

Mining proposal awaits decision

Friends of Clark County, state, county, company at odds

BY SHARI PHIEL THE COLUMBIAN

Legal wranglings between Clark County, Granite Construction Co., the Friends of Clark County and the state over a proposed mining operation in the Chelatchie Bluff mineral lands have yet to reach a conclusion.

The battles stem from a rezoning application filed by Granite Construction in 2021. According to county records, the four parcels Granite Construction asked to be rezoned for mining use are owned by Per Holten-Andersen. Granite Construction leases the mining rights from BRP LLC, a subsidiary of Natural Resource Partners based in Houston, Texas.

Responding to an appeal filed by the Friends of Clark County, the state Growth Management Hearings Board ruled in March that “the county failed to conduct an adequate State Environmental Policy Act analysis and improperly chose to defer a more in-depth review of impacts of the surface mining overlay until the project stage, despite the high level of detail provided by the applicant.”

The board also said the lack of a comprehensive environmental review interfered with the Growth Management Act’s goal to protect the environment.

The county was scheduled to appear at a Nov. 9 hearing to show what actions have been taken to achieve compliance with the Growth Management Act. That hearing was rescheduled after the county filed a request for additional time to respond.

“The county stated they are unable to connect to networks or create or work on pleadings,” court records state.

David McDonald, an attorney representing the Friends of Clark County, said that hearing may not be needed, depending on the outcome of an appeal filed by Clark County, Granite Construction and BRP LLC with the state Court of Appeals.

Final briefings for that appeal are due in December. The county has requested compliance proceedings be stayed until the appeal is resolved.

Overlay remains

While the county reversed its previous finding and said Granite Construction would now have to complete a detailed State Environmental Policy Act analysis, it upheld its approval of the surface mining overlay with a 3-2 vote at a June 27 council meeting. The overlay remains in effect.

Whether the county was out of compliance was also debated at the meeting. Oliver Orjiako, director of Community Planning, told the council the hearings board ruling meant the county was not in compliance with the Growth Management Act.

“Whether we agree with it or not, we are in violation of state law,” Orjiako told the council.

Councilor Gary Medvigy disagreed and said the state hearings board had overstepped its authority.

Medvigy, Chair Karen Bowerman and Councilor Michelle Belkot voted in favor of retaining the ordinance approving the overlay while Councilors Glen Yung and Sue Marshall voted against.

History of appeals

Since Granite Construction’s initial application in 2021, there have been a multitude of public hearings, rulings, appeals and reversals.

After the county approved the surface mining overlay in late 2021, and ruled the overlay would not have significant environmental impacts, the Friends of Clark County appealed. The group argued the county should consider the impacts of the planned mining project, not just the zoning change.

McDonald addressed the group’s concerns at a March 2022 public hearing. He said the site provides important habitat for endangered and threatened fish.

McDonald also said the area has wetlands, geologically hazardous areas and other “land use factors that make it an environmental sensitive, critical area.”

For a short while, it appeared Friends of Clark County had prevailed. Following the public hearing, and with only three members present, the county council couldn't reach agreement on the requested zoning change nor the appeal. Without three votes in favor, the zoning change was denied.

Residents in the area were caught off guard when the council decided to revisit the vote and approve the mining overlay just a few months later.

The Friends of Clark County again appealed and sent the matter to the state Growth Management Hearings Board.

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