. State | n. Zip code |

| | | | |
|--|-------------------------|--|---|
| 2. General Site Information | | | |
| a. Assessor's Parcel Number(s) <i>RP 41N03W207272</i> | | b. Parcel Address (if applicable) | |
| c. Acreage of Existing Parcel <i>231A</i> | d. Zoning <i>A/F</i> | e. Comprehensive Plan Designation <i>Productive</i> | f. Floodplain designation(s) <i>Zone C</i> |
| g. FEMA Panel # <i>160086 0165 B</i> | | h. Is the parcel within an Area of City Impact? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No. | |
| i. Impact City <i>N/A</i> | | j. Road Used to Access Site <i>Hwy 9</i> | |

Note: Sites within an area of city impact may require additional notification time prior to public hearings or a hearing before the other jurisdiction.

i. Existing Uses
cattle grazing; there was old rock pit there

| | | |
|---|--|---------------------------------------|
| 3. Service Provider Information (please attach additional information if requested) | | |
| a. Fire District <i>Potlatch</i> | b. Road District <i>North Latah County</i> | c. School District <i>Potlatch</i> |
| d. Source of Potable Water (i.e. water district or private well) <i>pond & water truck</i> | e. Sewage Disposal (i.e. sewer district or private septic system) <i>None</i> | |

| | |
|--|--|
| 4. Adjacent Properties Information | |
| a. Zoning of Adjacent Properties <i>A/F</i> | b. Existing Uses of Adjacent Properties <i>timber & Hay fields & pasture land</i> |

| | |
|--|--|
| 5. Permit Information | |
| a. Proposed Use <i>Rock for owner use and to sell and haul rock for customer use</i> | |
| b. What provision of the Latah County Zoning Ordinance allows the proposed use to be considered for a Conditional Use Permit in the Zoning District in which the property is located? <i>Hours at 7^{AM} to 6^{PM} Mon - Friday No Blasting, No crushing Rock Section 3.01.02 #7 & 4.03</i> | |

Note: If the proposed use is not specifically listed, please contact the Department prior to submittal to determine if the use is similar to those that are specifically listed as conditionally permitted uses. The Department may require additional information in order to make a determination.

| | | | | | | | |
|---|--|------------------------------|-----------------|--|--|--|--|
| 6. Authorization | | | | 7. Attachments | | | |
| The applicant does hereby certify that all of the above statements and information in any attachments transmitted herewith are true, and further acknowledges that approval of this application may be revoked if it is found that any such statements are false. | | | | | | | |
| a. Signature of Applicant <i>Verle Koehn</i> | | b. Date <i>2-19-09</i> | | <input checked="" type="checkbox"/> Fee: (\$200.00) Make checks payable to Latah County. <input checked="" type="checkbox"/> Completed Narrative Worksheet: See instructions on the Conditional Use Permit Narrative Worksheet. <input checked="" type="checkbox"/> Site Plan: The site plan should include a north arrow, location of roads and rights-of-way, existing buildings, improvements and features; the location and dimensions of proposed facilities, improvements and operations; as well as any other details necessary for the Zoning Commission to make a decision. <input checked="" type="checkbox"/> Vicinity Map: The map should show the site location in relation to neighboring communities and natural features. <input checked="" type="checkbox"/> Assessor's Plat Map: Include a copy of that portion of the map that shows the subject parcel and adjoining parcels. <input checked="" type="checkbox"/> Other Attachments: Required by staff / Zoning Commission for certain proposed uses. | | | |
| c. Signature of Property Owner (if different than applicant) <i>Verle Koehn</i> | | d. Date <i>2-19-09</i> | | | | | |
| Office Use Only | | | | | | | |
| Date Received <i>2/20/09</i> | Amount <i>200⁰⁰</i> | Receipt No. <i>466288</i> | By <i>DB</i> | | | | |
| CUP # <i>792</i> | Date Determined Technically Complete <i>3/11/09</i> | By <i>DB</i> | | | | | |
| Hearing Date <i>April 1, 2009</i> | | | | | | | |

LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 2
Date: 4/1/2009



Conditional Use Permit Narrative Worksheet

Application Information

Applicant's Name

Verle Koehn

Phone Number

208-875-1480

Purpose: To assist the Zoning Commission in making an informed decision regarding the applicant pursuant to the requirements of the Latah County Land Use Ordinance.

Instructions: Please respond to each section of this form. If you need more space, you may attach additional sheets to the worksheet.

Description of Proposal

Describe your proposal in detail. Include all aspects of your proposal.

see attach pappers - Site Plan

Existing Uses of Property

Please describe what uses, structures and features currently occupy the property.

My ~~home~~ ^{homestead} and barn are cast of rock pit, we also run cows on pasture, some of the place we put hay up for livestock.

Consistency Requirements

Please respond to each of the three criteria listed in Section 7.01.02 of the Latah County Land Use Ordinance by explaining how your proposal meets each criteria. If the provided space is insufficient, please attach your responses to this packet.

A. The use is not detrimental to the health or safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone.

No, the rock pit is far enough away from any home or buildings. We will not blast in rock pit. We take dozer with rippers on and rip several ways, then push on a pile for loading on trucks.

B. The use will not require facilities or services with excessive costs to the public.

No, Owner will pay expense on all phase of rock pit.

LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 2A
Date: 4/1/2009

C. The use is not in conflict with the goals and policies of the Comprehensive Plan.

No, I plan to adhere to all policies of the Comprehensive Plan.

In addition to your response above, please explain your proposal's consistency with the proceeding elements of the Comprehensive Plan. If a certain element is not applicable to your proposal, please explain why. Please refer to the Latah County Comprehensive Plan for specific goals and policies of the particular elements.

a. Community Design Element

I want to do everything neat and orderly and preserve the rural character of Latah County

b. Population Element

Rock pit is on private land that is not suitable for development.

c. Housing Element

where the rock pit is located is not suitable for housing.

d. Economic Development Element

I plan to supply base rock for myself and others in the community who want it.

e. Public Services, Facilities, and Utilities Element

I plan to operate in a orderly and cost efficient manner that will not be a burden to other services or facilities

f. School Facilities and Student Transportation Element

where the rock pit is should not effect school facilities or student transportation.

g. Transportation Element

There's one access to rock pit from Highway, Rock will be hauled in trucks that are legal for hauling. And we want to promote safety. The rock pit is 1/2 mile from Highway.

h. Natural Resource Element

Our plan is to have good stewardship with natural resources as much as we can, and maintain the rock pit like manner.

i. Special Areas Element

NA

j. Hazardous Areas Element

Rock pit will be maintain for safety on slopes and with equipment. and to protect life and property from natural hazards. We will not have any hazardous materials at Rock pit.

k. Recreation Element

The rock pit is on private property

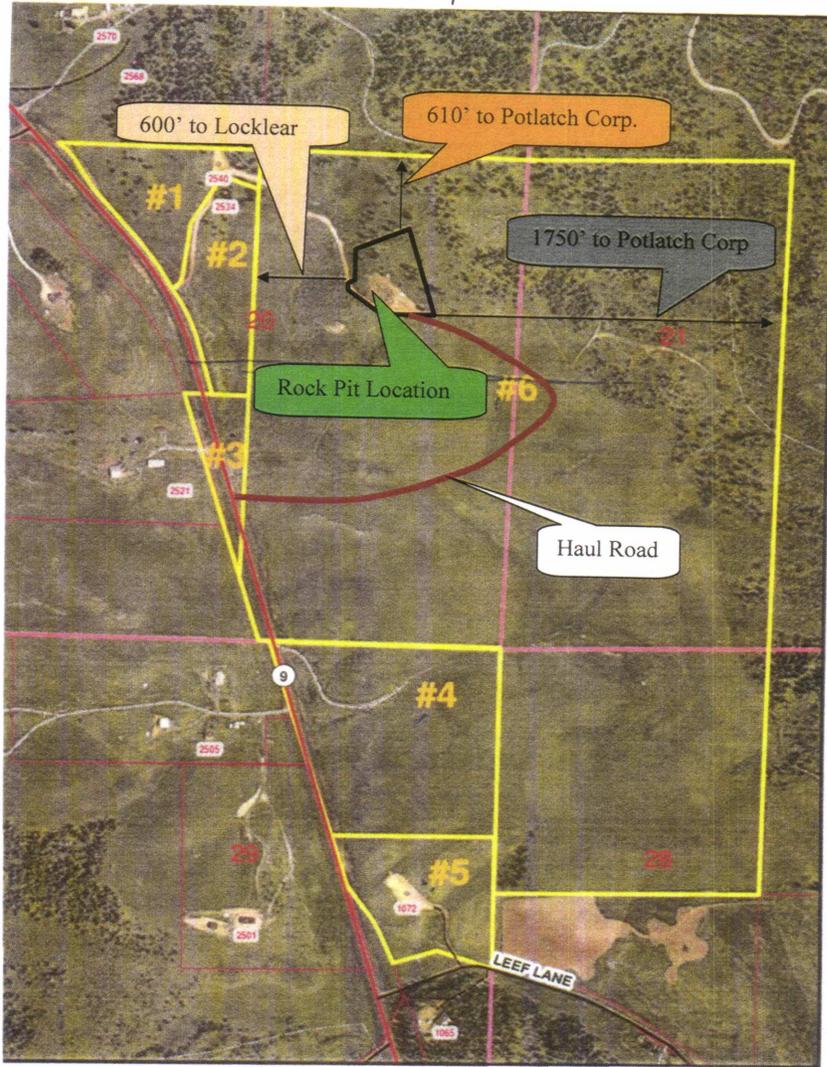
l. Land Use Element

Where rock pit is located, is not suitable for agricultural or forest land, there's very little top soil, Rock is ~~not~~ close to surface

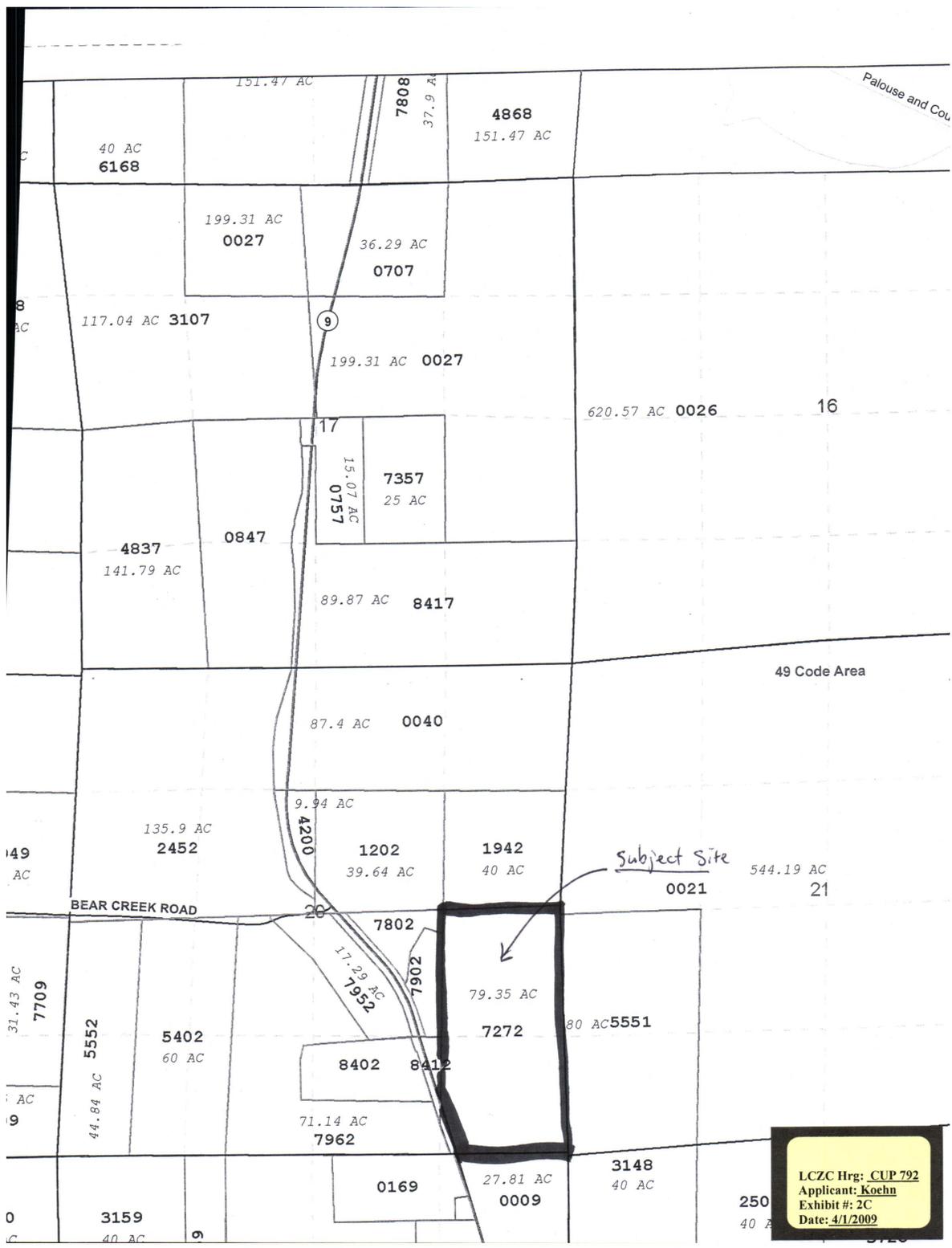
m. Property Rights Element

Rock pit is on my own personal property

Vicinity MAP

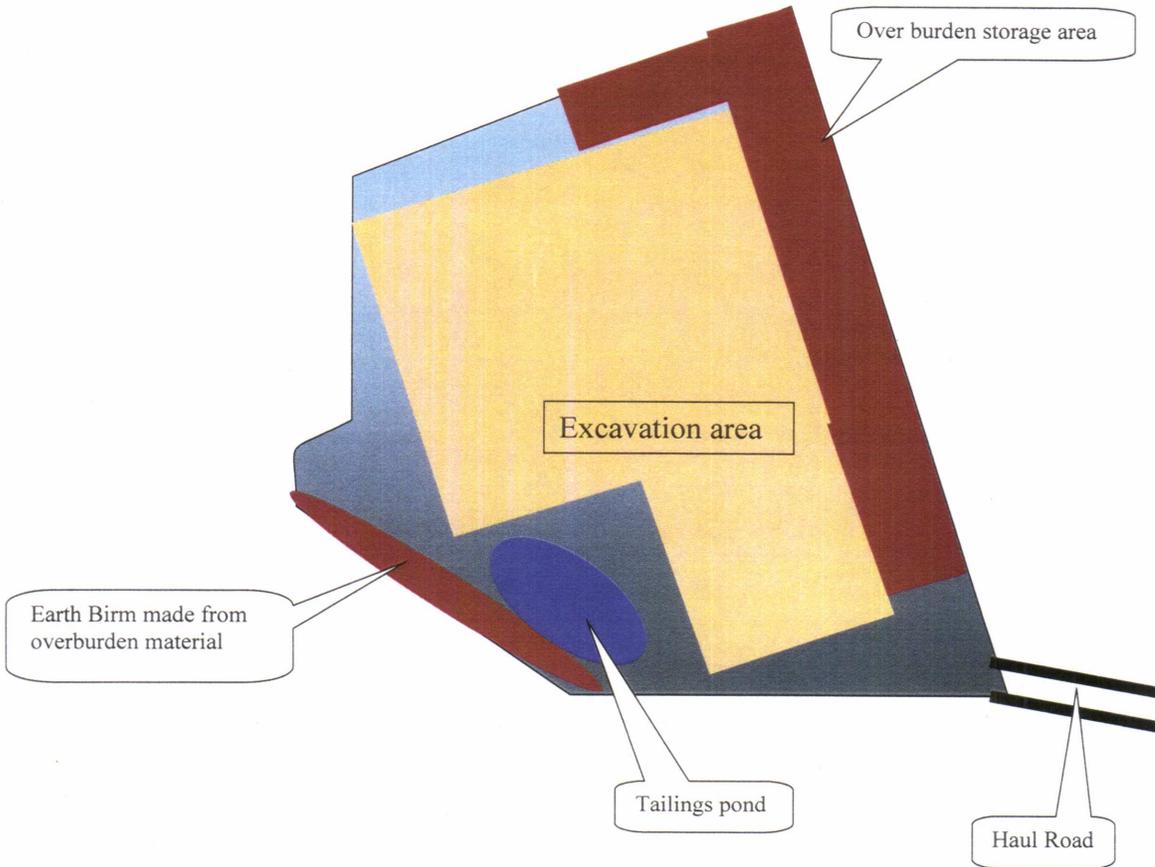


LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 2B
Date: 4/1/2009



Site Plan

Koehn Rock Pit Configuration



LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 2D
Date: 4/1/2009

**PONDEROSA
SUPERVISORY AREA**
3130 Highway 3
Deary ID 83823
Phone (208) 877-1121
Fax (208) 877-1122



STATE BOARD OF LAND COMMISSIONERS
C. L. "Butch" Otter, Governor
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Donna M. Jones, State Controller
Tom Luna, Sup't of Public Instruction

February 12, 2009

Verle Koehn
P.O. Box 37
Princeton, ID 83857

This correspondence is notification the following reclamation plan was approved on February 12, 2009:

| PLAN NO. | ACRES | COUNTY | LEGAL DESCRIPTION |
|----------|-------|--------|----------------------------------|
| 2779 | 1.8 | Latah | NE ¼ SE ¼ Section 20 T41N R3West |

The plan was granted approval subject to the following terms and conditions:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location, 100 feet away from any surface water and disposed of in such a manner as to prevent their entry into a waterway.
2. State water quality standards will be maintained at all times during the life of the operation. Should a violation of water quality standards occur, mining operations will cease immediately, corrective action will be taken, and the Department of Environmental Quality will be notified.
3. Erosion and non-point source pollution shall be minimized by careful design of the site access and implementing Best Management Practices, which may include, but are not limited to:
 - a. Diverting all surface water flows around the mining operation.
 - b. Removing and stockpiling vegetation and slash, except merchantable timber, for use in erosion control and reclamation;
 - c. Removing and stockpiling all topsoil or suitable plant growth material for use in reclamation.
4. In accordance with provisions of Idaho Code title 47, chapter 18, a payment to the state reclamation fund of \$75.00 for 1.8 disturbed acres over the next 9 months shall be paid by February 16, 2009. This payment will constitute financial assurance in lieu of a reclamation bond. Approval of this reclamation plan is conditioned upon receipt of the above payment by the date shown and annual payments in accordance with Idaho Code title 47, chapter 18 and IDAPA 20.03.03. Please ensure that you complete the enclosed acknowledgment and return it with your payment. This reclamation plan will be considered in good standing upon receipt of the above payment and signed acknowledgment.

LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 2E
Date: 4/1/2009

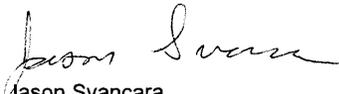
5. Acceptance of this permit does not preclude the operator from obtaining other necessary permits and approvals from state and federal authorities, i.e. Storm Water Pollution Prevention Plan (SWPPP), waste water generation and/or air quality permits, consultation with the National Oceanic and Atmospheric Administration Fisheries, U.S. Army Corps of Engineers 404 Permit and Stream Channel Alteration Permits for each production process.

6. At the beginning of each calendar year the operator or plan holder shall notify the director of any increase in the acreage of affected lands which will result from the planned surface mining activity within the next twelve (12) months. A correlative increase in the bond will be required for an increase in affected acreage.

Please note -- pursuant to Idaho Code section 47-1512(a), operations cannot commence until the bond payment established in Stipulation No. 4 is submitted to this department. Failure to submit payment before mining commences may subject you to legal action by the state pursuant to Idaho Code section 47-1513(d), which may include issuance of an order by the district court to temporarily restrain your mining operations without prior notice to you.

If the department does not receive a written notice of objection from you regarding these stipulations by March 27, 2009 the stipulations will be considered as accepted.

If you have any questions, you may contact me at the above address or telephone (208) 877-1121.



Jason Svancara
Resource Specialist

CC: Eric Wilson, Navigable Waters/Minerals Program Manager
File Copy



Declaration of Consent to Location of Mineral Resource Development in the Agriculture/Forest Zone

Section 4.03.03 of the Latah County Land Use Ordinance states that activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for a conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant submits a signed notarized form from all owners of record of any residential building within 1000 feet of the development consenting to the location of the mineral resource development.

I, Sheldon A. Adelman, current owner of the residential building located at (print name)

Hyw 9 2521 Princeton ID 83857, do hereby declare my consent to the location of the (Address)

mineral resource development as proposed by Verle Koehn, with said (Applicant)

development being located at NE 1/4 SE 1/4 of Section 20 / 2518 Hwy 9 and identified as (Site Address/Location)

Assessor's parcel number RP 41N03W 20 7272

Signature of Sheldon Adelman

Date 2/26/09

SUBSCRIBED AND SWORN to before me this 26 day of February, 2009.



Signature of Cheryl Kreid, Notary Public in and for the State of Idaho

My Commission expires 6/26/2009

Office Use Only Below This Line

Approved By Drew Blankenbaker

Date 3/17/09

Conditional Use Permit # 792

LCZC Hrg: CUP 792
Applicant: Koehn
Exhibit #: 3
Date: 4/1/2009



Declaration of Consent to Location of Mineral Resource Development in the Agriculture/Forest Zone

Section 4.03.03 of the Latah County Land Use Ordinance states that activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for a conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant submits a signed notarized form from all owners of record of any residential building within 1000 feet of the development consenting to the location of the mineral resource development.

I, Charles Rice current owner of the residential building located at
(print name)

2510 Hwy 9 Princeton do hereby declare my consent to the location of the
(Address)

mineral resource development as proposed by Verke Koehn with said
(Applicant)

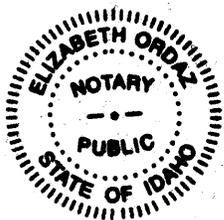
development being located at NE 1/4 SE 1/4 of Section 20 / 2518 Hwy 9 and identified as
(Site Address/Location)

Assessor's parcel number RP 41N03W 20 7272

Charles Rice
Signature

Mar 5, 2009
Date

SUBSCRIBED AND SWORN to before me this 5th day of March, 2009.



Elizabeth Ordak
NOTARY PUBLIC in and for the State of Idaho

My Commission expires March 27, 2013

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Approved By Drew Blankenbaker

Date 3/17/09

Conditional Use Permit # 792



Declaration of Consent to Location of Mineral Resource Development in the Agriculture/Forest Zone

Section 4.03.03 of the Latah County Land Use Ordinance states that activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for a conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant submits a signed notarized form from all owners of record of any residential building within 1000 feet of the development consenting to the location of the mineral resource development.

I, Shannon R. Lockler, current owner of the residential building located at
(print name)

2534 Highway 9, Princeton, ID, do hereby declare my consent to the location of the
(Address)

mineral resource development as proposed by Verle Koehn, with said
(Applicant)

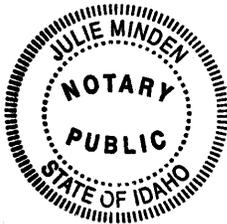
development being located at NE 1/4 SE 1/4 of Section 20/2518 Hwy 9 and identified as
(Site Address/Location)

Assessor's parcel number RP 41N03W 20 7272

Shannon Lockler
Signature

02/26/09
Date

SUBSCRIBED AND SWORN to before me this 26 day of February, 2009.



Julie Minden
NOTARY PUBLIC in and for the State of Idaho
My Commission expires 06/23/12

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Approved By Drew Blankenbater

Date 3/17/09

Conditional Use Permit # 792

CUP #792 – Staff Introduction

A request by Verle Koehn for a Conditional Use Permit (CUP #792) to operate a mineral resource development to include excavation on a portion of a 79.35-acre parcel in the Agriculture/Forest zone. The property is accessed off of Highway 9, approximately 2.5 miles south of the unincorporated town of Harvard, Idaho. The property is located in Section 20, Township 41 North, Range 03 West, B.M. in Latah County and referenced as Latah County Assessor's parcel number RP41N03W207272A.

The Latah County Land Use Ordinance, under section 3.01.02(7), lists mineral resource developments as subject to Section 4.03 as a conditionally permitted use in the Agriculture/Forest (A/F) Zone.

Section 7.01.02 requires:

- 1. A conditional use permit may be granted if the Zoning Commission finds that the proposed use conforms to each of the following criteria:**
 - A. The use is not detrimental to the health and safety of those in the surrounding area and will not otherwise adversely affect permitted uses or the enjoyment of such uses in that zone to any greater extent than a permitted use in that zone;
 - B. The use will not require facilities or services with excessive costs to the public;
 - C. The use is consistent with the goals and policies of the Latah County Comprehensive Plan.
- 2. If the Zoning Commission finds that a proposed use is essential to the public health, safety, or welfare, such use may be permitted even if the use is not found to meet the criteria listed above.**
- 3. The Zoning Commission shall have the authority to set an expiration date for any conditional use permit so long as the reasons for such are included in their findings of fact and conclusions of law.**

Section 4.03.03 New Mineral Resource Developments states the following:

Any mineral development which is not registered as an existing development or does not qualify to be registered as an existing development, not exempt as per Section 4.03.04 of this ordinance, or does not have an existing conditional use permit, shall be considered a new development. Prior to operation, all new developments must obtain a conditional use permit under the provisions of Section 7.01 of this ordinance. In addition the Zoning Commission shall, as a minimum, place the requirements of Section 4.03.02 upon any newly permitted mineral resource development, unless making specific findings supporting the omission or alteration of the requirements of Section 4.03.02. New mineral resource developments shall be exempt from the provisions of Section 7.01.07 of this ordinance. The following are requirements for operation of all new mineral resource developments:

1. Activity associated with a mineral resource development shall be at least 1,000 feet from any home existing at the time of application for conditional use permit, unless a lesser distance is approved by the Zoning Commission. A lesser distance shall not be approved unless the applicant submits a signed notarized form, approved by the Planning Department, from all owners of record

of any residential building within 1000 feet of the development consenting to the location of the mineral resource development. Each form shall be recorded in the Latah County Recorder's Office by the Planning Department. Approval of a distance less than 1000 feet shall be within the discretion of the Zoning Commission, even if all owners of residential buildings within 1000 feet approve of the location of the development.

2. The operator of a mineral resource development must provide at least a 75 foot undisturbed or natural buffer on the perimeter of mineral resource development operations. The buffer and the area of mineral resource development operations shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent. Frontage on a public road does not require a buffer. Activities associated with a mineral resource development shall not be allowed within the 75 foot buffer area. Location and specifications for access road(s) shall be determined by the Zoning Commission.

3. To protect aquatic and terrestrial habitat and other biological resources, all mineral resource developments and mineral resource development operations shall be set back at least 75 feet from perennial streams and 30 feet from any intermittent streams shown on USGS 7.5 minute maps; except for stream crossings that are regulated by a state or federal regulatory system and those activities permitted under the Idaho Placer and Dredge Mining Protection Act from the Idaho Department of Lands, a Stream Channel Alteration Permit from the Idaho Department of Water Resources, a Dredge and Fill Permit from the U.S. Army Corps of Engineers, a Development Permit from the Latah County Planning Department, and / or a National Pollution Discharge Elimination System permit from the U.S. Environmental Protection Agency. Applicable permit documentation shall be provided to the Zoning Administrator prior to onset of mineral resource development.

4. The applicant shall prepare and submit the following plans with the application for a conditional use permit:

A. Dust abatement plan to include mineral resource development operations and all access roads.

B. A plan for coordination with County response units for hazardous materials transport and use and emergency spill response.

C. A plan for procedures and protocols for spill containment and storage of oil, fuels, and/or chemicals; and documentation of compliance with the state and federal laws or documentation of exemption from requirements.

D. A plan for fire suppression and response, including an inventory of tools stored on-site to implement planned suppression and response.

5. The applicant may be required to post a bond with the Latah County Planning Department to assure full compliance with the proposed plans and provisions of this section. The amount of the bond shall be determined by the Latah County Zoning Commission.

Section 4.03.02 requires the following for mineral resource developments:

1. Hours of operation are limited to 9 AM to 6 PM daily. An operator may vary from this requirement by applying for a conditional use permit under the provisions of Section 7.01 of this ordinance.
2. Written verification of compliance with the Idaho Surface Mining Act, including filing of any reclamation plan required by the Idaho Surface Mining Act.
3. The excavation site, any overburden and stockpiles, and a 50 foot buffer strip surrounding these areas shall be maintained so that they are continuously free of all noxious weeds as determined by the Latah County Noxious Weed Control Superintendent.
4. The operator shall provide, by certified mail, written notification to all residences within one mile of any blasting. The notification shall be distributed and in the possession of the occupants of these residences at least 72 hours prior to any blasting. The notification shall give the date and time of the planned blast.
5. Blasting shall be restricted to the hours of 9:30 AM to 4:30 PM, Monday through Friday. No blasting shall occur on Saturdays, Sundays, or the following holidays: January 1, Memorial Day, Labor Day, Thanksgiving Day, and December 25.
6. An owner or operator may request, and the Director may grant, an exception to provide for additional hours of operation for a mineral resource development when additional hours of operation are needed to alleviate a public emergency. Public emergencies include the following:
 - A. Damage to public roads or structures that require immediate repair.
 - B. Road construction or repair that is scheduled during nighttime hours to reduce traffic conflicts.
7. Signs, upon approval of the signs by the Planning Department, warning of truck entrances shall be posted within one-quarter (1/4) mile of the site's entrance onto a public road.
8. The mineral resource development shall be marked by warning signs posted 200 feet from mine operations.
9. A plan to retain storm water runoff within the mineral resource development boundaries.

Exhibits will now be entered into the record.

The following exhibits were submitted with the staff packet:

- | | |
|---------------------|--|
| Exhibit #1. | Staff Report |
| Exhibit #1A. | Criteria Worksheet |
| Exhibit #1B. | Vicinity and Comprehensive Plan Land Use Map |
| Exhibit #1C. | Zoning Map |
| Exhibit #1D. | Aerial Photograph and Adjacent Property Owners Map |
| Exhibit #1E. | Photos of Subject Property |
| Exhibit #1F. | Soils and Topographic Map |
| Exhibit #2. | Application Form (Submitted by Applicant) |

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- Exhibit #2A.** Applicant's Narrative (Submitted by Applicant)
 - Exhibit #2B.** Vicinity Map (Submitted by Applicant)
 - Exhibit #2C.** Plat Map (Submitted by Applicant)
 - Exhibit #2D.** Site Plan (Submitted by Applicant)
 - Exhibit #2E.** Notice of Approved Reclamation Plan from Idaho Department of Lands, dated February 12, 2009
 - Exhibit #3.** Declarations of Consent to Location of Mineral Resource Development
 - Exhibit #4.** Staff Introduction for Latah County Zoning Commission hearing for CUP #792 held on April 1st, 2009

That is all staff has unless the Commission has questions.