

**CROOK COUNTY COURT MINUTES  
OF OCTOBER 20, 2021 KNIFE RIVER HEARING**

**Be It Remembered** that the Crook County Court met in a Public Court hearing on October 20, 2021, at 9:30 a.m. in the County meeting room located at 320 NE Court Street, Prineville, Oregon 97754.

Court Members Present: Judge Seth Crawford, Commissioner Jerry Brummer and Commissioner Brian Barney

Absentees: None

Others Present in Person or Via WebEx: Legal Counsel John Eisler; Paralegal Lindsay Azevedo; Director Will Van Vactor; Ann Beier; Hannah Elliott; Steve Motz; Sandy Vanier; Chris Lindstone; Bill Gibson; John Machado; Matt Ropp; Adam & Karen Mikulski; Donna Kriege; Sylvia Radabaugh; Amber Hudspeth; Billie Johnson; Don Pamoraning; Chris Done

The hearing was **called to order at 9:30 a.m.**

Judge Seth Crawford opened the hearing with instructions to all parties on how the hearing would be conducted. It was stated that this would be considered a de novo hearing and quasi-judicial; the record would remain open until the end of the second hearing; and the Court can adopt, revise or deny the Planning Commission's recommendation. The Court then stated there were no conflicts, ex parte communications, or prejudice on its end. There were no comments by parties appearing by via WebEx or in person. The hearing was allowed to continue.

**Ann Beier** appeared before the Court to advise that the Court was being asked to review and decide on an amendment to Knife River's Comprehensive Plan and there were two issues to consider: does the location meet resource significance and what are the consequences of conflicting uses within the 500 ft. impact zone. Ann advised the Court that yes, the location does meet resource significance as the proposed new mine is located next to an active aggregate mine zoned for industrial use. The proposed mine location is expected to produce more than 500,000 tons of aggregate (upwards of 2 million tons). Ann also advised the Court that there are concerns with the conflicting uses, as the area is farmland and there are residential properties within the 500 ft. impact zone. Neighbors are concerned with the probable decrease in property value, dust, noise, traffic, water quality/quantity, and other factors. The Planning Commission recommends a 3b designation.

The Court then opened the floor to any government and/or state agencies present. No parties appeared.

The Court then opened the floor to parties in support of the Amendment to the Comprehensive Plan.

**Matt Ropp**, Planning Manager for Knife River, appeared before the Court. He advised the Court that the objective of this matter was to identify significant resources in the Court's jurisdiction. The proposed site meets ODOT's requirements for sand gravel with an expected 1.5 million tons of recoverable aggregate. He also mentioned that ODOT's Division 16 replaces Division 23 in this regard. Mr. Ropp also acknowledged the conflicting uses of farmland and houses and how the Planning Commissioners were concerned with poor quality of life, reduced property value, water concerns, other sites available, and the fear that these sites would push farmers and families out of the area. He went on to note that there are nine other sand pits within a 1-mile radius of the new site. Mr. Ropp went on to advise the Court that the previous two hearings in front of the Planning Commission lasted 3-4 hours each with 3 of the 4 commissioners approving the site with a 3b designation and 1 commissioner disagreeing and approving the site with a 3c designation. Knife River states that a 3b designation would not allow them to mine, as they have not seen a 3b designated site receive a viable Conditional Use Permit ("CUP") and a 3b designation would essentially halt mining.

Will Van Vactor and Ann Beier both disagreed with Mr. Ropp that a 3b designation would stop the ability to mine. They further advised that the 3b designation would instead allow the mining, but with very strict terms in the CUP to ensure that the conflicts are addressed and limit the effects of the mine on neighboring properties. Ann went on to state that it was not the intention of the Planning Commission to stop the mining.

Mr. Ropp requested that the County provide proof of sites with a 3b designation and approved CUP and noted that if conflicts could be mitigated through the CUP, then the site should be a 3c designation. He added that Knife River has offered the following conditional uses: no processing on site; provide evidence of water by baseline testing with a groundwater guarantee (their performance bond will pay to replace any damage); no new access roads; standard hours of operation; dust control/management; noise control (constructing berms); and minimal site disturbance by mining 10-acres a time. The CUP would provide the opportunity for Knife River to be warned and cited if they did not follow the terms, which offers protection to the neighbors and County. Mr. Ropp acknowledged that the Woodward site has been handled poorly, but that they will begin reclamation this year.

**Chris Done**, GM for Knife River, appeared before the Court in support of the amendment. He has been a part of the Butler and Woodward mining sites and also admitted that the Woodward site was not handled as well as it could have been, but that they did their best to be responsive and address/correct the complaints. He also confirmed that Woodward would begin the reclamation process in the next 4-5 months and expect to be on the Vanier site for 5-6 years. Mr. Done did add that the Woodward site had produced 70,000 – 80,000 cubic yards of concrete for Facebook/Apple.

**Chris Lidstone**, Principal Hydrogeologist for Knife River, also appeared in support of the amendment. He informed the Court that Stantec Engineering had drilled 3 margin wells on the Woodward site and performed 12-hour tests to collect water data. He also mentioned that wells were drilled in two zones to ensure they received accurate results

for the overall site. Regarding the Woodward and Vanier farmland reclamation, DOGAMI has reviewed their preliminary plan and approved it. Protocols for new mining sites are in place wherein the landowner is consulted, then DOGAMI is advised and then the applicant submits an official mining application, which includes the reclamation process, for DOGAMI's review. This should provide peace of mind for all involved.

There were no other parties appearing in support of the amendment.

The Court opened the floor to any party who is neutral to the amendment.

**Clay Woodward**, property owner of Woodward site, appeared as a neutral party. He wanted to address the reclamation issues on his site. He advised the Court that Knife River had returned the property to him late-2020; however, it was too late in the season to re-seed. Mr. Woodward leased the property to another farmer in April 2021, who ended up not re-seeding the property as expected. Mr. Woodward confirmed that the land would be re-seeded shortly. He did note that he has been able to farm a decent hay crop this last year, producing several tons from the 13-acres that had been reclaimed; he and his family have been on the property for the last 35 years and have no plans to leave or stop farming the ground; and that Knife River has followed through on their commitments to him on the Woodward site.

The Court opened the floor to any party objecting to the amendment.

**Don Pomraning**, homeowner, appeared before the Court requesting that the Court closely review all letters and documentation provided in opposition to the amendment.

**Billie Johnson**, direct neighbor and dairy farmer, appeared before the Court stating that her property is not only her home, but her business and the effects of the land and water disruption could hurt her business. She mentioned that one of the 32 ft wells that Stantec drilled was hers and that Knife River had offered her a cistern, while offering other neighbors new/deeper wells.

**Adam and Karen Milkuski**, direct neighbors, also appeared before the Court objecting to the new site. They are also direct neighbors with the Woodward site and have made several complaints to Knife River and other organizations over the last 6 years and don't trust that this new site will be any different. All parties agreed to the CUP on the Woodward site, but the terms were not adhered to and resulted in the continued complaints and poor quality of life, among other things. The Milkuski's request that the amendment remains a 3b designation.

There were no other parties who wished to address the Court.

Knife River offered a site visit to the Court, in which the Court accepted. The visit is scheduled to take place on October 26, 2021, at 10:00am (or after the work session ends).

CC 12.01.2021

John Eisler and Will Van Vactor will work together to prepare a staff report outlining the difference in 3b and 3c designation for the Court to review in preparation of the November 3, 2020 hearing.

There being no further business before the Court, the hearing was **adjourned at 11:35am.**

Respectfully submitted,

**Lindsay Azevedo**