

BEFORE THE LEWIS COUNTY HEARINGS EXAMINER

2	IN RE:)	HEARING NO. SUP25-0001 and
)	PUBLIC HEARING NO. 26-2-001
3	GOOD CRUSHING, INC.,)	
)	FINDINGS OF FACT,
4	Applicant.)	CONCLUSIONS OF LAW
)	AND DECISION

5 **APPLICANT:** Good Crushing, Inc.
6 265 Rupp Road
7 Toledo, Washington 98591

8 **REPRESENTATIVE:** Erick Staley
9 Fulcrum GeoResources, LLC
10 17600 Pacific Highway, Unit 357
11 Marylhurst, Oregon 97036

12 **ATTORNEY:** Jesse DeNike
13 Plauche & Carr, LLP
14 1218 Third Avenue, Suite 2000
15 Seattle, Washington 98101

14 **NATURE OF REQUEST:**

15 The Applicant, Good Crushing, Inc., seeks amendment of Condition No. 23 contained in Special
16 Use Permit SUP19-0002 in order to increase the hours of mining operation for processing rock
17 and hauling offsite. Other conditions found in SUP19-0002, including limitations on blasting,
18 are not proposed to be changed.

18 **SUMMARY OF DECISION:**

19 The requested amendment to Condition No. 23 found in SUP19-0002 is **partially denied** with
20 respect to the Applicant's request to increase hours of normal operation, and **partially granted** to
21 provide clarification on allowed operations for emergencies and/or public projects requiring
22 expedited delivery of rock materials.

22 **BACKGROUND**

23 [NOTE: Much of the following Background is taken from the Findings of Fact and
24 Conclusions of Law for Hearing No. SUP19-0002 (as corrected) dated May 18, 2021 (hereinafter
25 "SUP19-0002").]

1 The current Good's Quarry is a combination of two earlier, stand-alone quarries: The
2 original "Good Quarry", located at 299 Tennessee Road north of Winlock at a site slightly west
3 of Tennessee Road and south of the terminus of Rayburn Road, and the "Johnson Quarry",
4 located due south of the Good Quarry and just north of Hale Road. In 1997, the then owner of
5 the Good Quarry, Jason Good, was approved for a State surface mining permit for the mining of
6 32 acres. Mr. Good's application preceded Lewis County's enactment of an ordinance regulating
7 surface mining through the Special Use Permit process, established in 2000. Nonetheless, Mr.
8 Good agreed under protest to comply with the County's request to submit an application for a
9 Special Use Permit. That application proceeded to a public hearing and resulted in the approval
10 of the requested Special Use Permit despite the protest of a number of adjoining landowners, but
11 subject to several conditions including limits on hours of operation. That Decision was
12 ultimately appealed to the State Court of Appeals which determined that Mr. Good's surface
13 mine vested prior to the County's ordinance and therefore did not require a Special Use Permit.
14 Nonetheless, the quarry, which subsequently was transferred from Jason Good to his father, Alan
15 Good, operated under the conditions imposed by the Permit.

16 Meanwhile, the Johnson Quarry predated the County's special use permitting process and,
17 like the Good Quarry, was operating under a State Surface Mining Permit. Its ownership and
18 operations were independent of Good Quarry.

19 In 2019, Alan Good applied for a Special Use Permit to expand the Good Quarry south to
20 the Johnson Quarry, creating one contiguous quarry covering 141.8 acres and collectively
21 referred to as Good's Quarry. This included expansion of mining operations into the 95.8 acres
22 located between the two quarries and the elimination of the farm that had previously separated
23 them.

1 During the public hearing for the requested Special Use Permit, Mr. Good declared that:
2 "It is not his intent to increase the intensity of mining operations but rather to maintain the steady
3 supply of rock for years to come." (SUP19-0002 at page 2, line 21). Surrounding property
4 owners challenged the requested permit, both through written comments and oral testimony, and
5 complained about its dust, noise, vibration and other adverse effects on them personally and to
6 their property including their wells. These same concerns were also expressed in the earlier 2000
7 hearing. (SUP19-0002 at page 3, lines 3-6).

8 One of the many issues needing to be addressed as part of SUP19-0002 was allowed
9 hours of operation. The County Planner, Karen Witherspoon, noted that the Applicant's website
10 revealed that its announced hours of operation were from 7:30 a.m. to 3:30 p.m., Monday
11 through Friday, and with no operations on Saturdays and Sundays. (SUP19-0002 at page 25, line
12 20). Lewis County Staff recommended that the Special Use Permit be granted subject to a
13 condition that hours of operation be limited to 6:30 a.m. to 7:00 p.m., Monday through Friday,
14 with no activities occurring on weekends. (SUP19-0002 at page 26, line 1). Mr. Good
15 responded by proposing hours of operation from 6:30 a.m. to 7:00 p.m. and that he be allowed to
16 operate on weekends as well. (SUP19-0002 at page 26, line 4). After considering both parties'
17 suggestions and after hearing all public comment, the Hearing Examiner declared:

18 "78. The Hearing Examiner deems it necessary to protect the quiet enjoyment
19 of neighboring residential properties through hours and days of operation that are
20 consistent with those imposed on other recent surface mines by limiting this
21 mine's operation to 7:00 a.m. to 5:00 p.m., Monday through Friday, during
daylight hours only and with provisions for special operations if deemed
necessary for an emergency."

22 Mr. Good did not challenge this Finding.

23 Use of the mine for public emergencies and other critical public works projects was
24 addressed by the Hearing Examiner's condition that "authorization from Lewis County
25

1 Community Development is required for hours of operation exceptions to these regular hours
2 when the quarry will have limited evening or weekend work that may be required by the need for
3 reduced traffic on public projects or to provide emergency response." Again, Mr. Good did not
4 challenge this condition.

5 The mining regulations (LCC 17.142.020(2)(d)) required Findings that the project "will
6 not be detrimental to any persons, property or the general welfare by reasons of excessive
7 production of traffic, noise, smoke, fumes, glare or odors." The Hearing Examiner expressly
8 found that reducing hours of operation would assist in satisfying this requirement. (SUP19-0002
9 at page 14, line 15). Mr. Good did not challenge this Finding.

10 Slightly less than five years later, Mr. Good asks to amend Condition No. 23 as follows:

11 "1. To allow daytime processing and loadout of customer trucks up to 7 days
12 per week, 7:00 a.m. to 10:00 p.m., with loadout limited to 20 loads per hour.

13 2. To allow nighttime loadout of customer trucks up to 7 days per week from
14 10:00 p.m. to 7:00 a.m., with loadout limited to 8 loads per hour."

15 As noted in the Applicant's Narrative (Exhibit 1) as well as its written opening statement
16 (Exhibit 23), the Applicant does not intend for this to be a "24/7" operation but, instead, that the
17 proposed weekend and nighttime operations would be limited to an "as needed" basis.

18 The Applicant does not propose any changes to the current limitations on hours of
19 blasting.

20 PUBLIC HEARING

21 The public hearing commenced at 9:00 a.m. on Wednesday, March 11, 2026. The
22 hearing occurred in a hybrid format allowing for both in-person testimony as well as remote
23 testimony utilizing the Zoom platform with County Staff serving as the host. The County
24 appeared through Karen Witherspoon, Senior Planner, and was represented by Karin Phomma,
25 of the Lewis County Prosecuting Attorney's Office. The Applicant, Good Crushing, Inc./Alan

1 Good, appeared through Mr. Good as well as his engineer, Eric Staley, and was represented by
2 Jesse DeNike. A large crowd attended in person with many others attending remotely.
3 Testimony was received from Karen Witherspoon on behalf of the County and from Eric Staley
4 on behalf of the Applicant. Eleven members of the public testified including the following:
5 Mike Porter, Christel Field, Megan Odlin, Anya Klemmons, Kathleen Heikkala, Vanessa
6 Kupietz, Dorothy Smith Walters, Tami Welch, Megan Cooney, Shirley Lewis, and Tamara
7 Clark. A verbatim recording was made of the public hearing and all testimony was taken under
8 oath.

9 Exhibits considered during the hearing included the following:

10 Exhibit 1 Subheading – “Application Documents” on the webpage, which include
11 eleven documents:

12 [https://lewiscountywa.gov/departments/community-development/current-](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/)
13 [planning-applications/sup25-0001-good-crushing/](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/)

14 Exhibit 2 Complete Application Review Letter

15 Exhibit 3 Notice of Application – Affidavit of Publication

16 Exhibit 4 Notice of Application – Affidavit of Mailing

17 Exhibit 5 Notice of Application – Affidavit of Posting

18 Exhibit 6 Subheading “Public Comments Submitted During SEPA and Notice of
19 Application” three document files *SUP25-0001 All NOA SEPA Comments,*
20 *TIA Outline Exhibit and SUP25-0001/SEP25-0011 NOA Complete* –
21 *Request for Response* on the webpage:

22 [https://lewiscountywa.gov/departments/community-development/current-](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/)
23 [planning-applications/sup25-0001-good-crushing/](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/)

24 Exhibit 7 Letter from Hearing Examiner – setting hearing date and time

25 Exhibit 8 Notice of Public Hearing - Affidavit of Publication

- 1 Exhibit 9 Notice of Public Hearing - Affidavit of Mailing
- 2 Exhibit 10 Notice of Public Hearing - Affidavit of Posting
- 3 Exhibit 11 Screen shot of the County GIS layer showing current zoning designations
- 4 of the subject parcels and surrounding area
- 5 Exhibit 12 Screen shots of County GIS layer showing 2019, 2021 and 2024 Aerial
- 6 Photos of the subject parcels and surrounding area (5 pages)
- 7 Exhibit 13 Subheading "Applicant Response to Comments" on the webpage
- 8 containing three documents:
- 9 [https://lewiscountywa.gov/departments/community-development/current-](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/)
- 10 [planning-applications/sup25-0001-good-crushing/](https://lewiscountywa.gov/departments/community-development/current-planning-applications/sup25-0001-good-crushing/)
- 11 Exhibit 14 SEPA Threshold Determination - DNS (SEP25-0011) – Affidavit of
- 12 Publication
- 13 Exhibit 15 New Berm Location Figure A and Previous Mine Areas Figure B
- 14 Exhibit 16 2024 Aerial Photo – Winston Quarry Surrounding Area
- 15 Exhibit 17 SUP19-0002 Original Staff Report's Exhibit 25 – Quarter Mile Owners
- 16 18 Blank
- 17 Exhibit 19 Staff Report
- 18 Exhibit 20 Supplemental Staff Report
- 19 Exhibit 21 Applicant's PowerPoint Presentation
- 20 Exhibit 22 Declaration of Kathleen Heikkala
- 21 Exhibit 23 Written Opening Statement of the Applicant's Legal Counsel

22 No other exhibits were submitted during the hearing.

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1 **County's Presentation.**

2 The hearing began with the testimony of Karen Witherspoon, Senior Planner and author
3 of the County's Staff Report (Exhibit 19) and Supplemental Report (Exhibit 20). Ms.
4 Witherspoon's testimony was relatively brief and relied instead on her lengthy Staff Report. She
5 explained that the matter comes before the Hearing Examiner solely to consider the Applicant's
6 request to amend Condition No. 23 of the current Special Use Permit. This condition restricts
7 regular hours of operation from 7:00 a.m. to 5:00 p.m., Monday through Friday during daylight
8 hours only. No weekend operations are permitted. Additional provisions are made for increased
9 operations to address any special public projects or declared emergencies. The Applicant
10 proposes to amend this condition to provide the following:

- 11 1. To allow daytime processing and loadout of customer trucks up to seven days per
12 week, 7:00 a.m. to 10:00 p.m. but with loadout limited to twenty loads per hour.
- 13 2. To allow nighttime loadout of customer trucks up to seven days per week from
14 10:00 p.m. to 7:00 a.m., but with loadout limited to eight loads per hour.

15 Ms. Witherspoon then provided a brief summary of the history of the Good's Quarry
16 similar with what is set forth in the Background Section. In 2021, the "Good Quarry" and the
17 "Johnson Quarry" were combined into a single, larger quarry by Special Use Permit SUP19-
18 0002. The Special Use Permit combined the two mines and also approved mining of the 95.8
19 acres located between them allowing for a total mining operation covering 141.8 acres. The
20 current Permit allows for soil and rock extraction, blasting, crushing, stockpiling, and loading. It
21 recognizes existing facilities include a sales yard, scales, night watchman trailer, crushing and
22 processing facilities, and commercial access. The requested amendment does not alter any of
23 these operations or facilities. Similarly, the requested amendment does not seek to revise the
24 current limits on blasting. Again, the only requested change is to hours and days of operation.

1 Most of the mine has a zoning designation of Rural Development District 20 Acre
2 (RDD-20) but a small portion in the south is zoned Mineral Resource Lands (MRL/Mine), while
3 the access road into the site has a zoning designation of Rural Development District 10 (RDD-
4 10).

5 Adjoining lands to the north and southwest are zoned RDD-20; to the west are zoned
6 MRL/Mine; to the east are zoned RDD-10; and to the south are a mix of zoning designations
7 including RDD-20, MRL/Mine, RDD-10 and Local Forest Resource Lands - 20 Acre (FRL-LI).
8 Surrounding uses include some commercial timber activity to the west and northwest while most
9 remaining nearby properties are rural residential properties ranging in size from 2 to 10 acres. A
10 sawmill and log storage yard are located approximately a quarter mile to the east. The Hale
11 Road Quarry, owned by the County, is located south of the project site.

12 Access to the mine is from a gated and paved access road leading to Tennessee Road.
13 The application materials acknowledge that the proposed amendment would increase the total
14 number of truck trips per day using this access (Exhibit 1):

15 "The site currently experiences a maximum of 20 truckloads per hour (40 one-
16 way truck trips per hour). The proposed expansion of operating hours would not
17 result in an increase in hourly trips but would increase the duration of this traffic
18 volume per day, extending potentially from 7:00 a.m. to 10:00 p.m. at a maximum
19 of 20 loads (40 one way trips) per hour. Proposed nighttime loadout would be
20 limited to 8 loads (16 one way trips) per hour between 10:00 p.m. and 7:00 a.m.
The total maximum loads for Good's Quarry per the current SUP19-0002
operational limits (7:00 a.m. to 5:00 p.m.) is 200 loads (400 one way trips) per
day. *The proposed expanded hours would result in an additional maximum of
172 loads (344 one way trips) per day.*" (Emphasis added)

21 Stated slightly differently, the proposed amendment, if granted, would potentially
22 increase the maximum allowed daily loads from 200 loads (400 one way trips) to 372 loads (744
23 one way trips) per day, or not quite double the current maximum loads per day.
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1 Notice of the requested amendment was sent to surrounding property owners, resulting in
2 25 public comment letters (Exhibit 6). Public comments were generally in opposition and
3 reflected the same concerns as were expressed during the 2021 hearing as well as the even earlier
4 hearing in 2000.

5 The application underwent SEPA review and the County issued a SEPA Determination of
6 Non-Significance (DNS) on May 28, 2025 (Exhibit 14). The SEPA Determination was not
7 appealed, was retained, and is now final.

8 Ms. Witherspoon's Staff Report includes a lengthy discussion of sound-related issues. As
9 explained in her report beginning at page 10, the Applicant arranged for a Sound Analysis by
10 Kaufman Engineers. This analysis concludes that processing in the northern site area (as
11 presently allowed) will not result in any noise levels above the thresholds established under
12 WAC 173-60. This includes operations during the hours of 7:00 a.m. to 7:00 p.m., seven days a
13 week. The analysis also concludes that loading of customer trucks and hauling offsite during
14 daytime hours of 7:00 a.m. to 10:00 p.m., seven days a week, could continue for up to 20 loads
15 per hour without exceeding noise thresholds. The analysis recommends, however, that during
16 nighttime hours (10:00 p.m. to 7:00 a.m.) loading should be limited to 8 loads per hour in order
17 to ensure compliance with noise limits. The Sound Analysis separately notes that future mining
18 in currently unmined areas of the pit (Area M-3) will likely exceed noise thresholds. The
19 analysis recommends that prior to commencing mining in Area M-3, berms be constructed at the
20 north boundary of the area as well as the east boundary of Area M-1, with the height of the
21 berms being 15 feet. Staff recommends that if current Condition No. 23 is amended, its
22 amendment should be conditioned upon the Applicant constructing the recommended berms
23 adjacent to Area M-3 and Area M-1 as identified on Exhibit 15, Figure A, found at page 12 of
24 the Staff Report.

1 Ms. Witherspoon then turned to the Applicant's requested conditions and the County's
2 response. As explained more fully in the Staff Report, County Staff do not support the
3 Applicant's request to amend the normal hours of operation, or the allowed days of operation.
4 To the contrary, Staff recommends that the normal hours of operation be kept as is.

5 County Staff does, however, recommend a "compromise" amendment to better address
6 the need for operations during public emergencies or for public works contracts requiring the
7 delivery of rock outside of regular hours. Staff recommends that Condition No. 23 be revised as
8 follows:

9 "The regular hours of operation for the mine operation, except for blasting
10 activities, are limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, but
11 during daylight hours only. Temporary extensions to regular hours of operation
12 for processing and loadout of customer trucks during either a declared emergency
13 event or for documented public works contracts requiring work outside regular
14 hours is authorized as follows:

15 ■ In either situation (a declared emergency exists or for documented public
16 works contracts requiring work outside regular hours) the total extended hours
17 **shall not exceed six consecutive months within a calendar year.**

18 ■ During a temporary extension for a **declared emergency** requiring work
19 outside regular hours:

20 • the extended hours for daytime processing and loadout of customer trucks
21 – up to 7 days per week, 7:00 am to 8:00 pm. Loadout will be limited to 20 loads
22 per hour.

23 • the extended hours for evening/nighttime loadout of customer trucks – up to
24 7 days per week, 8:00 pm to 7:00 am. Loadout will be limited to 4 loads per hour.

25 ■ During a temporary extension for **documented public works contracts**
requiring work outside regular hours:

• the extended hours for daytime processing and loadout of customer trucks –
up to 6 days per week (Monday – Saturday), 7:00 am to 8:00 pm. Loadout will be
limited to 20 loads per hour.

• No processing and/or loadout of customer trucks is authorized between the
hours of 8:00 pm and 7:00 am at any time for this type of temporary extension to
regular hours.

■ Temporary extension to regular hours of operations does not apply to
active mining of the mine's workface and blasting operations. Those activities
will remain as conditioned in in the underlying permit (SUP19-0002).

1 ▪ The operator shall provide notice to the County and to the property owners
2 within a quarter mile (1,320 feet) of all mine property lines as shown in Exhibit
3 25 of the original special use permit SUP19-0002 (provided here as Exhibit 17) at
4 least 48 hours before any such temporary extension begins. The notice shall
5 include identification of the specific extended operating hours, the duration of the
6 extended hours and a statement for which reason (declared emergency event or
7 for a documented public works contract requiring work outside regular hours) the
8 extension is used. Notification to the public shall be provided in one or more of
9 the following methods: in-person, by phone call (including text) or by email.
10 Notification to Lewis County Community Development shall be sent by email.
11 Additional methods of notification may be used by the Applicant.

12 ▪ During all operations under extended hours, the operator shall maintain
13 daily logs of load counts and hours of operation and shall submit an annual
14 monitoring report showing compliance with this Condition of Approval to the
15 Lewis County Community Development Department by January 31st of each year
16 for all operations under extended hours conducted from January 1st to December
17 31st of the previous calendar year.

18 ▪ Mobile equipment (heavy equipment, trucks, etc.) shall be fitted with
19 broadband or other non-tonal backup alarms to minimize noise impacts to protect
20 the quiet enjoyment of neighboring residential properties."

21 As proposed by County Staff, Condition No. 23 would continue to limit normal
22 operations from 7:00 a.m. to 5:00 p.m., Monday through Friday, with no weekend operations. In
23 the event of a declared public emergency, hours could be extended from 7:00 a.m. to 8:00 p.m.,
24 seven days per week, but with loadout limited to 20 loads per hour, and for evening/nighttime
25 loadout up to seven days per week from 8:00 p.m. to 7:00 a.m. but limited to four loads per hour.
In the event of a documented public works contract requiring work outside of regular hours,
operations would be allowed to be extended to six days per week (Monday through Saturday)
from 7:00 a.m. to 8:00 p.m. but with loadout again limited to 20 loads per hour. No evening or
nighttime work would be authorized. In return, the Applicant would be required to provide
notice to the County and property owners within one-quarter mile with at least 48 hours notice of
any special operations. The notice would include specific extended operating hours; the duration
of the extension; and the basis for the special operations. In addition, the Applicant

1 would be required to maintain daily logs of load counts and hours of operation during all
2 extended hours and submit this information annually to the County. Finally, the Applicant would
3 be required to fit all equipment with broadband or other non-tonal backup alarms in order to
4 minimize noise impacts to adjoining properties.

5 At the conclusion of Ms. Witherspoon's direct testimony the Hearing Examiner posed a
6 series of questions to better determine whether there had been substantial changes in
7 circumstances in the operation of the mine since the Special Use Permit was approved in 2021:

8 • **Mining Regulations.** The Hearing Examiner inquired as to whether the County's
9 mining regulations (LCC 17.142.210) had been significantly altered. Ms. Witherspoon
10 explained that some small changes had occurred: In 2021, the mining regulations
11 were codified at LCC 17.142.200 but are now found at LCC 17.142.210. The only substantive
12 change to the mining regulations is that emergency operations are limited to six months per year.
13 Apart from this change, the limits on days and hours of operation remain the same. No other
14 substantive change has occurred to LCC 17.142.120.

15 • **Special Use Permits.** No significant changes have occurred in the County's
16 Special Use Permit regulations, especially with respect to mining operations.

17 • **Zoning Designations.** The zoning designations of the project site and all
18 surrounding properties have remained unchanged.

19 • **Comprehensive Plan.** The Comprehensive Plan was updated in 2025 with a new
20 land use designation map but the subject property and all surrounding properties have retained
21 their previous land use designations.

22 • **Other Mining Facilities.** No new mining facilities have been approved since
23 2021.

1 ● **Approved Hours of Other Mining Facilities.** Since 2021 no other permitted
2 mining facilities have sought to amend their approved hours of operation.

3 ● **Emergency Declarations.** There have been no declared emergencies by Lewis
4 County.

5 ● **Fulfilling Public Works Contracts.** Lewis County Public Works reports that it
6 has not had any difficulty obtaining necessary rock for its public works contracts through normal
7 working hours, and that it has not had need to request special hours of operation to fulfill its
8 public works projects.

9 ● **Request for Special Needs by Other Public Works Agencies.** No other nearby
10 jurisdictions have declared any emergencies. No public works agencies have sought permission
11 for special hours of operation to fulfill public works projects with the possible exception of BPA.
12 Ms. Witherspoon explained that the Applicant notified her that BPA was seeking permission for
13 special operations in order to provide rock on short notice to repair one or more tower pads. In
14 response, Ms. Witherspoon asked for additional information as to the nature of the emergency
15 but the Applicant failed to provide her with any additional information and the matter was not
16 pursued.

17 ● **Surrounding Land Uses.** Since 2021 none of the surrounding or nearby
18 properties have experienced a change in use and the surrounding area continues with its historic
19 mix of mostly rural and forest land uses.

20 ● **Other Substantial Changes in Circumstances.** Ms. Witherspoon was asked if
21 she could identify any substantial change in circumstances relating to the operation of the Good's
22 Quarry since 2021. Ms. Witherspoon replied that she is unable to identify any substantial change
23 in the circumstances surrounding its operations.

1 **Applicant's Presentation.**

2 The Applicant's only witness was its project engineer, Eric Staley. Similar to Ms.
3 Witherspoon's testimony, Mr. Staley's testimony was relatively brief and relied heavily upon the
4 Applicant's PowerPoint presentation (Exhibit 21) along with the Applicant's written Narratives in
5 support of its applications (see "Application Documents") and the Public Hearing Documents
6 together with Exhibit 23. With the aid of these materials Mr. Staley addressed the following
7 issues:

8 ● **Scope of Requested Amendment.** The Applicant wishes to emphasize that it is
9 not seeking "24/7" operations. Instead, it is asking to amend the hours of operation to allow
10 *limited* operations during nighttime hours of 10:00 p.m. to 7:00 a.m., including weekends, for
11 "loadout only", and with operations limited to eight loads per hour.

12 "Processing" of rock (crushing, sorting, loading) would occur from 7:00 a.m. to 10:00
13 p.m. daily, including weekends, "as needed", but limited to twenty loads per hour.

14 All other work, including drilling and work face activities, would continue to operate
15 during the currently approved hours of 7:00 a.m. to 5:00 p.m, Monday through Friday.

16 There would be no change in the hours of blasting.

17 ● **Supporting Sound and Traffic Testing and SEPA DNS.** Mr. Staley
18 emphasized that the Applicant's requested change in hours operation is supported by recent
19 sound testing (Exhibit 1) which demonstrates that increased operations will not cause sound
20 levels to rise above established levels so long as certain limits are imposed on the number of
21 loads allowed per hour, especially during nighttime operations. Similarly, a recent Traffic Impact
22 Analysis ("TIA") (Exhibit 1) demonstrates that the proposed increased operations will not result
23 in unusual burdens to the surrounding roads. Finally, Mr. Staley stressed that the project has
24 undergone SEPA review by the County resulting in a Determination of Non-Significance.
25

1 ● **Comparison to Other Approved Special Use Permits for Mining.** Much of the
2 Applicant's presentation focuses on its position that the current limits on operations are greater
3 than those imposed on other mining facilities, with the net result being an "uneven playing field".
4 The Applicant's materials divide this analysis into two subsections: (1) other mining operations
5 operating under a Special Use Permit, and (2) other mining operations which predate the Special
6 Use Permit process.

7 As part of the 2021 permit approval, the Hearing Examiner noted that four other mining
8 operations had been granted Special Use Permits since the County enacted its mining regulations
9 in about 2000: The Winston Quarry located east of Lake Mayfield; the Cowlitz Ridge Quarry
10 southwest of Mossyrock; the Herbrand Quarry near Randle; and the JL Storedahl Quarry west of
11 Adna. The Hearing Examiner noted that each of these previous Special Use Permits had
12 restricted hours of operation, generally from 7:00 a.m. to 5:00 p.m., Monday through Friday (see
13 attachment to Findings and Conclusions for SUP19-0002). Mr. Staley explained that, of these
14 four other permitted quarries, the JL Storedahl Quarry was never opened, while the Cowlitz
15 Ridge and Herbrand Quarries have little or no operations, leaving only the Winston Creek
16 Quarry as a similar basalt quarry operating under a Special Use Permit. Mr. Staley then noted
17 that the Special Use Permit for the Winston Creek Quarry, originally issued in 2006, was
18 amended in 2011 to be allowed to operate during extended hours as follows:

19 "Operations are hereby permitted twenty-four (24) hours per day seven (7) days
20 per week on an as needed basis upon twenty-four (24) hours written notice to all
21 properties within 500 feet of the subject site. The applicant shall also provide
22 twenty-four (24) hour written notice and explanation to Lewis County
23 Community Development. The applicant shall include in the written notification
24 the estimated times when the operations will be outside the original 7:00 a.m. to
25 5:00 p.m. schedule. The Applicant shall try not to operate before 9:00 a.m. and

1 beyond 5:00 p.m. on weekends. There shall be no blasting of rock on weekends
2 or time outside the original operation times." (In Re Winston Quarry, Inc.,
3 Hearing No. 06-6-003 Amendment Dated March 2, 2011).¹

4 Mr. Staley did not testify whether the Winston Creek Quarry has ever operated during
5 these allowed extended hours. Mr. Staley asserts that the Applicant should be given the same
6 opportunity as Winston Creek to operate during extended hours "as needed".

7 • **Comparison to Other Mining Operations Pre-Dating the Special Use**

8 **Permitting Process.** Mr. Staley then examined the allowed hours of operation of older mining
9 operations that began prior to the County imposing Special Use Permits for mines. His analysis
10 included two older basalt quarries, the "Alderbrook Quarry" and the "Brown Quarry" both
11 located near Adna, along with three gravel operations: the "L-Rock Pit" and the "Mandy Road
12 Pit", both located near Toledo, and the "Sterling Breen Pit" north of Centralia. Mr. Staley
13 pointed out that the Alderbrook and Brown Quarries do not have any restrictions on hours of
14 operation. The same is true of the L-Rock Pit. The Mandy Road Pit had its hours of operation
15 restricted in return for its approved expansion (Hearing No. 09-6-001), limiting its hours to 7:00
16 a.m. to 7:00 p.m. Similarly, in 2011 the Sterling Breen Pit was approved to operate from 7:30
17 a.m. to 5:30 p.m., as part of an approved expansion (SUP11-6-001).² Mr. Staley asserts
18 competing facilities either have no restrictions on days and hours of operation or have more
19 flexible limits, including weekend operations.

20
21 ¹ The approved Amendment was issued by a Hearing Examiner Pro Tem

22 ² Importantly, however, a later approved expansion in 2017 restricted operations to 7:00 a.m. to 4:00 p.m., Monday
23 through Friday, with no weekend operations (SUP17-6-003). Its hours have remained the same since.

1 Mr. Staley also pointed out that these various other mining operations have similar
2 zoning designations and are supported by similar adjoining uses. He argues that there is no good
3 policy reason for imposing more significant restrictions on the Applicant's operations than on its
4 competitors, and that fairness dictates that the Applicant be allowed the same opportunity as
5 other mining operations.

6 • **Special Operations.** Mr. Staley also testified to the Applicant's frustration with
7 the County's proposed limits on special operations during public emergencies or other special
8 public works needs. Unfortunately, Mr. Staley's testimony was largely based on hearsay
9 information and lacked any first hand knowledge. For example, he described a situation where
10 BPA had inquired into the quarry providing rock on short notice and suggested that the County
11 had failed to respond to this request in a timely fashion but then acknowledged that he was not
12 involved in the project and could not confirm any of these facts (and Mr. Good did not testify).
13 Thus, the only first hand information regarding this event is from Ms. Witherspoon of County
14 Staff who explained that the Applicant had failed to provide evidence of an actual emergency.
15 Mr. Staley's PowerPoint presentation also referenced a problem with fulfilling some WSDOT
16 projects but he failed to provide any detail as to the circumstances of these projects or any
17 difficulties encountered by the Applicant. As a result, the Applicant did not provide any clear
18 evidence that it has been frustrated in attempts to satisfy either emergency projects or any other
19 public works projects having special requests.

20 Mr. Staley concluded his testimony by challenging the compromise proposed by County
21 Staff. Again, the Applicant believes that it has been denied the same opportunity that has been
22 granted to its competitors and asks that its days and hours of operation be expanded accordingly.
23 The Applicant does not believe that the County's proposed limited amendment will accomplish
24 this. Additionally, the Applicant objects to the County's added condition requiring mobile
25 equipment to be fitted with broadband or other non-tonal backup alarms as it believes that this

1 type of alarm system is not well suited for quarry operations. Mr. Staley concluded his
2 testimony by asking that the proposed amendments be approved as requested.

3 **Public Comment.**

4 As noted in the Staff Report, the Notice of Application/SEPA Notice resulted in more
5 than twenty written comments in response (Exhibit 6) all of which were in opposition to the
6 requested amendment. In addition to these earlier written comments, eleven members of the
7 public provided oral testimony during the hearing. All testimony was again in opposition to the
8 requested amendment but, as the same time, was often complimentary to the Applicant for its
9 employee's courteous behavior (especially its truck drivers) and also thanked the Applicant for
10 its generosity to the Evaline Community. Concerns expressed in the earlier written comments as
11 well as the oral testimony during the public hearing include the following:

12 ● After approximately thirty years of operation, neighbors continue to find that the
13 quarry's operations greatly impact their daily lives: The various types of noise resulting from
14 blasting, crushing, sorting, loading and hauling rock product is continuous and unpleasant; dust
15 is a constant annoyance, as is vibration; and truck traffic makes it difficult to walk or cycle
16 nearby.

17 ● The current limitations on days and hours of operation allow nearby property
18 owners respite from the many impacts of the quarry and provide clearly established times when
19 neighbors can walk, be outdoors, socialize, etc. without risk of interference from mining
20 operations.

21 ● Neighbors especially fear the negative impacts of evening and nighttime
22 operations on their evening activities and sleeping behaviors, especially their children's sleep.

23 This concern is shared by the Evaline School District.
24
25

1 **1. The Applicant's request to operate during evening and nighttime hours is**
2 **expressly precluded by LCC 17.142.210(h).**

3 The Applicant asks to extend the processing of rock and loadout of customer trucks to
4 10:00 p.m., seven days per week, and also allow nighttime loadout of customer trucks from
5 10:00 p.m. to 7:00 a.m., seven days per week. But both of these requests are expressly precluded
6 by LCC 17.142.210(h):

7 "H. Hours of Operation. Regular hours of operation *shall be between the hours*
8 *of 6:30 a.m. and 7:00 p.m. . . .*"

9 Without question, the processing of rock and the loadout of customer trucks are part of
10 the Applicant's regular operations. LCC 17.142.210(h) clearly limits such operations to between
11 6:30 a.m. and 7:00 p.m. Nothing in the ordinance allows the Hearing Examiner to extend these
12 normal operations to either 10:00 p.m. or to allow them to occur overnight.

13 The Applicant appears to suggest that the activities proposed to occur during evenings
14 and overnight are not "regular hours of operation" since the Applicant proposes to utilize them
15 only "as needed", thus taking them out of the category of "regular operations". I respectfully
16 disagree with this argument and, to the contrary, find that the proposed expansion of operations
17 into evening and nighttime hours would render the restrictions in LCC 17.142.210(h)
18 meaningless. The intent of the ordinance is clear and unambiguous and must be followed.

19 **2 The Doctrine of Res Judicata applies to the conditions imposed on the**
20 **current permit. These conditions are fixed unless the Applicant can demonstrate a**
21 **substantial change in circumstances since the conditions were imposed. The Applicant is**
22 **unable to demonstrate the required substantial change in circumstances.**

23 Res judicata is the well recognized legal doctrine that prevents adjudication of the same
24 issue more than once if that issue has been fully and finally decided by a valid decision on the
25 merits. In *Hilltop Terrace Association v. Island County*, 126 Wn.2d 22, 891 P.2d 29 (1995) the

1 Doctrine of Res Judicata was found to apply to quasi-judicial land use decisions including
2 Special Use Permits.

3 "The central role of adversary litigation in our society is to provide binding
4 answers. We want to free people from the uncertain prospect of litigation, with
5 all its costs to emotional peace and the ordering of future affairs. Repose is the
6 most important product of res judicata.

7 These policies are equally applicable in a quasi-judicial administrative context . . .
8 we conclude that res judicata is applicable to the present administrative context,
9 and stands for the general proposition that there must some limit to repeated
10 submissions of applications involving the same subject matter."

11 *Hilltop Terrace*, Supra at 31.

12 There is no question that the Special Use Permit granted to the Applicant is the type of
13 "quasi-judicial land use decision" referenced in *Hilltop Terrace*, and that the Doctrine applies so
14 long as the matter satisfies the four-part test set forth in *Hilltop Terrace*: Res judicata applies if a
15 prior judgment has a concurrence of identity in four respects with the subsequent action: There
16 must be identity of (1) subject matter; (2) cause of action; (3) persons and parties; and (4) the
17 quality of the persons for or against whom the claim is made. *Hilltop Terrace*; Supra at 32. The
18 present matter easily satisfies this four-part test as it involves the same subject matter, the same
19 cause of action, the same persons and parties, and the same disputes that were addressed and
20 resolved as part of the conditions imposed when granting the Applicant its Special Use Permit in
21 2021.

22 a) **Lewis County has not removed Special Use Permits from the Doctrine of Res
23 Judicata.**

24 The Applicant correctly notes that *Hilltop Terrace* recognizes that local governments
25 may chose to not have res judicata apply to their quasi-judicial decisions: "Local legislative
bodies are free to calibrate the flexibility of their land use decision making by expressly
specifying the res judicata effect of particular proceedings." *Hilltop Terrace*, Supra at 33.

1 If Lewis County does not want res judicata applied to Special Use Permits it is free to say
2 so. The Applicant asserts that the County has, in fact, made such a decision as evidenced by two
3 separate provisions of the County Code:

4 "LCC 17.05.140(4). Permit Denials. If a project permit application is denied, the
5 department shall not accept a new application for substantially the same matter
6 *within one years from the date of the final County action denying the prior*
7 *application*, unless the denial was without prejudice, or in the opinion of the
8 Director, new evidence is submitted or conditions have changed to an extent that
9 further consideration is warranted.

8 LCC 17.158.040. Revisions to Special Use Permits. Revisions to Special Use
9 Permits may be processed as a Type I application; provided, that the proposed
10 changes are within the scope and intent of the original permit. . . . *Revisions*
11 *beyond the scope and intent of the original permit shall be processed as a Type III*
12 *application.*" [NOTE, a Type III application is one heard by the Hearing
13 Examiner.]

12 The Applicant asserts that LCC 17.05.140(4) impliedly recognizes the right to seek
13 revision of an earlier decision once a year has passed. I respectfully disagree. By its express
14 terms, LCC 17.05.140(5) applies to permits that have been *denied*, and not to ones that have been
15 *granted*, and does not recognize the right to challenge *conditions* imposed on a granted permit.
16 And, even if it does apply, it requires a demonstration that "new evidence is submitted *or*
17 *conditions have changed to an extent that further consideration is warranted.*" This is the res
18 judicata standard.

19 b) **The Applicant must demonstrate a substantial change in circumstances since**
20 **the earlier permit.**

21 *Hilltop Terrace* declares that, if res judicata applies, the applicant has the burden of
22 demonstrating a substantial change in circumstances or conditions since the permit was issued
23 (in this case, 2021). *Hilltop Terrace*, Supra at 33. Further, the "substantial change in
24 circumstances" cannot be self-imposed. In *DeTray vs. City of Olympia*, 121 Wn. App. 777, 90

1 P.3rd 1116 (2004), it was held that an applicant's mere wish to increase the intensity of proposed
2 land use from what had earlier been approved is not a "substantial change in circumstances" and
3 therefore fails to satisfy the res judicata standard unless some other, external, substantial change
4 in circumstance can be demonstrated.

5 c) **The Applicant has not demonstrated a substantial change in circumstances.**

6 Simply put, the Applicant has not demonstrated any substantial changes in circumstances
7 since the Special Use Permit was granted in 2021. The entire focus of the Applicant's
8 presentation is that its several competitors have an advantage with their allowed days and hours
9 of operation *but all of these competitor's operations existed in 2021 and have not changed since*
10 *then*. The Applicant has failed to demonstrate that anything of substance has occurred with
11 respect to any of its competitors since 2021. Meanwhile, no new competitors have been
12 introduced; the mining regulations have not substantially changed; the area's zoning has not
13 changed; the area's land use designation in the Comprehensive Plan has not changed;
14 surrounding land uses have not changed; the various concerns of adjoining landowners have not
15 changed; and no other substantial change has been shown to have occurred since the permit was
16 approved in 2021.

17 It is important to remember that the 2021 permit was the end product of a lengthy and
18 contentious hearing during which the many concerns of nearby property owners were voiced,
19 with neighbors asking for a degree of respite from the quarry's many impositions on them.
20 Meanwhile, the hours of operations for all competitors were all known and had long been
21 established. The limitations imposed on the Applicant's operations were the end product of all of
22 these factors, with the Hearing Examiner expressly declaring that the limitations on days and
23 hours of operation were necessary "to protect quiet enjoyment of neighboring residential
24 properties" per LCC 17.142.210(2)(h). The Applicant did not challenge this finding.

1 In summary, the Applicant has failed to demonstrate any change in circumstances since
2 the 2021 Permit was issued, let alone a substantial change in circumstances. Res judicata
3 precludes the Applicant from relitigating the very same issue that was considered at length in
4 2021 and resolved through conditions of permit approval..

5 **3. Even if res judicata does not apply to the earlier permit and its conditions,**
6 **the Applicant has not demonstrated that the proposed expanded operations are warranted.**
7 **To the contrary, I continue to conclude that restricted hours of operation are necessary to**
8 **protect the quiet enjoyment of neighboring properties.**

9 Even if LCC 17.142.210(H) did not expressly preclude late evening and nighttime
10 operations, and even if res judicata did not apply to the 2021 Special Use Permit and the
11 conditions of its approval, I still concur with County Staff that the current limits remain
12 necessary to protect the quiet enjoyment of neighboring residential properties. The evidence
13 presented by all parties demonstrates that there remains an important need to balance the
14 Applicant's operations with the rights of surrounding property owners. The time limits currently
15 in effect are intended to accomplish that balance, and the need for them is no less today than it
16 was in 2021. Even if the 2021 Permit did not exist and this matter was being viewed for the first
17 time, I would impose the same time limits as are currently imposed in order to protect the quiet
18 enjoyment of neighboring residential properties.

19 The Applicant has premised its requested amendment on the basis that it is encountering
20 "an uneven playing field" as compared what its competitors are allowed. But while the Applicant
21 has undertaken an extensive analysis of the *allowed* operational limits for each competitor, it has
22 not discussed their *actual* operations: There is no mention of the days and hours each competitor
23 is actually operating. In the absence of this evidence, it is appropriate to take judicial notice of
24 what each competitor publicly announces as its days and hours of operation as declared on its
25

1 current website or Facebook page. The following is the current information for each competitor
2 taken from current publicly available information:

3 Winston Creek Quarry 8:00 a.m. to 3:30 p.m., Monday through
4 Friday
5 No evening or nighttime activity
6 No weekend activity

7 L-Rock Pit 8:00 a.m. to 5:00 p.m., Monday through
8 Friday
9 No evening or nighttime activity
10 No weekend activity

11 Mandy Road Pit 8:00 a.m. to 4:00 p.m., Monday through
12 Friday
13 No evening or nighttime activity
14 No weekend activity

15 Alderbrook Quarry 7:30 a.m. to 3:30 p.m., Monday through
16 Friday
17 No evening or nighttime activity
18 8:00 a.m. to noon, Saturday

19 Sterling Breen Pit 7:00 a.m. to 4:00 p.m., Monday through
20 Friday
21 No evening or nighttime activity
22 No weekend activity

23 Brown Quarry No information available

24 In summary, the publicly announced days and times of operation for the listed
25 competitors indicate that none operate during evenings or nighttime, and only one, Alderbrook
Quarry, operates on weekends (and only Saturday morning). In practice, then, the playing field
is far more level than has been asserted.

Even if the "playing field" was not level, each mining operation must still be examined
separately. Although there are similarities between the Good's Quarry and the others with
respect to zoning designation, etc., aerial mapping and other evidence included in the County's

1 materials clearly demonstrates that the Good's Quarry is more tightly ringed by rural residential
2 properties than the other quarries. As noted by one public commenter, there are more than thirty
3 residential properties in close proximity to this operation. A proper balance must be made
4 between quarry operations and its many residential neighbors.

5 **4. Good cause exists for clarifying the procedures during emergencies and other**
6 **special operations.**

7 Since 2021, Lewis County has not had reason to declare an emergency requiring the
8 special operation of any local quarry. Similarly, Lewis County has been able to acquire all
9 needed rock for its public works projects without requesting special operations by any quarry.
10 No evidence has been presented that any other relevant jurisdiction has declared an emergency
11 during the past five years, but there is some evidence that various agencies (BPA, WSDOT) have
12 had situations which, although not arising to an emergency, would have benefitted from the
13 Applicant having had clearer directives on how to respond.

14 The County has recognized the benefit of clearer operating rules for declared
15 emergencies and documented public works contracts, and has proposed a sensible set of rules to
16 follow in these situations with fair notice to surrounding property owners. I concur with these
17 recommended changes to the current provisions for special operations.

18 The County suggests two additional conditions to these changes: (1) that mobile
19 equipment be fitted with broadband or other non-tonal backup alarms; and (2) that the Applicant
20 construct berms at the north boundary of Area M-3 and the east boundary of Area M-1. While
21 both suggested conditions are sensible, neither one is directly related to the allowed change in
22 special operations. I am therefore not imposing either suggested condition.

23 To summarize all of the above, I conclude that the Applicant's request to increase
24 operations to evenings, nighttime and weekends is not appropriate and that current hours of
25 operation should remain in effect. I concur with County Staff that the provisions for special

1 operations should be revised to provide better guidance as recommended by the County but
2 without the County's additional conditions relating to backup alarms and additional berms.

3 Accordingly, I make the following:

4 **FINDINGS OF FACT**

5 **General Findings.**

6 1. The Applicant, Good Crushing, Inc., requests an amendment to the previously
7 approved Special Use Permit SUP19-0002. The Applicant seeks amendment of existing
8 Condition No. 23 relating to days and hours of operations. The Applicant asks that Condition
9 No. 23 be amended as follows:

10 ● The days and hours for active mining of the mine's workface and blasting
11 operations remain as conditioned in SUP19-0002.

12 ● Daytime processing and loadout of customer trucks would be allowed 7 days per
13 week from 7 am to 10 pm, as needed, but with loadout limited to 20 loads per hour.

14 ● Nighttime loadout of customer trucks would be allowed up to 7 days per week
15 from 10 pm to 7 am, as needed, but with loadout limited to 8 loads per hour.

16 2. Any Findings of Fact contained in the foregoing Background, Public Hearing or
17 Analysis Sections are incorporated herein by reference and adopted by the Hearing Examiner as
18 his own Findings of Fact.

19 4. All Findings of Fact contained in the earlier Findings of Fact for SUP19-0002 are
20 incorporated herein by reference.

21 5. Lewis County opposes the Applicant's proposed changes to normal hours of
22 operation but recommends changes to the current regulations for operations in response to either
23 a declared emergency or to documented public works contracts requiring work outside regular
24 hours. The County's proposed changes are set forth in the Public Hearing Section.

1 6. SUP19-0002, as corrected, was issued May 18, 2021 (the "Special Use Approval
2 Date").

3 7. The majority of the mining operation is located within the Rural Development
4 District 20 Acre (RDD-20) zoning designation but with a small portion south of the current
5 mining operation area zoned Mineral Resource Lands (MRL/Mine). The access road into the
6 quarry, as well as the commercial scales, office building and night watchman trailer, are located
7 within the Rural Development District 10 Acre (RDD-10) zoning designation. None of these
8 zoning designations has changed since the Special Use Approval Date.

9 8. The zoning designations of all surrounding and nearby properties have remained
10 unchanged since the Special Use Approval Date.

11 9. Surrounding development and land uses has remained unchanged since the
12 Special Use Approval Date.

13 10. At the time of the Special Use Approval Date, days and hours of operation for
14 mining operations were regulated by LCC 17.142.200(h). Due to subsequent changes in Chapter
15 17.142 LCC, these regulations are now found at LCC 17.142.210(h). The current regulation
16 imposes the same restriction on hours of operation but imposes an additional restriction on the
17 allowed length of emergency operations (restricted to six months). Otherwise, the restrictions on
18 hours of operation remain unchanged since the Special Use Approval Date.

19 11. Since the Special Use Approval Date, Lewis County has not declared any
20 emergencies requiring special operations of this or any other quarry.

21 12. Since the Special Use Approval Date, Lewis County Public Works has satisfied
22 all of its needs for rock material through normal hours of quarry operations.

23 13. No additional mining operations have been approved in Lewis County since the
24 Special Use Approval Date. No existing mining operations have had their approved hours of
25 operation adjusted since the Special Use Approval Date.

1 14. At the time of the Special Use Approval Date, adjoining and nearby property
2 owners opposed the Applicant's request for extended hours of operation, including evenings and
3 weekends, for the various reasons set forth in the earlier Findings of Fact. Adjoining and nearby
4 property owners remain opposed to the Applicant's request to expand current hours into
5 evenings, nights and weekends for many of the same reasons as were previously expressed
6 together with those additional reasons identified in the Public Hearing Section.

7 15. Nearby property owners have voiced legitimate concerns that increasing the hours
8 and days of operation would deny them the quiet enjoyment of their neighboring residential
9 properties and that retaining the current restrictions on normal hours of operation is essential to
10 protect their quiet enjoyment of their properties.

11 16. Notice of the application for amendment of the Special Use Permit was properly
12 published in the Lewis County Journal on May 28, 2025, mailed to surrounding property owners
13 within 500 feet of the subject parcel on May 27, 2025, and posted onsite by County Staff on May
14 27, 2025. Notice was also provided to any additional persons who may have commented during
15 the Notice of Application.

16 17. Twenty-five public comment letters were received in response to the Notice of
17 Application (Exhibit 6), generally in opposition to the requested amendment as discussed earlier
18 in the Public Hearing Section.

19 18. A Notice of Public Hearing was published on February 10, 2026, in The
20 Chronicle, mailed to property owners within 500 feet of the subject parcel's outer boundaries, to
21 any additional parties of record, and to the Applicant on February 5, 2026. The public hearing
22 notice was also posted by County Staff on the site on February 6, 2026.

23 19. All County, State, federal and tribal agencies having an interest in the project
24 have also been notified as set forth on pages 4 and 5 of the Staff Report.

1 20. The County, acting as Lead Agency, issued its SEPA Determination of Non-
2 Significance (DNS) for the requested amendment on May 28, 2025 (Exhibit 14). No appeals
3 were filed and the DNS was retained and is now final.

4 21. In order to confirm that the proposed amendment and hours of operation would
5 remain in compliance with noise levels established by Chapter 173-60 WAC, the Applicant
6 arranged for a Sound Analysis by an acoustical engineer from Kaufman Engineers (Exhibit 1).
7 The resulting Sound Analysis determined that processing in the northern site aera as currently
8 approved under SUP19-0002 would not result in any noise levels above allowed standards,
9 including during the extended hours of 7:00 a.m. to 10:00 p.m., seven days a week as requested
10 by the Applicant.

11 22. The Sound Analysis further determined that loading of customer trucks and
12 hauling offsite between 7:00 a.m. and 10:00 p.m., seven days a week, up to twenty loads per
13 hour, would not exceed the allowed noise thresholds.

14 23. The Sound Analysis determined that during nighttime hours, 10:00 p.m. to 7:00
15 a.m., customer loads should be limited to eight loads per hour in order to assure compliance with
16 noise standards.

17 24. The Sound Analysis further suggested that calculated sound levels from mining in
18 Area M-3 in the future are expected to exceed noise limits unless additional noise mitigation
19 measures are implemented. The report suggests that prior to commencing mining in Area M-3,
20 berms be constructed at the north boundary of Area M-3 and the east boundary of Area M-1.
21 The height of the berms should be 15 feet.

22 25. County Staff asks that these recommended berms be imposed as a condition of
23 any change to Condition No. 23.

1 8. The Applicant's request to extend processing and loadout of customer trucks to
2 10:00 p.m., and to undertake nighttime loadout of customer trucks from 10:00 p.m. to 7:00 a.m.,
3 is in conflict with the express provision of LCC 17.142.210(h).

4 9. The Doctrine of Res Judicata applies to Special Use Permits. *Hilltop Terrace*
5 *Association v. Island County*, 126 Wn.2d 22, 891 P.2d 29 (1995).

6 10. Lewis County has not enacted any ordinances which remove Special Use Permits
7 from the application of the Res Judicata Doctrine.

8 11. The Applicant asserts that LCC 17.05.140(4) is a legislative declaration that res
9 judicata does not apply to permit approvals. In the event that LCC 17.05.140(4) is deemed to
10 exempt permits from the application of res judicata, it still requires a demonstration by the
11 Applicant that "conditions have changed to an extent that further consideration is warranted."
12 The Applicant has not met its burden of demonstrating that conditions have changed to an extent
13 that further consideration is warranted.

14 12. The Doctrine of Res Judicata requires that the Applicant demonstrate a substantial
15 change in circumstances since the permit was issued.


16 13. The Applicant's desire to increase the intensity of the existing land use is not a
17 substantial change in circumstances. *DeTray v. City of Olympia*, 121 Wn. App. 777, 90 P.3rd
18 1116 (2004).

19 14. The Applicant has not met its burden of demonstrating a substantial change in
20 circumstances since the permit was issued that would justify an expansion of hours of operation.

21 15. The current restriction on days and hours of operation remain necessary to protect
22 the quiet enjoyment of neighboring residential properties.

- During a temporary extension for **documented public works contracts** requiring work outside regular hours:
 - the extended hours for daytime processing and loadout of customer trucks – up to 6 days per week (Monday – Saturday), 7:00 am to 8:00 pm. Loadout will be limited to 20 loads per hour.
 - No processing and/or loadout of customer trucks is authorized between the hours of 8:00 pm and 7:00 am at any time for this type of temporary extension to regular hours.
- Temporary extension to regular hours of operations does not apply to active mining of the mine’s workface and blasting operations. Those activities will remain as conditioned in in the underlying permit (SUP19-0002).
- The operator shall provide notice to the County and to the property owners within a quarter mile (1,320 feet) of all mine property lines as shown in Exhibit 25 of the original special use permit SUP19-0002 (provided here as Exhibit 17) at least 48 hours before any such temporary extension begins. The notice shall include identification of the specific extended operating hours, the duration of the extended hours and a statement for which reason (declared emergency event or for a documented public works contract requiring work outside regular hours) the extension is used. Notification to the public shall be provided in one or more of the following methods: in-person, by phone call (including text) or by email. Notification to Lewis County Community Development shall be sent by email. Additional methods of notification may be used by the Applicant.
- During all operations under extended hours, the operator shall maintain daily logs of load counts and hours of operation and shall submit an annual monitoring report showing compliance with this Condition of Approval to the Lewis County Community Development Department by January 31st of each year for all operations under extended hours conducted from January 1st to December 31st of the previous calendar year.

DATED this 24 day of March, 2026.



Mark C. Scheibmeir
Lewis County Hearing Examiner