

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON

ORDINANCE NO. 88-3

AN ORDINANCE AUTHORIZING AND REGULATING MINING ACTIVITIES IN JOSEPHINE COUNTY, OREGON, AND PRESCRIBING UNIFORM STANDARDS AND PROCEDURES FOR SAME, AND REPEALING AND REPLACING ORDINANCE 83-5 AND 83-25.

The Board of County Commissioners of Josephine County, Oregon, ordains as follows:

SECTION 1. DEFINITIONS:

- a. "County" means Josephine County, Oregon, through its Board of County Commissioners.
- b. "Exploration Permit" means the document issued by County which enables permittee to conduct a planned mining exploration program in order to determine whether a valuable mineral deposit of commercial size underlies the area subject to the permit.
- c. "Mineral" means and shall include, without being limited to, all gold, silver, platinum, iron, copper, molybdenum, lead, zinc, cinnabar, bauxite, fluorite, kaolin, diamonds and other precious and semi-precious stones, stone, sand and gravel, hydrocarbons other than oil and gas, and all other material or substances of any nature whatsoever found in natural deposits, whether similar or dissimilar in character to the foregoing minerals, lying in, under or upon the lands being leased.
- d. "Industrial Minerals" means any rock mineral or other naturally occurring substance of economic value, exclusive of metallic ores, mineral fuels, and gemstones.
- e. "Mining Administrator" means the person designated by the Board of County Commissioners to administer, enforce, and otherwise monitor compliance with this mining ordinance and any mining leases executed pursuant hereto.
- f. "Mining Advisory Committee" means a committee established by the Board of County Commissioners to assist in the administration of this ordinance and any permits or leases executed hereunder, including any authorized appeals.
- g. "Mining Lease" means the completed lease of possessory rights to a portion of the mineral estate granted by County.
- h. "Mining Permit" means the document issued by County to the holder of a valid mining lease on County land, which indicates that all necessary preliminary steps and permits have been satisfied and obtained, and the holder is authorized to commence mining operations.

SECTION 1. DEFINITIONS. (Con't.)

- i. "Surface Rights" means all property rights and usage exclusive of the mineral estate or reserved mineral rights.
- j. "Person" means any individual, corporation, association, partnership, or limited partnership.

SECTION 2. PERMITS REQUIRED.

No person shall engage in any mechanized exploration or mining activity or dig, extract, mine, drill, or otherwise remove any minerals from County-owned land unless such person has first received a mineral exploration permit or mining permit issued and required by County pursuant to the provisions of this ordinance. Non-mechanized prospecting involving little or no surface disturbance may be allowed without a permit subject to separate County regulation.

SECTION 3. MINERAL EXPLORATION PERMIT.

- a. Prior to application for a mining permit and the execution of a mining lease, a person shall make application for a mineral exploration permit on County land except as otherwise provided in Section 3g and in Section 4 hereof. Said application shall be on a form provided by County. No person shall conduct mechanized mineral exploration activity on any County land without first obtaining a mineral exploration permit as required herein unless such activity is otherwise authorized by Section 3g or Section 4 hereof.
- b. Applications for a mineral exploration permit shall be accepted in the order received and priority for permit issuance will be established accordingly.
- c. Upon receipt of a mineral exploration permit application, County shall cause said application to be reviewed by the Mining Administrator and the Mining Advisory Committee, and any other persons or agencies deemed by County to have an interest in same. Said persons or agencies shall review the application and make a recommendation on same within thirty (30) days from the filing date. Any recommendation may include such conditions or restrictions deemed appropriate.
- d. Upon receipt of a recommendation as provided herein, County shall allow public input concerning the issuance of said mineral exploration permit. County may grant or deny the application based upon all relevant information available at the time of its public decision on the matter.
- e. A mineral exploration permit approved by County shall be issued for a period not to exceed three (3) years from the date of issuance. Permits may be renewed upon good cause shown. Except for good cause shown, permits shall be limited in size to an area of not more than 1000 acres.

SECTION 3. MINERAL EXPLORATION PERMIT. (Con't)

- e. No person shall possess more than two (2) valid permits at a time without special authorization from County. All mineral exploration permits shall be personal to the applicant, and shall not be transferred or assigned without prior approval of County. All permits shall allow exclusive use of the mineral estate granted therein and for the purposes stated therein, for the term thereof, and may be revoked by County at any time prior to receipt of a mineral discovery notice and application for mining lease filed by the permittee on the subject land upon a showing of good cause for same made by County.
- f. In order to make application for a mining lease under Section 6 hereof, permittee shall, prior to expiration of the exploration permit, file a notice of mineral discovery on a form provided by County and concurrently therewith an application for a County mining lease on the subject property. Upon receipt of same, County shall immediately refer same to the Mining Administrator, the Mining Advisory Committee and any other persons for their review and recommendations. Said review and recommendations shall be conducted and submitted to the Board of County Commissioners within thirty (30) days from the date of filing. The pending application shall be given preference over any other competing applications for the subject property as provided in Section 7 hereof. Upon receipt of those recommendations and after public consideration of the matter, County shall certify such mineral discovery upon its determination that minerals have been found on the subject property, and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his labor and means, with a reasonable prospect of success, in developing a valuable mine, and that the execution of a mining lease and issuance of a mining permit are in the best interests of the County, and shall, in accordance with this ordinance, execute a mining lease and issue a mining permit to the applicant.
- g. Mineral exploration permits shall not be issued where small dredging equipment is to be used as the principal mining method. Rather, in accordance with this ordinance, applicant shall file an application for a mining lease.
- h. Except as provided in the last paragraph of this subsection, the fees to be charged for mineral exploration permits are as follows:

| <u>YEAR OF THE PERMIT</u> | <u>FEE PER ACRE</u> |
|---------------------------|---------------------|
| First | \$1 |
| Second | \$2.50 |
| Third | \$5 |
| Fourth | \$20 |
| Fifth and subsequent | \$50 |

SECTION 3. MINERAL EXPLORATION PERMIT. (Con't)

h. Exceptions to this schedule may be made by the County Board of Commissioners in consideration of the following two factors as applied to a given situation:

1. Whether, and if so to what extent, the permittee (or prospective permittee), has conducted substantial exploratory efforts appropriate to the number of acres to which the permit applies and to the length of time (if any) the permittee (or prospective permittee) has been conducting the exploratory efforts, and whether, and if so to what extent, the permittee (or prospective permittee) has shown actual and satisfactory evidence thereof, and
2. Whether, and if so to what extent, there appears to be a significant possibility of the County obtaining major royalty payments under a subsequent mining lease with the permittee (lessee) or prospective permittee (prospective lessee).

SECTION 4. MINING LEASES--AVAILABILITY.

- a. All County-owned lands shall be available for mining leases if:
1. A certified discovery has been made under a mineral exploration permit as provided herein; or
 2. A nearby certified discovery warrants a mining lease without issuance of a mining exploration permit and without actual proof of discovery on the subject lands; or
 3. The lands involved have been formally designated by the County as available for mining leases without the necessity of additional proof of discovery under an exploration permit or otherwise.

SECTION 5. SIZE OF LEASABLE TRACT.

- a. Minimum. Except for good cause shown, and as otherwise set forth herein, no mining lease shall be issued for an area less than 10 contiguous acres in size. The minimum leasable tract shall be 2.5 acres for placer mining with a six inch (6") or smaller diameter dredge.
- b. Maximum. Except for good cause shown, no mining lease shall be granted for an area more than one thousand (1000) contiguous acres in size.

SECTION 6. APPLICATION.

Any qualified person may make application for a mining lease on County lands on forms provided by County. County shall establish a filing fee which shall accompany said applications. All applications shall be fully completed by the actual applicant thereof unless a duly-executed power of attorney is attached thereto. Any false, misleading or incomplete information on said application may be cause for rejection or revocation by County.

SECTION 7. PRIORITY - EXPLORATION PERMITTEES.

A holder of a valid exploration permit shall be granted an exclusive right to a mining lease on the subject property if a notice of mineral discovery is filed as provided in Section 3(f) hereof, and an application for a mining lease is submitted pursuant to Section 6 hereof, and permittee otherwise complies with all other applicable requirements.

SECTION 8. PRIORITY - DATE OF FILING.

Those persons applying for a mining lease who do not possess a valid exploration permit and who otherwise may qualify for a mining lease under Section 4 hereof, shall be entitled to consideration based upon the order in which their applications are received by County. Those requests submitted prior to the date of enactment of this ordinance shall be given priority based upon the dates the same were actually received, provided that said applicants complete their required application forms within sixty (60) days after being notified of the enactment hereof by certified mail.

SECTION 9. APPLICATION PROCEDURE.

- a. Upon receipt of an application for a mining lease, County shall immediately refer same to the Mining Administrator, the Mining Advisory Committee, and such other persons or agencies that County deems appropriate. Each such person or agency shall respond within thirty (30) days from the receipt of referral with its recommendations regarding each application. Any recommendation may include conditions or restrictions deemed appropriate.
- b. Upon receipt of any recommendation as provided herein, County shall publicly consider the execution of a mining lease. County may accept or reject said lease or negotiate additional terms based upon any information presented, matters submitted by interested persons and agencies, and all other matters relating to the application, including the public health, safety and welfare. Once a mining lease has been entered into between County and lessee, and upon applicant's satisfaction of all other conditions and requirements of this ordinance and other applicable law, County shall issue to applicant a mining permit which shall authorize the applicant to commence mining activities. No person shall conduct mechanized mining activity on any County land without first obtaining a mining lease and mining permit as required herein.
- c. Once issued, a mining permit shall remain in full force during the entire term of the mining lease with County, unless County revokes said permit for cause. Cause for consideration of revocation shall be deemed to exist whenever lessee is in breach of any material provision in the mining lease agreement, the mining plan of operation,

SECTION 9. APPLICATION PROCEDURE. (Con't)

- c. or violates or fails to comply with any applicable state or federal rules or regulations, or conducts mining activities in a way detrimental to the public interest. County may order the suspension of all mining activity by lessee during the pendency or any proceeding to considering revocation of a mining permit when County deems same to be in the public interest. No mining permit may be revoked by County unless a public hearing is held and all relevant evidence is presented and considered and all interested persons are allowed to be heard.

SECTION 10. CANCELLATION OF MINING LEASE.

Upon revocation of a mining permit, County may cancel lessee's mining lease or suspend its mining operation until lessee reinstates its mining permit by satisfying the conditions of revocation.

SECTION 11. MINING LEASE FORM; TERMS.

- a. Upon approval of the application of a mining lease and mining permit, County shall enter into a mining lease with applicant according to the standard mining lease form adopted by County. Modifications or conditions may be included when deemed to be in the public interest or necessary in the particular circumstances.
- b. Before lessee commences any mining activity, and during the continuation of any such activity, lessee shall at all times post a copy of the County Mining Permit in a conspicuous place on the mining site.
- c. All mining leases shall have a definite term, which may be a minimum term of five (5) years and up to a maximum term of fifty (50) years.
- d. Royalties shall be charged and paid upon the production value of minerals removed from the leased premises and sold or otherwise utilized by leased premises and sold or otherwise utilized by lessee according to a royalty schedule contained in each lease agreement.
- e. Surface Management. In all leases where County has no interest in the surface estate, the lessee shall first obtain permission and authority from the surface owner to proceed with mining activity on said land. Proof of such authority shall be submitted to County prior to issuance of a mining lease by County. In lieu of the foregoing, lessee may post a Security Bond with County in an amount sufficient to protect the surface owner from any damage or loss which may be occasioned by lessee's mining activities.

SECTION 12. LAND USE PERMIT.

Prior to commencement of any mining activities, lessee shall obtain all necessary zoning and other land use permits relative to the mining site. Any decision by County to execute a mining lease with lessee shall be wholly

SECTION 12. LAND USE PER . (Con't)

independent from any such land use decision or any appeal thereof which may be heard by County.

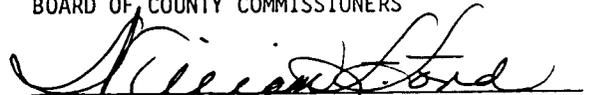
SECTION 13. REPEALED ORDINANCES.

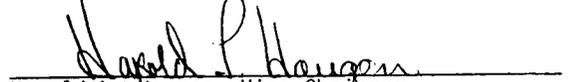
Ordinances 83-5 and 83-25 are repealed and replaced by this ordinance.

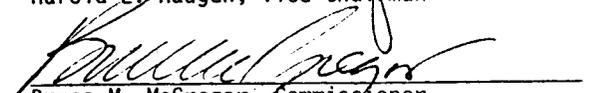
First reading by the Board of County Commissioners is this 6th day of April, 19 88.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 20th day of April, 19 88. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY
BOARD OF COUNTY COMMISSIONERS

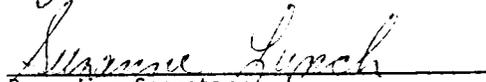

William F. Ford, Chairman


Harold L. Haugen, Vice Chairman


Bruce M. McGregor, Commissioner

ATTEST:


Georgette Brown, County Clerk


Suzanne Lynch, Recording Secretary

APPROVED AS TO FORM: (8/3/88)


James H. Boldt, Legal Counsel