



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/18/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Crook County Plan Amendment
DLCD File Number 002-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, December 31, 2009

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Bill Zelenka, Crook County
Gloria Gardiner, DLCD Urban Planning Specialist
Amanda Punton, DLCD Regional Representative
Jon Jinings, DLCD Regional Representative

<paa> YA

FORM 2

DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF

DEC 11 2009

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: CROOK COUNTY

Local File No.: AM-09-0137
(If no number, use none)

Date of Adoption: December 3, 2009

Date Mailed: December 8, 2009
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: August 13, 2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: _____

(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write See Attached.≡

The applicant requested a Comprehensive plan Amendment and Conditional Use Permit to allow mining of a 30-acre aggregate resource site located in the Exclusive Farm Use, EFU-1 zone, more specifically on T15S, R24E, WM, Sec., Index map (34) Tax Lot 402.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write ASame.≡ If you did not give notice for the proposed amendment, write AN/A.≡

Same

Plan Map Changed from : _____ to _____

Zone Map Changed from: _____ to _____

Location: T15S, R24E, Sec (34) Index, TL 402 Paulina Acres Involved: 30 acres of a 319.04 acre tax lot on the 2,674.16 Miller Ranch

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: 1 thru 6, 9, 12, 13

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 002-09 (17763) [15882]

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**. Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: Crook County Road Dept., DEQ, DLCD, DOGAMI, DSL, ODF&W, USFS, WRD.

Local Contact: Bill Zelenka / Director Area Code + Phone Number: (541) 447-8156

Address: 300 NE 3rd St. City: Prineville Zip Code+4: 97754

Email Address: bill.zelenka@co.crook.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

CROOK COUNTY
PLANNING DEPT.
DEC 10 2009
RECEIVED
TIME:

IN THE COUNTY COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CROOK

AN ORDINANCE ADOPTING AN ESEE
WITH RESPECT TO AN AGGREGATE
RESOURCE SITE PLACED ON THE
GOAL 5 INVENTORY OF SIGNIFICANT
AGGREGATE SITES AND DECLARING
AN EMERGENCY

Ordinance No. 218

(Amendment to Appendix
A, Crook County Goal 5 Mineral and
Aggregate Elements)

STATE OF OREGON 20090996
COUNTY OF CROOK
I CERTIFY THAT THE WITHIN INSTRUMENT WAS
RECEIVED FOR RECORD ON THE 3rd DAY OF
December, 20 09 , AT 12:05 P M.
AND RECORDED IN C JRNL
RECORDS OF SAID COUNTY MF NO. 2009-096
DEANNA E. BERMAN, CROOK COUNTY CLERK
BY *Deanna E. Beraman* DEPUTY

WHEREAS, Oregon's Statewide Planning Goal 5 establishes a state policy to conserve open space and protect natural and scenic resources; and

WHEREAS, Goal 5 further provides that in conjunction with the Inventory of Mineral and Aggregate Resources, sites for removal and processing of such resources should be identified and protected; and

WHEREAS, the Goal 5 Administrative Rule (OAR 660-16-0000 to 660-16-0025) was designed to carry out the requirements of Goal 5 for all types of resources, including mineral and aggregate resources; and

WHEREAS, known resource sites must be inventoried and designated in one of three categories and if determined to be "significant" must be included on the County's Resource Inventory; and

WHEREAS, based on the analysis of the Economic, Social, Environment and Energy (ESEE) Consequences and other statewide goals, Crook County may determine that identified conflicting uses may be allowed, notwithstanding the presence of the resource site; and

WHEREAS, in such cases, the County may determine that both the resource site and the conflicting uses are important relative to each other and that the ESEE Consequences should be balanced so as to allow the conflicting uses but in a limited way so as to protect the resource site to some desired extent. These sites are those sites identified as a 3C site.

NOW, THEREFORE, the County Court of Crook County, Oregon, ORDAINS as follows:

Section 1. Impact Area. The County adopts as the impact area for the subject property an area extending 500 feet from the 30 acre mining site.

Section 2. Subject Property

The subject property is more particularly described as T 15 S R 24 E WM Section 34 Lot 402:

S1/2 NE1/4, SE1/4, E 1/2 SW1/4 of Section 34 Township 15 South, Range 24 East WM.

Section 3. Adoption of Conflicts Analysis, ESEE Analysis and ESEE Decision. The County amends the Goal 5 Mineral and Aggregate element of its Comprehensive Plan by adopting the Conflicts Analysis, ESEE Analysis and ESEE Decision attached hereto as "Exhibit A" and by this reference included herein.

Section 4. Findings. The Crook County Court adopts the ESEE and the recommendation of the Planning Commission attached hereto as "Exhibit A" and by this reference incorporated herein as its findings in support of its Decision.

Section 4. Severability. The different Sections of this Ordinance shall be deemed to be severable from each other, and the appeal of one Section shall not prevent other unappealed Sections from becoming effective.

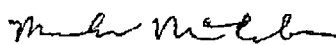
Section 5. Emergency. This Ordinance being necessary for the health, welfare and safety of the people of Crook County, an emergency is hereby declared to exist, and this Ordinance shall become effective upon signing.

First Reading: December 2, 2009


Second Reading: December 2, 2009

DATED this 2nd day of December, 2009.


CROOK COUNTY COURT



Judge Mike McCabe



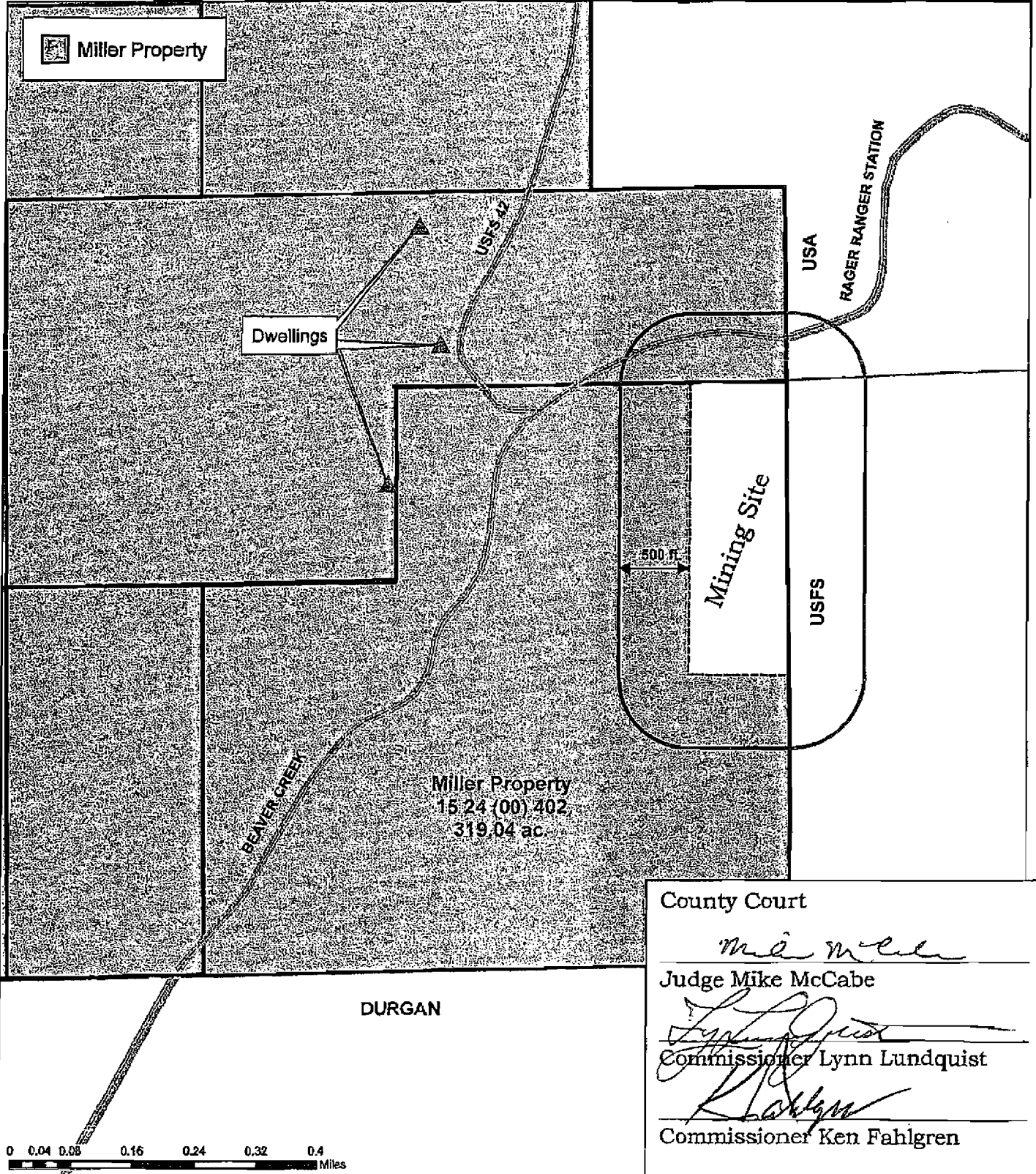
Commissioner Lynn Lundquist



Commissioner Ken Fahlgren

AM-09-137 Goal 5 Inventory

Miller Property - T15S, R24E, SEC. (00) TL 402 - 319.045 ac.



Disclaimer: This information is prepared for reference purposes only and should not be used, and is not intended for, survey engineering purposes.



Crook County
Planning Department
300 NE 3rd Street, Prineville, OR 97754
(541) 447-8156
Fax (541) 416-3905
ccplan@co.crook.or.us

November 4, 2009

**RECOMMENDATION TO THE CROOK COUNTY COURT
AM-09-137**

OWNER / APPLICANT: Pat & Naida Miller
8023 SE Wolf Creek Road
Paulina, OR 97751

AGENT: Craig & Cathy Kilpatrick
13790 NW O'Neil Highway
Redmond, OR 97756

**PROFESSIONAL
GEOLOGIST:** Robert W. Elayer
7004 Vista Court
Brookings, OR 97415

**OPERATOR / LESSEE
CONTRACTOR:** Tidewater Contractors, Inc.
P.O. Box 1956
Brookings, OR 97415

PROPERTY: Township 15 South, Range 24 East, Section 34, WM Tax Lot 402

APPLICATION NO: AM-09

REQUEST: A recommendation to the Crook County Court on a request by Pat & Nadia Miller for approval of a Comprehensive Plan Amendment to amend the existing Goal 5 Inventory Map by including a new aggregate site and adopting a site specific ESEE (Environmental Social Economic Energy) Analysis for the mineral and aggregate site. A conditional use application has been submitted under different application. A conditional use permit cannot be effective until the County Court passes an Ordinance that includes the site on the Inventory Map and adopts the ESEE Analysis. The Crook County Planning Commission has tentatively approved the Conditional Use permit.

APPLICATION DATE: August 12, 2009

DEEMED COMPLETE: September 25, 2009

*Miller Recommendation
Page 1 of 2
AM-09-137*

EXHIBIT "A"

PUBLIC NOTICE: October 2, 2009
PROPERTY OWNER NOTICE: October 2, 2009
HEARING DATE: October 14 & 28, 2009

FINAL DECISION: Recommend APPROVAL by a 4-0 vote of the Planning Commission

On the basis of the Quarry Geologic Evaluation submitted by the applicant, documenting the quantity and quality of resources available on the site, the Commission concludes that the quality and quantity of the resource on the proposed site qualify it as a significant site.

The Commission concludes that the applicant's proposed 500-foot Impact Area should be accepted.

On the basis of the staff report and DSEP Analysis, the Burden of Proof testimony received, the Commission concludes that the proposed aggregate operation will provide economic benefits to Crook County in the form of employment, tax revenue, and availability of aggregate.

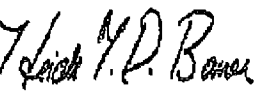
On the basis of the DSEP Analysis, the Commission concludes that any negative economic, social, and environmental consequences of the proposed aggregate operation on the surrounding area will be minor.

On the basis of the above, the Commission recommends that a Comprehensive Plan Amendment be adopted to add the subject site to the Goal 5 inventory as a significant site, AND that an DSEP Analysis be adopted as a Text Amendment to place the subject site as a C.B.A. site on the inventory of significant sites, which shall be conserved and protected for surface mining.

The Commission recommends that all requirements of DDCAMI and DEO be required to be adhered to.

DATED THIS 4th Day of November, 2009


Lawrence Weberg
AGGREGATE COMMISSION CHAIRMAN


Heidi Baugh

Heidi Baugh
Assistant Planning Director

**Miller Ranch Aggregate Site
Crook County
Burden of Proof & ESEE Analysis**

August 10, 2009

OWNER / APPLICANT: Pat & Naida Miller
8023 SE Wolf Creek Road
Paulina, OR 97751

AGENT: Craig & Cathy Kilpatrick
13790 NW O'Neil Highway
Redmond, OR 97756

**PROFESSIONAL
GEOLOGIST:** Robert W. Elayer
7004 Vista Court
Brookings, OR, 97415

**OPERATOR/LESSEE
CONTRACTOR:** Tidewater Contractors, Inc.
P.O. Box 1956
Brookings, OR 97415

REQUEST: The Applicant requests a Comprehensive Plan Amendment and Conditional Use Permit to allow surface mining of a 30 acre aggregate resource site located in the Exclusive Farm Use, EFU-1 zone.

I. APPLICABLE CRITERIA:

The following legal criteria are applicable to this plan amendment and conditional use permit application:

Crook County Code, Title 18, Zoning:

- Chapter 18.16 Exclusive Farm Use Zone, EFU-1 (Post Paulina Area);
- Chapter 18.144 Aggregate Resource Sites;
- Chapter 18.148 Resource Use Protection;
- Chapter 18.160 Conditional Uses;
- Chapter 18.168 Amendments;
- Chapter 18.172 Administrative Provisions.

EXHIBIT "A"
CONT 1

Crook County Comprehensive Plan, dated November 14, 1990:

- Appendix A, Ordinance No. 43, Crook County Goal 5 Resources Mineral and Aggregate Element, Sections 2, 3, 4, 5 and 6

Oregon Administrative Rules, Chapter 660-12-060.

Oregon Administrative Rules, Chapter 660, Division 016.

Oregon Statewide Land Use Goals.

II. FINDINGS OF FACT:

1. **LOCATION.** The proposed site is located approximately 67 miles east of Prineville and 5 miles west of the Rager Ranger Station. The subject property, Miller Ranch, is contiguous to Beaver Creek Road, Wolf Creek Road, Rager Ranger Station Road and USFS 42. A more specific legal description is listed under # 3, Site Description.

2. **ZONING.** The property is zoned Exclusive Farm Use, EFU-1 (Post-Paulina Area) and is designated agricultural on the Crook County Comprehensive Plan.

3. **SITE DESCRIPTION.** The subject tax lot measures 319.04 acres in size. The proposed aggregate site contains 30 acres. The Miller Ranch measures a total of 2,674.16 acres. The elevation of highest point of the site is approximately 4,120 feet, the lowest about 4,040 feet. The proposed site slopes gently from the high point in all directions. The terrain is very rocky with occasional surface areas of clay and other soil presenting very little forage. Juniper trees are scattered around the area mostly to the west and north creating an excellent visual screen from the roads below.

Tax lots: The Miller Ranch consists of nine tax lots totaling 2,674.16 acres as listed below:

1524(00)101	160.00 ac	
1524(00)400	200.00 ac	
1524(00)401	236.60 ac	
1524(34)402	319.04 ac	Subject, proposed site
1524(00)403	78.52 ac	
1524(00)404	80.00 ac	
1524(00)500	320.00 ac	
1524(00)600	800.00 ac	
1524(00)601	<u>480.00 ac</u>	
Total:	2,674.16 acres	

4. SURROUNDING PROPERTY.

The largest tract of land adjacent to the Miller Ranch is owned by the United States Government and measures 17,458.3 acres in size. This government property lies to the west, north and east of the northern half of the Miller Ranch. Directly to the east of the Miller's tax lot 402, which includes the proposed aggregate site, is a 480 acre parcel owned by the US Forest Service, USDA. The southwestern most part of the Miller property is partly adjacent to a 1,091.84 acre tax lot belonging to Bedortha Ranches Inc. A portion of the Durgan Ranch is adjacent to the south and south central portions of the Miller Ranch. On the west side of the southern half of the Miller property is a 636 acre tax lot owned by Young's Farm Blue Mountain Holdings.

5. REQUEST.

Pat and Naida Miller, the applicants, are requesting: 1) that the County amend the Crook County Comprehensive Plan by placing the subject portion of their property on the Comprehensive Plan inventory for significant mineral resources, and; 2) adopt the ESEE analysis to allow for mining activities. Both designations are pre-requisite to applying for a conditional use permit for surface mining in the Exclusive Farm Use zone, and 3) designate the site as a 3C site on the Comprehensive Plan inventory for significant mineral resources.

A concurrent Conditional Use Permit has been submitted requesting approval for surface mining operations. Approval will allow the Applicant to conduct all mining activities on-site as allowed by statute and the Crook County Code. The proposed property is intended to be used for the mining and then crushing of mined rock into base rock materials and for the production of aggregate for asphalt. Storage of rock material will occur on-site and a portable asphalt plant will be used in conjunction with road reconstruction projects in the local area.

A site resource evaluation report has been prepared by Robert W. Elayer, Professional Geologist, which concludes that there is a significant volume and quality of aggregate suitable for the production of ODOT specification construction materials.

6. EXHIBITS:

The Applicant has submitted the following exhibits in support of this proposal.

1. Land Use Application Form for Comprehensive Plan Amendment.
2. CUP Application with required signatures, forms, tax lot cards, etc.
3. Burden of Proof & ESEE Analysis
4. Geotechnical Survey including the Quantity/Quality Evaluation of mineral resources on the Miller Ranch Site w map exhibits, sectional diagrams and test results.
5. Map Exhibits:
 - A. Vicinity Map
 - A. Assessors Maps
 - B. Existing Property, Miller Ranch

- C. Proposed Quarry Site
- D. Surveyors Drawing
- E. 500 Foot Impact Area
- F. Wildlife Zones
- G. Surrounding Ownerships
- H. Proposed Quarry Aerial

6. Site Photos

7. FINDINGS AND CONCLUSIONS.

GOAL 5 PROCESS:

Comprehensive Plan Amendment:

The Applicant is requesting inclusion of approximately 30 acres of the subject property as a 3C-BAS Site. The Goal 5 process under the Crook County Comprehensive Plan is a five step process, which is briefly summarized as follows:

1. The first step is to determine whether the site should be included in the inventory of Goal 5 resources, This requires adequate information on the location, quantity and quality of the Goal 5 resource, which in this case is aggregate, sand and gravel and a determination that the indicated resource site is important or significant.
2. The second step is to identify conflicting uses and any conflicts in the applicable requirements of other state-wide planning goals on the resource site.
3. The third step is to determine the economic, social, environmental and energy consequences of allowing conflicting uses.
4. If conflicting uses have been identified, the fourth step is to develop a program to achieve Goal 5.
5. The fifth step is implementation through the zoning regulations.

STEP 1 – INVENTORY:

1. RESOURCE LOCATION:

A. Property Location: The subject site consists of approximately 30 acres specifically described as the E½ SE¼NE¼ (20 acres) and NE¼NE¼SE¼ (10 acres) of Section 34, Township 15 South, Range 24 East of the Willamette Meridian. The proposed site is located approximately 67 miles east of Prineville (by road) and 5 miles west of the Rager Ranger

Station. The Miller Ranch consists of a total of 2,674.16 acres. The subject area represents approximately 1 percent of the total property.

B. Impact Area: The property immediately to the north, west and south of the subject 30 acres is owned by the Applicant. The property to the east is owned by the US Forest Service, USDA. There are no dwellings in the immediate area, the nearest dwellings belong to the applicant and are located more than 1/3 and 1/2 of a mile away. The proposed quarry, crushing and storage areas will be located more than 100 feet from the eastern property boundary in excess on minimum setbacks for this zone. The Applicant has identified an impact area extending 500 feet from the subject site which extends approximately 400 feet into the neighboring Forest Service parcel to the east, the remaining impact area is contained within the Applicant's property.

2. RESOURCE QUALITY AND RANKING SYSTEM:

A. Quality: Excerpt from the Geologic Evaluation:

"The initial sampling at the site was a loose rock taken from the road just north of the proposed permit area. This sample was sent to Carlson Testing, Inc. of Bend, Oregon for DMSO testing, which is the standard testing method for soundness of Aggregates (ASTM C88-05). This test method gives an estimate of the weathering loss that aggregate will undergo when in concrete or A/C applications. The test simulates the expansion of water on freezing and the affect of this weathering action on the stability of aggregate. Project special provisions specifications call for a maximum percent loss of 12. The results were very good with an average loss of 0.2 percent (Attachment 1). This sample showed very good results but may be non-representative because it has been exposed to weathering for an unknown period of time, which would over time remove the components that weather out readily."

"Since this sample showed good results, the investigation was expanded to the south where the top of the ridge was found to have outcropping of hard basalt rubble that looked very promising. Seven boreholes were drilled along the crest of the hill to obtain unweathered samples of the basalt and to explore its hardness. A cumulative sample from these boreholes were sent to Carlson Testing, Inc. in Bend, Oregon for DMSO testing. The test result for this sample is shown in Attachment 2. This sample yielded an average loss of 6.8 percent which is very good and well within the maximum of 12 percent."

The laboratory testing indicates that the aggregate will meet ODOT's specifications for base rock and asphalt aggregate. This basalt is considered to be high quality aggregate because it is very hard, dense and demonstrates superior weathering capabilities.

STEP 2 – IDENTIFICATION OF CONFLICTING USES AND OTHER GOALS:

The site is identified as having no potential conflicting uses or conflicting applicable requirements of other state-wide planning goals. The Applicant contends that the proposed site

should be identified as a 3C site under the Crook County Comprehensive Plan. The Applicant's reasons are set forth in the following ESEE analysis:

STEP 3 – ESEE ANALYSIS:

OAR 660-16-005 requires that the economic, social, environmental and energy consequences be considered when reviewing impacts, both to and from Goal 5 resource sites.

A. Conflicting Uses:

OAR 660-016-0005 requires local governments to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in the zone where the resource is located. If conflicting uses are identified the local government must determine the economic, social, environmental, and energy (ESEE) consequences. Both the impacts of the conflicting uses on the resource site and the impacts of the resource site on the conflicting uses must be considered. A determination of the ESEE consequences is legally sufficient if it enables the local government to explain why decisions are made for the site. The first step in identifying conflicting uses is to define the boundaries of the impact area. Crook County has not adopted Division 23 of the Oregon Administrative Rules (OAR 660-23), therefore the Applicant has elected to describe the impact area as a 500 foot setback which is also the setback for noise and dust sensitive uses such as residences commercial uses. Division 16 of the Oregon Administrative Rules (OAR 660-16) does not specify the specific scope of the impact area and Crook County has not defined the boundaries of the impact area by ordinance.

B. Impact Area:

A GIS map showing adjacent parcels within 500 feet of the subject aggregate resource site is attached to the application. This map shows the location of the only two adjacent properties within the aforementioned 500 feet. Both are federally owned and can best be described as consisting predominately of rangeland. There are no residences or commercial uses on the federally owned properties. The only residences in the immediate area are those owned by the Applicant and are located more than 1/3 of a mile away along with a number of farm outbuildings. The most productive portions of the Applicant's property are well below and to the west of the proposed aggregate resource site.

C. ESEE Analysis:

The following ESEE analysis identifies conflicting uses and describes the economic, social, environmental, and energy impacts of the proposed mining operation.

1. Economic Consequences: The Crook County Comprehensive Plan has identified some of the economic benefits from the development of aggregate resources. There are both direct and indirect benefits from the development of aggregate resources. The landowner, mine operator and those employed by him benefit directly as well as those equipment suppliers,

truckers and home and road construction contractors. The aggregate, road construction and trucking industries provide employment and generate tax revenues within Crook County. If the proposed mining operation is not approved, the immediate and future need for aggregate materials still remains and must be provided from more distant sources. The effect of moving material from greater distances only increases road development costs, wear on road systems and increased consumption of fuel.

Central Oregon benefits indirectly from the availability of reasonably priced aggregate. The preservation of aggregate resources adds to the available supply of these resources.

There are also several factors that can be considered as having negative economic consequences such as increased truck traffic, costs related to the rehabilitation and resurfacing of roads worn or damaged from long hauling, and the potential need for increased police enforcement and other regulation. As previously stated the proposed site is ideally situated for two significant area road projects.

2. Social Consequences: The Crook County Comprehensive Plan identifies a number of social benefits from mining activities including the maintenance of an adequate supply of high quality aggregate for maintaining and expanding the roads of Crook County. There are numerous employment opportunities resulting from aggregate production and mining activities. The availability of quality aggregate insures competitive bidding on area road projects.

The Plan also identifies several negative social consequences, including the loss of scenic value, reduced recreational opportunities, degradation of habitat for fish and wildlife. The negative impacts also include noise and dust during production and hauling periods.

With this approval of the subject project there be no significant loss of scenic value due to excavation of the site which is very well screened by hillsides and trees. If the Applicant is given approval to proceed, a DOGAMI permit will be required and the property will have to be reclaimed. There remains a good amount of screening from Rager Ranger Station Road to the north and a great deal more screening and distance to the west and Beaver Creek Road. The quarry site will be below grade which reduces visibility from adjoining properties. The site cannot be seen from any area residence as few as there are. There should be negligible degradation of habitat for wildlife, in any, in the area.

The property lies within the general winter deer range and is near areas that have a past history of seasonal roosting for bald eagles. These sensitive bird sites are typically inactive or absent in the subject area from early April until late November. Aggregate production is curtailed during the active months of December through March. The general winter deer range use coincides with this same period of more active bird occupation in the general area. There are no specifically identified bird nests in the impact area.

The only other consequences of the quarry site will be noise from blasting and crushing, however, these activities are seasonal, limited in duration and will be conducted within the state agency standards.

There will be no reduced recreational opportunities on the subject property as it is private and is not used for recreation. There may be a negligible impact from dust and noise on a small part (less than 1& acres) of the adjacent Forest Service parcel.

3. Environmental Consequences: The Comprehensive Plan recognizes some negative environmental consequences associated with mining including the reduction of available cover and forage, possible relocation of some wildlife, and increased traffic associated with mining and road construction.

The proposed excavation site is un-irrigated and has a light cover of juniper, some sagebrush and cheat grass. It produces very little palatable forage. The Applicant owns several thousand acres of similar land and is not concerned with this insignificant loss of forage.

The subject property is located in general deer range and near the southern edge of general elk range. There is an area of eagle roosts to the north of the Rager Ranger Station Road and to the north of the proposed aggregate site. The Applicant's representative has conferred with ODF&W's wildlife biologist and determined that the potential for wildlife conflict can best be mitigated by restricting the active uses between December 1 and April 15th. As the vast majority of the material hauling will occur during the reconstruction of area roads, the proposed use is not expected to increase traffic mortality of deer and other wildlife in the area. If active work season for the site is limited to a mid-April through late-November period the noise and dust impacts will not have a negative impact on deer or other wildlife. See attached Map Exhibit F.

All fugitive dust will be controlled by seeding, mulching and/or the addition of water. The reclamation plan calls for live topsoil salvage technique, were practical and possible, to enhance the reclamation potential of these soils. There are no creeks or perennial streams in the quarry area, however it is the practice of the operator/contractor to provide erosion control fencing in order prevent runoff in the case of any heavy rainfall occurrences. The property is not located within any wetland that could result in the degradation of riparian or water quality.

4. Energy Consequences: The Applicant is not able to identify any negative energy consequences. To the contrary, the quarry site is ideally situated to serve the needs of the Beaver Creek Road project, future planned USFS road projects and other road materials needs in the area.

The site contains high quality rock which will be processed at the on-site crusher. Asphalt can also be produced on-site greatly reducing energy costs and hauling distances. The location will significantly reduce the distance that aggregate materials will be hauled resulting in greater fuel efficiency and a reduction of wear and tear on area roads.

STEP 4 – PROGRAM TO ACHIEVE GOAL 5:

D. Program To Achieve Goal 5:

OAR 660-016-0010 states that based upon the ESEE analysis, a jurisdiction must develop a plan to achieve the Goal". A jurisdiction is expected to resolve conflicts in any one of the following three ways. Whichever of three courses of actions is chosen must be supported by reasons which are included in the Comprehensive Plan, the Comprehensive Plan and zoning designations must be consistent with the chosen course of action.

(1) **Protect the Resource Site:** If, on the basis of the ESEE analysis, the jurisdiction determines that the resources site is extremely valuable relative to conflicting uses, and the ESEE consequences of allowing uses are great, the resource site must be protected and all conflicting uses prohibited on the site and possibly within the impact area.

(2) **Allow Conflicting Uses Fully:** If the ESSE analysis determines that a conflicting use is sufficiently important relative to the resource site, the conflicting use must be allowed fully regardless of the impact on the resource site.

(3) **Limit Conflicting Uses:** If the resource site and conflicting uses are both important relative to each other, the conflicting uses can be allowed in a limited way in order to protect the resource site to a limited extent. The jurisdiction must designate with certainty which uses and activities are to be allowed fully, which are not to be allowed at all, and which are to be allowed conditionally. The jurisdiction must also designate specific standards and limitations must be specific enough that affected property owners can clearly understand them.

Based upon this analysis, the Applicant's contends that there are few potential and no actual conflicting uses within the impact area that can be identified. The Applicant has designed the site in order to mitigate those potential conflicts in order to achieve the Goal. The Applicant suggests that the aforementioned seasonal limit or operating period is appropriate to mitigate any potential wildlife conflicts. It is important to protect the site and to limit conflicting uses. Therefore, the applicant is requesting that this site be ultimately identified as a 3C site. Protection of conflicting uses will be implemented through the zoning regulations and the conditional use permit criteria for the site.

F. Conditional Use Permit

Conditional Use Permit.

The Applicant is requesting a conditional use permit for the operations conducted for mining and processing aggregate resources. The criteria for approval are set forth in Crook County Code, Title 18, Zoning; Chapter 18.160 Conditional Uses, Sections 18.160.020 and 18.160.050 (9), and in Chapter 18.144 Aggregate Resource Sites, Sections 18.144.040, 18.144.050 and 18.144.060.

Conformance with Chapter 18.160, Conditional Uses.

Section 18.160.020, General Criteria:

1. The proposal will be consistent with the Comprehensive Plan and the objectives of the zoning ordinance and other applicable policies and regulations of the County.

RESPONSE: The Applicant has proposed an amendment to the Crook County Comprehensive Plan to include the subject property on the County's inventory of mineral and aggregate resources. The Applicant has supplied a geotechnical site evaluation demonstrating the significant aggregate resources on the site, both in terms of quantity and quality. Assuming that plan will be amended to include the subject property, the Applicant has addressed the applicable provisions of the zoning ordinance for such a use. Conformance with those applicable provisions is discussed below in this burden of proof statement.

2. Taking into account location, size, design and operation characteristics, the proposal will have minimal adverse impacts on the (A) livability, (B) value, and (C) appropriate development of the abutting properties and the surrounding area compared to the impact of development that is permitted outright.

RESPONSE: The 30 acre area has been identified by the Applicant as having over one million (1,000,000) cubic yards of crushable basalt with some "topsoil" consisting mostly of clay. The material will be mined utilizing a "drill and shoot" operation for the basalt which is the primary resource. Typical on-site equipment will consist of a bulldozer, a loader, and sorter, weigh scale, water truck, fire wagon and a crusher. All of the equipment is portable. A portable asphalt batch plant will used on-site during the paving phase of the Beaver Creek Road Project. The operation will generate noise and dust, which will have some minimal impacts on adjacent property. In this case the only adjacent properties within 500 feet are the publicly owned USFS parcels to the northeast and east. These impacts will be mitigated by the location, design and excavation sequence on the site. The paving of the road approach and graveling of the access road will minimize dust from truck traffic. The proposed site is located in a sparsely populated area and the only dwellings (three) within 1 mile of the proposed quarry belong to the Applicant. The Applicant believes that the appropriate area of consideration for this analysis is best defined as a 500 foot radius from the boundary of the proposed 30 acres. See Map Exhibit E.

The Applicant has identified the types of uses which are occurring within a half-mile as hay and livestock production and rangeland. As previously stated the closest dwellings are more than 1/3 of a mile away and belong to the Applicant. The nearest irrigated land is over 1500 feet to the west across Beaver Creek Road from the proposed aggregate site. Agricultural uses are not usually considered to be "noise and dust sensitive" uses and are often generators of noise and dust themselves. The proposed operation should have minimal adverse impact on the value and development of the existing agricultural use owned by the applicant. There are no other privately owned properties in the impact area.

The potential impacts of the proposed crusher and other processing equipment will be minimized by the slope and location above and away from the Rager Ranger Station Road. The additional traffic on Beaver Creek Road and Rager Ranger Station Road will be nominal

particularly following the road re-construction project. There is also a significant amount of existing tree cover protecting any visual impacts.

3. The location and design of the site and structures for the proposal will be as attractive as the nature of the use and its setting warrants.

RESPONSE: The Applicant, working with the Contractor/Operator, has in large part, located and designed the site based upon efforts to reduce the impacts to the immediate and greater area. More specifically, they have made efforts to insure that the quarry cannot be seen from the area roadways. Since the property owners have lived and worked in the area for generations they will most certainly maintain the property in as attractive a manner possible.

4. The proposal will preserve assets of particular interest to the County.

RESPONSE: The Applicant is not aware of any assets on the site that are of particular interest to the County. However, should the County identify any assets of particular interest; the Applicant will make every reasonable effort to see that they are preserved.

5. The applicant has a bona fide intent and responsibility to develop and use the land as proposed and has some appropriate purpose for submitting the proposal, and is not motivated solely by such purposes as the alteration of property values for speculative purposes.

RESPONSE: The direct and immediate result of the approval of this site is that high quality aggregate will available for the Beaver Creek Road Project which is being funded by the federal government. The prime contractor Tidewater Contractors, Inc. has been awarded the contract and is the lessee of the Miller Ranch proposed quarry. In addition there is another project scheduled for the next year or two involving USFS road # 42 which begins at the intersection of Beaver Creek and Rager Ranger Station Road. There are clearly no speculative purposes involved with this application.

Section 18.160.050, Standards Governing Conditional Uses:

(9) Mining, quarrying or other extraction activity.

(a) Plans and specifications submitted to the Planning Commission for approval must contain sufficient information to allow the Planning Commission to consider and set standards pertaining to the following:

(i) The most appropriate use of the land.

RESPONSE: The proposed Miller Ranch mining site is located in a remote part of Crook County near very large ranches and even larger United States Government owned parcels. The subject area is part of a large tract used as seasonal rangeland grazing. It produces very little palatable forage and will be reclaimed to that use following completion of mining operations in the future.

Designating the site as a significant mineral resource site in the Comprehensive Plan will allow it to be mined as a conditional use in the Exclusive Farm Use EFU-1 zone.

The site location lends itself well to accommodating extraction of the significant aggregate resource on the site. The property contains over 1,000,000 cubic yards or approximately 1,900,000 tons of high quality basalt in a topographic situation that will readily accommodate mining activities.

(ii) Setback from the property line.

RESPONSE: Mining of the site will be conducted in accordance with all applicable setbacks for mining operations as required by the zoning ordinance. These setbacks include a 100 foot general setback from all property lines and a minimum 500 foot setback between a crusher, washer or sorter and a residential or commercial use. Note: there are no residential or commercial uses within 500 feet other than the Applicant's ranch.

(iii) The protection of pedestrians and vehicles through the use of fencing and screening.

RESPONSE: The property is currently fenced with a four-strand barbed wire fence. A lockable gate will be added to the access point onto the Rager Ranger Station Road. There are no pedestrians with legitimate access to the property. All precautions will be taken to insure safe operations on the site. The mining site is well above the public roads, is difficult to see from the road and is also well screened by pine and juniper trees. As mining takes place in the future the mine site will become even more hidden from view.

(iv) The protection of fish and wildlife habitat and ecological systems through the control of potential air and water pollutants.

RESPONSE: Mining and processing activities on site will be conducted in full accordance with Department of Environmental Quality regulations pertaining to emissions.

(v) The prevention of the collection and the stagnation of water of all stages of the operation.

RESPONSE: The Applicant will comply with this standard as a continuing condition of approval.

(vi) The rehabilitation of the land upon termination of the operation.

RESPONSE: Pursuant to permitting regulations implemented through the Department of Geology and Mineral Industries (DOGAMI), reclamation of the site must take place as a condition of the mine's operating permit. The Applicant has not yet obtained a DOGAMI permit for the site; however reclamation requirements customarily include limitations on slopes and reseeded of all disturbed area after mining. Examination of the site photos indicates that a significant portion of the site grows nothing and is covered by surface rock.

(b) Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration or dust which may be injurious or annoying to persons or other uses in the vicinity.

RESPONSE: The Applicant will comply with this standard as a continuing condition of approval.

(c) The comments and recommendations of all appropriate natural resource agencies of the state and federal government shall be sought.

RESPONSE: The applicant will comply to the maximum extent practicable with all reasonable recommendation of the appropriate state and federal natural resource agencies.

(d) A rock crusher, washer or sorter shall not be located closer than 500 feet from a residential or commercial use.

RESPONSE: The Applicant proposes to locate a crusher, washer and sorter on the approved site more than 1/3 mile from any residence.

Conformance with Chapter 18.144, Aggregate Resource Sites.

Section 18.144.040, Approval and review criteria:

(a) The site must be designated as a mineral or aggregate resource site or an energy source on an inventory of significant Goal 5 resources in the comprehensive plan.

RESPONSE: The Applicant has filed for a Comprehensive Plan Amendment identifying the subject site as a Goal 5 Resource Site on the Goal 5 Inventory. A geotechnical site evaluation has been completed for the site which indicates that it offers a large quantity of high quality crushable basalt in a readily accessible topographic situation.

(b) The proposed use must be consistent with the applicable ESEE analysis and conditions contained in the comprehensive plan. In the event conditions imposed on the mining use by the comprehensive plan to mitigate mining impacts on specific conflicting uses are less restrictive than conditions necessary to address these same impacts under the standards of this section, the conditions imposed by the comprehensive plan control.

RESPONSE: The Applicant has prepared an ESEE analysis to justify the inclusion of the subject property as a Goal 5 Resource. Conditions of approval for the conditional use permit authorizing mining activity will limit the operation in such ways as to make it consistent with the ESEE analysis findings and conclusion adopted as part of the comprehensive plan. These conditions will include limitations on the extent of the mining activity and the hours of operation, as well as a reclamation plan.

(c) The proposed use must be shown to not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

RESPONSE: Surrounding land uses have been discussed above; the only agricultural uses identified on the surrounding lands would be those of the applicant. Based upon the limited size and the limited activity for the proposed quarry, the proposed activity will have a minimal impact on any agricultural activities on the Miller Ranch.

(d) The proposed use must be shown to not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

RESPONSE: The only active accepted farm practices on surrounding lands are those of the Applicant and those are limited to short seasonal grazing within the impact area. There are clearly tradeoffs at work when a property owner prioritizes his needs between rangeland use and aggregate production. The question at hand is about increases in cost and the Applicant states that there are none. There are small portions of the government owned tracts to the east and northeast that are within the impact area. The Applicant contends that any impacts will be minimal and will not significantly increase costs of accepted forest practices. The immediate presence of a high quality aggregate resource can only decrease forest practice costs by making available needed materials for roads that enhance access to federal forest lands.

(e) There must be adequate public facilities and services (street capacity, water supply, police protection, and fire protection, energy and communications services) available to meet the additional demands created by the proposed use or that can be made available through the orderly and efficient extension or expansion of these facilities and services.

RESPONSE: The use of the property for surface mining activities will have no impact on any public services with the exception of street capacity. The mining activities will not require the extension of power or telephone lines and will require to police or fire protection services. Water for dust emission control will be trucked to the site and no on-site sewage disposal will be needed. Water is available from the Miller Ranch. The operator/contractor will provide fire protection on-site.

Mining activities will require trucks to haul the aggregate off-site for use on the upcoming construction projects. The Applicant's mining plan for the site is anticipated to generate approximately 2-5 truck trips per day or less on average, with peak operating times resulting in approximately 30-45 trips per day over short intensive periods during the Beaver Creek Road Project. As an example of what can be expected we have listed the approximate hauling numbers from the work year 2007 on the Brown Ranch Quarry in Wheeler County for a highway project near Mitchell to the northwest. Material was hauled from the site for about 74 days, or 44 loads per day. Each load represented 23 yards of material. This calculates to a little over 75,000 yards for the project season.

Section 18.144.050, Approval procedures:

(6) In addition to all information required for a site reclamation plan by DOGAMI, the applicant shall submit the following information:

(a) An application for a site plan shall contain suitable maps, drawing, and narrative to assure the requirements of this Article can and will be met. A complete application must contain information:

(i) A complete application form from the County.

RESPONSE: A complete application form was submitted with this burden of proof statement.

(ii) A list of known materials to be extracted or processed together with a general description of the excavation operations and the estimated duration of operation at the site.

RESPONSE: The Applicant has submitted an Aggregate Resources Investigation Report prepared by Robert W. Elayer, a Professional Geologist along with testing reports prepared by Carlson Testing, Inc., a geotechnical testing laboratory based in Bend. The report includes a complete list of the known materials to be extracted from the site and their anticipated uses. These materials consist primarily of crushable basalt.

A general operations site plan has been prepared and submitted with this application.

(iii) A map of the site which shows existing trees and natural vegetation; existing water courses, including streams, rivers, ponds and lakes; adjacent ownerships, including the location of structures which relate to the setback or other requirements of this zone; and existing and proposed roads.

RESPONSE: Several map exhibits have been prepared and submitted with this application. An aerial map has been included indicating the location of trees and vegetation. There are no water courses within the impact area other than the perennial stream to the north, across the Rager Ranger Station Road. There are no impacted rivers, ponds or lakes. Adjacent ownerships are noted on Map Exhibit E. The setbacks and roads are noted as well.

(iv) A surface water management plan for the site and all phases of the operation.

RESPONSE: The proposed mining activity will not generate any surface water in and of itself. There will continue to be natural drainage off of the site onto the Applicant's property which will not be interfered with by the mining operation itself. The operator/contractor will provide fencing for control of potential erosion in order to prevent any surface water from eroding material onto the roads, perennial stream or adjacent parcels.

(v) A map which shows the location of the surface mining area, the location of all processing and storage areas, the location of the caretaker dwelling (if proposed), landscaping, screening and buffer areas.

RESPONSE: A map showing the location of the surface mining area has been submitted with this application. Processing and storage areas, with a stockpile area for sand and gravel will be all located to the north of the quarry area. A crusher, including conveyors, will be operated in the south-central portion of the proposed site. Storage of bulldozers, loaders, drills and other equipment will occur near the stockpile area to the north and west of the crusher.

No caretaker dwelling or introduced landscaping is needed on the proposed site. A small temporary structure associated with the weigh scale may be placed adjacent to the scale to protect the scale's electronic equipment.

(vi) A landscape management and maintenance plan adequate to demonstrate compliance with the provisions of this zone.

RESPONSE: No landscaping is needed or contemplated, except during the reclamation of each mining phase. Each mining phase will be re-seeded with a grass mix as specified in the site's DOGAMI permit.

(vii) A map showing the existing contours.

RESPONSE: A topographic map including contours has been submitted with this application.

(viii) A map or other drawing showing the contours of the site upon completion of the operation together with a description of the proposed end use of the reclaimed site.

RESPONSE: A topographic map has been included with the application which identifies the location of the proposed quarry area. The mining activities will occur from the quarry location to the north consistent with its size and setback requirements.

(ix) An environmental report from an engineer or other qualified professional which is adequate to demonstrate that the operation can conform to County, DEQ and DOGAMI requirements as outlined in the "Development Standards" section of this zone.

RESPONSE: The Applicant has provided a report from Robert W. Elayer, Professional Geologist.

(x) A security plan addressing the following issues:

- (A) lighting;**
- (B) fencing;**
- (C) gates at access points;**
- (D) water impoundments;**
- (E) sloping; and**

(F) security of vehicles and equipment

RESPONSE: The security plan calls for maintaining the existing perimeter fencing, building a new fence on the west and south sides for livestock management. There will be a secured gate on the proposed haul road onto Rager Ranger Station Road that will be closed at such times as the site is not in operation. All equipment is portable and will not be left on the property when the site is not in operation. There are no water impoundments on the site. Sloping will not exceed a slope of one to one-half to one at any particular time. All vehicles and equipment will be stored within the perimeter fence in the central location of the site.

Section 18.144.060, Development Standards:

Upon approval of a conditional mining use application all the following standards apply:

1. Mining activities shall be located and conducted at least:

(a) 100 feet from an existing noise or dust sensitive use, unless the owner of the residence or use signs and files an agreement which authorizes the mining to be conducted closer than 100 feet. In no case shall such mining be conducted closer than 50 feet of the boundary of an adjacent ownership.

RESPONSE: All mining activities will take place well in excess of 500 feet from an existing noise or dust sensitive uses, and at least 100 feet from the exterior Miller Ranch boundaries. In the event that a need arises to operate in an area closer than 50 feet, the property owner will file the prerequisite agreement.

(b) 100 feet from a road not owned by the applicant and from the property line of the applicant unless that distance is not sufficient to protect the adjoining property from land movement or the threat of land movement. In such cases, the setback shall be the minimum distance required by DOGAMI that will protect the adjoining property from movement or the threat of land movement. This setback shall be reviewed and approved by DOGAMI prior to approval by the hearing authority. In no case shall the setback be less than 100 feet.

RESPONSE: The Applicant will meet or exceed the required setbacks. The area between the Rager Ranger Station Road and the proposed site includes slope and excellent tree screening. The Applicant will maintain a 300-foot setback along the Rager Ranger Station Road. Preservation of the well screened visual buffer from the public road to the site is an essential goal of the Owner/Applicant.

2. Processing of resource materials and the storage of equipment shall be at least 500 feet from an existing noise or dust sensitive use, unless the owner of the residence or use signs and files an agreement which authorizes the processing of resource material or storage of equipment closer than 500 feet. In no case shall such activities be located closer than 100 feet from any adjacent dwellings.

RESPONSE: All processing and equipment storage will be in the central portion of the property. There are no residences within 500 ft of the resource. The nearest dwellings belong to the Applicant and are more than 1/3 and 1/2 mile from the resource.

3. Access. All private roads from mining sites to public highways, roads or streets shall be paved or graveled. All onsite roads and access roads from the site to a public road shall be designed, constructed, and maintained to accommodate the vehicles and equipment which use them. Whether paved or graveled, the roads shall be maintained by the applicant in accordance with County road standards. Before the applicant may exercise the privileges of the permit, the applicant shall provide a letter of agreement to the county to maintain the road to the applicable county road standards. If the applicant fails to provide the letter of agreement prior to exercising the privileges of the permit, or fails to so maintain the road, the applicant shall submit a performance bond equal to 100% of the cost to construct a road of that type. The bond shall be deposited with the treasurer of the county.

RESPONSE: The applicant will construct a private roadway on the property for the movement of vehicles, equipment and materials. The roadway will be graveled by the Applicant prior to removal of any material from the site. The roadway will be suitable for the use for which it is intended. The applicant will provide a letter of agreement to the County to maintain the access road to applicable standards.

4. Effective vehicle barriers of gates shall be required at all access points to the site.

RESPONSE: A lockable gate will be installed at driveway access to the Rager Ranger Station Road.

5. Screening. Unless inconsistent with the conditions imposed to protect conflicting uses under the comprehensive plan, or of minimal value of effectiveness because of topography of other site features, the following requirements apply to the mining or resource site:

(a) Berms, fencing or vegetation, shall be maintained or established to block the view of the mining or resource site from conflicting uses;

(b) To the extent feasible, all natural vegetation and trees located within 100 feet of the mining site and that block the view of the mining area shall be preserved and fences maintained for that purpose of screening the operation.

RESPONSE: The existing trees will be maintained as screening from the Rager Ranger Station Road, this includes the trees located across the southern side of the Rager Ranger Station Road except those trees required to be removed as part of the road construction project. It is the specific goal of the Applicant to preserve as much of the available tree screening as possible. Based upon these considerations, the Applicant believes that these standards have been satisfied.

6. No alteration or removal of riparian vegetation located within 100 feet of the banks of a year-round stream shall occur.

RESPONSE: The quarry is not within 100 feet of any year-round stream or riparian area of any kind.

7. Mining, storage and processing operations shall conform to all standards of the Department of Environmental Quality and to the requirements of the Department of Geology and Mineral Industries (DOGAMI). The County may require information, data and analysis which demonstrate the ability to meet state environmental standards.

RESPONSE: The Applicant will obtain all necessary permits from DOGAMI prior to commencing operations, and will conform to all applicable standards of the DEQ as a continuing operating condition.

8. Hours of Operation. All mining extraction, processing and equipment operation shall be subject to the following limitations unless waivers authorize operation at other times.

(a) June 1st through October 31st: 6:00 a.m. to 9:00 pm. Monday through Friday. 8:00 a.m. to 5:00 p.m. Saturday.

(b) November 1st through May 31st: 7:00 a.m. to 6:00 p.m. Monday through Friday. 8:00 a.m. to 5:00 p.m. Saturday.

(c) No operations shall be conducted on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day.

RESPONSE: The Applicant will operate the mine only in accordance with these hour and day restrictions.

9. Blasting.

(a) A plan addressing the potential for earth movement, flying rock and other effects on surrounding uses shall be permitted.

RESPONSE: Blasting is an essential part of the proposed mining operation; However, it will only need to occur occasionally to provide adequate materials to sustain operations. The "drill and shoot" portion of the operation will primarily take place in the quarry itself and on a very limited basis during the construction of a portion of the access road.

(b) Blasting shall be allowed unless prohibited by the Comprehensive Plan ESEE analysis.

RESPONSE: The ESEE analysis for the site should not prohibit blasting, as it will be an essential part of the operation.

(c) **Blasting which is allowed and which is not to be conducted within 500 feet of any noise or dust sensitive use or agricultural use involving the raising of animals shall meet the following standards.**

(i) **DEQ noise control standards for blasting.**

(ii) **Blasting shall be restricted to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. No blasting shall occur on Saturdays, Sundays or legal holidays identified in subsection (I)(3) above.**

(iii) **The operator shall be responsible for notifying the owners and inhabitants of protected uses identified in subsection (H) above located within 500 feet of the blasting site by written notice delivered by certified mail to be received by each person entitled to notice at least 48 hours prior to the time the blasting will occur.**

RESPONSE: The Applicant will take all steps required by ordinance and DEQ regulations prior to blasting, including delivery of certified mail to all owners of protected uses within 500 feet.

10. Surface and Ground Water Management. Surface water shall be managed to provide protection against ground of surface water contamination and the sediment discharge into streams, rivers and lakes. There shall also be adequate water available to the site for reclamation of the property, maintaining of screening and buffer, dust control, landscape maintenance and processing of materials.

RESPONSE: The only surface water, runoff from snowmelt or rainwater will drain onto the Applicant's property. Erosion control fencing will be installed in order control any localized runoff. Ground water will not be impacted by the surface mining operation. There is no irrigation water on or available to the site. The Applicant will utilize water from the Miller Ranch or from the adjoining property owner for dust control and reclamation.

11. Applies only to surface mining not regulated by DOGAMI and is not applicable to this application.

12. All mining operations shall be subject to the dimensional standards, yard restrictions, sign limitations and other substantive standards set out in the zoning district applicable to the property.

RESPONSE: Mining will occur on the site in accordance with the applicable provisions of its zone.

STATEWIDE PLANNING GOALS

Goal 1, Citizen Involvement:

RESPONSE: Goal 1 calls for the County to have a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. Goal 1 citizen involvement goals will be met because Crook County will follow the land use procedures and public notice provisions set forth in its acknowledged Comprehensive Plan and implementing ordinances. Crook County will provide notice of the application and all public hearings to property owners within the vicinity of the subject property. Affected property owners and interested parties will have access to the application materials and all supporting technical data. Interested parties will have an opportunity to submit written and oral testimony to the County before any final decision is issued.

Goal 2, Land Use Planning:

RESPONSE: Goal 2 requires local government to establish a land use planning process and policy framework that provides a basis for all decisions and actions related to the use of land. The land use process established under this rule must assure that there is an adequate factual basis for all final land use actions and decisions. Goals 2 requirements will be met because the Applicant has adhered to the land use procedures adopted under the acknowledged Crook County Comprehensive Plan. The Comprehensive Plan and its implementing ordinances provides substantive standards and procedures that will ensure an adequate factual basis for the decision making process. The Applicant has adhered to established state and county standards that govern both the placement of significant aggregate resource sites on the County Goal 5 Inventory and authorization to conduct aggregate mining activity.

Goal 3, Agricultural Lands:

RESPONSE: Goal 3 seeks to preserve and maintain agricultural lands through the implementation of zoning restrictions that limit land uses that adversely impact agricultural practices. Agricultural zoning may authorize farm uses and non-farm uses that will not have significant adverse effects on accepted farm or forest practices. This application is consistent with Goal 3 and assures the protection of area farmland. The Applicant will comply with Crook County agricultural zoning rules that are designed to protect agricultural practices in the Post-Paulina Areas. The applicable zoning rules authorize mining aggregate activity on significant resource sites where mining activity will not force a significant change in accepted farm or forest use. The Applicant has evaluated the low intensity farming practices on surrounding farm parcels and the potential for conflict with mining activity in the area. A detailed ESEE analysis shows that the proposed mining site can provide economic benefits to the area without impacting area agricultural activity. The proposed mining operation will adhere to comprehensive plan and conditional use standards to assure the protection of agricultural practices.

Goal 4, Forest land:

RESPONSE: Goal 4 seeks to preserve and maintain forest lands through the implementation of zoning restrictions limiting land uses that adversely impact forest practices or forest uses. Forest lands in Crook County are lands composed of existing and potential forest lands which are suitable for commercial forest uses and other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation. Primary forest land uses in the county include the production of trees and the processing of forest products, the provision of open space, watershed protection and wildlife and fisheries habitat, soil protection from wind and water, outdoor recreational activities and related support services and wilderness values compatible with these uses, and the grazing of livestock.

The Applicant has evaluated the area to the northeast of the subject property and notes that there is little potential for conflict with mining activity in the area. A detailed ESEE analysis shows that the proposed mining site can provide economic benefits to the area without impacting area forest activity. As there is potential for a forest road construction contract in the immediate future the proposed aggregate resource can potentially provide material in support of related services and forest practices in area. The proposed mining operation will adhere to comprehensive plan and conditional use standards to assure the protection of forest practices.

Goal 5, Open spaces, scenic and historic areas and natural resources:

RESPONSE: Goal 5 requires local government to adopt programs that will protect and conserve natural resources for the benefit of present and future generations. The rule requires the development of a natural resource inventory that includes areas with significant quantities of non-renewable resources. Significant aggregate resource sites are protected to insure a long term supply of the raw materials necessary for building projects and road construction. This application implements both state and administrative rule promulgated under Goal 5 and the Goal 5 element of the Crook County Comprehensive Plan. The application provides the factual data necessary to demonstrate the significant quantity of high quality aggregate resources located at this site. Consistent with the Goal 5 rules, the application evaluates surrounding land use uses and develops an ESEE analysis that results in a determination that the resource site is important relative to any conflicting uses.

Goal 6, Air, water and land resources quality:

RESPONSE: Goal 6 provides for the protection of the quality of the air, water and land resources of the state. The Goal requires local comprehensive plans and implementing measures to be consistent with state and federal environmental regulations. Goal 6 is met in this application because the Applicant will comply with all applicable environmental rules and regulations. The Applicant will adhere to Department of Environmental Quality Standards governing air and water quality at the site. The Applicant will also file a Storm Water Pollution Plan with DEQ that will insure that any storm water run-off from the site will not impact the ground or surface waters of the state. Mining activity will be governed by an Operating and Reclamation Plan approved by DOGAMI. Applicable state regulations will provide for the reclamation of the land at the conclusion of mining activity.

Goal 7, Areas subject to natural disasters:

RESPONSE: Goal 7 is not applicable because the subject property is not located in an area recognized in the Comprehensive Plan as a natural disaster of hazard area.

Goal 8, Recreational needs:

RESPONSE: Goal 8 is not applicable because the subject property is not located in an area recognized in the Crook County Comprehensive Plan as appropriate for siting necessary recreational facilities.

Goal 9, Economic development:

RESPONSE: Goal 9 is designed to insure adequate opportunities for economic activities vital to the health, welfare and prosperity of Oregon citizens. Goal 9 is met in this instance because the Applicant seeks to develop a resource site that will provide a significant source of aggregate materials for county building projects and road construction. The additional source of low cost building materials will provide an economic benefit to the Central and Eastern Oregon regions.

Goal 10, Housing:

RESPONSE: Goal 10 requires jurisdictions to meet local housing needs. This goal is not applicable because the application does not involve the creation or elimination of residential land.

Goal 11, Public facilities:

RESPONSE: Goal 11 requires local governments to plan and develop a timely, orderly, and efficient arrangement of public facilities and service. This Goal is not applicable because no new public facilities are needed to support the proposed aggregate resource site. Development of the subject property can be accommodated without any extension of sewer, water or power systems to the site.

Goal 12, Transportation:

RESPONSE: Goal 12 encourages jurisdictions to provide a safe, convenient and economic transportation system. Goal 12 is met in connection with this application because the proposed mining operation is located at a site that has direct connection to the County highway systems. As is discussed in greater detail above, the proposed mining operation will not result in a significant amount of additional truck traffic beyond that necessary for the re-construction of area roads or local projects. Nor will it create any significant burden on the state highway or local road system.

Goal 13, Energy Conservation:

RESPONSE: Goal 13 requires land uses to be developed and managed so as to maximize the conservation of all forms of energy. Goal 13 is met with this application because the proposed mining operation is located on the northern edge of a recently awarded highway project funded by the federal government. There are other potential projects in the planning project for this area as well. All processing will occur on site. The permitting of the mining site will result in a conservation of resources and energy in compliance with Goal 13.

Goal 14, Urbanization:

RESPONSE: Goal 14 is not applicable to this application because the subject property has not been designated as an area for urban expansion.

Goal 15, 16, 17, 18, 19:

RESPONSE: Goals 15, 16, 17, 18 and 19 are not applicable because they govern the Willamette greenway, estuarine resources, coastal shore land, beaches and dunes and ocean resources. These resources are not present in Crook County.

OREGON ADMINISTRATIVE RULES

OAR Chapter 660, Division 12, Transportation Planning

660-12-060, Plan and Land Use Regulation Amendment:

(1) **Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that the allowed land uses are consistent with the identified function, capacity, and level of service of the facility. This shall be accomplished by either:**

- (a) **Limiting allowed land uses to be consistent with the planned function, capacity and level of service of the transportation facility;**
- (b) **Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; or**
- (c) **Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other models.**

(2) **A plan or land use regulation amendment significantly affects a transportation facility if it:**

- (a) Changes the functional classification of an existing or planned transportation facility;
- (b) Changes standards implementing a functional classification system;
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
- (d) Would reduce the level of service of the facility below minimum acceptable level identified in the TSP.

(3) Determinations under section (1) and (2) of this rule shall be coordinated with affected transportation facility and service providers and other affected local government.

RESPONSE: Mining activities on the subject property should generate no more than 30-45 trips per day during peak road construction periods and no more than 2-5 trips per day on average when used for small local projects. This level of traffic will not change the functional classification of Beaver Creek or Rager Ranger Station Roads as Rural Major Collectors or change the standards implementing a functional classification system. The level of land use on the subject property is so low that it will not result in levels of travel or access which are inconsistent with the functional classification of the facility nor will it reduce the level of service of the facility below the minimum acceptable level identified in the TSP. The U.S. Forest Service is the government entity that presently has jurisdiction over this portion of Rager Ranger Station Road. The Crook County Road Department will be assigned jurisdiction following completion of the roadway re-construction project.

OAR Chapter 660, Division 016, Requirements and Application Procedures for Complying with Statewide Goal 5.

RESPONSE: Division 016 contains requirements for Goal 5 resources. A copy of this Division is attached. All applicable application and ESEE requirements have been met by this application.

SUMMARY:

The Applicant believes that compliance with all applicable goals, policies, criteria and standards is hereby demonstrated to be achievable. Therefore, the Comprehensive Plan should be amended to include the site on the inventory of mineral and aggregate resources, and mining should be allowed at the site in accordance with the submitted plan. The Applicant will gladly provide any additional information deemed necessary to the Planning Staff or the Planning Commission upon request in order to facilitate the County's review of the project. Thank you for your consideration.



Craig Kilpatrick, Land Use Consultant

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COUNTY PLANNING DEPT.

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