



Oregon

Tina Kotek, Governor

Department of Geology and Mineral Industries

Mineral Land Regulation & Reclamation

229 Broadalbin Street SW

Albany, OR 97321

(541) 967-2039

Fax: (541) 967-2075

www.oregon.gov/dogami

January 18, 2024

Tatiana Burgess
Interim Planning Director
Malheur County
251 B St W, Box 12
Vale, OR 97918

RE: Proposal Lee-2023-12-010-6207, 2023-12-20, 12-48-06
DOGAMI ID No. 23-NP0001 (No Permit) Suspension Order and Notice of Violation & Compliance Schedule

Ms. Burgess,

The Department of Geology and Mineral Industries (Department, DOGAMI) would like to provide comments on the proposal by Mr. Darren Lee for a gravel pit on tax lot 3200 on Assessor's map #16S47E.

DOGAMI issued a Suspension Order (SO) to Darren Lee on March 8, 2023, for surface mining without an operating permit. On March 14, 2023, DOGAMI issued a Notice of Violation and Compliance Order (NOV/CO) requiring restoration of the surface disturbance conducted without an operating permit. These orders are enclosed as part of the Department's comment.

On March 20, 2023, Mr. Lee requested an informal review by the State Geologist of the SO and NOV/CO and the orders were upheld. Mr. Lee then engaged counsel and agreed to comply with the NOV/CO and requested clarification of the Departments expectations on April 25, 2023. The Department provided additional guidance on June 22, 2023 (enclosed), and established a new due date of September 30, 2023, which was not met.

Mr. Lee, via their counsel, continues to challenge the requirement to restore the roads constructed. Mr. Lee is not complying with the NOV/CO and has not provided the requested documentation of work completed. The Suspension Order will remain in effect until withdrawn by written order of the Department.

Sincerely,

Cari Buchner
Mining Compliance Coordinator
541-231-9820

enclosures: March 8, 2023, Suspension Order
March 14, 2023, Notice of Violation and Compliance Order
June 22, 2023, Letter and map



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229 Broadalbin Street SW
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TO: Darren Lee) **SUSPENSION ORDER (ORS 517.880)**
4 Lees' Excavation) DOGAMI ID No. 23-NP0001 (No Permit)
515 Noble Road) County: Malheur
Ontario OR 97914) Township 16S Range 47E, Tax Lot 3200
)

The Department of Geology and Mineral Industries (DOGAMI, Department) has received multiple complaints accompanied by photos and videos alleging 4 Lees Excavation is mining without a permit on Township 16S Range 47E, Tax Lot 3200. DOGAMI contacted the Malheur County Planning Department regarding these complaints and was informed that Darren Lee applied for a Post Acknowledgement Plan Amendment for this parcel and that it was denied by Malheur County Court in August of 2021. Further, DOGAMI was informed that a citation had been issued to the landowner, Mr. Dallas Head, for mining in the EFU zone. In addition to the evidence already cited, review of publicly available aerial imagery indicates Darren Lee and 4 Lees' Excavation have conducted surface mining on Township 16S Range 47E, Tax Lot 3200 in violation of ORS 517.790(1).


The Department hereby issues this Suspension Order pursuant to ORS 517.880(2) which authorizes DOGAMI to suspend operations if the operator is conducting a surface mining operation for which an operating permit is required but has not been issued.

Effective immediately you are ordered to suspend all surface mining operations at the property referenced above, including removal of vegetation, construction of berms, stripping of topsoil or overburden, extraction, processing, and the removal of stockpiled materials.

This Suspension Order remains in effect until withdrawn by written order of the department. If you fail to comply with the Suspension Order, the department intends to take further enforcement action against you. This may include, but is not limited to, assessing civil penalties under ORS 517.992, or referring this matter to the Attorney General to initiate legal proceedings as provided in ORS 517.880(3).

In addition to the statutes and rules cited above, other relevant statutes and rules include the following: ORS 517.750, ORS 517.810, ORS 517.840, ORS 517.850, ORS 517.860, ORS 517.862, ORS 517.890, ORS 517.992, OAR 632-030-0010, OAR 632-030-0016, OAR 632-030-0021, OAR 632-030-0022, OAR 632-030-0025, OAR 632-030-0030, OAR 632-030-0033, OAR 632-030-0040, and OAR 632-030-0056, OAR 632-030-0070.

Issued: March 8, 2023

By 
Sarah L. Lewis
MLRR Program Manager

If you have questions regarding this order, contact Cari Buchner at (541) 231-9820 or cari.buchner@dogami.oregon.gov.

enclosure: Opportunity to Request a Hearing or Informal Review

c: Malheur County Planning Department
Dallas Head, Landowner

Certified Mail



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TO: Darren Lee) **NOTICE OF VIOLATION &**
4 Lees' Excavation) **COMPLIANCE SCHEDULE (ORS 517.860)**
515 Noble Road) DOGAMI ID No. 23-NP0001 (No Permit)
Ontario OR 97914) County: Malheur
) Township 16S, Range 47E, Tax Lot 3200
)

The Department of Geology and Mineral Industries (DOGAMI, Department) has received multiple complaints accompanied by photos and videos alleging 4 Lees' Excavation is mining without a permit on Township 16S Range 47E, Tax Lot 3200. DOGAMI contacted the Malheur County Planning Department regarding these complaints and was informed that Darren Lee applied for a Post Acknowledgement Plan Amendment for this parcel and that it was denied by Malheur County Court in August of 2021. Further, DOGAMI was informed that a citation had been issued to the landowner, Mr. Dallas Head, for mining in the EFU zone. In addition to the evidence already cited, review of publicly available aerial imagery indicates Darren Lee and 4 Lees' Excavation have conducted surface mining on Township 16S, Range 47E, Tax Lot 3200 in violation of ORS 517.790(1).

Per ORS 517.790(1) an Operating Permit is required for any surface mining operation started after July 1, 1972.

Therefore, the department finds that:


1. The operator is in violation of ORS 517.790 for engaging in surface mining on land not surface mined on July 1, 1972 without holding a valid Operating Permit.

The following corrective action is required:

You are required to restore all surface impacts by Darren Lee and 4 Lees' Excavation on Township 16S Range 47E, Tax Lot 3200 to a stable, pre-mining condition by **June 15, 2023**. These impacts include expansion of the previously exempt mining disturbance in the southwest corner of the parcel, the new road constructed connecting Mesquite Rd. to Jasmine Rd., stripping of vegetation and topsoil, construction of berms, test pits, and any other surface disturbance conducted for exploration or in preparation for mining.

If you fail to comply with this Notice of Violation and Compliance Order, the department intends to take further enforcement action against you. This may include but is not limited to the assessment of civil penalties for the violation of this order.

Issued: March 14, 2023

By: 
Sarah L. Lewis
Program Manager

Contact Cari Buchner at (541) 967-2081 or cari.buchner@dogami.oregon.gov if you have questions about this order.

Enclosures: Opportunity to Request a Hearing or Informal Review

cc: Malheur County Planning Department
Dallas Head, Landowner

Certified Mail



Oregon

Tina Kotek, Governor

Department of Geology and Mineral Industries

Mineral Land Regulation & Reclamation

229 Broadalbin Street SW

Albany, OR 97321

(541) 967-2039

Fax: (541) 967-2075

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June 22, 2023

Brian R. Sheets
BRS Legal, LLC
PO Box 987
Ontario, OR 97914

RE: DOGAMI ID No. 23-NP0001 (No Permit) Suspension Order and Notice of Violation & Compliance Schedule

Mr. Sheets,

The Department has prepared this letter in response to your letter dated April 25, 2023, in which you conveyed that your client wishes to complete the corrective actions required in the Notice of Violation and Compliance Schedule issued March 14, 2023. The letter also requested clarification of the Departments expectations and guidance to move forward with restoration while maintaining compliance with the Suspension Order.

Regarding your client's concerns about violating the Suspension Order issued March 8, 2023, Mr. Lee is required to perform any activities that are necessary to comply with the reclamation requirements. The Department will communicate to the neighbors that such activity is required by DOGAMI.

To alleviate any confusion on your client's part, the Department has prepared the enclosed aerial map with each area of concern delineated. The delineations are approximate and intended to assist your client in identifying these areas on the ground. General guidance for acceptable methods to restore each feature identified in the legend is described below.

- **Stripping and berming:** The area where stripping was conducted to construct berms, and where the berms were constructed, is indicated on the map with a green dashed outline. In this area, berms should be leveled to cover the stripped areas, along with recontouring to match the pre-existing ground surface. Following this, replacement of growth medium matching the surrounding undisturbed field and revegetation with the pre-existing cover crop.
- **Haul road development:** The haul road is indicated on the map with a purple dashed outline. The haul road construction covers topography with different geometry and surrounding vegetation. Where the haul road was cut into the hillside with a switchback up the hill (starting at the north, just off Mesquite Rd) the side-hill cut and switchback should be filled and recontoured to the previous configuration and slope. Followed by replacement of growth medium to matching the surrounding undisturbed ground, and revegetation with native species to a similar density and composition of surrounding vegetation. Where the elevation levels out and the haul

road was cut into relatively flat ground to the south toward Jasmine Rd., the road needs regraded to previous contours. Following this, replacement of growth medium matching the surrounding undisturbed field and revegetation with the pre-existing cover crop.

- Pit excavation – Pits are identified on the map with a dashed red outline and should be backfilled to the pre-existing ground surface. Following this, replacement of growth medium matching the surrounding undisturbed field and revegetation with the pre-existing cover crop.
- Quarry expansion – The quarry expansion area is indicated on the map with a yellow dashed outline. In this area, any berms or stockpiles that were constructed should be leveled to cover stripped or disturbed areas, along with recontouring to match the pre-existing ground surface. Following this, replacement of growth medium matching the surrounding undisturbed field, revegetation with the pre-existing cover crop, and revegetation with native species to a similar density and composition of surrounding vegetation. Additionally, any pits that were excavated should be restored as described under Pit excavation above, plus revegetation with native species to a similar density and composition of surrounding vegetation.
- Pre-Existing Quarry – The area the Department considers the pre-existing quarry is indicated on the map with a light gray dashed outline. The disturbance in this area occurred prior to the elimination of Grants of Total Exemption, which were a voluntary registration for mining occurring below the thresholds requiring an Operating Permit. Therefore, this area is not required to be reclaimed.

The Department recognizes the delay in providing this requested guidance and is providing an extension to September 30, 2023. A site inspection will be conducted to confirm reclamation is complete to the satisfaction of the Department.

DOGAMI appreciates Mr. Lee's cooperation and willingness to bring this site into compliance. If you have specific questions regarding the reclamation requirements, please contact Bob Brinkmann at Bob.Brinkmann@dogami.oregon.gov or 541-619-4655. For all other questions, please contact me directly.

Sincerely,

Cari Buchner
Cari.Buchner@dogami.oregon.gov
541-231-9820

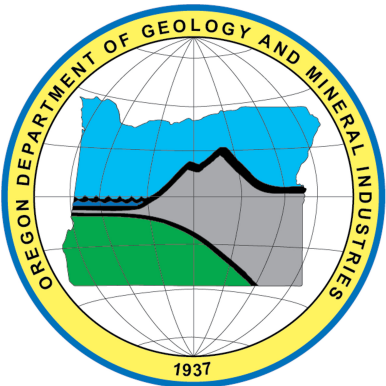
enclosure: 2023 GIS Aerial



ID#: 23-NP0001
PERMIT TYPE: None

Operator: Darren Lee
 Landowner: Dallas Head
 County: Malheur
 Legal: T16S R47E Sec. 7,8,17,18
 Latitude: 44.17998
 Longitude: -117.00084

Symbol	Feature	Acres
	Stripping and Berming	9.9
	Haul Road Development	4.1
	Pit Excavation	0.6
	Quarry Expansion	4.0
	Pre-Existing Quarry	6.8



Basemap Source: PlanetScope 5/1/2023
 Prepared By: E. Buchner 5/5/2023

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the suitability of the information.

Oregon Dept. of Geology and Mineral Industries (DOGAMI)
 Mineral Land Regulation and Reclamation Program (MLRR)
 229 Broadalbin St. SW
 Albany, OR 97321

ArcGIS v10.2
 Oregon Lambert Projection, NAD 1983 HARN (EPSG# 2994)
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