

NOTICE OF PUBLIC HEARING
BEFORE THE LATAH COUNTY ZONING COMMISSION
Wednesday, June 2, 2010, 5:30PM

The Latah County Zoning Commission will hold public hearings on Wednesday, June 2nd, 2010 in Room 2-B of the Latah County Courthouse, Moscow, Idaho, to receive comments on:

1. **CUP #812** A request by Oren Schmidt for a conditional use permit to operate a Espresso Stand on a property zoned Industrial. The property is located at 1297 Kennedy Ford Road, in Section 02, Township 41 North, Range 05 West, B.M., in Latah County, Idaho, and referenced as Assessor's parcel number RP41N05W023742.
2. **CUP#811** – A request by George Lisher for a conditional use permit to operate a mineral resource development including excavation, stockpiling, crushing, blasting, and an asphalt plant on approximately three (3) acres of a 280-acre parcel owned by Terry Walser located in the Agriculture/Forest zone. The property is located on the east side of Flannigan Creek Road, in Section 23, Township 41 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP41N05W230023A.
3. **RZ #813** A request by Dustin Weitz to rezone approximately 50-acres from Agriculture/Forest to Rural Residential. The property is located west of Saddle Ridge Road and 1500 feet south of Four-Mile Road, in Sections 06 and 07, Township 40 North, Range 05 West, B.M., in Latah County, and is referenced as Assessor's parcel numbers RP40N05W069016A and RP40N05W070017A.
4. **RZ #814** A request by Potlatch Grain and Seed Inc, to rezone an approximately 2.35 acre parcel from Agriculture/Forest zone to Industrial. The property is located 200 feet south Highway 6, west and adjacent to Hatter Creek Road, Section 09, Township 41 North, Range 04 West, B.M., in Princeton, Idaho, and is referenced as Assessor's parcel numbers RP41N04W091819A, RP41N04W090509A, RP41N04W091009A, and RP41N04W092019A.

This meeting starts at 5:30PM. Hearing #1 will start at 5:35 PM, and the subsequent hearings will be held in the order listed. Start times for the other hearings depends on the length of the hearing(s) that went before it.

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 hearing 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 proposals, are available from the Planning and Building Department at the Latah County Courthouse, Moscow, Idaho. Phone (208) 883-7220. **Written exhibits will be accepted at the Latah County Planning and Building Department no later than 2:00 p.m. on Friday, May 28th, 2010. Written exhibits will not be accepted after that time.** Written exhibits include, but are not limited to: written comments, submissions, exhibits, videos, recorded audio, DVDs, PowerPoint presentations, slide shows, photographs, e-mails, and regular mail/submittals. All PowerPoint and/or electronic presentations (excluding videos/movies) must also be submitted in printed form. Videos/movies must be submitted in a DVD format.

Mauri Knott
Associate Planner
(This is a public service announcement)

LATAH COUNTY ZONING COMMISSION EXHIBIT LIST

Public Hearing: CUP Mineral Resource Development **Date:** June 2, 2010 **Time:** 5:30pm

Applicant: George Lisher

File #: CUP #811

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.** Buffer Map (75 feet)
- Exhibit #1G.** Buffer Map (1000 feet)
- 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.** Cross Section (Submitted by Applicant)
- Exhibit #2F.** Blasting Mailing List – One (1) Mile (Submitted by Applicant)
- Exhibit #2G.** Storm Water Calculations (Submitted by Applicant)
- Exhibit #2H.** Latah County Assessment Notice for Walser Ranch (Submitted by Applicant)
- Exhibit #3.** Notice of Filed Reclamation Plan from Idaho Department of Lands
- Exhibit #4.** Staff Introduction for Latah County Zoning Commission hearing for CUP #813 held on June 2, 2010.
- Exhibit #5.** Letter submitted by North Latah County Highway District
- Exhibit #6.** Letter submitted by Wayne and Joanne Hemmelman, on May 27, 2010
- Exhibit #7.** Email submitted by Steve and Linda Norton, on May 28, 2010
- Exhibit #8.** PowerPoint Slides (Submitted by Carolyn and Don Lazzarini)
- Exhibit #9.** DVD PowerPoint Presentation (Submitted by Carolyn and Don Lazzarini)
- Exhibit #10.** Life in Rural Latah County submitted by Carolyn and Don Lazzarini on May 28, 2010
- Exhibit #11.** Letter submitted by Koehn Family on May 28, 2010

**GEORGE LISHER
CONDITIONAL USE PERMIT APPLICATION #811
STAFF REPORT**

SUMMARY OF APPLICATION:

A request was made by George Lisher for a conditional use permit to operate a mineral resource development including excavation, stockpiling, crushing, blasting, and an asphalt plant on approximately three (3) acres of a 280-acre parcel located in the Agriculture/Forest zone. The property is owned by Terry Walser. The property is located on the east side of Flannigan Creek Road, in Section 23, Township 41 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP41N05W230023A.

Site Characteristics:

Size of Parcel(s): 3 acres of a 280 acre parcel
Soils: Farber-Minaloosa association, very steep,
Klickson silt loams, 25-35% slopes
Taney silt loams, 7-25% slopes
(Latah County Soil Survey Sheet #14)
Floodplain: Zone "C" (FIRM Panel #160086 0135B #1600860145B)

Land Use and Regulations:

Comprehensive Plan Designation: Rural
Existing Zoning: Agriculture/Forest (A/F)
Existing Uses: Gravel Pit, Forestry, and Agriculture
Neighboring Zoning: Agriculture/Forest
Neighboring Uses: Agriculture, Forestry, Grazing and Residential

Infrastructure/Services:

Water: Not Applicable
Sewer: Not Applicable
Access: Flannigan Creek Road, North Latah Highway District
Schools: Potlatch School District #285
Fire Protection: Potlatch Rural 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. Buffer Map (75 feet)
Exhibit #1G. Buffer Map (1000 feet)
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. Cross Section (Submitted by Applicant)
Exhibit #2F. Blasting Mailing List – One (1) Mile (Submitted by Applicant)
Exhibit #2G. Storm Water Calculations (Submitted by Applicant)
Exhibit #3. Notice of Filed Reclamation Plan from Idaho Department of Lands
Exhibit #4. Staff Introduction for Latah County Zoning Commission hearing for CUP #813 held on June 2, 2010.
Exhibit #5. Letter submitted by North Latah County Highway District

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

Description of application:

George Lisher submitted application for a conditional use permit to operate a mineral resource development including excavation, stockpiling, crushing, blasting, and an asphalt plant on approximately three (3) acres of a 280-acre parcel located in the Agriculture/Forest zone. The property is owned by Terry Walser. The property is located on the east side of Flannigan Creek Road, in Section 23, Township 41 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP41N05W230023A.

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.

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.

George Lisher submitted a conditional use application to the Latah County Planning and Building Department on April 27th, 2010. The application was deemed complete by the Latah County Planning and Building Department on May 7, 2010. The conditional use permit application was signed by the applicant, George Lisher, and Terry Walser, of Walser Ranch Inc., 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 that 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. (Exhibit #1G)
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. (Exhibit #1F)

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. (Exhibit # 1F)

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. (Exhibit #2A)
- B. A plan for coordination with County response units for hazardous materials transport and use and emergency spill response. (Exhibit #2A)
- 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. (Exhibit #2A)
- D. A plan for fire suppression and response, including an inventory of tools stored on-site to implement planned suppression and response. (Exhibit # 2A)

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.

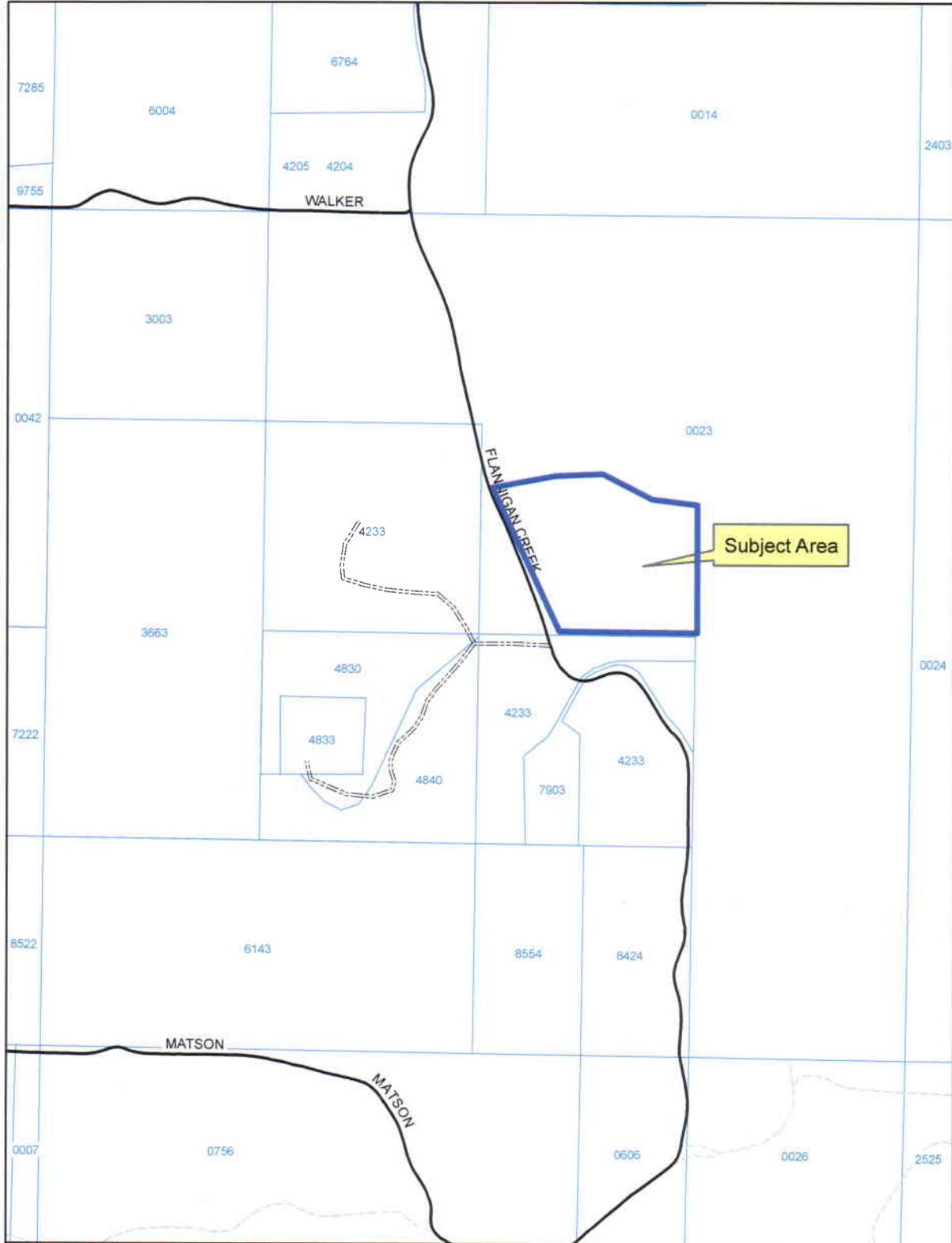
5) Section 4.03.02 requires the following

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. The applicant has requested the following operating hours: Blasting and crushing, 5:00AM to 6:00PM Monday through Friday. Hauling 6:00AM to 7:00PM Monday through Sunday. (Exhibit #2A)

2. Written verification of compliance with the Idaho Surface Mining Act, including filing of any reclamation plan required by the Idaho Surface Mining Act. (Exhibit #3)
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. (Exhibit #1E)
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. (Exhibit #2H)

CUP 811 Comprehensive Plan and Vicinity Map

Planning & Building Department



Comprehensive Plan

ZONE

- AOI
- ICR
- PRODUCTIVE
- RURAL



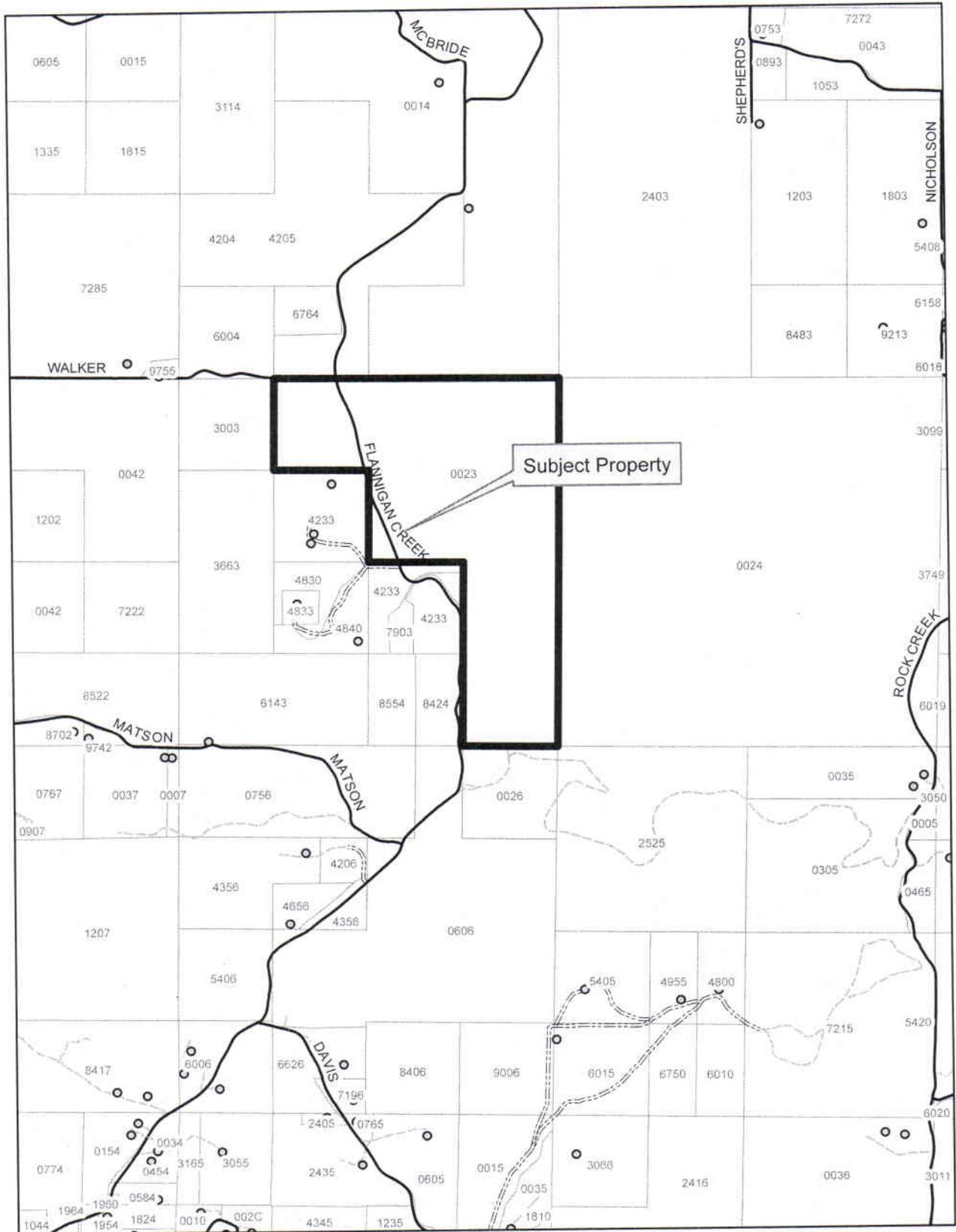
*Created on 5/17/10

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

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 1B
Date: 6/2/2010

CUP 811 Zoning Map

Planning & Building Department



Zoning_Districts_2009 ZONE_TYPE

- Agriculture / Forestry
- Rural Residential
- Suburban Residential



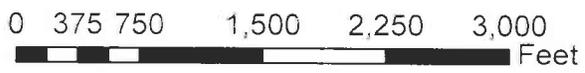
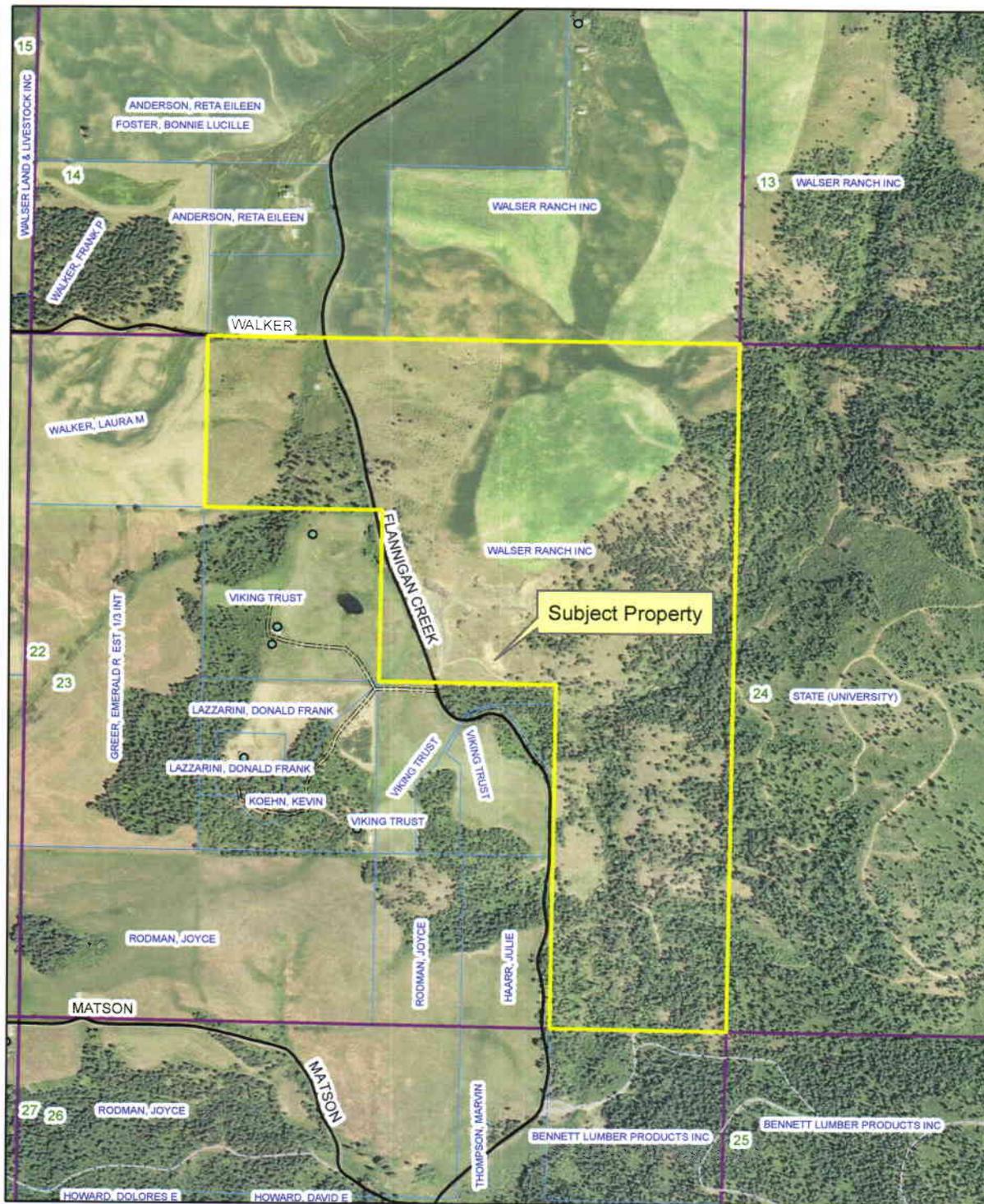
*Created on

NOTE: This Document is a representation of the zoning map. Latah County bears no responsibility for the accuracy of the information shown.

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 1C
Date: 6/2/2010

CUP 811 Adjoining Owners and Aerial Map

Planning & Building Department



*Created on 5/5/10 by MK



Legend

- Addresses

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

LCZC Hrg: CUP 811
 Applicant: Lisher
 Exhibit #: 1D
 Date: 6/2/2010



Access from Flannigan Creek Road - Locked Gate



Lisher CUP 811

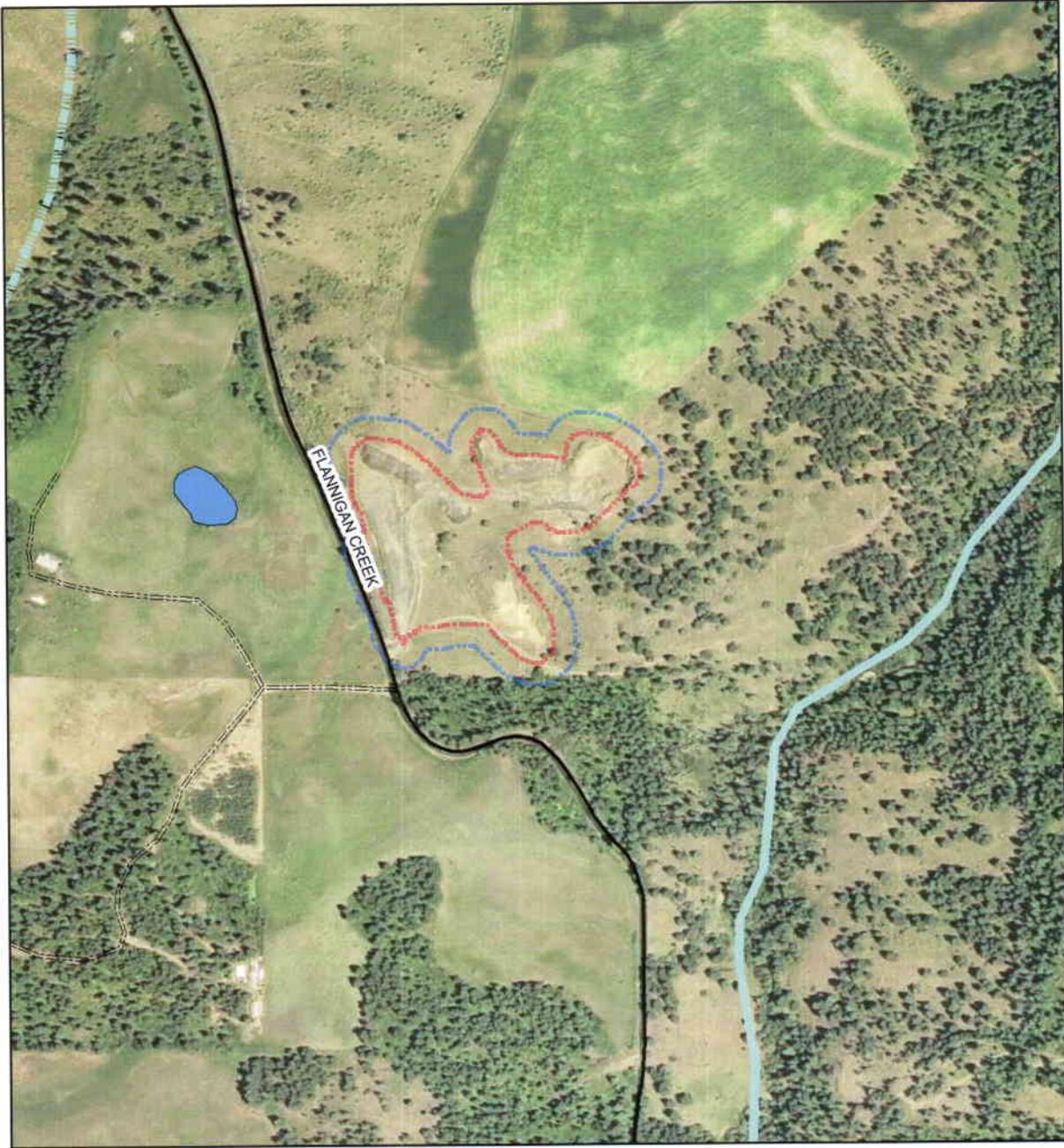
LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 1E
Date: 6/2/2010



CUP811 Lisher Rock Pit Sign Located on West Side of Flannigan Creek

CUP 811 Lisher

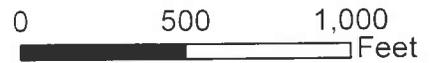
Planning & Building Department



Legend

- CUP811 Buffers**
- Site
 - 75buffer

- Streams**
- FLOWTYPE**
- INTERMITTENT
 - PERENNIAL
 - RIVER



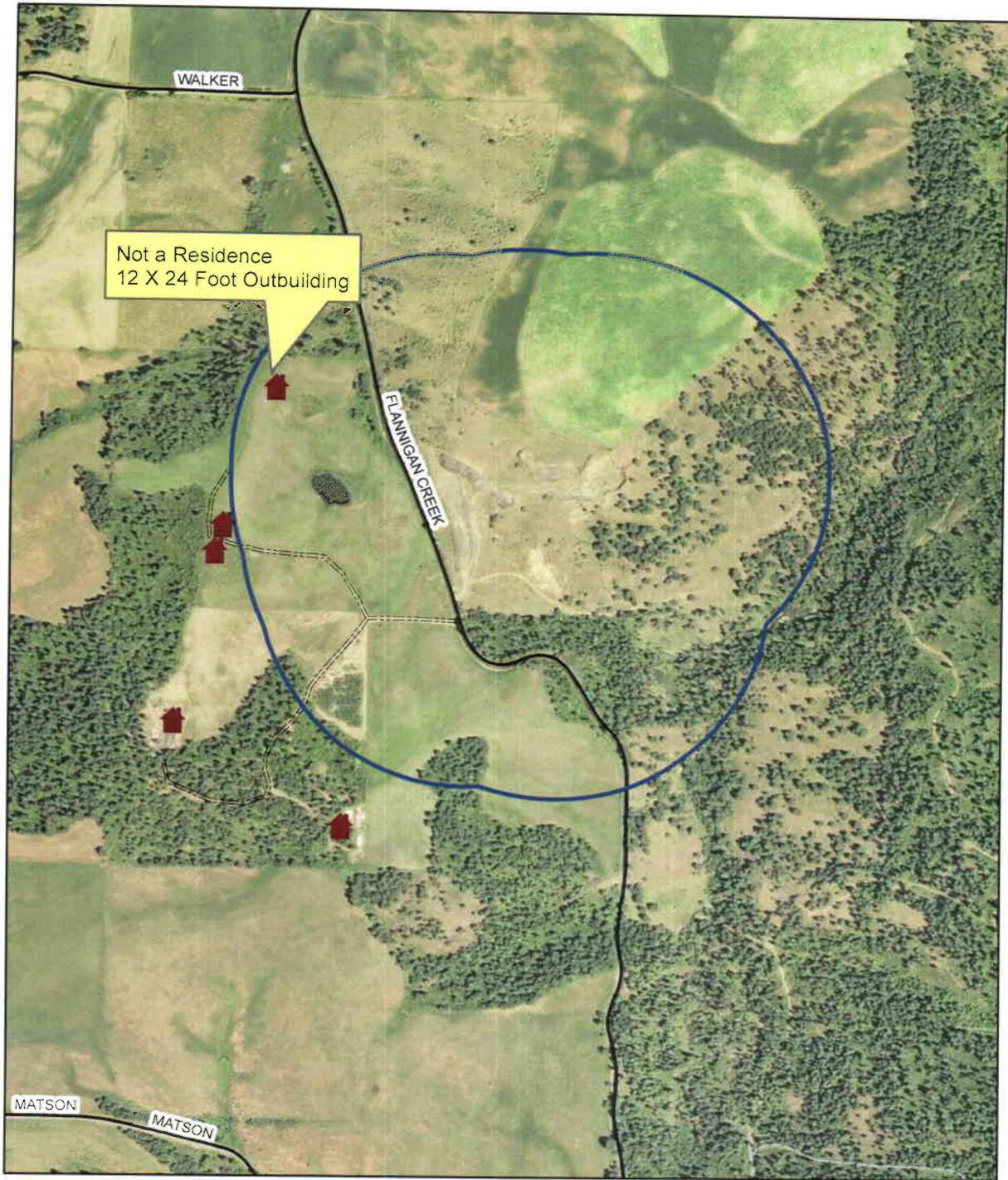
*Created on 5/21/10 by MK

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

LCZC Hrg: CUP 811
 Applicant: Lisher
 Exhibit #: 1F
 Date: 6/2/2010

CUP 811 Lisher

Planning & Building Department



Not a Residence
12 X 24 Foot Outbuilding



Legend

-  Addresses
-  1000buffer

0 500 1,000
Feet

*Created on 5/21/10 by MK

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

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 1G
Date: 6/2/2010



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 George Lisher		b. Home Phone 208 875-1466	c. Work Phone	
d. Mailing Address 1080 Lisher Cutoff Rd		e. City Potlatch	f. State ID	g. Zip code 83855
h. Property Owner (if different than applicant) Walser Ranch, Inc		i. Home Phone		j. Work Phone
k. Mailing Address 40 Terry Walser 1540 Blomgren Cir		l. City Potlatch	m. State ID	n. Zip code 83855

2. General Site Information

a. Assessor's Parcel Number(s) RP 41N05W23 00 23 A			b. Parcel Address (if applicable)	
c. Acreage of Existing Parcel 2.80	d. Zoning Ag-forest	e. Comprehensive Plan Designation Rural	f. Floodplain designation(s) C	g. FEMA Panel # 135, 145
h. Is the parcel within an Area of City Impact? <input type="checkbox"/> Yes. <input checked="" type="checkbox"/> No.		i. Impact City N/A	j. Road Used to Access Site Flanigan Creek Rd	

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

Rock pit / Mineral resources

3. Service Provider Information (please attach additional information if requested)

a. Fire District Potlatch	b. Road District North Latah	c. School District Potlatch
d. Source of Potable Water (i.e. water district or private well) NA	e. Sewage Disposal (i.e. sewer district or private septic system) NA	

4. Adjacent Properties Information

a. Zoning of Adjacent Properties Ag-forest	b. Existing Uses of Adjacent Properties grazing, timber, ag
--	---

5. Permit Information

a. Proposed Use mineral resources

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?

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

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>George Lisher</i>	b. Date 5-1-10
c. Signature of Property Owner (if different than applicant) <i>Walser Ranch, Inc. Terry Walser</i>	d. Date 4/18/10

Office Use Only

Date Received 4-27-10	Amount 200.00	Receipt No. 347452	By MSK
CUP # 811	Date Determined Technically Complete 5/7/2010	By MSK	
Hearing Date			

7. Attachments

All attachments should be reproducible in black and white at 8½" x 11"

- Fee:** (\$200.00) Make checks payable to Latah County.
- Completed Narrative Worksheet:** See instructions on the Conditional Use Permit Narrative Worksheet.
- 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.
- Vicinity Map:** The map should show the site location in relation to neighboring communities and natural features.
- Assessor's Plat Map:** Include a copy of that shows the subject parcel and adjoining parcels.
- Other Attachments:** Required by staff for certain proposed uses.

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 2
Date: 6/2/2010



Conditional Use Permit Narrative Worksheet

Application Information

Applicant's Name

George Lisher

Phone Number

875-1466

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.

~~Excavate~~ Excavate, Blast and crush Rock at current site. Stockpiling will use current locations, excavation site will not exceed 3 Acres, use current Reclamation Plan RP2530. Hours of operation Blasting & Crushing 5AM 6pm 5 days a week hauling 6 AM to 7pm 7 days a week, would like to have permission for asphalt plant, notify all Adress before blasting. No ~~limits~~ limits on hauling or blasting.

Existing Uses of Property

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

Rock pit, Grazing, Ag

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.

It is marginal timber land, not good for farming or grazing not enough top soil to sub stain at location of pit site. Rock pit provides more income than grazing or timber

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

None

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

The rural character of Latah County will not significantly affected and there are no known unique cultural, scenic or natural amenities in the vicinity requiring protection. The proposed use is consistent with the objective of ensuring that land use policies do not unconstitutionally violate private property rights, ~~with notify an address that planning will occur~~

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

Purpose use is best in rural areas, closest house more than 1/2 mile away

b. Population Element

no residential construction development

c. Housing Element

no residential construction

d. Economic Development Element

adds benefit to land owner extra income,

e. Public Services, Facilities, and Utilities Element

None

f. School Facilities and Student Transportation Element

no problem, ~~operation~~ in the last 6 years

g. Transportation Element

no problem last 6 years

h. Natural Resource Element

site has already has a Reclamation Plan
State permit 2530

i. Special Areas Element

none

j. Hazardous Areas Element

none

k. Recreation Element

none

l. Land Use Element

would help current landowner receive extra income
of land that is less productive - minimal impact on surrounding
areas

m. Property Rights Element

would like the same rights as other Rock pits

CONDITIONAL USE PERMIT NARRATIVE WORKSHEET

Name – George Lisher
208-875-1466

Description of Proposal

The applicant proposes to blast, excavate, and crush basalt rock from the site described in the Application for Conditional Use Permit and shown on the site plan map, for sale to both private and public businesses or entities, including the North Latah County Highway District. The applicant anticipates that purchasers of crushed rock may at times want to operate asphalt hot plants on the site and applicant seeks approval for crushing and asphalt hot plant operations and activities incidental to such operations. Drilling and blasting will be accomplished through contracts with a licensed blasting company. Crushing will be performed on site and rock will be stockpiled on site until sold and removed by the purchaser. Applicant intends to conduct operations for a period of at least six years and estimates excavation of approximately 150,000 tons of rock. The size of the area to be excavated is expected to be two acres or less. Much of the rock to be excavated has no overburden. Applicant intends to stockpile all overburden for use in reclamation. Reclamation will be completed as required by the Latah County zoning ordinance. Applicant will submit a reclamation plan for state approval upon receiving the conditional use permit. The excavated area will be fenced as required by the zoning ordinance and access will be controlled by locked gates.

Existing Uses of Property

grazing, natural mineral resources

Consistency Requirements

1. The use does not significantly affect any of the objectives of the comprehensive plan. While the site is identified as having productive soils, the soils mapping is in error. The site to be excavated has little to no topsoil and is therefore unsuitable for agriculture. It is marginal timber land at best for the same reasons. The use will help achieve a solid broad-based and sustainable economic foundation because it makes use of land otherwise unsuited to any economic activity except grazing. The use will require no public services other than public road access and therefore does not offend the objective of clustering commercial uses in and around areas with adequate public services. The rural character of Latah County will not be significantly affected and there are no known unique cultural, scenic or natural amenities in the vicinity requiring protection. Lastly, the proposed use is consistent with the objective of ensuring that land use policies do not unconstitutionally violate private property rights.

- a. **Community Design Element** – The community design element is only marginally relevant. The proposed use is best located in rural areas

because of its potential adverse effects on residential uses. There are no residential developments in the vicinity and the nearest single family residences are approximately one-half mile from the site.

- b. **Population Element** – This element is not applicable as the proposed use involves no residential development.
- c. **Housing Element** – This element is not applicable because the proposed use involves no residential construction.
- d. **Economic Development Element** – The proposed use is consistent with and furthers the goals and policies of the economic development element. It should be considered a supporting activity for forestry because of the need for gravel on existing and newly constructed forest roads. It is a land use appropriate to local economic needs because it generates economic activity from the use of a basic resource. The North Latah County Highway District commissioners have indicated that they are very receptive to a rock source being opened at the site “since it would be of great benefit to the North Latah County Highway District, and to Latah County in general.” (See attached letter). The use furthers the goal of encouraging economic diversification consistent with other goals and policies of the comprehensive plan, and development of the site can be controlled so as to be compatible with the natural environment and existing land uses. The site’s location in a sparsely populated rural area minimizes potential impacts of excavation and processing operations on existing residences and the requirements of the zoning ordinance for reclamation and restoration help ensure that when operations are completed, other beneficial uses will not be precluded. The conditions proposed by the applicant will further ensure protection of existing residences.
- e. **Public Services, Facilities, and Utilities Element** – This element is inapplicable because the proposed use requires no additional public facilities or services.
- f. **School Facilities and Student Transportation Element** - This element is inapplicable because the proposed use involves no new residential development having potential impact on school facilities or student transportation.
- g. **Transportation Element** - This element is only marginally affected by the proposed use. Trucks will be entering and leaving the site during hours of operation. Flannigan Creek Road is not heavily traveled and there are no apparent significant impacts of traffic associated with the proposed use.

- h. **Natural Resource Element** - The site is approximately one-quarter mile from Flannigan Creek. It is not in a floodplain and no wetlands will be affected. The area directly to the east of the site is sparsely timbered. There are no other areas of natural significance in the vicinity. The use will generate dust during hours of operation in dry weather and if asphalt hot plants are operated, smoke will be produced. As the prevailing winds are from the west, it is expected that the dust and smoke will move to the east away from the nearest residences which are approximately one-half mile west of the site. Activities on the site will not affect ground water. There is no known critical wildlife habitat in the vicinity.
- i. **Special Areas Element** - This element is inapplicable because there are no special areas in the proximity of the site.
- j. **Hazardous Areas Element** - This element is inapplicable because no hazardous areas, such as floodplains or unstable slopes, are affected.
- k. **Recreation Element** - This element is inapplicable because it neither proposes nor affects recreational uses.
- l. **Land Use Element** - The proposed site is designated as rural by the comprehensive plan. Its soils are less productive. The proposed use is consistent with the objective of protecting the area from conversion to more concentrated residential, commercial or industrial development because this is a single isolated development with minimum impact on existing residential or other uses in the vicinity.
- m. **Property Rights Element** - This element is inapplicable except to the extent that approval of the use would permit the landowner, through the applicant, to make economic use of its private property.

2. The use is not detrimental to the health and safety of those in the surrounding area or region. The impact of the proposed use will be confined to the site. Blasting will be controlled and no flyrock is expected to leave the site. The closest potential impact of flyrock would be to traffic on Flannigan Creek Road, approximately one-quarter mile from the site. It is unlikely that flyrock would reach the road. The closest residents will hear the blasts. These will occur infrequently, estimated at one day every three to four years. Smoke from asphalt hot plants is unlikely to have any effect on persons living in the area because of the distance to the nearest residences and the likelihood that any smoke will dissipate before reaching those residences.

3. The use will not adversely affect surrounding properties to a greater extent than would a permitted use in the zoning district. Permitted uses in the zone include agriculture, grain elevators, seed warehouses and agricultural service industries, as well as small sawmills and fire stations. The proposed use is expected to generate no more

dust or noise than these permitted uses, with the exception of infrequent blasting, as indicated above.

4. The use will not require facilities or services with excessive costs to the public. No new facilities or services will be required. To the extent there will be additional truck traffic on Flannigan Creek Road, it is not expected to substantially increase maintenance costs.

5. Dust Abatement

water will be used as needed for
Crushing Rock, the crusher has the system
in place to take care of dust

6 Fire, All vehicles and equipment will have
fire Ext.

7 fuel, no fuel will be stored on site.
Crusher has own fuel containment system.

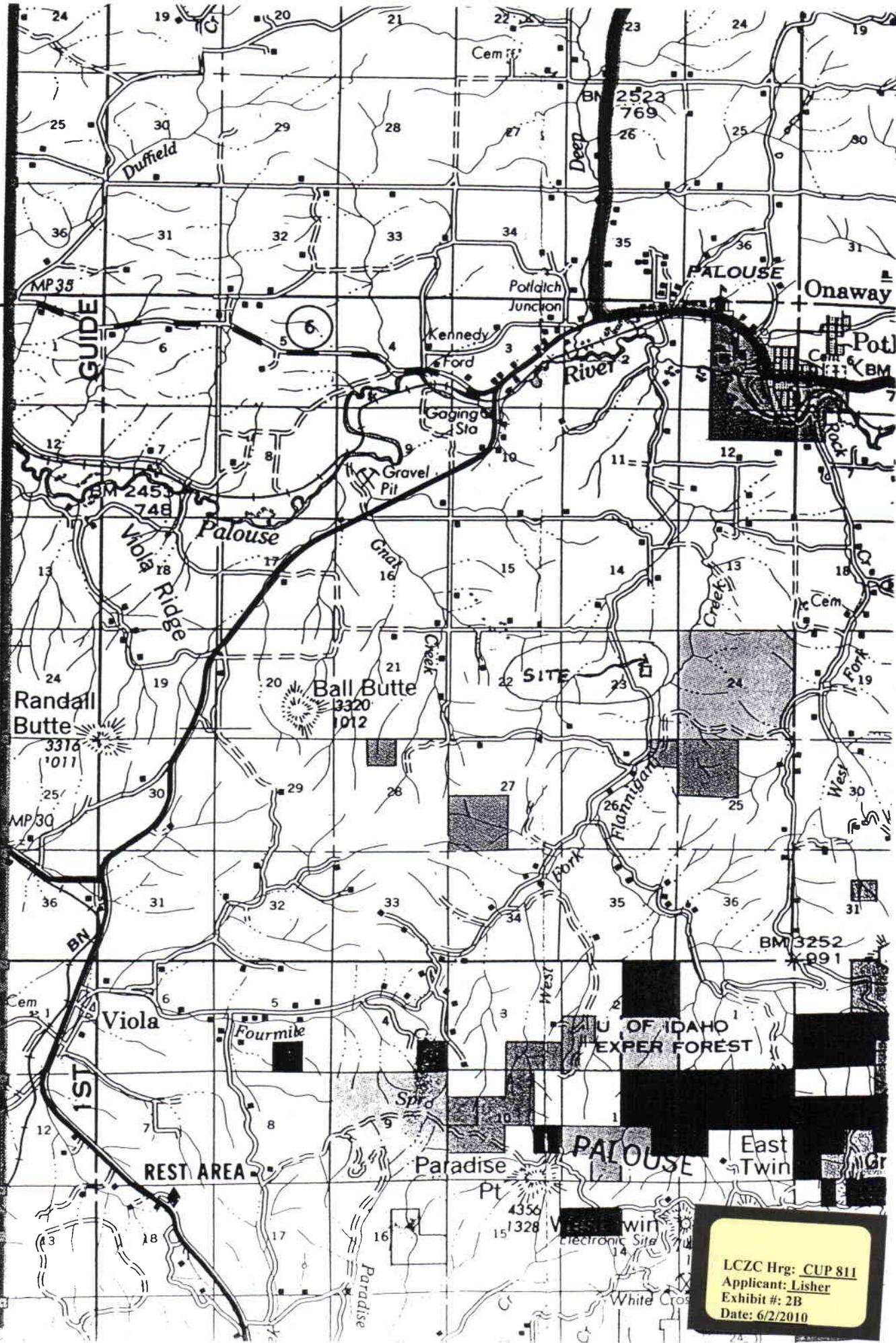
PULLMAN

LISHER CUP
VICINITY MAP

T. 41 N.

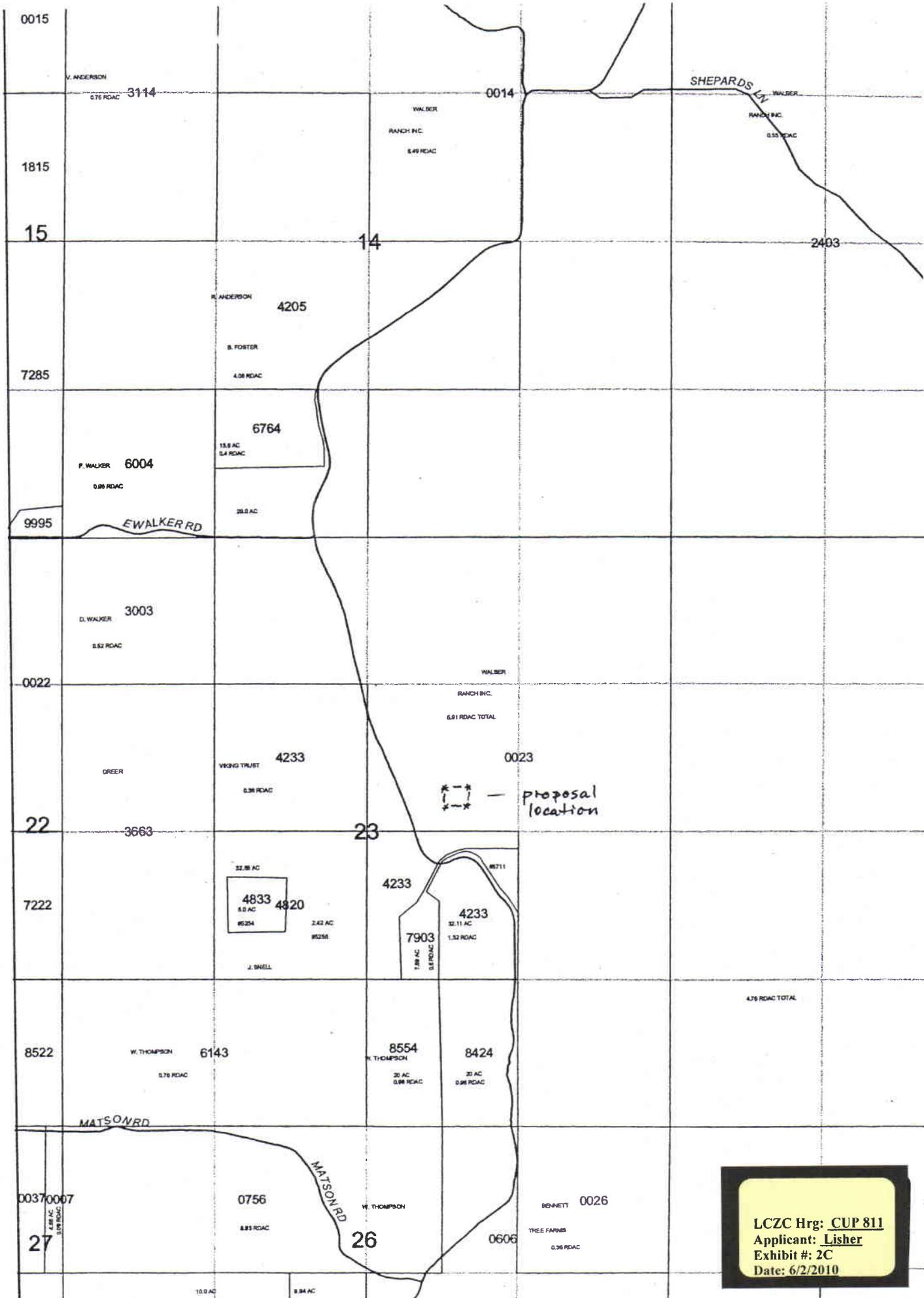
5210

T. 40 N.



LCZC Hrg: CUP 811
 Applicant: Lisher
 Exhibit #: 2B
 Date: 6/2/2010

LISHER
CUP
Assessor's
Plat Map

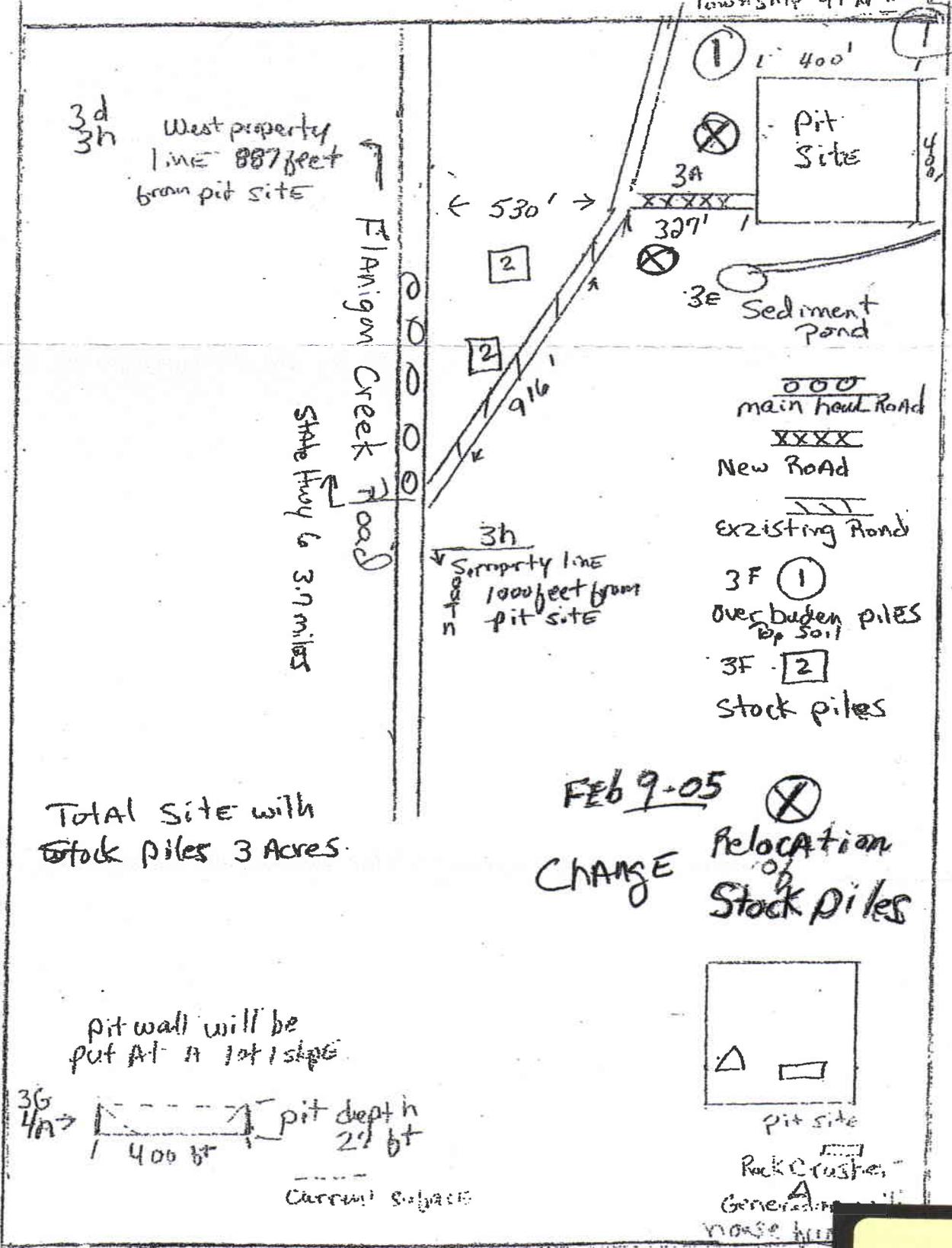


LCZC Hrg: CUP 811
 Applicant: Lisher
 Exhibit #: 2C
 Date: 6/2/2010

MAP 1

(A)

SWNE Section 23
Township 41 N Range 5 West



3d
3h West property line 887 feet from pit site

Flanigan Creek Road

State Hwy to 3.7 miles

3h
v property line 1000 feet from pit site

1 400'

3A Pit Sites

3E Sediment Pond

main haul Road

New Road

existing Road

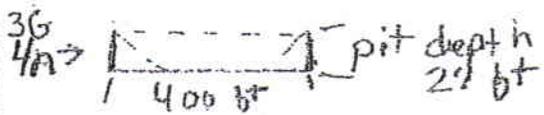
3F 1 Overburden PILES

3F 2 Stock Piles

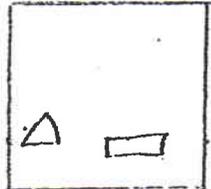
Total site with stock piles 3 Acres.

Feb 9-05
CHANGE Relocation of Stock Piles

pit wall will be put at a 1st slope



Current subject



Rock Crusher
Generator
noise barrier

1 inch = 400 ft

RECEIVED

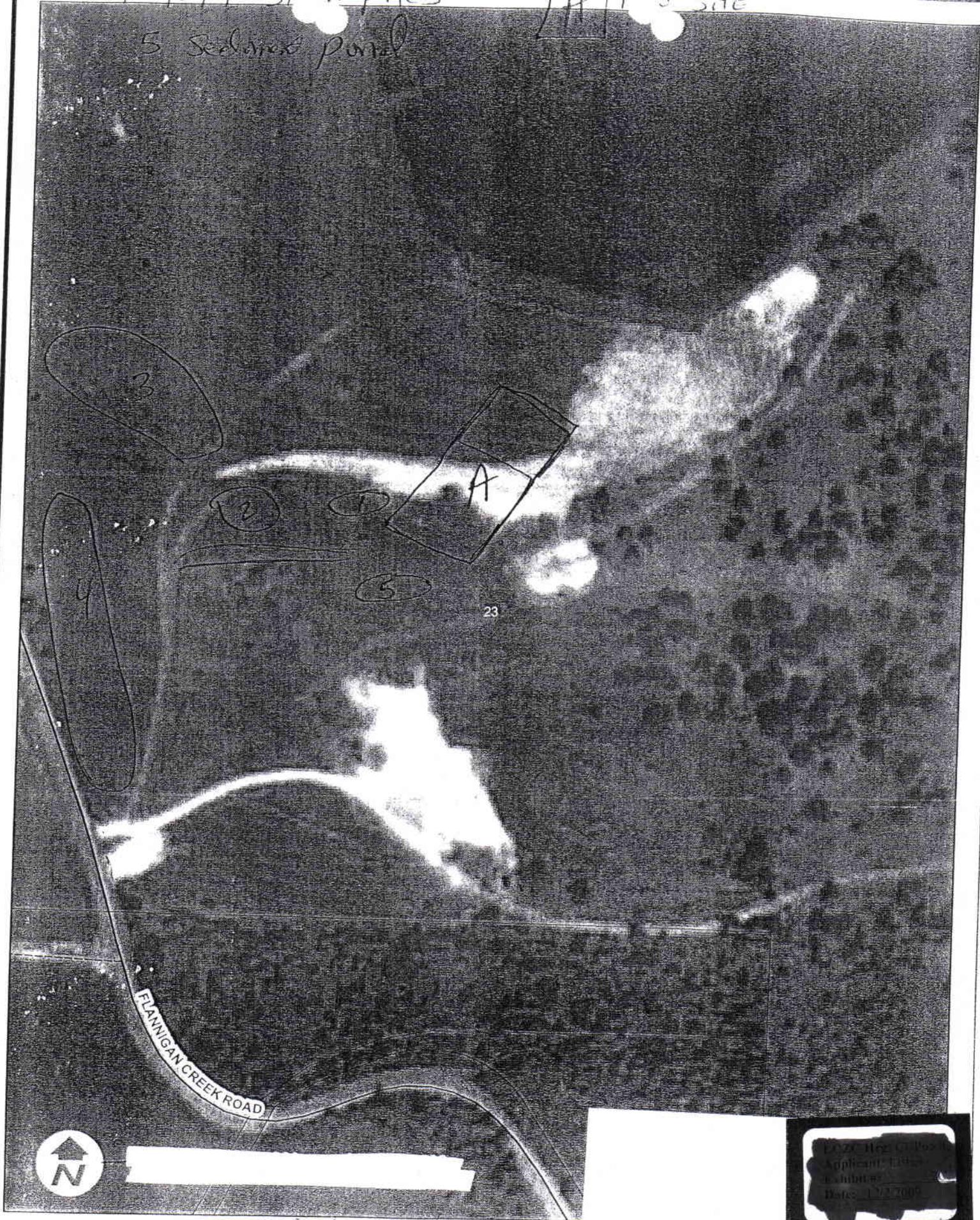
1998 1 7 2004

LCZC Hrg: CUP 811
 Applicant: Lisher
 Exhibit #: 2D
 Date: 6/2/2010

1, 2, 3, 4 St n piles

JAIR's site

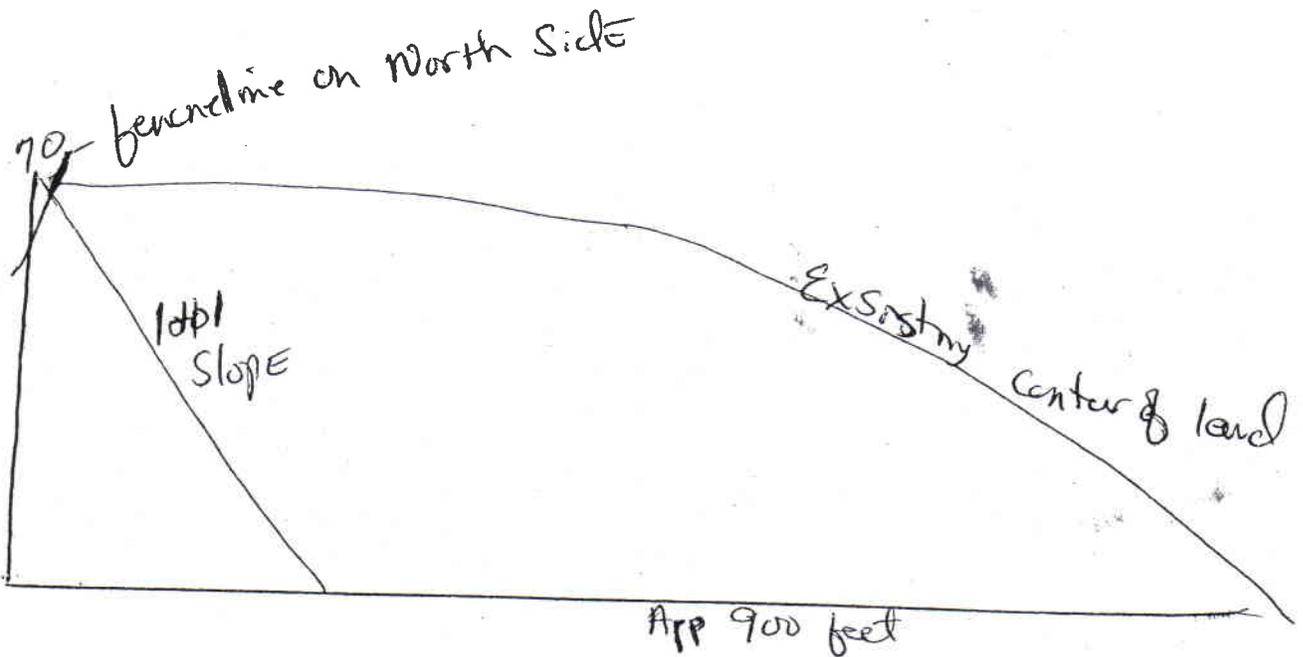
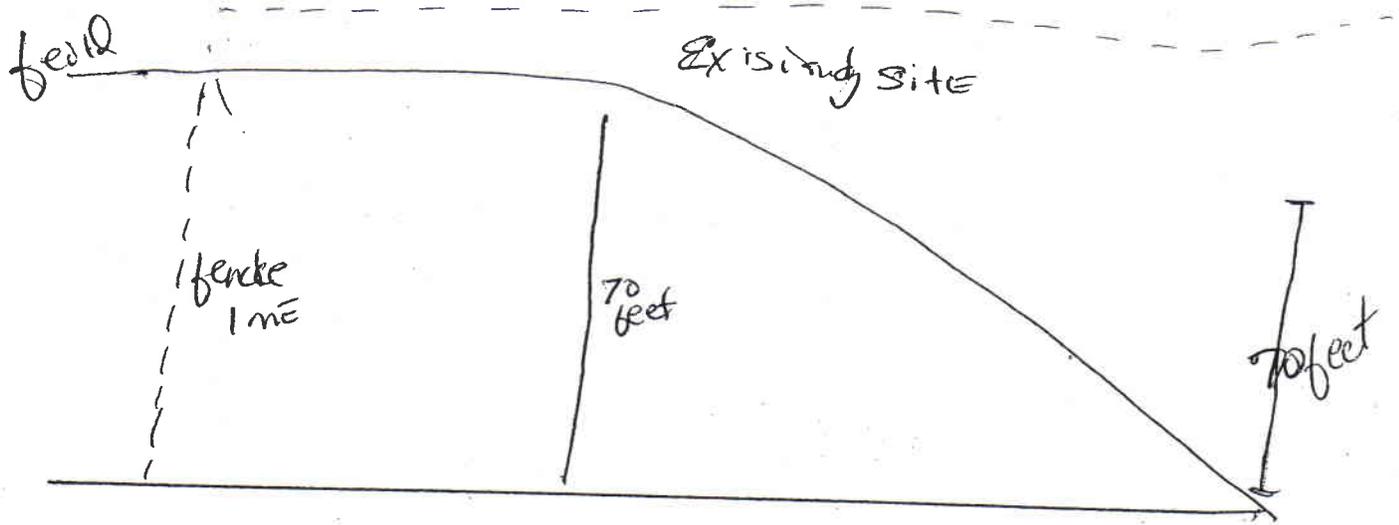
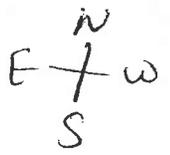
5 Sealant pond



not to scale

1000 High Street
 Applicant: [redacted]
 Number: [redacted]
 Date: 1/2/2009

Cup 050 Cross Section



Not to Scale

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 2E
Date: 6/2/2010

Blasting List

George,

Here are the addresses of people within 1 mile. I also included people that are pretty close to one mile (within 1300 feet of one mile) but are outside the buffer area. You be the judge if you want to mail to those people (1069 Matson, 1075 Matson, 1276 Walker, 1295 Flannigan Creek).

Karl

FULLADDRSS ZIP Notes

1069 MATSON ROAD Viola 83872-9725 More than one mile, but only by less than 1300 feet

1304 WALKER ROAD Viola 83872

1389 FLANNIGAN CREEK ROAD Viola 83872

1329 FLANNIGAN CREEK ROAD Viola 83872-0000

1457 FLANNIGAN CREEK ROAD Viola 83872-9725

1271 MCBRIDE ROAD Potlatch 83855-9610

1437 FLANNIGAN CREEK ROAD Viola 83872-9725

1075 MATSON ROAD Viola 83872-9725 More than one mile, but only by less than 1300 feet

1490 FLANNIGAN CREEK ROAD Viola 83872-9725

1473 FLANNIGAN CREEK ROAD Viola 83872-9725

1300 WALKER ROAD Viola 83872-9725

1276 WALKER ROAD Viola 83872-9725 More than one mile, but only by less than 1300 feet

1105 MATSON ROAD Viola 83872-9725

1120 MATSON ROAD Viola 83872-9725

1395 FLANNIGAN CREEK ROAD Viola 83872-9725

1433 FLANNIGAN CREEK ROAD Viola 83872-9725

1331 FLANNIGAN CREEK ROAD Viola 83872-9725

1295 FLANNIGAN CREEK ROAD Viola 83872-9725 More than one mile, but only by less than 1300 feet

STORM WATER CALCULATIONS

for

GEORGE LISHER'S ROCK PIT SITE

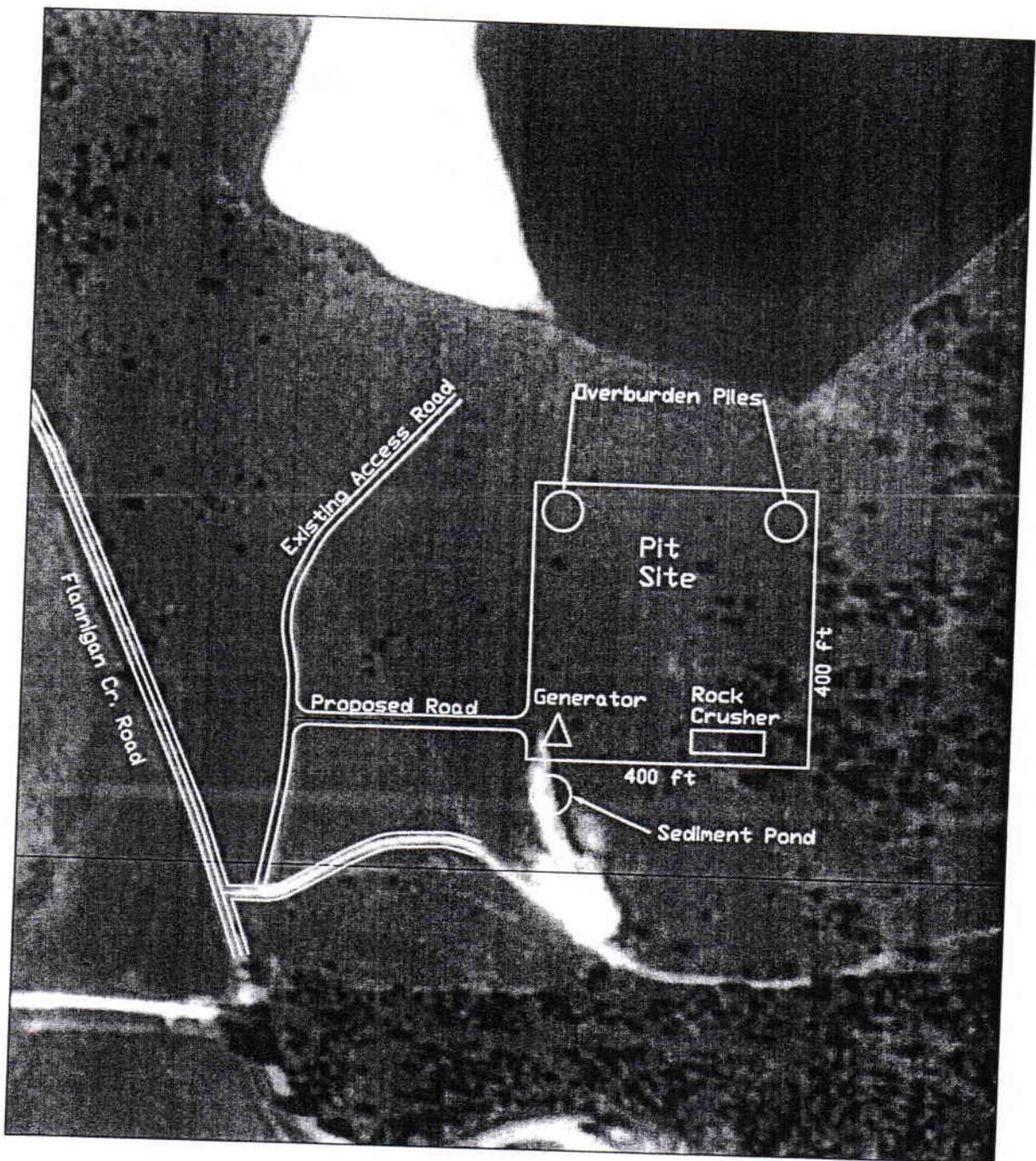
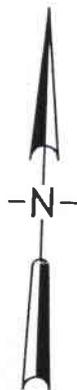
JUNE, 2004

Ruen-Yeager & Associates, Inc.
Consulting Engineers and Land Surveyors
103 North Jackson Street, Moscow, ID 83843

For Additional
Information, Contact
Travis Mechling, P.E.
Tel: 208-883-3755

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 2G
Date: 6/2/2010

Storm Calculations For
George Lisher's Rock Pit



*This illustration is intended to determine the area for Storm Water Calculations only. This illustration is not intended to represent a site layout design.

SCALE
N.T.S.

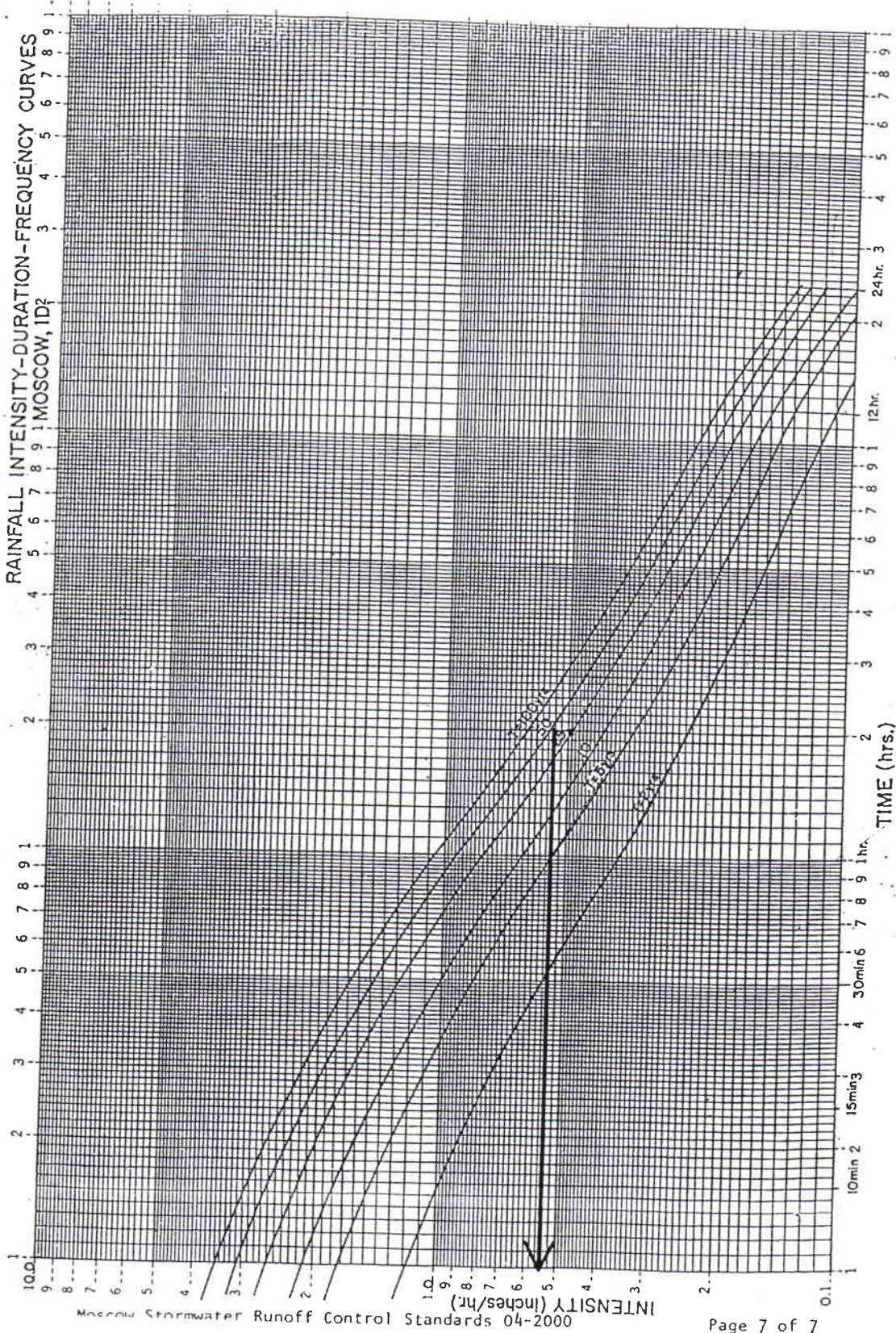
PROJECT:	RO4.35
FILE NAME:	RO4.35/George Lisher
SHEET NUMBER:	

George Lisher
Rock Pit Layout Near
Flannigan Cr. Road



RUEN-YEAGER & ASSOCIATES, INC.
CONSULTING ENGINEERS - LAND SURVEYORS
806 S. CLEARWATER LOOP, STE. N
POST FALLS, IDAHO 83854 (208)773-7444
219 PINE ST
SANDPOINT, IDAHO 83864 (208)265-4629
103 NORTH JACKSON
MOSCOW, IDAHO 83843 (208)883-3755

DESIGN BY:	NO.	REVISION
TWM/RAB		
DRAWN BY:		
CHECKED BY:		
PLOT DATE:		



ASSESSMENT NOTICE

THIS IS NOT A BILL.
 DO NOT PAY.

PARCEL DESCRIPTION:

NE 1/4; NENW;
 E 1/2 SE
 23 41 5

For any questions, please notify the Assessor's Office immediately.

Assessor's Telephone Number: (208) 883-5710

PARCEL ADDRESS:

WALSER RANCH INC
 1540 FLANNIGAN CREEK ROAD
 POTLATCH ID 83855

Appeals of your property value must be filed in writing, on a form provided by the County, by:

JUNE 22, 2009

Tax Code Area: 50-0000

Parcel Number: RP 41N05W230023 A

ASSESSED VALUE OF YOUR PROPERTY

CURRENT CATEGORY AND DESCRIPTION	LOTS/ACRES	LAST YEAR'S VALUE	CURRENT YEAR'S VALUE
3 DRY AGR	123.840 AC	43,654	45,570
5 DRY GRAZING	91.000 AC	15,834	15,834
6 FORESTLAND PROD	47.000 AC	27,307	26,500
14 RURAL IND TRACT	12.250 AC	30,625	30,625
19 PUBLIC ROADS	5.910 AC		
32 OUTBUILDINGS		800	800
SUBTOTAL:	280.000	118,220	119,340
LESS HOMEOWNERS EXEMPTION:			
NET TAXABLE PROPERTY VALUE:		118,220	119,340

These values may not include personal property values. Taxes are based on the values shown on this Notice and on the Budgets of the taxing districts.

TAXING DISTRICT INFORMATION

TAXING DISTRICTS	PHONE NUMBER	DATE OF PUBLIC BUDGET HEARING
COUNTY	208-883-2249	09/08/2009
LIBRARY	208-882-3925	08/18/2009
SCH DIST 285	208-875-0327	06/09/2009
SD #285 M & O	208-875-0327	06/09/2009
SD #285 SUPLMNT	208-875-0327	06/09/2009
N LATAH HWY	208-882-7490	08/19/2009
V-R CEM	208-882-2305	05/27/2009
POTLATCH FIRE	208-301-2989	08/12/2009
POTLATCH REC	208-875-0735	08/20/2009

THIS IS NOT A BILL. DO NOT PAY.

See the back of this Notice for details.

LCZC Hrg: CUP 811
 Applicant: Lisher
 Exhibit #: 27
 Date: 6/2/2010

PARCEL MASTER/HISTORY INQUIRY

PARCEL: RP 41N05W230023 A HISTORY YEAR 2009

NAME/ADDRESS
 WALSER RANCH INC

LEGAL DESCRIPTION
 NE 1/4; NENW;
 E 1/2 SE
 23 41 5

1540 FLANNIGAN CREEK ROAD

CODE AREA 500000

POTLATCH ID 83855

CAT	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	HS MRKT
3	2008	123840	AC	45573				
5	2008	91000	AC	15834				
6	2008	47000	AC	26508				
14	2008	12250	AC	30625				
TOTALS		280000		119340				

F1=Help F3=Exit F6=NEXT HISTORY F7=LEGAL F8=CAT F12=MASTER

DEPARTMENT MEMORANDUM

SUBJECT: AMENDMENT TO RECLAMATION PLAN

NUMBER: RP-2530

OPERATOR: George Lisher
Potlatch, Id 83855

DETAIL: George Lisher requested amendment of his reclamation plan to move a portion of the crushed aggregate from the location identified in the original reclamation plan. The request is to facilitate separation of customer materials stored on the site and crushed rock Mr. Lisher will market to other customers.

REMARKS: There will be no increase in the disturbed acreage for the plan. The original of the amended map is attached

RECOMMENDATIONS: Approve the application with the following stipulations:

1. All refuse, chemical and petroleum products and equipment shall be stored and maintained in a designated location 100 feet 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 on the site 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. Reclamation bonding is provided by a statewide bond submitted through the Department of Administration.
5. Acceptance of this permit does not preclude the operator from obtaining other necessary permits and approvals from local, state and federal authorities, i.e. Storm Water Pollution Prevention Plan (SWPPP), waste water generation and/or air quality permits, National Oceanic and Atmospheric Administration Fisheries, U.S. Army Corps of Engineers 404 Permit, and Stream Channel Alteration Permits, for each production process.

RECOMMENDATION APPROVED:

RECOMMENDATION DENIED:

OTHER ACTION:

RDk:rdk
2/16/05



To Idaho Dept. of Lands

The letter and map will make an amendment to RP-2530/cup 653.

The purpose is to insure that the stock piles of Rock are not joined so that there will be no chance of Rock ~~to~~ Taken from the from the wrong location. On the map County Piles ARE Marked . My piles would be . So in adding two more areas to map.

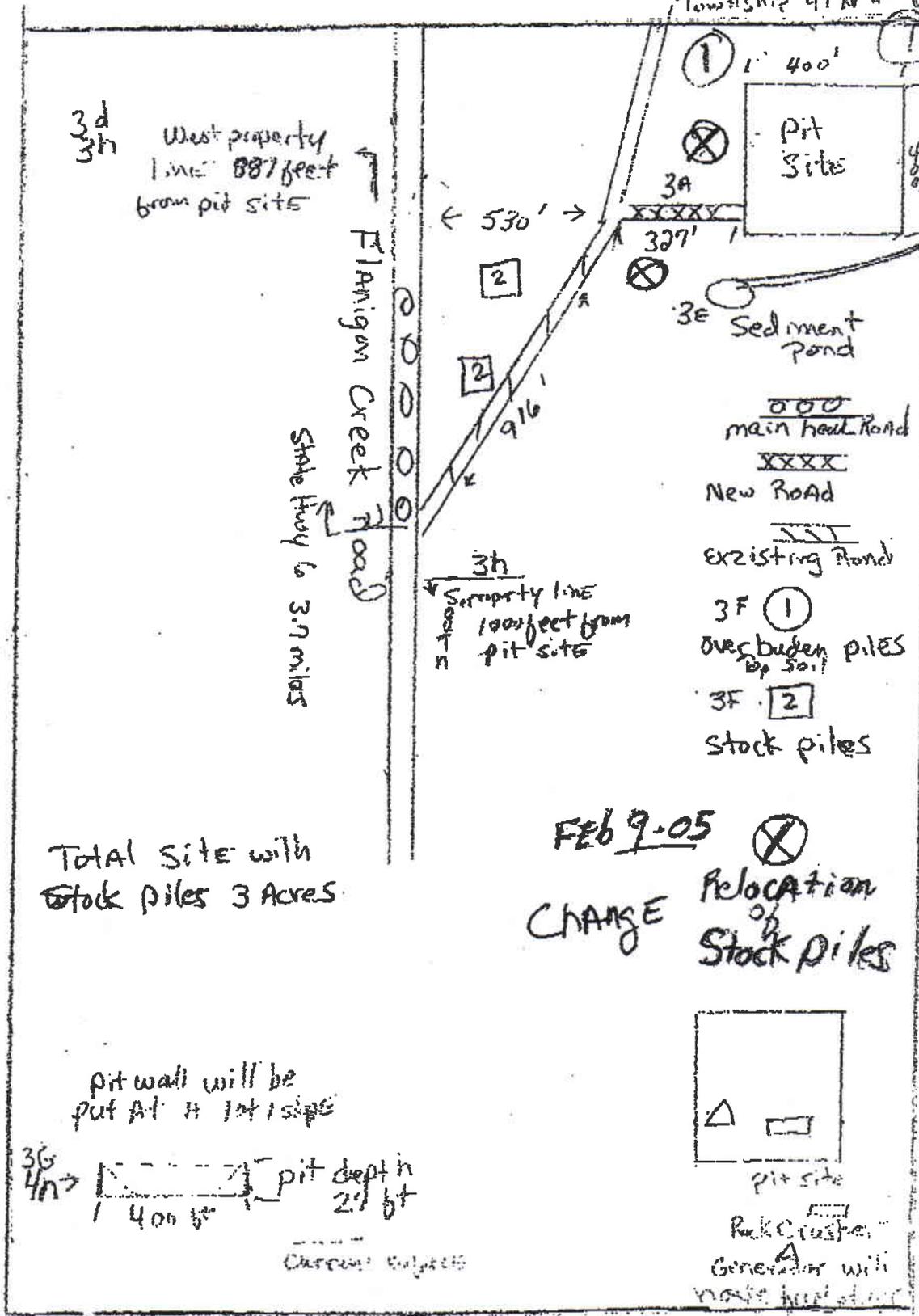
George Lisher

Geop S Lisher

MAP 1

(A)

SWNE Section 23
Township 41 N Range 5 West

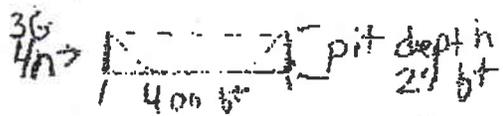


Flanigan Creek
10801
S.E. of

Total Site with
Stock Piles 3 Acres

FEB 9-05
CHANGE Relocation
of Stock Piles

pit wall will be
put at 11 1/4 slope



Rack Crusher
Generator will
make haul of...

inch = 1/400 ft

RECEIVED

APR 15 2002



954 W. Jefferson St., PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-2339

WINSTON WIGGINS - DIRECTOR

BOARD OF LAND
COMMISSIONERS

DIRK KEMPTHORNE
Governor

BENYSURSA
Secretary of State

LAWRENCE G. WASDEI
Attorney General

KEITH L. JOHNSON
State Controller

MARILYN HOWARD
Sup't of Public
Instruction

May 25, 2004

George Lisher
1080 Lisher Cutoff
Potlatch, Idaho 83855

SUBJECT: Reclamation Plan 2530

This correspondence is notification the above cited reclamation plan was approved on May 5, 2004.

PLAN NO.	ACRES	COUNTY	LEGAL DESCRIPTION
S- 2530	3 acres	Latah	Twp 41N, Rge 05W, SW¼NE¼, Sec 23,

The plan was approved 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 from 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 violation of water quality standards occur, corrective action will be taken and the Department of Environmental Quality will be notified.
3. Erosion and non-point source pollution shall be minimized at all times by careful design of the site access and implementing Best Management Practices; which may include, but not be 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 and reclamation;
 - c. Removing and stockpiling topsoil or suitable plant growth material for use in reclamation.

KEEP IDAHO GREEN
PREVENT WILDFIRE

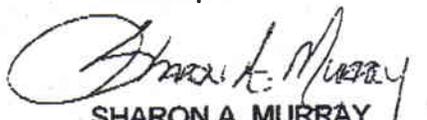
EQUAL OPPORTUNITY EMPLOYER

RP-2530
Page 2

4. In accordance with provisions of Idaho Code title 47, chapter 18, a payment to the state reclamation fund of \$84.00 for three disturbed acres over the next five months shall be paid prior to commencing mining operations. 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, receipt of the signed, enclosed acknowledgement form and annual payments in accordance with Idaho Code title 47, chapter 18 and IDAPA 20.03.03.

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, National Marine Fisheries Service Consultation, U.S. Army Corps of Engineers 404 Permit, and Stream Channel Alteration Permits, for each production process.

If the department does not receive a written notice of objection from you regarding these stipulations by June 25, 2004, the stipulations will be considered as accepted.


SHARON A. MURRAY
Minerals Program Manager

✓ cc: Roger Kechter, Ponderosa Area Office

CUP #811 – Staff Introduction

A request was made by George Lisher for a conditional use permit to operate a mineral resource development including excavation, stockpiling, crushing, blasting, and an asphalt plant on approximately three (3) acres of a 280-acre parcel located in the Agriculture/Forest zone. The property is owned by Terry Walser. The property is located on the east side of Flannigan Creek Road, in Section 23, Township 41 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP41N05W230023A.

The Latah County Land Use Ordinance, under section 3.01.02(7), lists "mineral resource developments" as conditionally permitted uses in the Agriculture/Forestry zone subject to §4.03.

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 not in conflict 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 ($\frac{1}{4}$) 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.

The following exhibits will now be entered into the record.

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.** Buffer Map (75 feet)
- Exhibit #1G.** Buffer Map (1000 feet)
- 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.** Cross Section (Submitted by Applicant)
- Exhibit #2F.** Blasting Mailing List – One (1) Mile (Submitted by Applicant)
- Exhibit #2G.** Storm Water Calculations (Submitted by Applicant)
- Exhibit #3.** Notice of Filed Reclamation Plan from Idaho Department of Lands
- Exhibit #4.** Staff Introduction for Latah County Zoning Commission hearing for CUP #813 held on June 2, 2010.
- Exhibit #5.** Letter submitted by North Latah County Highway District

That is all staff has unless the Commission has questions.

North Latah County Highway District

1132 White Avenue
Moscow, Idaho 83843

Deary Phone: (208) 877-1101
Fax: (208) 877-1298

Moscow Phone: (208) 882-7490
Fax: (208) 883-3926
nlchd@nlchd.com

Potlatch Phone: (208) 875-1101
Fax: (208) 875-8967

May 20, 2010

Latah County Zoning Commission
Latah County Courthouse
522 S Adams
Moscow, ID 83843

RECEIVED

MAY 21 2010

LATAH COUNTY

Dear Commissioners,

I submit this letter on behalf of the North Latah County Highway District Commissioners. The North Latah County Highway District ("Highway District") has exclusive supervision and jurisdiction over all public highways and public rights-of-way within the jurisdictional confines of the Highway District system. The Highway District's primary responsibility is to keep highways within its system in proper repair within the limits of available funds. To do so, the Highway District must have adequate rock available for use on its public highways at reasonable expense. It is with this public responsibility in mind that the Highway District has participated in past public hearing processes concerning George Lisher's conditional use permit application by providing factual information relative to the Highway District's operations.

While the Highway District has in the past purchased rock crushed in this pit from Mr. Lisher, the Highway District does not want Latah County to make any decision in the matter of this application that is **dependent** or **conditioned** in any way upon the Highway District's purchase or use of rock from this site. The application should again be considered independent of any potential commitment by the Highway District to purchase or use rock from this site. The only condition the Highway District would ask for is to coincide the pit's hours of operation with those of the Highway District – 6:00 am to 4:30 pm.

The Highway District will not express any opinion as to whether Mr. Lisher's application satisfies the criteria of the Latah County Zoning Ordinance or the Latah County Comprehensive Plan. At this point, those matters are solely within the province of the Latah County Zoning Commission, and we defer entirely to your reasoned judgment.

Thank you for your consideration.

Sincerely,

For the North Latah County Highway District Board of Commissioners



Dan Carscallen, Secretary

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 5
Date: 6/2/2010

1098 E. Hatter Creek
Princeton, Idaho 83857
May 26, 2010

RECEIVED
MAY 27 2010
LATAH

Latah County Commissioners
Latah County Courthouse
Moscow, Idaho 83843

Commissioners and Whomever it may concern,

Please allow George Lisher to operate a rock crusher on the Walser property on Flanigan Creek. The neighbors complaints have been proven to be unfounded and a scare tactic. There have been no accidents because of extra traffic and the wildlife are still there. The domestic animals haven't been stressed. As for one neighbor stating that his well went dry after they blew the pit, I have heard that he has several wells on his place because that well always goes dry.

We have had enough of this county being against business. No wonder the tax base is less all the time. Do the right thing and approve agri-business. The county needs the rock.

Thanks,

Wayne Hemmelman
Joanne Hemmelman
Wayne & Joanne Hemmelman

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 6
Date: 6/2/2010

mस्कнott@latah.id.us

From: Steve Norton [nortons@moscow.com]
Sent: Friday, May 28, 2010 1:04 PM
To: mस्कнott@latah.id.us
Subject: resubmission of attachments

Attachments: Lisher CUP 2010.doc



Lisher CUP
2010.doc (3 MB)

May 28, 2010

From: Steve and Linda Norton
1178 Flannigan Creek Road, Viola, ID

Re: CUP 811

To the Latah County Zoning Commission:

CUP 811, George Lisher's application to continue his gravel pit operation on Flannigan Creek Road is very similar to the original request made in 2003, CUP 653. After 40 hours of testimony, 120 exhibits and many hours of deliberation by the Latah County Commissioners the conditions on which the gravel pit operation would be conducted were set. Neither side was happy with the conditions, but they allowed George Lisher the opportunity to operate a gravel pit at this location and the conditions made it more bearable for the neighbors who found themselves living so close to an operating gravel pit. We have attached a copy of that decision for your consideration, since so much effort went into it and many of the conditions are still appropriate for CUP 811. It might save a lot of effort to use these conditions to build the new CUP. Please note condition #4 was eliminated in a subsequent hearing.

In your deliberations please take into account the price in money, time and quality of life the families who live near the gravel pit have paid for locating a gravel pit across the street from their homes. Please do whatever is possible to protect them.

Thank you for your efforts in working out a fair and equitable set of conditions.

Sincerely,

Steve and Linda Norton

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Latah County Board of Commissioners approves the subject application for a conditional use permit, to maintain a rock excavation/crushing/processing/stockpiling operation with ancillary uses, with the explicit exclusion of asphalt hot plants, in the Agriculture/Forestry Zone, subject to the conditions of approval stated below.

1. All operations on the site shall comply with all local, state and federal laws, rules and regulations.

2. Operating hours. Blasting, crushing, loading, hauling, maintenance, and ancillary operations shall be limited to Monday through Friday of any given week, from 7:00 a.m. to 5:00 p.m. Operations shall not occur on federally-recognized holidays. The gate to the facility shall be closed and locked at all other times.
3. Notice of blasting. Written notification, at least 24 hours prior to blasting, shall be given to owners or occupants of residences within one mile of the site.
4. The applicant shall provide the Coeur d'Alene Tribe with a written monthly schedule of excavation and blasting, and shall allow a Tribal representative to be present during excavation. If cultural resources are identified by the Tribal representative at the site, the applicant shall cease operations in order to allow the cultural resources to be recovered from the excavation site without undue delay, up to a maximum of forty-eight hours. This condition is intended only to allow recovery of any cultural resources from the immediate excavation site, not to authorize the tribe to remove the items from the property nor to assign ownership of any cultural resources found.
5. Blasts shall be limited to 30,000 tons per blast and all fly-rock shall be confined to the subject property.
6. No more than 75,000 tons of rock shall be blasted, crushed or removed from the site.
7. No more than 60 loads or 870 tons, whichever is greater, shall be hauled from the site during any week, excepting during any state of emergency duly declared by the appropriate jurisdiction, wherein the use or removal of the rock is necessary to protect life and property. The applicant shall maintain records of loads and tonnages in order to allow County staff to verify compliance with this condition.
8. Blasting shall not occur between 7:00 a.m. to 9:30 a.m. or 2:30 p.m. to 4:00 p.m. on days that local school districts are in session. Reasonable measures shall be made to protect vehicular and pedestrian traffic on Flannigan Creek Road which should include warning signs, or similar advisory notice, along said road during blasting.
9. Operations shall not begin until a surface water management plan is designed by a professional engineer registered in the State of Idaho, and subsequently constructed under the direction of said engineer. In addition, said plan, as well as verification by the engineer that implementation has occurred accordingly, must be received and approved by the Latah County Planning & Building Department before operations begin.
10. Operations shall not begin until a reclamation plan is approved by the Idaho Department of Lands and notification of such approval is received by the Latah County Planning & Building Department.
11. The current ingress/egress point onto Flannigan Creek Road shall be moved so that sight distances from both directions on said road adequately meet minimum sight distance standards of 200 feet. The ingress/egress point must also be approved by the North Latah

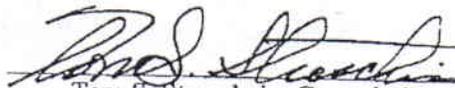
Highway District, and notification of such approval must be received by the Latah County Planning and Building Department before operations begin.

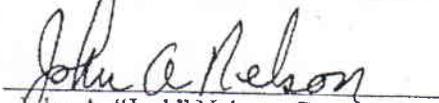
12. The excavation site shall be limited to two acres and shall be fenced, posted and gated as required by Section 11.04 of the Latah County Zoning Ordinance.
13. This conditional use permit shall expire six years from the date of issuance, at which time the implementation of the reclamation plan shall begin.
14. The Board of County Commissioners shall conduct a review of this conditional use permit approximately one year from the date of issuance to determine whether the conditions of approval are met.

PASSED BY THE LATAH COUNTY BOARD OF COMMISSIONERS THIS 12th DAY OF

May, 2004.


Paul J. Kimmell, Chair


Tom S. Stroschein, Commissioner


John A. "Jack" Nelson, Commissioner

ATTEST:

DATE:


Rachel E. Bause
Clerk/Deputy Clerk

5-12-04

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

This conditional use permit is effective on the date passed and signed by the Latah County Board of Commissioners. This is a final action. An affected person aggrieved by this decision may within twenty-eight (28) days after the effective date seek judicial review as provided by chapter 52, title 67, Idaho Code.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight days from the date of this decision as provided by chapter 80, title 67, Idaho Code.

If we had only known...

All our lives would have been different over the past 6 years if someone had discovered Walser had a better place on his large ranch to let his friend George Lisher have a little gravel business

Mistaken Ideas Drove Hearings

- Applicant led us to believe the only rock available on Walser property was directly across from three family residences.
- Highway district got a little carried away in their efforts to make sure a CUP was issued for this specific location.

Flawed Premises Led To Forcing a Decision

- Commissioner's desire to give the Highway District what they pushed for led to authorizing an iffy CUP for the "only rock" in the area.
- An extensive list of conditions was necessary to mitigate the known adverse impacts this CUP would create in the area and for the families living across from it.

Forcing the CUP created long term fallout

- The outcome of the decision has played out to the point of exhaustion over the past six years.
- Lisher was allowed to utilize the zoning board hearing process to attempt to appeal issues protected by the original CUP contract.
- Multiple hearings initiated by Lisher over the 6 years wasted thousands of tax payer dollars and forced community members to stop their normal activities to write letters, collect evidence and prepare presentations for yet another zoning rehearing.
- Everyone became completely tired and frustrated with the power planning and building gave to Lisher to disrupt our lives.
- That power came from administrator error.

This CUP should never have been granted because:

- There is a large deposit of basalt on Walsler property in a location that will not create such adverse effects or require as many conditions.
- The Highway District would have been encouraged to actively consider the comprehensive plan as part of assessing their gravel needs
- If Mr. Lisher had been encouraged to keep looking he might have found this less controversial site years ago.
- Many peoples enjoyment of their land and their quality of life would not have suffered these 6 long years because of poor judgment and selfish use of government authority

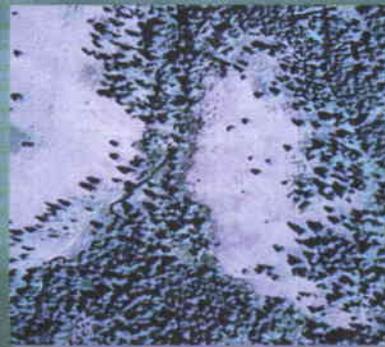
Where is the large Walsler basalt deposit?





Pro Pit Positive Features

- Isolated from Residences
- Surrounded by hills and mature forest
- Closer to Lisher home and NLCHD office in Potlatch
- Sits between Flannigan Creek and Rock Creek with quick access to McBride
- Loading area far from houses
- No bus stops in area
- Closest residence to loading would be property owner Walser



More Pro Pit Positives

- Visible surface basalt formations cover area of over 300 feet in length.
- Limited overburden over basalt makes area useless for grazing.
- Implement and skid roads in place ready for improvement.
- Potential for long term financial benefit to Walsler.
- Sustainable small business for Lisher.



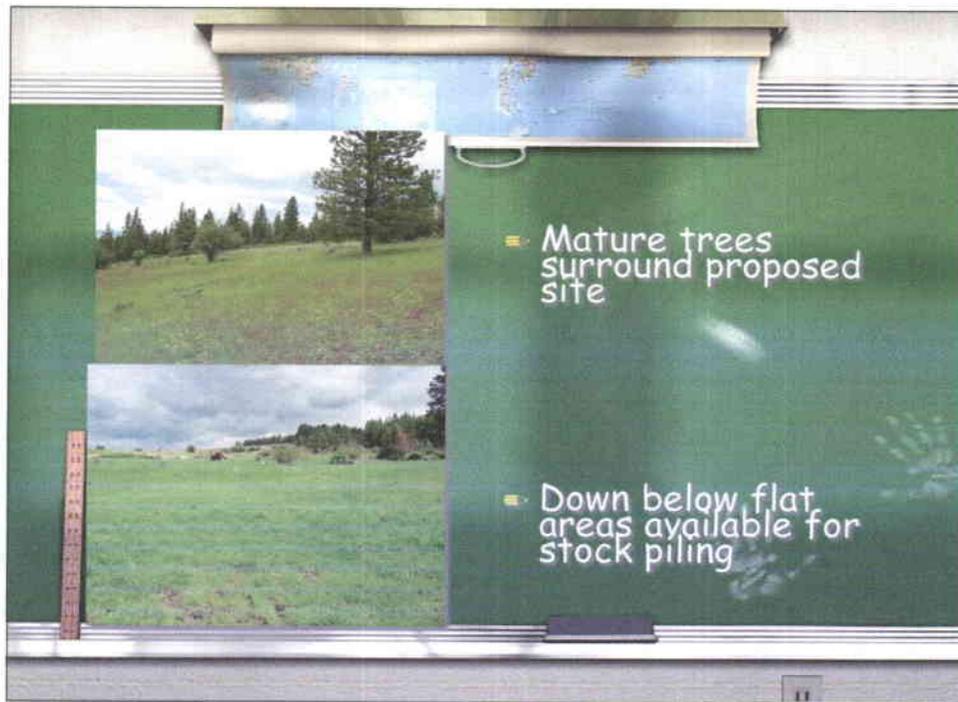
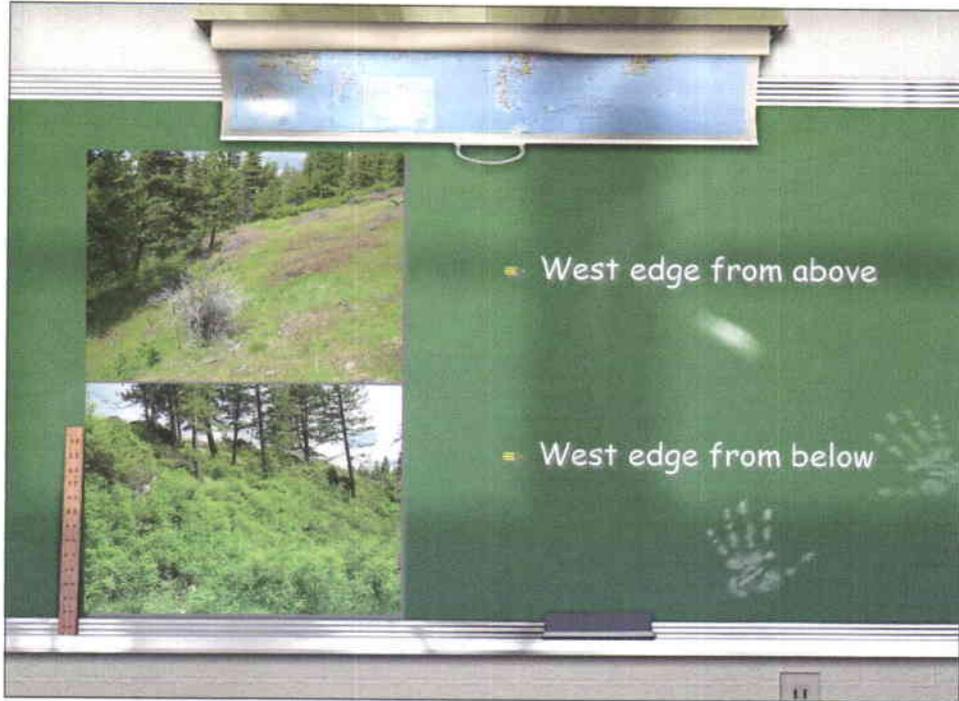
- Upper photo reveals lack of protection of 3 existing residences from blasting, crushing, loading noises of gravel operation started by Lisher in 2004.



- Bottom photo shows proposed site whose topographic layout has hills and mature forest between it and a single dwelling located approximately 750 yards away.

- A couple of different photographs of exposed basalt at the proposed site
- Small samples were taken, smashed to reveal fresh surface and compared to known basalt from Anderson Pit.
- Samples are available to view

- Close up of one of the sample sites
- Lower picture taken from North edge of proposed site facing south
- Photos taken around May 21, 2010 reveal lack of meaningful soil covering this area





Mc Bride/ Flannigan
Creek Intersection



- Close up of existing
implement road
accessing proposed
rock pit site



Proposed site entry from Flannigan
Creek Road

- While only a suggestion the
flat area to the right could
be considered for a main
stockpile area if a highway
district bid was won



- Location is 2.29 miles from
Highway 6



- Walser house off Flannigan Creek Road
- Proposed pit location is hidden behind timber on left side of photograph
- The implement road can be seen in the approximate center of the photo moving from right to left between the two pasture colors

• It is with a sincere desire to end this conflict that I sought guidance in finding a solution that would provide Mr. Lisher his need for income as well as protect my family and neighbor's physical and mental well being from the very real trauma of this lengthy process.

• It is in that spirit that I offer these ideas as a way to heal and disengage while lending support to Mr. Lisher's future business success.

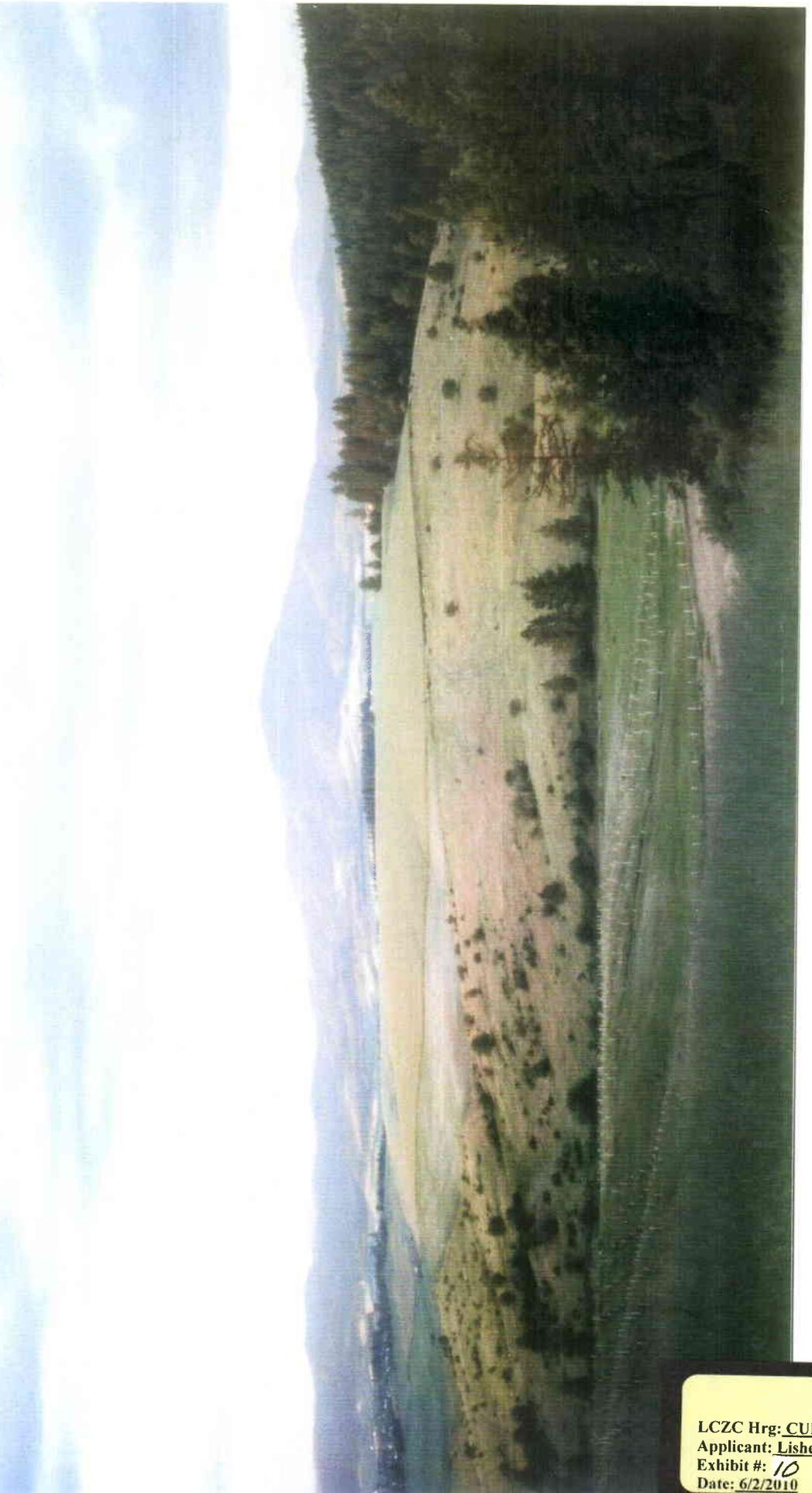


This information has been provided to Dan Carscallen of the North Latah County Highway District



- During an informal conversation he acknowledge the idea of a rock pit closer to Potlatch, with fewer conditions, and the possibility of adjusting hauling hours would be more attractive than the Lisher Cup location pictured.
- He was very clear however the decision to make any changes on the property were up to Lisher and Walser and there was no contract with them.

Life In Rural Latah County Quiet, Breath Taking, Priceless



LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 10
Date: 6/2/2010

May 20, 2010

Zoning Commission:

Unfortunately, I will not be able to attend this hearing since I will be traveling to Arkansas to see my 90-year-old father just released from the hospital. It is extremely hard for me to be away but as with everything you do, the only person with the ability to make long range plans is the applicant. All I can do is try to share what we have been through over the last six years. It is up to you and your common sense now to make your decision. I hope and pray you will read my letter and information and try to understand the heartache this rock pit has caused us over the last six years.

We don't enjoy being in the news or attending these meetings. It would be much easier to just give up. However, this pit has the ability to truly ruin our quality of life and it has also burdened us financially with the loss of our well. We continue to try to find the right words to explain how profoundly allowing this CUP has adversely affected our lives. We have made all the sacrifices for Mr. Lisher over the last six years and his only complaint is he isn't being allowed to do everything he wants. Everything he wants creates more and greater adverse impact on our lives. This is what the comprehensive plan was designed to eliminate.

After over 40 hours of testimony and over 120 exhibits, I still don't understand the reason why this pit was approved six years ago. I hope all of our time with the previous meetings was not meaningless. Many neighbors and complete strangers testified and showed up to many of the hearings to oppose the rock pit. Unfortunately, their voices didn't seem to have been heard and I am amazed at the few who are still willing to write and show up to these meetings almost six years later to still share their point of view. How many times do we have to repeat this?

The Latah Board of Commissioner's decision and conditions were based on a two-acre area with the fact that it would end in six years. If you change any of the conditions you unbalance the criteria of it adversely affecting our safety, property values and impact to our quality of life. Our loss of property value was discounted and deemed temporary because of the length of time the rock pit would be in operation, six years. This is why the "Conclusions of Law" reads "as conditioned" in every section.

We believe this pit should have never been approved, but it was with significant conditions. I don't believe they thought it would hurt our wells, or if it did they would magically be replaced. They thought the crushing would only last a few weeks instead of a couple months. Our property values wouldn't be affected, since the pit was only going to be here for six years, so they said. Of course, we questioned the commissioners on Mr. Lisher's ability to continue with this pit once they let it start and they assured us that they would be able to stop it. Now the ability to correct a wrong is in your hands.

I would encourage you to review the testimony and exhibits from these first hearings. I have attached copies of some of the exhibits we have copies of. It is these hearings that created the knowledge for why conditions were necessary.

In the findings of fact, they didn't choose to remember the letter from the property owner who was unable to get any assistance with his well he lost from blasting. Also, another neighbor of a rock pit, Adrienne Gurtzen, testified about his home that he bought for \$110,000 and took a loss of \$25,000 when he sold it (at a time property values were not dropping). These exhibits and testimony were left out of the "Findings of Fact". Sadly, these two citizens' experiences were discounted. Sad because they most accurately predicted what accurately happened to us.

The county employee, who selectively included information in the "findings," did like Latah County Assessor's testimony that compared our situation to a CUP that was near his home. He stated that it hadn't seemed to change or hurt anything (property values, safety, etc.) I wondered at the time, what rock pit does he live by? Later to find out that he was talking about an enclosed business CUP. Now I know why there weren't any problems with this CUP. Maybe that is why he hadn't seen any devaluation of properties situated near similar activities. You can't compare a blasting, noisy rock pit to an enclosed business. What other similar activities would take out your well or endanger your pets or home? THERE IS NO COMPARISON. We were unable to respond to this due to right of the zoning board to limit discussion between themselves and the community. Testimony and letters do not take the place of discussion and serious deliberation with knowledgeable community members.

Gravel trucks travel both ways on Flannigan Creek Road. Much debate and time was spent on discussing the road from the pit to Potlatch, but this is not the only road to consider. Gravel trucks, including Mr. Lisher's, travel from both Viola and Potlatch to the pit.

I realize there were so many hours of testimony and exhibits, but the missing and incomplete findings are frustrating since they are dealing with our quality of life. Sometimes information was repeated wrong, and we did not have the opportunity to correct it. The logical questions and concerns we had from the beginning have been shown through the experiences of the past six years to be reliable and valid.

Our road is still a winding, narrow, unimproved country road where many country drivers take a NASCAR line through blind corners. Reducing heavy trucks traveling on it is a reasonable goal until which time significant re-engineering is completed. The commissioner's were assured our roads would be well maintained because of the rock pit. Even though we had never complained about our road prior to this rock pit, I think the Commissioners thought this would be such an improvement to us that we would be happy. It has not worked out to be so. We were told at the first hearings that this rock pit would only be used in our immediate area. This influenced their decision, but I have

followed many trucks out of our area with gravel. There is no accountability without expensive enforcement.

Even though the two hundred foot sight requirement was signed off, the driveway into the rock pit is still not visible within the required two hundred foot sight requirement. There is a raised hill, which blocks the view of oncoming traffic and the entrance to the rock pit. No conditions are in place to correct the un-safe situation for large trucks entering and leaving this pit. Trucks park outside the gate blocking Flannigan Creek Road to unlock the gate to enter. Drivers dismount their vehicles with the engine running to walk across the road and unlock the gate. This is both illegal and unsafe. Conditions must be in place to require recessed access gates to allow these large semi-trucks and trailers to exit the roadway prior to drivers dismounting. It is still legal to drive 55 mph on these road surfaces through this blind area. While the Zoning Commission can't change the speed limit, they need to consider it when creating conditions.

The Moscow school bus turns around in the road at the blind intersection at Matson and the Potlatch school bus still turns around in our driveway. We have small children walking the roads and waiting for school buses and there are multiple blind corners with no road shoulders in this area. A condition to limit trucks coming into the area until 9AM limits contact between them and the bus stops and is consistent with required conditions in the comprehensive plan. It also allows for the commuter traffic to clear the area.

People drive the middle of these dirt roads out of habit. The chip-sealed road is now double yellow striped from Davis Road to Highway 95. This creates an 8-mile no passing zone on Flannigan Creek and Four Miles roads, which creates congestion around buses picking up children along the winding narrow two-lane road. Many don't drive on their side of the road when they round a curve, even with the double yellow stripes. Obviously, the best practice is to locate businesses with long term heavy truck traffic next to major highways designed for such traffic. A quick look at other successful commercial industrial crushing operations in the Potlatch to Harvard area shares this one common trait. The Comprehensive Plan is designed to reduce the conflict and waste of limited government resources by strongly encouraging commercial crushing operations to locate in suitable areas. The only alternative is to severely condition the operation, which as we have seen over the past six years does not reduce conflict or endless appeals disguised as new applications.

The noises of the rock pit does not compare to any other allowable land use. We have lived in this location for over 15 years. Considering every possible combination of industrial and Ag sounds we have experienced over that time, nothing in the rural/Ag zone has produced anywhere near the stressful disruption crushing, blasting and loading rock has produced. It is impossible to ignore and cannot be blocked from permeating our entire house for the hours and months it is allowed to continue. In reality, the only conditions capable of bringing a mining operation encroaching on existing family residences into compliance with "not adversely effect to a greater extent than a permitted use" is to severely limit blast size, crushing hours, total tons, and hauling.

What we have been clearly shown over the past six years both by his statements, written documents, and behavior is that Mr. Lisher doesn't want the Comprehensive Plan to apply to his operation. There is no compromise and believes he should be able to do whatever he wants, with no regard to the impact his prohibited activities have on the rest of the community. Any reference to a "Good Neighbor Policy" can only apply if both parties are subjected to the same environmental conditions. The applicant is not impacted by the blasting or crushing so he personally has no incentive to see the benefit of conditions to mitigate the suffering adjacent to the site. Such beliefs undermine the process and goals of a Comprehensive Plan. For the benefit of all parties, he should be encouraged to find a location to conduct his business where conditions are basically unnecessary due to the locations remote nature.

"THE BOARD FINDS THAT CONDITIONS OF APPROVAL ARE NECESSARY TO MAINTAIN CONSISTENCY WITH THE LATAH COUNTY COMPREHENSIVE PLAN AND TO PROTECT THE HEALTH AND SAFETY OF THE RESIDENTS OF LATAH COUNTY" (Findings of Fact #45)

The following is what our life is like across from a rock pit.

BLASTING

24 hours is the official notification time required which is not enough time to ask for days off from work due to blasting. What if notification is mailed when we are away on business or vacation? Every time you are out of town you have to wonder if there will be any blasting when you are gone.

It is one thing to have someone feeding your animals, but to ask them to move them and watch them during blasting is another. Planning any family function can be impossible. Are we inviting them to a wedding, family reunion or really to a blasting or loud crushing operation? We can't plan for the future.

We had to use two days of paid vacation for the last blasting. They didn't blast the first day so the blasting ran over into the second day. We are the ones that need to take off work to be home when he blasts, and we have no control over when blasting or when crushing takes place. This adversely affects us to a much greater extent than any other permitted use. It is a direct tax that removes valuable consideration from our pockets.

Anyone who would stand with me in our living room as our house shakes, our windows rattle and our animals run for their lives, would know there is no question what damage this can do to our home, well and animals. However, we are the ones that pay for any damage to our well or property because those who blast have taken the position we have the burden of proof, not them.

LOSS OF OUR WELL

Our worse fears happened and our well goes dry. It felt like were camping in our own home. We hauled water, showering in town, water hand-poured in toilets and clothes being washed at the laundromat in Moscow as we wait and pray for our water to "come

back;" as well as going to work every day. We checked our water lines for leaks and ruled out other problems. We waited with the hope that like other wells there was the possibility of it recovering, but it did not. We knew that we were alone with this problem, considering all the hearings and information we had collected. We had to use a home equity loan to pay for a new well and we pray that we will hit water. We had to wait for the driller and the weather to cooperate for the drilling to begin. Since other drillings on our property prior to us and in our neighborhood have come up dry, it is a real concern that we will even hit water.

Thankfully, we did hit water. However, we continue to be afraid of losing it with future blasting.

CRUSHING

After the blasting comes the crushing. The crushing lasted for months! It isn't a consistent noise so you can **NEVER** get used to it. It is a loud crushing noise with intermittent louder bangs, which makes it impossible to block out or tolerate. The constant revving of the diesel engines going back and forth, the dumping of the rock into the truck and the beeping of the truck and loader add to the horrible noise. You can't sleep through it! With the house closed up tight and our windows closed you can hear the crushing just like you were standing at the bottom of our hill.

The two-week estimate of crushing time testified to at our first hearings was way off. The crushing went on for months, not weeks. I realize that Mr. Lisher would be happy to crush into the late hours to get it done faster; however, he would not be the one awake and unable to sleep. Sleep deprivation and noise bombardment are both acceptable forms of torture to be used against terrorists, not families. After the crushing is done, we awakened to the constant beeping and the noise of the loaders and trucks back up alarms. It makes perfect sense the comprehensive plan was changed to limit hours of operation to start at 9 am. This is critical to prevent these 110 plus decibel alarms from harassing sleeping neighbors prior to a reasonable wake-up hour for adults and children.

We have spoken with various members in the community and the zoning board to point out there is a big legal difference between an applicant asking to change aspects of their business operation and an applicant asking to change the contract of conditions created by a Conditional Use Permit hearing process. The first is handled by having a new hearing in front of the Zoning Commission. The second invokes a right bestowed and controlled in the comprehensive plan only through an appeals process conducted in Civil Court and with a 30 to 90 day expiration. This is an important legal issue, which should be cleared up before this applicant is granted another CUP. This issue falls within the policy and operational responsibility of the Zoning Commission and Planning Commission.

Then we can only wait to be notified of another public hearing initiated by the CUP operator because he wants to change mandated conditions long after the appeals period has passed. This is being allowed by Latah County Planning to the detriment of all. The posted yellow CUP pieces of paper at the entrance to the rock pit are left in place by the

county and the operator on a small post out front. Not having any regulations about removing the posting after hearings serves to make these postings false markers because there is no way to tell by driving by if the posting is new or old. There needs to be an ordinance requiring these postings to be removed within 48 hours of a decision.

The realization that this painful and time consuming process is beginning again for the tenth hearing in six years makes me physically ill. I spend my free time writing, gathering paperwork, and praying that someone will just use their common sense and realize this experiment of allowing a crushing blasting operation to encroach on existing stay at home family residences didn't work out well and has become an expense in time, labor and stress that the citizens of Latah County can ill afford in these economic emergency times.

Nothing has changed since this pit was approved six years ago; except that we have lived our fears. We are weary of this process and the continued appeals over the last six years. We now know that Mr. Lisher can abuse the system, waste taxpayer dollars, and appeal any decision over and over. Not because it's legal, because he is allowed to. We have no choice but to accept any conditions, but Mr. Lisher can appeal and appeal. Mr. Lisher will continue to ask for everything and try to beat the county and this neighborhood down until he gets what he wants. He will bring in other pit owners and friends to tell you how wonderful it is to have a rock pit located here. It is hurtful to listen to how our homes and lives don't seem to matter to them and that they feel one person ought to be able to make money at a neighborhood's expense.

If this pit can't allow Mr. Lisher everything he wanted then why didn't he use the last six years to come up with another plan or location? If you tell him "no" and deny this pit, he will be forced to look for a better location. This immediate area is not short of basalt or rock pits. There are better locations in industrial zones and even better locations on this same property that would have less impact to homes, wells, and safety. This is not Mr. Lisher's property and he "gets to move" to another location at will. It is my understanding that he already has another rock pit and has shown a willingness to walk away from basalt if the costs were too high.

Mr. Lisher had six years with repeated hearings and appeals to understand the problem this rock pit has on the area and current homeowners, but he continues to re-submit the same plan over and over. He refuses to acknowledge the need for conditions, or his responsibility to incorporate reasonable accommodation into this new continuation application. The Zoning Commission should deny this application and return it to Mr. Lisher with advice. The advice would be he utilizes the last six years of hearing experience to provide an application addressing all the existing conditions with a balance. This application on its face pretends there was no six years of conflict and makes the Zoning commission and the public do all the work. Mr. Lisher has a responsibility to come to the table with a workable project, not a blank slate he has been told is unacceptable.

I am having great difficulty understanding the balance of Mr. Lisher having a business and my family's heart ache and money we have had to spend because he decided to locate his business in a rural area near my home.

All he had to do to start this pit was haul in an old van & spray-paint it for signage, place it near the bottom of our driveway and he was in business. This is a pure profit business for him. He doesn't have to look at his signage everyday as he leaves his home. This is not our rock pit, however, we use our time away from work to protect our animals and home during the times he decides to blast. He loses no sleep over the crushing and noise of his business. We have been told to pay to have our well tested. As a result of his business, we have had to pay for a new well and were informed we needed to hire an attorney to fight the blasting insurance company. I would like to know what kind of land use would affect us this way. The Zoning Commission and the Comprehensive Plan are in place to protect the community from just this kind of abuse and conflict.

Mr. Lisher had a profit business where he was NOT being asked to be accountable for anything. Maybe if he were held responsible, he wouldn't be so eager to continue with this pit so close to three homes and off a winding dirt road. Putting up a bond to pay for our wells, having our wells tested prior to blasting (which needs to be from an official source for insurance companies), removing his junk van and putting in proper signage, planting trees to try to cut down on the dust and noise, putting in a proper entrance are just a few of the things he should be responsible for. However, these things don't even begin to touch on the safety issues of where this rock pit is located. The county tried to put conditions into place to bring it into complying with the county's comprehensive plan, but it has not worked and it has been at our expense. The operative word is the **enjoyment** of such uses, not how much blasting and crushing can you survive.

How can anyone read the wording of the county comprehensive plan and approve a rock pit to move in on a country road, across the street from three homes and believe that it does not adversely affect us to a greater extent. Just the blasting and crushing operation alone cannot be compared with any other land use.

"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."

There are suitable places in this county for crushing and blasting. I'm sorry Mr. Lisher chose to open this pit even after he became aware of the need for severe conditions to protect the enjoyment of permitted uses. The rock pit he was hoping to be like last time he appealed shows that by its location. It is on a state maintained paved road in an industrial zone. It is where we suggested a rock pit should be. Mr. Lisher's rock pit is on a gravel winding country road with no shoulder where people are getting their mail, riding horses, walking, hunting, walking to and waiting for school buses, and planned to enjoy country life. You have to take into consideration that our area is different than someone living off of a noisy highway. Keep in mind that all the other area rock pits are adjacent to noisy paved main highways. Some have city water or shared well systems to

where losing a well isn't even a concern. Please take into consideration our situation is unique and the comprehensive plan is not a one size fits all process.

We love living in the country and everything that comes with it. This did not include an industrial type business when we bought our home. The county approved this CUP to move into a rural area where they allowed families to build homes and be under the false comfort that they would be able to enjoy country life. It takes additional labor, time, and expense to live in the country and we do this because of the peaceful county life we used to have. We have always lived in the country and we aren't trying to change permitted uses in the rural/ag zone. This blasting/crushing operation came to us 9 years after we bought our home.

I believe if this was happening in front of your home you would see how the enjoyment has been removed from our quality of life. We have lived through the blasting and crushing and pray our family and neighbors never have to experience it again. The conditions were the only thing keeping us going since we knew that he wouldn't be blasting or crushing again and that his CUP would be up in six years.

I can't even begin to tell you how upsetting this whole six year process has been for us. Our home is our savings, it is where we spend our vacations and it is supposed to be our safe retreat. Living through these continued hearings and the rock pit itself has been a nightmare, robbing us of peace of mind and a quality of life we had know for 9 years!

Respectfully submitted,



Carolyn Lazzarini
1395 Flannigan Creek Road
Viola, ID 83872

Attachments:

Well loss & Insurance Letters
2004 Decision & Conditions
Other Exhibits

WELL LOSS & INSURANCE LETTERS

The following is the process we went through when we lost our well. Through this process we understood from testimony that we would have to hire an attorney to fight for reimbursement. Since this process is costly and we were borrowing against our home, we only pursued drilling for a new well. We didn't hear about an insurance claim form until one of the hearings after we reported our loss. We were asked to file a claim form, which we were happy to do. We didn't know that there was a claim form that we could pursue. At the next hearing we provided the following information along with our well receipts. This is my story of asking for a claim form:

- Michele Fusion offered to get the blasters name for us at the hearing.
- We received a letter from Amanda (Planning & Building Department) with the seismographic monitoring contact information.
- I called Amanda to get the blasters name and was given it.
- I called the blaster and talked with his wife about filing a claim. She said we would need a well report prior to blasting and after blasting. We had a long discussion about it, where I told her that we had receipts but not a well report. She said she would have Mike call me.
- Everett Drader from Mountain Inspection Services called me back instead, to inform me what the readings were and to tell me that it didn't cause any damage to my well. I asked him how he could be so positive that it didn't hurt our well, and he said, "not to be flip, but you can't prove that it hurt your well." I agreed and asked what the process was to file a claim. He finally told me, I should contact my homeowner's insurance agent. (Everett is paid by the blaster)
- I knew our homeowner's insurance agent wasn't the person to contact, but I called him just to get some help and follow this thing through. He recommended I call an attorney and he told me that I shouldn't deal with the blaster, but should ask for their agent or insurance contact information. I would need to file a claim with their insurance agency (Finally an answer!) and should demand an answer in writing. He once again suggested that an attorney would probably be needed.
- I called the blaster back and talked with his wife again. I requested their agent's name and insurance contact information. She asked if I had talked with Everett, the seismographic monitoring company, and I told her yes. She said she would fax me the information. She also has our mailing address, but we did not receive any paperwork of any kind.

After the hearing, we received the attached letter from the insurance company. They never contacted us to fill out a claim form or to gather any information, receipts, or pictures. My husband, Don, did respond back with a letter, also attached, hoping to get them to at least consider our situation, but we never heard back from them. Even our threat of hiring an attorney, did nothing.

I'm not sure why this process was so hard or even if there is a claim form for the insurance company. The insurance company obviously didn't want to talk with us.

All our documentation can't tell us exactly what happened in the ground resulting in our loss of water. The only thing different the past ten years was the blasting done and those were 30,000 ton blasts designed to reduce damage to surrounding property. This was something we addressed in the first hearings. How do you prove that your well went dry from blasting? We did request that Mr. Lisher pay for our well to be tested since it was located closer to the blasting; however, that request was denied. We were not told that it would be required of the blaster. I really believe that there should be easy access to the blaster & insurance company information. If they are requiring certain documentation, we should be notified.



SCOTTSDALE INSURANCE COMPANY®

October 4, 2005

Carolyn Lazzarini
1395 Flannigan creek Road
Viola, ID 83872

Re: Claim no.: 992779-105
Insured: High Mountain Construction, Inc.
Date of loss: October 1, 2004
Claimant: Carolyn Lazzarini

Dear Ms. Lazzarini:

This letter will acknowledge receipt of your Claim regarding the above referenced loss. As we understand the situation, your well went dry and you were forced to drill another well.

Our policy of insurance provides that we will pay all sums which the insured is legally obligated to pay. From our investigation of the circumstances surrounding this loss, we find that there was no activity on the part of our insured which resulted in your loss. Our insured's seismographs show that the work the insured completed relating to the rock quarry did not shake or damage your well. Additionally, I understand your physical area has experienced a severe drought. This loss was not the result of the negligence of our insured. Consequently, we must deny any claim you may present.

Should you have any information that is contrary to that expressed above, or if you have any questions, comments, or objections, please contact the undersigned at 1-800-423-7675, extension 2683.

Very truly yours,

Cynthia D. Hoekstra
Sr. Claim Representative

cc: Agent No.: 46706

Aleshia Seubert
1-208-875-1512

Claims Division

P.O. Box 4120

Scottsdale, AZ 85261-4120

8877 N. Gainey Center Dr.

Scottsdale, AZ 85258

(480) 365-4000

FAX 480-483-6752

1-800-423-7675



A Nationwide® Company

Scottsdale Insurance Company
Claims Division
P.O. Box 4120
Scottsdale, AZ 85261-4120

Attention: Claims Division Cynthia D. Hoekstra

October 13, 2005

Dear Cynthia:

May I thank you for the first opportunity I have had to inform you of the circumstances leading up to the loss of our well. I will admit to being surprised you have conducted an "investigation" into the circumstances without speaking to us directly. I am a retired criminal investigator for a district attorney's office who knows what it takes to conduct an investigation. Your letter dated October 4, 2005 does not represent a professional effort toward determining if in fact the activity of your insured resulted in our loss, but instead reflects initial denial of liability as a claim's divisions M.O. (modus operandi). Such blatant denial does not reflect ethical business practice, but instead corporate greed.

The initial question that must be asked is, "Did your insured conduct any activity which MAY have resulted in our loss?" I would expect you to make a substantial effort toward determining that fact and documenting all information gathered accurately with an eye toward detail. Any failure to conduct your inquiry at that level reflects bias and or incompetence either of which negatively impacts your credibility in an Idaho courtroom.

First and foremost you have received our complaint second hand and not from us directly. There is no excuse for relying on hearsay especially if the only source is your insured. Secondly, in the October 4, 2005 letter under date of loss you list October 1, 2004. The actual blasting did not occur until October 5, 2004. If you failed to get the blasting date correct I question the quality of your investigation. I personally requested a claim packet from your company on today's date from an employee named Chris. He claims you have no such packets or paperwork. How are those of us adversely affected by your insured supposed to give you all the information you need to make a determination?

You state in your letter of October 4, 2005, "our insured's seismographs show that the work the insured completed relating to the rock quarry did not shake or damage your well". A seismograph does not measure "damage" to a well so I find your statement and conclusions misleading, self-serving and inaccurate. Since no blasting was conducted on October 1 there was no damage or shaking occurring that date. However, based on direct conversation I had with the individual monitoring the seismograph at the well there were two readings conducted at our well site on the date October 5, 2004. The shock wave created by your insured blasting was in fact measured by the seismograph operator. If the term you use in your letter of October 4, 2005 "did not shake" is true, then you need to find a term that accurately depicts the shock wave that was measured at the surface by the seismograph. You will further need to overcome the video tape I took of the blasting conducted on October 5, 2004 which depicts not only the two separate blasts, but the

shaking registered by the camera positioned on my front porch approximately 800 yards from the blast center. The well itself is approximately 400 yards from the blast site.

I would appreciate further information on the "severe drought" that you understand is impacting our area. I would anticipate a hydrologist with specific knowledge of my well, including depth, output and geologic structure and the micro-climate source of the water for that well would be better positioned to make such a technical determination, than a insurance claims representative in Scottsdale, AZ. It is interesting the new well struck water at 165 feet producing over 15 gpm. This is definitely out of our level of expertise.

Additionally, the rock pit operator testified during a public hearing that your insured told him that "marginal wells always go dry after blasting". This information has been tape recorded and saved for two purposes. If the blaster knew this information he should have requested and conducted testing on my well to document depth, flow and recovery. On the other hand he should accept responsibility for the effect his blasting had on my well due to his lack of due diligence. Both the well driller and well technicians working on our property are familiar with the history, geology and impact of blasting on well output and are willing to testify to same.

Finally, I quote your letter of October 4, 2005 "This loss was not the result of the negligence of our insured. Consequently, we must deny any claim you may present." I am curious what your position is concerning the "Strict Liability", guiding blasting in the State of Idaho. Your attempts to lead me to believe "negligence is the standard" in this case when it is not; is reprehensible and worthy of punitive civil damages. Since most of your letter of October 4, 2005 is inaccurate and opinion based I find your conclusion you "must" deny any claim I present both premature and biased. I expect basic fairness.

THE BOTTOM LINE

The cost to your company for the new well I was forced to drill because the existing well stopped producing 8 days after your insured twice blasted is approximately \$8,000.00. If I am forced to retain an attorney under a strict liability case I believe your costs will include my attorney fees which will likely triple your costs, of course only if I prevail. One of the first pieces of evidence will be your letter of October 4, 2005. A letter I am certain I can prove to a local Idaho jury is both self-serving and inaccurate. On the other hand, I am willing to provide a detailed account of expenses associated with the new well which should limit your exposure while making me substantially whole. Such a request is not unreasonable.

Very truly disappointed in your efforts,

Don Lazzarini
1395 Flannigan Creek Road
Viola, Idaho 83872

46. The Latah County Zoning Ordinance requires applicants requesting a conditional use permit subject to Section 11.04 of the Ordinance post a bond to assure full compliance with the proposed plans and the Ordinance, unless the Board finds that the posting of a bond would not be in the public interest or contrary to law. The satisfactory completion of reclamation activities are assured by an annual fee paid by the permit holder to the Idaho Department of Lands. Assurance of compliance with the conditions of approval can be met by enforcement measures. The Board finds that the posting of the bond would not be in the public interest nor is necessary to assure compliance with the conditions of approval.
47. The Board finds that an additional source of high-quality crushed rock in northern Latah County will be beneficial to public service providers and private consumers.

Based on the above findings of fact and the entire record, the Board enters the following:

II. CONCLUSIONS OF LAW

1. The proposed operations, as conditioned, are consistent with the provisions of Section 11.04 of the Latah County Zoning Ordinance.
2. The proposed operations, as conditioned, are consistent with the goals and policies of the Latah County Comprehensive Plan.
3. The proposed operations, as conditioned, are not detrimental to the health or safety of those in the surrounding area or region.
4. The proposed operations, as conditioned, will not adversely affect surrounding properties to any greater extent than would a permitted use in the Agriculture/Forestry Zone.
5. The proposed operations, as conditioned, will not require facilities or services with excessive costs to the public.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, the Latah County Board of Commissioners approves the subject application for a conditional use permit, to maintain a rock excavation/crushing/processing/stockpiling operation with ancillary uses, with the explicit exclusion of asphalt hot plants, in the Agriculture/Forestry Zone, subject to the conditions of approval stated below.

- ✓ 1. All operations on the site shall comply with all local, state and federal laws, rules and regulations.

2. Operating hours. Blasting, crushing, loading, hauling, maintenance, and ancillary operations shall be limited to Monday through Friday of any given week, from 7:00 a.m. to 5:00 p.m. Operations shall not occur on federally-recognized holidays. The gate to the facility shall be closed and locked at all other times.
3. Notice of blasting. Written notification, at least 24 hours prior to blasting, shall be given to owners or occupants of residences within one mile of the site.
4. The applicant shall provide the Coeur d'Alene Tribe with a written monthly schedule of excavation and blasting, and shall allow a Tribal representative to be present during excavation. If cultural resources are identified by the Tribal representative at the site, the applicant shall cease operations in order to allow the cultural resources to be recovered from the excavation site without undue delay, up to a maximum of forty-eight hours. This condition is intended only to allow recovery of any cultural resources from the immediate excavation site, not to authorize the tribe to remove the items from the property nor to assign ownership of any cultural resources found.
5. Blasts shall be limited to 30,000 tons per blast and all fly-rock shall be confined to the subject property.
6. No more than 75,000 tons of rock shall be blasted, crushed or removed from the site.
7. No more than 60 loads or 870 tons, whichever is greater, shall be hauled from the site during any week, excepting during any state of emergency duly declared by the appropriate jurisdiction, wherein the use or removal of the rock is necessary to protect life and property. The applicant shall maintain records of loads and tonnages in order to allow County staff to verify compliance with this condition.
8. Blasting shall not occur between 7:00 a.m. to 9:30 a.m. or 2:30 p.m. to 4:00 p.m. on days that local school districts are in session. Reasonable measures shall be made to protect vehicular and pedestrian traffic on Flannigan Creek Road which should include warning signs, or similar advisory notice, along said road during blasting.
9. Operations shall not begin until a surface water management plan is designed by a professional engineer registered in the State of Idaho, and subsequently constructed under the direction of said engineer. In addition, said plan, as well as verification by the engineer that implementation has occurred accordingly, must be received and approved by the Latah County Planning & Building Department before operations begin.
10. Operations shall not begin until a reclamation plan is approved by the Idaho Department of Lands and notification of such approval is received by the Latah County Planning & Building Department.
11. The current ingress/egress point onto Flannigan Creek Road shall be moved so that sight distances from both directions on said road adequately meet minimum sight distance standards of 200 feet. The ingress/egress point must also be approved by the North Latah

Highway District, and notification of such approval must be received by the Latah County Planning and Building Department before operations begin.

12. The excavation site shall be limited to two acres and shall be fenced, posted and gated as required by Section 11.04 of the Latah County Zoning Ordinance.
13. This conditional use permit shall expire six years from the date of issuance, at which time the implementation of the reclamation plan shall begin.
14. The Board of County Commissioners shall conduct a review of this conditional use permit approximately one year from the date of issuance to determine whether the conditions of approval are met.

PASSED BY THE LATAH COUNTY BOARD OF COMMISSIONERS THIS 12th DAY OF

May

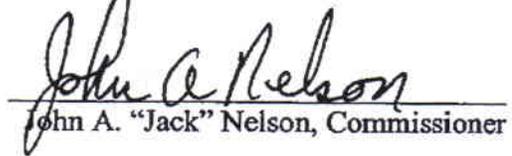
, 2004.



Paul J. Kimmell, Chair



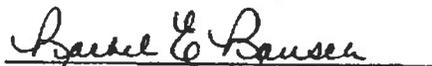
Tom S. Stroschein, Commissioner



John A. "Jack" Nelson, Commissioner

ATTEST:

DATE:


Clerk/Deputy Clerk

5-12-04

NOTICE OF EFFECTIVE DATE AND NOTICE OF RIGHT TO APPEAL

This conditional use permit is effective on the date passed and signed by the Latah County Board of Commissioners. This is a final action. An affected person aggrieved by this decision may within twenty-eight (28) days after the effective date seek judicial review as provided by chapter 52, title 67, Idaho Code.

NOTICE OF RIGHT TO REQUEST REGULATORY TAKINGS ANALYSIS

The owner of the property that is the subject of this decision may make a written request to the Latah County Planning and Building Department for a Regulatory Takings Analysis within twenty-eight days from the date of this decision as provided by chapter 80, title 67, Idaho Code.

11-23-09

My name is Lisa King. I live at 1433 Flannigan Creek, directly across the road from Lisher's gravel pit, with my 6 children.

When he blasts with dynamite, it makes my house shake. You can not leave the windows open when they are crushing because the machine is too loud. Forget sleeping.

If this man wants to extend his business hours, no one will be able to live here.

Lisa King

Witt Well Drilling
Roger Witt, Owner
2091 South Grade Road
Juliaetta, Idaho 83535

September 4, 2005

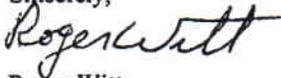
To Whom It May Concern,

Don Lazzarini has requested a short summary of my experiences with the effects of quarry blasting and the resulting decrease in well production that can occur.

I know of two wells that have been affected by blasting. One is located next to the Troy-Deary Gun Club and is owned by Greg Beplate. The Beplate well went from approximately 100 gallons per minute to 0 gallons per minute after the county shot a rock pit just north of his residence. The other is a Juliaetta city well that decreased by 35 gallons per minute after a vacant lot was being leveled with use of explosives.

I would suggest you contact geologist John Bush at the University of Idaho Hydrology Department or Dale Ralston, formally of the University of Idaho and who is presently in private practice and is also a geologist.

Sincerely,


Roger Witt



McPherson & Wright Drilling Water Wells

2246 Burrell Ave • Lewiston ID 83501 • (208) 743-7295

February 18, 2004

To Latah County Commissioners:

This last October I drilled a well for Mike and Debby Alperin at 1295 Flannigan Creek Road. They recently informed me that a gravel pit with blasting involved was attempting to obtain a conditional use permit. They were questioning whether blasting could damage their well. Their house is within 3/4 of a mile of the site. It is my opinion that a blast of that proportion could potentially do damage to their well. I believe that the wells within 1 1/2 miles of the site should be tested prior to and after blasting.

Ted Wright (MEC)

Ted Wright
McPherson & Wright Well Drilling
Owner/Operator

Signed with permission from Ted Wright. If you need an original signature, Ted would be happy to supply one at a later date.





SERVING LATAH COUNTY SINCE 1947

201 E. 3RD ST.
P.O. BOX 9123
MOSCOW, ID 83843-1623
(208) 882-5531

February 9, 2004

RE: 1395 Flannigan Creek Road
Viola ID

Dear Don & Carolyn,

In regards to your question of whether or not an active rock crushing plant would affect the value of your property the answer, in my opinion, would be yes.

Yes, an active rock crushing plant located next to or near your property would have a negative impact on the value of your home.

Yes, buyers would discount the value of your home because an active rock crushing plant was located nearby.

Yes, buyers searching for rural home sites do not want to live next to an active rock crushing plant.

Yes, marketing time would be longer having a home located next to an active rock crushing plant.

The discount factor could be huge. Buyers may decide there is no discount big enough to live next to an active rock-crushing site.

I sincerely hope the county considers all sides before they make their decision on this very important issue. Should you have any other question please do not hesitate to call me at 882-5531.

Sincerely,

A handwritten signature in cursive script that reads "Angie McGurkin".

Angie McGurkin
Moscow Realty





128 E. Third
Moscow, ID 83843
Bus (208) 883-1525
Fax (208) 883-3747
E-mail: inquire@latahrealty.com
www.latahrealty.com

February 6, 2004

Mike and Debby Alperin
1295 Flannigan Creek Road
Viola, ID 83872

RE:

Dear Mike and Debby:

In response to your question—How will having an operating rock crushing plant located close to your home affect its value? In my opinion, this could have a large negative affect on the value of your home when you would try to sell it.

People move out into the county for privacy and peacefulness. They are trying to get away from the noise and congestion town brings with close neighbors and commercial activity.

Naturally, the closer one's home is to a commercial operation, the larger the negative affect will be on the property's value. In addition, one must consider how often the rock crushing plant will be operating. There are a lot of "dormant" rock quarries around the county. However one must consider that any of them could easily be started up and run continuously for days on end. When this happens it harms the tranquility of the neighborhood. Also, the trucks transporting the rock will be tearing up the road and pose a danger to those traveling the same road.

I can't think of anyone, if given a choice, would choose to live close to a rock crushing plant. It would be next to impossible to determine how much a buyer would discount a property if they must contend with an operating rock crushing plant in their immediate neighborhood.

I would hope you and everyone concerned with this issue understands, these rock quarries must be located somewhere, as we do need the gravel that they produce.

If you have any questions, please don't hesitate to contact me.

Very sincerely yours,

Gary Tribble, Broker



House of Representatives State of Idaho

To: Latah County Commissioners
From: Representatives Shirley Ringo and Tom Trail
Re: Permit application for gravel pit near Flannigan Creek
Date: February 6, 2004

We believe there are a number of concerns to be addressed prior to issuance of a permit for the gravel pit. These are issues that will severely impact the neighboring residents.

1. Air pollution - excessive dust from heavy truck traffic, blasting, and crushing. (This poses a health concern because of Mrs. Mike Alperin's asthmatic condition.)
2. Water quality and habitat concerns with pollution of surface waters. Fish habitat may be impacted. There are adjoining wetlands to consider.
3. Neighboring wells may be affected by blasting.
4. Reclamation issues should be considered.
5. Truck traffic corresponding to school bus hours should be controlled.

These are only some of the issues that should be addressed very carefully. Neighboring residents are also naturally concerned about the effect a development such as this will have on property values. Immediately after learning of this proposal, these residents began to seek expert opinions concerning some of these issues. They believe more time may be required to produce expert testimony. We would urge you to set additional hearings, as time requires, to assure that the best information is available. We share the opinion of neighboring property owners that their quality of life should be protected.

Shirley Ringo
Tom Trail



House of Representatives
State of Idaho

November 23, 2009

RECEIVED

NOV 25 2009

LATAH COUNTY

To: Latah County Commissioners

From: Rep. Tom Trail

A handwritten signature in black ink, appearing to read "Rep. Tom Trail".

Subj: CUP #653

This is the third attempt that Mr. Lisher has made to amend the conditions of CUP #653. Mr. Lisher agreed to the conditions that were set after seven long public hearings with the Latah County Commissioners in 2004. I attended a number of these. Mr. Lisher was told by the County and Planning Board not to come back again if he didn't have a different set of amendments. The second time he tried to get a change he made no changes with his proposed amendments and we are faced with the same situation on the third time around. I believe that you call a CUP because it is an agreed upon conditions.

Many of my constituents have great concerns over Mr. Lisher's efforts and have grown weary of the process. One of the concerns is the entrance is on a blind corner. I recently went by the gravel pit and it appears that fencing is inadequate. Gravel trucks stop partially blocking the road while gates are being open.

My constituents can live with the current CUP but if any of the amendments proposed by Mr. Lisher are approved it will greatly make a negative impact on the rural life style of my constituents who bought or built in the area before the gravel pit went in. I urge you to disallow approval of the amendments that Mr. Lisher has brought forward.

LCZC Hrg: CUP653C
Applicant: Lisher
Exhibit #: 4
Date: 12/2/2009

HEATHER K. JORDAN

February 11, 2004

Latah County Commissioners

Dear Sir or Madam:

I am writing this letter in opposition of the CUP for a gravel mining operation on Flannigan Creek Road in Latah County. I am very sorry that I was not able to be with you today, because I have a unique perspective on what it is like to live across from a gravel pit.

My opposition stems from nearly 25 years of living across from a gravel pit. When we first moved into the area when I was a child in 1978, my parents chose a site next to a small family operated gravel pit, Cay's Rock Crushing. Over the years we watched in dismay as Cay's business grew and grew. Later the pit was sold to North Idaho Crushing. We watched as the little canyon was literally destroyed piece by piece.

What is it like to live next to a gravel pit that is governed by a CUP? This is a question I can answer better than anyone else at this hearing. It is noisy, even on the quiet days. If they are not hauling, drilling or crushing then they are fixing equipment, moving things around or keeping the pit open on weekends so private individuals can pick up gravel. There is constant dirt, not to mention diesel and gas fumes, which have recently been identified by the EPA as significant sources of pollution and cancer causing materials.

The applicant has suggested that he can provide gravel more cheaply to the community. I have seen no factual basis for this. The applicant himself has admitted he does not know who the subcontractors for the site will be. How can he be so sure that he can provide gravel more cheaply than the pits already in existence? In the absence of actual prices how can this be admitted as more than wishful thinking on his part? How does wishful thinking trump the zoning plan in existence?

The North Latah Highway District has stated that it would be great to have gravel in close proximity to projects. State law requires that NLH bid out gravel contracts. There is no evidence to support the idea that this particular pit, run by a novice operator, will be able to successfully secure low bid. Additionally a review of the gravel contracts awarded will reveal that proximity to the project does not necessarily result cheaper prices for gravel. NLH is bound to go with the low bidder, this is state law.

The county has a zoning plan in existence. It allows for industrial development in industrial zones? There are industrial zones in that part of the county. There is no evidence that these zones would not support a gravel pit. If the applicant wants to run a gravel pit, why not look for rock in an area that is currently zoned to support one? The answer lies in the idea that one citizen, the owner of the land proposed for a pit, ought to be able to make money at his neighbors expense. It isn't that one community minded individual has identified a need (gravel), written a business plan and prepared to provide a service to the community. It is that one individual would like to make money off his Ag/Forestry zoned land and this is easier than staying in the zoning and finding an Ag/Forestry use.

Further lets look at the number of inspections the county has conducted on gravel pits in the last several years. There have been none. The county has neither the money nor the personnel to conduct these inspections as it is required by its own regulation. That in itself is reason to deny the application for the CUP. The cost of the inspections places an undue burden on the county.



February 11, 2004

Lets look at enforcement of the conditions. Who is responsible for enforcement? When we used to call the county about violations, we were told WE had to come up with the evidence. No one from the county ever came. If you call the sheriff, they will tell you it is not a criminal matter, and who can blame them? Additionally although the county sets conditions, like no hauling or crushing after hours, we found that there are ways around this. For example, drilling was not considered crushing or hauling so it was allowed around the clock. Anything not specifically prohibited was allowed.

In closing let me say, I have lived next to a pit, you haven't. It is miserable and soul wrenching. The following are facts- there is no enforcement of the CUP by the county, the county has an obligation to promote industry in the industrial zoned areas and it has an obligation not to create a takings issue when issuing CUPS.

I am available at any time should you have questions

Email- hayfields@moscow.com

Home phone: 882-2173

Work phone 885-6796

Sincerely,


Heather K. Jordan

County Commissioners
Court House
Moscow, Idaho 83843

Stan Smith
Walker Road
Viola, Idaho 83872

February 8, 2004

Dear Commissioners:

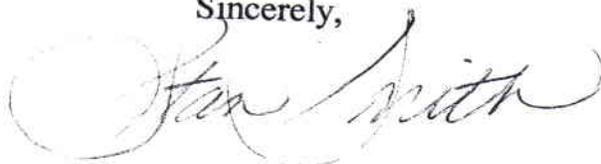
I oppose the request by George Lisher of Potlatch, Idaho for a conditional use permit to run a rock crushing operation on Flannigan Creek. I am against this request for the following reasons:

I do not believe that the process, especially the timeline that homeowners in the area have to respond, is fair. We first heard about this in the *Daily News* January 27, 2004. I understand that a hearing is to be held to rule on this request on February 11, 2004. When you are talking about a decision that might impact public health, safety, quality of life, and the environment along Flannigan Creek, for as much as six years, I think such a decision deserves more time for fact finding, deliberation and dialogue between all parties concerned. You may have the authority, the power to affect this change. But I implore you to exercise the wisdom not to create a set of "winners" and "losers" on the 11th. A hasty judgement may ultimately embroil the County in lengthy, expensive litigation that could be avoided by a more measured, thoughtful response on your part.

My second objection is that you are asking private citizens to protect themselves and their homes from this unwelcome invasion of dust, noise, traffic, etc. I think that is your job. You have the financial and political means to work with landowners to do a thorough objective review of all the facts. If you do not, you know full well that in preparation for a lawsuit property owners will find experts and attorneys to represent their legitimate interests. If this happens, all parties (Mr. Lisher, other property owners, and the County) will ultimately give up their power to solve this problem to the courts.

My final objection is more personal than the previous two. My wife and I wanted a different quality of life. We spent considerable time looking for a small acreage in Latah County. Our home on Walker Road has a breath taking view, beautiful Yellow pines and Fir Trees, wonderful unobstructed sunrises and sunsets, and a silence that brings us peace and serenity after our most stressful days in the classroom. We do not know the Lazzarinis but understand why they would feel frightened and upset about losing what is beautiful and precious to them. People like us who chose deliberately to live in the County pay additional premiums in time, labor, and expense to do so. Please honor that fact as you try to find an appropriate balance between the rights of one versus the rights of many.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stan Smith", written in dark ink. The signature is fluid and somewhat stylized, with a large initial 'S' and a long, sweeping tail.

February 25, 2004

Board of County Commissioners
P.O. Box 8068
Moscow, ID 83843

**RE: George Lisher – Conditional Use Permit
Statement of Opposition**

Dear County Commissioners:

I am a property owner on and resident of Four Mile Road. I am also a registered Civil Engineer and a faculty member in the Department of Civil and Environmental Engineering at Washington State University. The purpose of this letter is to state opposition to the issuance of a conditional use permit requested by George Lisher for rock excavation, crushing, and processing on the basis of road damage and public safety. Rationale is provided below.

Road Damage

Four Mile Road is a chip seal type road that was constructed in a manner suited to residential traffic in a snow-impacted mountainous environment. It is anticipated that a substantial increase in heavy vehicular traffic (i.e., trucks with a weight in excess of 25,000 pounds) will result from the proposed gravel operations. A quantitative measure of damage that is likely to result from each trip can be obtained from *AASHTO Guide for Design of Pavement Structures*. Making use of standard engineering equations, it is expected that the observable physical damage associated with a gravel truck weighing upwards of 25,000 pounds is 161,000% greater than the damage resulting from automobile weighing 2,000 pounds. The increase in both vehicle weight and amount of heavy vehicular traffic would reduce the useful roadway service life to approximately six months. Given that it is not possible to reseat the road on a biannual basis due to the snow conditions characteristic of the winter months, a redesigned road would be required to accommodate the change in type of usage.

I request that prior to issuance of a use permit, the commissioners recognize that George Lisher has proposed a "for-profit" enterprise that makes use of public infrastructure (i.e., roadway system) and require appropriate mitigation to eliminate the impacts to local residents. Failure to require roadway mitigation prior to the issuance of the use permit risks the need to later raise local taxes via the North Latah County Highway District to accommodate redesign and/or increased maintenance frequency. An increase in taxes would amount to property owner subsidies of Mr. Lisher's commercial operation.



Safety

Residential mailboxes are located immediately adjacent to the road. As a consequence, residents are regularly within the roadway for mail collection activities. The need to deliver mail from a postal vehicle in the snow environment has necessarily resulted in minimal roadway shoulders or clear areas being present between the mailboxes and roadway.

The size and type of traffic associated with the gravel operations necessitates consideration of enhanced public safety. Although it is recognized that local road construction does not require minimum specification requirements, use of Federal-Aid Non-National Highway System (Non-NHS) specifications set forth by the Idaho Dept. of Transportation is an appropriate standard of care when assessing public safety. For the conditions applicable to this project (e.g., 200-400 ADT), a 12-ft lane width and 7-10 foot clear zone is appropriate.

The current road has variable width lanes averaging 10 ft with no shoulder or clear zone. In implementing the Non-NHS standards, the road would have to be widened by 18 to 24 ft, which is infeasible given the proximity of many homes to the current road. By definition, therefore, the local conditions are unsuited to the type of vehicular traffic characteristic of the gravel operations and the project should be rejected on this basis.

In summary, the local roadway is currently unsuited for the type of vehicular traffic that would result from the proposed gravel operations. Redesign to accommodate both vehicular needs and public safety does not appear feasible. Therefore, I ask that the request for issuance of a conditional use permit for the gravel operations be denied.

Please do not hesitate to call should you have questions or require assistance.

Sincerely,

A handwritten signature in black ink that reads "Frank Loge". The signature is written in a cursive, slightly slanted style.

Frank J. Loge, Ph.D., P.E.

February 11, 2004

Mr. Michael Alperin, Representative
Potlatch and Viola Citizens against the Flannigan Creek Road Rock Excavation Project

RE: Preliminary Assessment of the Traffic Impact of the Proposed Rock Excavation Project

Dear Mr. Alperin,

Per your request, I conducted a preliminary traffic analysis to assess the potential impact of the proposed Flannigan Creek Road rock excavation project. As part of this preliminary analysis, I visited the proposed operation site in Flannigan Creek Road on February 10, 2003. General information regarding the project were obtained from the project's CUP application.

The proposed operation site is located adjacent to Flannigan Creek Road approximately three miles south of the city Potlatch. The site is connected to US 95 to the south and to SH8 to the north through rural county roads [Four Mile/Flannigan Road/ Flannigan Creek Road].

Site Access Evaluation

No site plans were provided for the opposed operation site. The exact location of the ingress/egress for the site could not be determined. No information regarding the directional distribution or the number of the trucks entering/existing the site were also available. With the limited sight distance on many portions of Flannigan Creek Road at the proposed operation site, access points with inadequate site distance could constitute a serious safety hazard for all road users [trucks, motorists and pedestrians]

Traffic Safety Impact Evaluation

Without information regarding the directional distribution and the amount of truck traffic generated to/from the proposed facility, the safety impacts of the proposed facility can not be fully assessed. However, there are many issues that need to be considered in this regard:

1. The width of the county roads serving the rock facility is 24 ft on average. During winter and spring, snow removal trucks pile snow on both sides of the road reducing the usable width of the road which is shared by motorists traveling in both directions and also pedestrians. Increasing the truck traffic in such conditions could lead to serious safety problems, especially for children and elderly citizen using the roads. This can be

reduced, but not fully mitigated, by enforcing a restriction to the truck operations during hours when children are present on the road.

2. The roads currently have no pavement or lane marking or speed warning signs at sharp curves. There are also no guardrails in areas where steep slopes are presented. With the increased number of trucks using these roads, considerable changes may be needed to improve the safety operation on these roads. Changes may include, lane marking, warning signs, and guardrails installation. There might be a need to change the speed limit in portions of these roads. Again, without information regarding the expected truck traffic, no full assessment can be made at this point.

Sincerely,

Ahmed Abdel-Rahim, Ph.D., P.E.



Assistant Professor-Civil Engineering department
National Institute for Advanced Transportation Technology
115B Engineering and Physics Building
University of Idaho- Moscow, ID 83843-0901
Phone: (208) 885-2957 Fax: (208) 885-2877
E-mail: abdelrah@uidaho.edu

Dear Editor, (Too long for letter to editor, but maybe you can use it at the meeting.)

Having experienced several rock crushing operations nearby, I can see why some folks along Flannigan Creek road are concerned.

In May of 1973 a Pullman rock crushing firm (since bankrupt), began crushing operations for the state of Idaho across the county road about 100 yards from my home. I found out about it when I arrived home from work one late afternoon to find the county road diverted onto my property so the contractor could set up operations on the former county road. Several rows of shrubs I had planted to reduce noise and dust from the county road were flattened. There were tracks left by a D8 as it cut "cookies" 100 feet onto my property, tearing up a portion native Palouse Prairie.

Workers parked their pickups on my property without permission. They through their lunch wrappers on to my property. Some brought their dogs to "work." The dogs worked at chasing my chickens and making "deposits" near my mailbox.

The state had the contractor remove the overburden (along with two species of orchid—one extremely rare) and place some in the ditch separating my property and the former county road. The whole operation was supposed to last a month tops. The first phase took over three months. The noise, dust, and bright lights ran six days a week, 24 hours a day. The seventh day they rested while a welder repaired the crushing equipment. No dust or lights, but lots of noise until dark. At 2 am Monday mornings the crushing operation would start up again. Trucks continuously moved gravel to stockpiles and from stockpiles to paving operations.

I asked a county commissioner (since deceased) about the road right of way. "The county has right of way 60 feet either side of road centerline." Where is the centerline, I asked. "Any place we choose."

We wrote a letter to the Idaho Transportation Department. No answer. We wrote then Governor Andrus and received a nice letter explaining that crushing operations would continue until the IDOT had removed the rock needed for the Troy-Deary hiway upgrade. Then the land would be recontoured and seeded back to native vegetation. We are still looking out our dining/living room windows at the original pit. The contractors have set up operations two more times since the first, but have done so on the pit site and have limited operations to a more reasonable 5 am until 10 pm Monday through Saturday.

A year after the first operation our well (located less than 50 yards from the pit) ceased to produce water. I had a local pump repair firm check out the problem. The pump was surrounded by rock rubble. Attempts to remove the pump failed. I had to have the well and pump drilled out. I consulted a lawyer and was told that if I received any money from the state it might equal his fees.

The shape of the pit acts as a natural amphitheater and focuses sound towards our

house. In the interim years un-muffled motorcyclists have roared around the site for hours. "Sportsmen" have decided it was a good spot to target practice, leaving shell casings, "clay pigeons" and trash. The pit seems to be a favorite place for city folk to drop off unwanted dogs and cats. The state still uses the pit to dump waste soil taken from ditch cleaning. A local log truck driver parks his truck and leaves it running for hours—usually starting about 3 am.

The land has not been recontoured or replanted. My family has spread over a hundred pounds of grass seed to help suppress the weeds including Canada Thistle and Spotted Knapweed. Last fall we dug, pulled and bagged over 80 pounds of Spotted Knapweed that was about to go to seed.

The state has done some "weed control"—usually too late in the season and applied by poorly trained personnel. In the late summer of 2002 a state truck pulling a trailer with about \$10,000 worth of ATV arrived one afternoon. As we watched in horror the operator began spraying everything in sight unless it was grass and trees. By now there are several dozen native wildflower species pretty well established in some parts of the site. When we could see that the spray operator was heading for a stand of rare Calochortus, my wife jumped on her bicycle and headed him off. When she asked him what he was spraying for (there are few "weeds" in that spot), he said "Scotch Broom and Spotted Knapweed." There is no Scotch Broom on this site, but he was spraying Goldenrod and native Lupine. When we checked several days later, his well trained eyes had completely missed the Spotted Knapweed.

We realize that we need a source of rock for safe road building. We have survived even with the pit nearly in our front yard, but the whole operation could have been done in a much better manner. I can see why the folks along Flannigan Creek are concerned. Mr. Lisher is a self proclaimed amateur crushing operator. I was dealing with "professionals."

Gerry Queener 
1900 Little Bear Ridge (across the road from the pit)
Troy, ID
208-835-5881

RECEIVED
MAY 28 2010
LATAH COUNTY

This letter is in response to the request of George Lisher
CUP#811.

My name is Kevin Koehn and I live with my family at 1389 Flannigan
across from the rock pit. We are opposed to the request because:

1. The noise from crushing, blasting, other machinery operating,
sounds like it is in our backyard; invading our private and peaceful
rural setting.
2. What? An asphalt plant in the country on little Flannigan Cr Rd?
3. Increased truck traffic on Flannigan cr road that is not built for
lots of heavy loads.
4. Safety hazards of truck traffic on Flannigan.
5. Decreased values of our property.
6. A conditional use permit was granted several years ago and now
Lisher needs to respect the local neighborhood and not ask for
anything else.

Please consider these concerns

Thank You,
The Koehn family

LCZC Hrg: CUP 811
Applicant: Lisher
Exhibit #: 11
Date: 6/2/2010