

Memo – E. Evans to Planning Commission

To: Planning Commission

From: Eric Evans, Planning Director

Re: Request by Calico Resources USA Corp for an Extension of the Grassy Mountain Mine Conditional Use Permit

In 2018, Calico Resources applied for two related land use permits for a gold and silver mine (the “Grassy Mountain Mine”) located on Tax Lot 101 of Assessor’s Map No. 22S44E. The first was a Conditional Use Permit (the “CUP”) to allow the mining activity, pursuant to Malheur County Code (“MCC”) 6-6-7 (County File No. 2018-10-012). The second was a permit for development within identified sage grouse habitat.

Calico’s CUP was approved on May 23, 2019 and is set to expire on May 23, 2021. To date, no construction has occurred on the subject property because Calico is still working through state and federal permitting processes, which it must complete before it can begin construction of the mine and related facilities. On April 23, 2021, Calico’s legal counsel filed a timely request for an a two-year extension, which if approved would all the CUP to remain valid until May 23, 2023.

Under MCC 6-6-12, approved conditional use permits are valid for two years, unless extended by the Planning Commission:

“A. Authorization of a conditional use shall be void after two (2) years or such lesser time as the planning commission may specify, unless substantial construction pursuant thereto has taken place. However, the planning commission may extend authorization for additional periods, on request or on its own motion, without the necessity of following any formal procedures such as those set out in this chapter and in chapter 10 of this title.”

An extension under MCC 6-6-12 is a ministerial act that the MCC delegates to the Planning Commission instead of the Planning Director. No specific procedure or public notice is required. However, public notice of Calico’s request was provided to the Bureau of Land Management (the only landowner within 500 feet) and published in the newspaper under the County’s normal notice procedures. There are no applicable criteria for an extension of a conditional use permit. There is no limit on the number of times such an extension can be approved.

Calico provided the following explanation of why the extension is necessary:

“Construction of the Project may not begin until the Oregon Department of Geology and Mineral Industries (“DOGAMI”) approves a chemical mining permit (the “Consolidated Permit”). Application for the Consolidated Permit required a land use approval and associated land use compatibility statement from Malheur County, requiring the Applicant to obtain the CUP and SGP prior to applying for its Consolidated Permit. The Director can find that the enormously

complex review process entailed in the Consolidated Permit prevented the Applicant from beginning construction within the initial two-year approval period. A flow-chart describing this process is enclosed as Exhibit 2. The Applicant submitted its Consolidated Permit application on November 15, 2019, and DOGAMI and its state agency partners issued its 114-page completeness determination on February 19, 2020. The Applicant has been in the process of study, engineering, and interpretation of comments, and back and forth iteration with DOGAMI to respond to the completeness determination. The notes of the most recent DOGAMI Technical Review Team meeting, held on February 2, 2021, which demonstrate the Applicant's diligence in obtaining the Consolidated Permit, are included as Exhibit 3. In addition, the Applicant requires a final approval from BLM, which has yet to be approved."

The Applicant's full written request is enclosed as **Exhibit 1**.

Staff Recommendation: Approve the requested extension and find that the Grassy Mountain Conditional Use Permit (County file no. 2018-10-012) will continue to be valid until May 21, 2023, unless an additional extension is approved.

Example Motions:

- Approval: "I move to approve the request by Calico Resources USA Corp. to extend the deadline for beginning work under County File No. 2018-10-012 to May 23, 2023."
- Denial: "I move to deny the request by Calico Resources USA Corp. to extend County File No. 2018-10-012."