



Oregon

Theodore R. Kulongoski, 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

06/25/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: Lane County Plan Amendment
DLCD File Number 006-10

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: Friday, July 06, 2012

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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Deanna Wright, Lane County
Jon Jinings, DLCD Community Services Specialist
Amanda Punton, DLCD Natural Resources Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

In person electronic mailed

**D
A
T
E

S
T
A
M
P**

DEPT OF

JUN 18 2012

**LAND CONSERVATION
AND DEVELOPMENT**

For Office Use Only

Jurisdiction: **LANE COUNTY**

Local file number: **PA 09-5082**

Date of Adoption: **6/13/2012**

Date Mailed: **6/14/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 7/28/2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN TO ADD A QUARRY SITE TO THE INVENTORY OF SIGNIFICANT MINERAL AND AGGREGATE SITES; AUTHORIZE MINING AND PROCESSING AS PROVIDED BY OREGON ADMINISTRATIVE RULES (OAR) 660-023-180; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (FILE PA 09-5082; PRECISION AGGREGATE PRODUCTS, INC.)

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 006-10 (18434) [17085]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DOGAMI, ODOT

Local Contact: **Deanna Wright**

Phone: **(541) 682-4082** Extension:

Address: **3050 N. Delta Highway**

Fax Number: **541-682-3947**

City: **Eugene, Or.**

Zip: **97408-**

E-mail Address: **deanna.wright@co.lane.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. **Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.**
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail **plan.amendments@state.or.us**.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1277

IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN TO ADD A QUARRY SITE TO THE INVENTORY OF SIGNIFICANT MINERAL AND AGGREGATE SITES; AUTHORIZE MINING AND PROCESSING AS PROVIDED BY OREGON ADMINISTRATIVE RULES (OAR) 660-023-180; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES. (FILE PA 09-5082; PRECISION AGGREGATE PRODUCTS, INC.)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the planning jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendment of the Rural Comprehensive Plan; and

WHEREAS, Oregon Administrative Rules (OAR) Chapter 660 Division 23 sets forth procedures for amendment of the Goal 5 Inventory of Significant Mineral & Aggregate Sites within Lane County as well as addressing requests for a post-acknowledgment plan amendment (PAPA) affecting those sites; and

WHEREAS, on February 18, 2009, application no. PA 09-5082 was made for a major amendment to add a site to the Lane County Goal 5 Inventory of Significant Mineral & Aggregate Sites and authorize mining and processing, on tax lots 500, 600 & 901 of map 15-05-16; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing on September 21, 2010, and deliberated on November 23, 2010, and forwarded the matter to the Board with formal Planning Commission recommendations; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted a public hearing and is now ready to take action.

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. The Lane County Rural Comprehensive Plan is hereby amended to add the subject site, as shown on the Mining Area Map in Exhibit "A" attached and incorporated here and depicted on tax lots 500, 600 & 901 of map 15-05-16 as the quarry mining area to be added for the extraction and processing of aggregate resources, to the Goal 5 Inventory of Significant Mineral and Aggregate Sites identified and included in Appendix "D" of the "Mineral and Aggregate Resources Working Paper" as known mineral resources to be conserved for present and future mineral and aggregate use based on the findings and conclusions as described in Exhibit "B" attached and incorporated herein.

ORDINANCE NO. PA 1277, IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN TO ADD A QUARRY SITE TO THE INVENTORY OF SIGNIFICANT MINERAL AND AGGREGATE SITES; AUTHORIZE MINING AND PROCESSING AS PROVIDED BY OREGON ADMINISTRATIVE RULES (OAR) 660-023-180; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (FILE PA 09-5082; PRECISION AGGREGATE PRODUCTS, INC.)

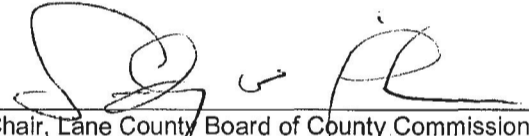
Section 2. The request for approval to authorize mining and processing on the subject site pursuant to OAR 660-023-180 and LC 16.212(4) is hereby granted based on findings and conclusions as described in Exhibit "B" attached and incorporated herein, and subject to compliance with the conditions of approval contained therein and the Planning Director is hereby delegated authority to sign the permit and monitor ongoing mining and processing operations, as necessary, consistent with this approval.

The prior designation status and zone authorizations replaced by this Ordinance shall remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

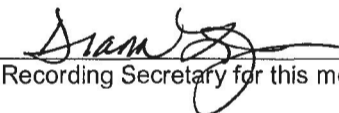
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

FURTHER, although not a part of this Ordinance except as described above, the Board of County Commissioners adopts Findings and Conclusions as set forth in Exhibit "B" attached and incorporated here by this reference, in support of this action.

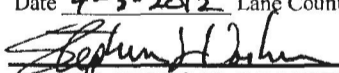
ENACTED this 13th day of June, 2012



Chair, Lane County Board of County Commissioners



Recording Secretary for this meeting of the Board

APPROVED AS TO FORM
Date 4-3-2012 Lane County


OFFICE OF LEGAL COUNSEL

ORDINANCE NO. PA 1277, IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN TO ADD A QUARRY SITE TO THE INVENTORY OF SIGNIFICANT MINERAL AND AGGREGATE SITES; AUTHORIZE MINING AND PROCESSING AS PROVIDED BY OREGON ADMINISTRATIVE RULES (OAR) 660-023-180; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (FILE PA 09-5082; PRECISION AGGREGATE PRODUCTS, INC.)

NOTICE OF LAND USE DECISION
BY THE LANE COUNTY BOARD OF
COMMISSIONERS



Mailing Date: 6/14, 2012
Department Files: PA 09-5082
Applicant: Precision Aggregate Products, Inc.
Owner: BTM Vision LLC
Agent: Thom Lanfear / Lanfear Consulting LLC & Joseph Leahy, Attorney
Assessor's Map & Tax Lot: 15-05-16 Tax Lots 500, 600, & 901
Site Address: 95718 Territorial Highway
Contiguous Property: None
Zone: Exclusive Farm Use (E-40) Zone

LAND MANAGEMENT DIVISION
http://www.LaneCounty.org/PW_LMD/

You own or occupy property near the above referenced property that is the subject of a land use application for to amend the Lane County Rural Comprehensive Plan (RCP) to add a quarry site to the Inventory of Significant Mineral and Aggregate Sites; and authorize mining and processing as provided by Oregon Administrative Rules (OAR) 660-023-0180, subject to **the conditions of approval are contained in the attached Exhibit B.**

Notice to mortgagee, lien holder, vendor or seller: ORS Chapter 215 requires that if you receive this notice, it must be forwarded to the purchaser.

PROPOSAL: Board of County Commissioners approval of a request to amend the RCP to include the proposed site on the Inventory of Significant Mineral and Aggregate Sites and Board & Planning Director approval for a request for mining more than 1,000 cubic yards of materail and processing in the Exclusive Farm Use (E-40) Zone in accordance with the criteria of Lane Code 16.212(4)(y) & (z) and OAR 660-023-0180. Specifically, the applicant is requesting to mine and process not more than 2 million tons of material on the subject property.

Enclosed is a plot plan of the subject property.

**The proposed use authorized by approval of the land use application is:
mining and processing of not more than 2 million tons of material.**

The application, all documents and evidence relied upon by the applicant, the applicable criteria, and a copy of the Lane County BCC & Planning Director approval are available for inspection at the Lane County Land Management Division at no cost, and copies will be provided at reasonable cost. The name of the Lane County Land Management Division representative to contact is **Deanna Wright** and the telephone number where more information can be obtained is **(541) 682-4082**.

On June 13, 2012, via **Ordinance No. PA 1277** (attached) the Lane County Board of Commissioners approved the Lane County Rural Comprehensive Plan amendment to include the site on the Inventory of Significant Mineral and Aggregate Sites requested in the

application. The purpose of this notice is to inform you about the decision, including the decision to approve the request for mining and processing of up to 2 million tons of material on the subject property. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by contacting the Land Use Board of Appeals (LUBA) within the time period as provided below. Any appeal of this decision must be filed with the Land LUBA in Salem within **21 days of the final date of the decision** (pursuant to OAR 661-010-0015). For information on the appeal process, contact LUBA at:

Land Use Board of Appeals
550 Capitol St., NE, Suite 235
Salem, Or. 97301-2552
Phone: 503-373-1265
Website: <http://www.oregon.gov/LUBA/>

Prepared by: Deanna Wright Date: June 13 2012
Deanna Wright, Planner

Authorized by: Kent Howe Date: 13 Jun '12
Kent Howe, Planning Director

**Lane County Planning Board of Commissioner's and
Planning Director Approval
for a Special Use Permit for
Mining and Processing in the Exclusive Farm Use Zone**

**Ordinance No. PA 1277
PA 09-5082**

Mailing Date:	<u>6/14/2012</u>
Department Files:	PA 09-5082
Applicant:	Precision Aggregate Products, Inc., Joseph Pilling
Owner:	BTM Vision LLC, Joseph Pilling
Agent:	Thom Lanfear / Lanfear Consulting LLC & Joseph Leahy, Attorney
Assessor's Map & Tax Lot:	15-05-16 Tax Lots 500, 600, & 901
Site Address:	95718 Territorial Highway
Contiguous Property:	None
Zone:	Exclusive Farm Use (E-40) Zone
Comprehensive Plan:	Lane County Rural Comprehensive Plan (/RCP)
Staff Planner:	Deanna Wright, Planner (541) 682-4082

I. PROPOSAL

Lane County Board of Commissioner's & Planning Director approval for a request for mining more than 1,000 cubic yards of material and processing in the Exclusive Farm Use (E-40) Zone in accordance with the criteria of Lane Code 16.212(4)(y) & (z) and OAR 660-023-180. Specifically, the applicant is requesting to mine and process not more than 2 million tons of material on the subject property.

II. BACKGROUND INFORMATION

On February 18, 2009, an application was received from the applicant, Joseph Pilling, to amend the Lane County Rural Comprehensive Plan to add a quarry site to the Inventory of Significant Mineral and Aggregate Sites **and** authorize mining and processing as provided by Statewide Planning Goal 5 "Post Acknowledgment Plan Amendment" (PAPA) requirements found in Oregon Administrative Rules (OAR) 660-023-0180 which were incorporated in the standards of LC 16.212(4)(y) &(z). The PAPA criteria of approval and findings are located within Ordinance No. PA 1277.

III. PROPERTY DESCRIPTION

A. Location:

The site is located approximately 4 miles northwest of Junction City at 95718 Territorial Highway, and is approximately 1 mile south of the Lane/Benton County line. The 164-acre subject property is comprised of three tax lots identified on Assessor's Map 15-05-16 as tax lots 500, 600, & 901, (see Attachment 3, subject property & vicinity map).

B. Site Description and Surrounding areas:

PA 09-5082

Notice of Land Use Decision

The property has a Plan designation of "Agriculture" within the Lane County Rural Comprehensive Plan and is zoned Exclusive Farm Use "E-40" consistent with the plan designation. No zone changes are proposed with this application.

The subject property lies in the foothills on the east side of the Coast Range, adjacent to the southern Willamette Valley. The rolling topography slopes to the southeast and ranges in elevation from 340 feet to 680 feet mean sea level. The southern portion of tax lot 500, and most of tax lot 600, consists of approximately 40 acres planted in Christmas trees. Browning Creek, which is a perennial stream and not a Class 1 Stream, traverses the southwest portion of the property.

The property is the site of an existing rock quarry operating prior to 1972. The current mining operation was authorized under a Hearings Official approval in 1988 by Planning Action, PA 88-1695 on tax lot 500. The site is identified as Precision Aggregate on the Operating Permit renewed annually with the Oregon Department of Geology and Mineral Industries (DOGAMI I.D. No. 20-0018).

The proposed expanded mining area is directly to the northwest of the existing mining area on tax lot 500 and encompasses about 13 acres. Access to the quarry is from tax lot 901, a 60 feet wide strip of land developed with a 22' – 24' wide paved road to provide access to Territorial Highway, a State Highway. The access route to the mining area extends west from Territorial Highway across tax lot 901, then diagonally northwest across tax lot 904, then northward along the eastern boundary of tax lot 600 to the existing and proposed mining areas. The easement is recorded as instrument No. 2010-046691 and grants the applicant Precision Aggregate Products, Inc. the legal right to cross over tax lot 904, a property also owned by the applicant.

IV. APPLICABLE CRITERIA AND FINDINGS OF FACT

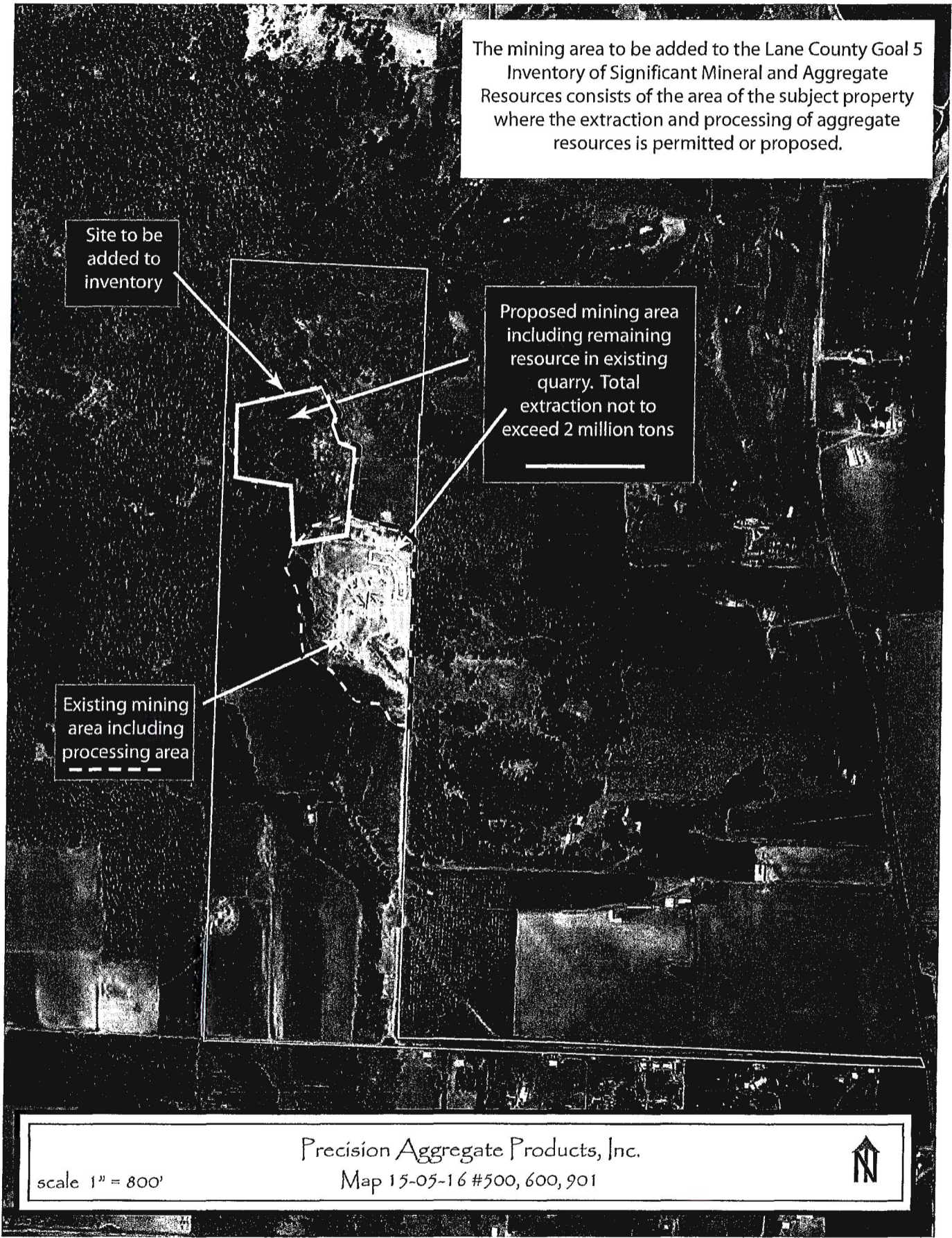
This review is evaluated pursuant to the applicable criteria found in Lane Code 16.212(4)(y) & (z) and OAR 660-023-0180. All of the findings for approval are in the Ordinance No. PA 1277 findings in Exhibit B attached and incorporated herein by reference.

VI. DECISION

Based upon the findings included and in Ordinance No. PA 1277, the mining and processing request in the Exclusive Farm Use (E-40) Zone pursuant to Lane Code 16.212 (4)(y) & (z) and applicable Goal 5 OAR criteria, is hereby, **APPROVED, subject to the conditions stated in Exhibit B of Ordinance No. PA 1277.**

PA 09-5082

Notice of Land Use Decision



The mining area to be added to the Lane County Goal 5 Inventory of Significant Mineral and Aggregate Resources consists of the area of the subject property where the extraction and processing of aggregate resources is permitted or proposed.

Site to be added to inventory

Proposed mining area including remaining resource in existing quarry. Total extraction not to exceed 2 million tons

Existing mining area including processing area

scale 1" = 800' Precision Aggregate Products, Inc. Map 15-05-16 #500, 600, 901



Exhibit "A"

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF
LANE COUNTY, OREGON**

IN THE MATTER OF THE POST ACKNOWLEDGMENT)
PLAN AMENDMENT (PAPA) TO ADD A QUARRY SITE TO)
THE INVENTORY OF SIGNIFICANT MINERAL AND)
AGGREGATE SITES AND AUTHORIZE MINING AND)
PROCESSING AS PROVIDED BY OREGON)
ADMINISTRATIVE RULES (OAR) 660-023-180 AND)
ADOPTING SAVINGS AND SEVERABILITY CLAUSES)
(FILE PA 09-5082; PRECISION AGGREGATE PRODUCTS, INC.)

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND
CONDITIONS IN THE MATTER OF ORDINANCE NO. PA 1277

- I. A. Applicant:** Precision Aggregate Products, Inc.
Joseph Pilling, President
95718 Territorial Highway
Monroe, OR 97456
- Owner:** BTM Vision LLC
95718 Territorial Highway
Monroe, OR 97456
- Agents:** Thom Lanfear / Lanfear Consulting LLC
541 Willamette St. Suite 401
Eugene, OR 97401
- Joseph J. Leahy / Leahy, Van Vactor & Cox LLP
223 A Street, Suite D
Springfield, OR 97477

B. Proposal:

Amend the Lane County Rural Comprehensive Plan(RCP) to add a quarry site to the inventory of Significant Mineral and Aggregate Sites and authorize mining and processing as provided by Statewide Planning Goal 5 "Post Acknowledgment Plan Amendment" (PAPA) requirements found in Oregon Administrative Rules (OAR) 660-023-180. The applicant proposes to continue extraction to the northwest on the subject property while utilizing the existing processing area consistent with the practices of the last 24 years. Exhibit "A" delineates the area to be added to the County inventory of significant mineral and aggregate sites. In accordance with the OAR and statutory definitions of "mining area", "mining" and "processing", it includes all the area that is

used for the extraction and processing of the resource: the current processing area, the remaining extraction area in the existing quarry, and the expanded extraction and processing area. Upon adoption of this Ordinance, the applicant will no longer be operating the quarry under the old Special Use Permit but under a modern operating permit that meets the current Mineral and Aggregate requirements found in Goal 5 Administrative Rules.

The current mining area within the subject property will continue to operate in conformance with the existing Special Use Permit PA 1695-88 until adoption of this Ordinance by the Board of Commissioners to add the site to the Goal 5 Significant Mineral and Aggregate Inventory for Lane County and authorize mining and processing. The existing mining area will continue to be used for the processing of rock and stockpiling of aggregate as the excavation proceeds northwest into the expansion area as shown on Figure 4 of "Mining and Reclamation Plan May 2009" prepared by EGR & Associates, Inc.

The record contains a map from EGR and Associates that illustrates the area remaining to be excavated within the existing mine site consists of a volume of rock calculated to be approximately 38,500 cubic yards. Consistent with the calculations of tonnage provided for the expansion area in "Geology, Hydrogeology and Resource Report: Precision Aggregate Products, February 2009", an estimated 98,752 tons of material remain to be mined in the existing mining area. This amount of material, when added to the estimated 1.9 million tons of material proposed to be mined from the expansion area, remains less than 2 million tons and may be determined to be significant under the provisions of OAR 660-023-0180(4)(a).

II. SITE AND PLANNING PROFILE

A. Location

The site is located approximately 4 miles northwest of Junction City at 95718 Territorial Highway. The 164-acre subject property is comprised of three taxlots identified on Assessor's Map 15-05-16 as taxlots 500, 600, & 901.

B. Zoning

The property has a Plan designation of "Agriculture" within the Rural Comprehensive Plan and zoned Exclusive Farm Use "E-40" consistent with that designation.

C. Site Characteristics

The subject property lies in the foothills on the east side of the Coast Range, adjacent to the southern Willamette Valley. The rolling topography slopes to the southeast and ranges in elevation from 680 feet to 340 feet mean sea level. The southern portion of taxlot 500, and most of taxlot 600, consists of approximately 40 acres planted in Christmas trees. Browning Creek traverses the southwest portion of the property. The property is the site of an existing quarry operating prior to 1972. The current mining operation was authorized under Hearings Official approval PA 1695-88 on taxlot 500.

The site is identified as Precision Aggregate (I.D. No. 20-0018) on the Operating Permit renewed annually by the Oregon Department of Geology and Mineral Industries (DOGAMI). The proposed mining area is directly to the northwest of the existing mining area on taxlot 500. Taxlot 901 is a 60 feet wide strip of land developed with a 22' – 24' wide paved road to provide access to Territorial Highway, a State Highway. The access to the mining area extends west from Territorial Highway across taxlot 901, then diagonally northwest across taxlot 904, then northward along the eastern boundary of taxlot 600 to the existing and proposed mining areas. The easement recorded at 2010-046691 grants the applicant Precision Aggregate Products, Inc. the legal right to cross over taxlot 904, a property owned by Joseph Pilling.

D. Surrounding Area

The area surrounding the subject property is illustrated on Exhibit "B".

Property to the north, identified as Map 15-05-09 taxlot 400, is zoned Exclusive Farm Use E40. The property is 40 acres in size, developed with a residence at 96366 Territorial Highway. The property is wooded and in forest deferral.

There are seven properties to the east of the subject property, all within Map 15-05-16 and zoned Exclusive Farm Use E-40.

1. Taxlots 900, 903, and 801 are 81 acres in size located immediately east of taxlot 904 and north of the paved access road on taxlot 901. The property is developed with a residence at 95818 Territorial Highway and used for pasture and livestock grazing.
2. Taxlots 700 & 800 are 94 acres in size, developed with residences at 95700, 95854, & 95850 Territorial Highway and used for the production of timber and Christmas trees.
3. Taxlot 101 is 35 acres in size, developed with a residence at 95990 Territorial Highway and used for timber production.
4. Taxlot 400 is 26 acres in size, undeveloped, and used for timber production.
5. Taxlot 102 is 10 acres in size, developed with a residence at 96100 Territorial Highway, and used for timber production.
6. Taxlot 100 and Map 15-05-09 taxlot 600 are 160 acres developed with the Diamond Woods Golf Course at 96040 Territorial Highway.
7. Taxlot 904 is 20 acres in size and used for Christmas tree production. It is owned by the operator of the quarry and provides access on the paved road from the panhandle taxlot 901 to the quarry area on taxlot 500. The easement recorded at 2010-046691 grants the legal right for access over taxlot 904.

Property to the south is identified as Map 15-05-21 taxlot 601. The property is approximately 40 acres in size, undeveloped and used for timber production. Properties adjacent to the paved access strip (taxlot 901) consist of 11 Rural Residential lots within the Liddell Tracts Subdivision. Each is developed with a residence with access from Berg Drive.

Property to the west consists of two parcels used for timber production and Christmas trees within Map 15-05-17 and 15-05-20. Taxlots 200 and 100 are approximately 380 acres in size, undeveloped with a residence, and managed as the Chase Brothers Tree Farm for timber and Christmas trees. Taxlot 301 is approximately 159 acres in size, undeveloped with a residence, and used for timber production in the Exclusive Farm Use Zone (E-40).

E. Services & Resources

Fire: Monroe Rural Fire Protection District.

Police: County Sheriff, State Police

Water: on-site well

School District: Monroe 1J

Power: Blachly-Lane Cooperative

Access: Territorial Highway (State)

Class I Stream: none identified on the subject property. Browning Creek is not designated a Class I Stream

Historical: none identified on the subject property

Archaeological: none identified on the subject property

Sensitive Habitat: The property is within the Impacted Big Game Range

Water Quantity: The property is not located within a water quantity limited area.

Wetlands: No wetlands are identified near the quarry area. A wetland stream is identified west of the existing paved access road traversing taxlots 600 and 500 from northwest to southeast

IV. CRITERIA AND ANALYSIS

A. Character of the Request

This application request is characterized as a Post-Acknowledgement Plan Amendment (PAPA) to the Lane County Rural Comprehensive Plan (RCP). The applicant requests that the existing and proposed mining area be recognized as a significant Goal 5 aggregate resource, added to the Lane County Significant Mineral and Aggregate Resources Inventory, and granted approval to conduct mining and processing of the resource.

B. Evaluation

The applicant has addressed the Goal 5 requirements of Oregon Administrative Rules (OAR) 660-023 which authorizes Lane County to add the site to the Lane County Rural Comprehensive Plan "Significant Mineral and Aggregate Resources Inventory" and authorize mining and processing of the resource. The Lane Code requirements of LC 16.400 that govern review of Plan Amendments are also addressed below.

1. Classification of Amendment

LC 16.400(8)(a) Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:

- (i) *Minor Amendment.* An amendment limited to the Plan Diagram only and, if requiring an exception to Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.
- (ii) *Major Amendment.* Any amendment that is not classified as a minor amendment.

The applicant requests that the Lane County Significant Mineral and Aggregate Resources Inventory be amended to include the area of the subject property utilized for mining. Since the proposal does not require an amendment to the Plan Diagram only, the Board finds that the amendment is classified as a Major Amendment.

2. Plan Amendment Criteria

a. Lane Code 16.400(6)(h)(iii)

The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:

- (aa) *For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.*

The Oregon Land Use Board of Appeals (LUBA) and the Oregon Court of Appeals have determined that the Goal 5 rule for mineral and aggregate establishes a comprehensive regulatory scheme that is intended to supersede local review standards for aggregate. *Eugene Sand and Gravel, Inc. v. Lane County, 44 Or LUBA 50 (2003)*. The applicable requirements for review of this application are found in the Oregon Administrative Rules and the Statewide Planning Goals only. The decision in *Eugene Sand and Gravel, Inc* was based upon OAR 660-023-0180(2)(c) and OAR 660-023-0180(9)(a) formerly (7). Section (9) has not changed since the date of that LUBA decision while subsection (2)(c) was amended in 2004 to include subsection (6) that is applicable to the approval of the mining and processing proposed in this application. Since Lane County has not amended its' Rural Comprehensive Plan, mineral and aggregate policies, and land use regulations after 1989 to include procedures and requirements consistent with the 1996 and 2004 administrative rule changes for the consideration of PAPAs concerning aggregate resources, the Board finds that the review of this application is limited to those criteria identified within the Goal 5 Rule.

- (bb) *For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:*

- (i-i) *necessary to correct an identified error in the application of the Plan; OR*
- (ii-ii) *necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR*
- (iii-iii) *necessary to comply with the mandate of local, state or federal policy or law; OR*
- (iv-iv) *necessary to provide for the implementation of adopted Plan policy or elements; OR*
- (v-v) *otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.*

This request is in conformance with Lane Code 16.400(6)(h)(iii)(bb)(iii-iii) above. Lane County is mandated to comply with the Oregon Administrative Rule (OAR) 660-023-180(2) which states: "Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a PAPA, or at periodic review as specified in OAR 660-023-0180(7)" (emphasis added). This proposal is a request for a Post Acknowledgement Plan Amendment (PAPA) to add this site to the significant Mineral & Aggregate Resource Inventory. The Board finds that it is necessary to amend the Rural Comprehensive Plan to comply with the mandate of the identified state rule.

- b. *Lane Code 12.050(2)*
The Board may amend or supplement the comprehensive plan upon a finding of:
 - (a) *an error in the plan; or*
 - (b) *changed circumstances affecting or pertaining to the plan; or*
 - (c) *a change in public policy; or*
 - (d) *a change in public need based on a reevaluation of factors affecting the plan; provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.*

The Board finds that this amendment request complies with LC 12.050(2)(c) above. The change in public policy is reflected in the Goal 5 Rule adopted by LCDC for mineral and aggregate sites in 1996 and more specifically the changes adopted for smaller sites on farmland adopted in 2004.

3. **Oregon Administrative Rules (OAR)**

Statewide Planning Goal 5 was amended on June 14, 1996 and the Amendment became effective September 1, 1996. Accompanying Oregon Administrative Rules 660, Division 23 was amended and became effective on the same date. A subsequent amendment to the rules occurred effective June 25, 2004 which is applicable to small mineral and aggregate mine sites such as the one proposed on

the subject property. The application addresses the relevant provisions of OAR 660, Division 23 regarding mineral and aggregate resources.

A. PROCESS

OAR 660-023-180 is the section of Oregon Administrative Rules 660, Division 23 that applies specifically to mineral and aggregate resources. OAR 660-023-180(2) states:

“Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a post acknowledgement plan amendment (PAPA) or at periodic review as specified in section (9) of this rule. The requirements of this rule modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:”

(a) A local government may inventory mineral and aggregate resources throughout its jurisdiction, or in a portion of its jurisdiction. When a local government conducts an inventory of mineral and aggregate sites in all or a portion of its jurisdiction, it shall follow the requirements of OAR 660-023-0030 except as modified by subsection (b) of this section with respect to aggregate sites. When a local government is following the inventory process for a mineral or aggregate resource site under a PAPA, it shall follow the applicable requirements of OAR 660-023-0030, except where those requirements are expanded or superceded for aggregate resources as provided in subsections (b) through (d) of this section and sections (3), (4) and (8) of this rule;

(b) Local governments shall apply the criteria in section (3) or (4) of this rule, whichever is applicable, rather than OAR 660-023-0030(4), in determining whether an aggregate resource site is significant;

(c) Local governments shall follow the requirements of section (5) or (6) of this rule, whichever is applicable, in deciding whether to authorize the mining of a significant aggregate resource site, and OAR 660-023-0040 through 660-023-0050 in deciding whether to authorize mining of a significant mineral resource; and

(d) For significant mineral and aggregate sites where mining is allowed, except for aggregate sites that have been determined to be significant under section (4) of this rule, local governments shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses.

As directed by OAR 660-023-0180(2)(a) above, Lane County is required to amend the acknowledged mineral and aggregate inventory in response to this

application for a Post Acknowledgement Plan Amendment (PAPA) provided the relevant criteria are met. The Goal 5 Rule provides two avenues to add a mineral and aggregate site to the inventory and authorize mining, characterized by staff as "large" and "small". Large sites are subject to Sections (3) and (5) while small sites may use Sections (4) and (6). Subsection (2)(b) states that "the local governments shall apply the criteria in section (3) or (4) of this rule, whichever is applicable." Section (4) is applicable only on "farmland" and whenever the "quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley". OAR 660-023-0180(4)(a). In this instance, the property is within the Exclusive Farm Use Zone and the applicant proposes to mine less than 2,000,000 tons of material from the site. The Board finds that review of this proposal to mine a quantity of aggregate less than 2,000,000 tons, OAR 660-023-0180(2) directs the use of OAR 660-023-0180(4) to determine whether the aggregate resource site is significant, and the use of OAR 660-023-0180(6) to evaluate whether to authorize mining and processing of the resource. The relevant provisions are addressed below.

B. DEFINITIONS

The relevant criteria for review of the proposal include several terms or phrases which are defined in OAR 660-023-0180(1) and several that rely upon definitions found in the Oregon Revised Statutes (ORS):

OAR 660-23-0010(4) "Inventory" is a survey, map or description of one or more resources sites that is prepared by a local government...that includes information about the resource values and features associated with such sites.

OAR 660-023-0010(10) "Resource Site" is a particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include the area consisting of two or more contiguous lots or parcels.

OAR 660-023-0180(1)

(a) "Aggregate resources" are naturally occurring concentrations of stone, rock, sand gravel, decomposed granite, limestone, pumice, cinders, and other naturally occurring solid materials commonly used in road building or other construction.

(f) "Mineral resources" are those materials and substances described in ORS 517.750(7) but excluding materials and substances described as "aggregate resources" under subsection (a) of this section.

(h) "Mining" is the extraction and processing of mineral or aggregate resources, as defined in ORS 215.298(3) for farmland, and in ORS 517.750 for land other than farmland.

(i) *"Mining area" is the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.*

(j) *"Processing" means the activities described in ORS 517.750(10)*¹.

ORS 517.750 (11) *"Processing" includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and portland cement concrete located within the operating permit area.*

ORS 215.010(5) *"The Willamette Valley" is Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range.*

ORS 215.298 *Mining in exclusive farm use zone; land use permit.*

(1) *For purposes of ORS 215.213 (2) and 215.283 (2), a land use permit is required for mining more than 1,000 cubic yards of material or excavation preparatory to mining of a surface area of more than one acre. A county may set standards for a lower volume or smaller surface area than that set forth in this subsection.*

(2) *A permit for mining of aggregate shall be issued only for a site included on an inventory in an acknowledged comprehensive plan.*

(3) *For purposes of ORS 215.213 (2) and 215.283 (2) and this section, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines.*

C. GOAL 5 ANALYSIS

Division 23 of the Administrative Rules Chapter 660 establishes the procedures and criteria for evaluating Goal 5 resources. The Board finds that the application addresses the relevant criteria to determine the significance of the resource, add the mining area to the Significant Mineral and Aggregate

¹ The 2007 Legislature adopted Senate Bill 149 which changed the ORS numbering for the definition of "processing" to ORS 517.750(11) effective January 1, 2008

Inventory of the Lane County Rural Comprehensive Plan, and allow mining and processing of the resource.

Exhibit "A" to the proposed Ordinance shows the area to be added to the County inventory of significant mineral and aggregate sites. In accordance with the OAR and ORS definitions of "mining area, mining and processing", it includes all the area that is used for the extraction and processing of the resource: the current processing area, the remaining extraction area in the existing quarry, and the expanded extraction and processing area. The area does not include the access road because it does not meet the definition of a "mining area" or "resource site" as defined in the Rule.

1. Significance of the Resource

OAR 660-023-0180(4) *Notwithstanding section (3) of this rule, a local government may also determine that an aggregate resource site on farmland is significant if subsections (a) and (b) of this section apply or if subsection (c) of this section applies:*

(a) The quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley, or 500,000 tons or less for a site outside the Willamette Valley; and

The subject property is located within the Willamette Valley south of Monroe, west of Territorial Highway. The applicant requests approval to mine approximately 1,900,000 tons of rock (740,000 cubic yards) from the expanded aggregate resource site and an estimated 98,752 tons of material remaining to be mined in the existing mining area. This quantity of material has been determined by EGR & Associates in the accompanying report "Geology, Hydrogeology and Resource Report: Precision Aggregate Products, February 2009" and a map of the existing resource area. The Board finds that the estimated material to be mined from the site in the Willamette Valley is 2,000,000 tons or less.

(b) Not more than 35 percent of the proposed mining area consists of soil
(A) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or
(B) Classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in paragraph (B) of subsection (3)(d) of this rule; or

As determined by the NRCS maps² available on June 11, 2004, the proposed mining area is comprised of the following soil map units: Bellpine (11D, 12E),

² Soil Survey of Lane County Area, Oregon, September 1987

Jory (63D), Nekia (89D, 89F), Ritner (113C, 113E), and Witzel (138E). None of soil map units are classified as Class I, Class II, or Unique. Soil map units of Abiqua (1A) and McAlpin (78), are classified as Class I and Class II respectively, but are found only in the southern portion of the subject property used for Christmas tree production. No mining has occurred in the past or is proposed within the Class I or II soils. The Board finds that the mining area does not consist of any Class I or II soils.

(c) A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination.

The existing quarry is operating under a Hearings Official approval (PA 1695-88) issued on September 6, 1988 which is still in effect. No action to revoke the permit has been taken by the County.

The Board finds that the proposal to mine less than 2,000,000 tons of aggregate material complies with the criteria identified above to allow designation as a "significant" aggregate resource within Lane County. The Board finds that the applicant is not required to either demonstrate that the quality of the aggregate resource meets ODOT requirements or evaluate the total amount of resource on the property. As documented in the Legislative history of the 2004 Goal 5 Rule revisions, the provision for "small" sites" under Section (4) of the rule intentionally excludes those requirements. The Department of Land Conservation and Development (DLCD) staff report for adoption of the revision contains the following statement: "(n)ote that no specific 'quality' criteria are specified." At the Land Conservation and Development Commission (LCDC) meeting where the amendments were adopted, DLCD staff stated to the Commission: "we are proposing a new process for small sites that have no significance requirements." When discussing the necessity to demonstrate how much aggregate is available, DLCD staff stated: "...the operator doesn't have to actually prove how much is available on the site." Important to the LCDC subcommittee was also the fact that these small scale quarries would only be authorized on lower quality farm land thereby preserving higher quality farmland for agricultural rather than Goal 5 uses.

2. Authorization of Mining and Processing

OAR 660-023-0180(6) For an aggregate site on farmland that is determined to be significant under section (4) of this rule, the requirements of section (5) of this rule are not applicable, except for subsection (5)(f), and the requirements of OAR 660-023-0040 through 660-023-0050 are not applicable. Instead, local governments shall decide whether mining is permitted by applying subsections (a) through (d) of this section:

The Board finds that this provision identifies the relevant criteria to be used by Lane County to determine if mining shall be permitted on the proposed site. These criteria consist of OAR 660-023-0180(5)(f) and OAR 660-023-0180(6)(a) through (d). These criteria are addressed below.

OAR 660-023-0180(6)(a) The proposed aggregate mine shall satisfy discretionary conditional use permit approval standards adopted by the local government pursuant to applicable requirements of ORS 215.213(2) or 215.283(2), and the requirements of ORS 215.296 and 215.402 through 215.416;

Lane County has adopted discretionary conditional use permit approval standards pursuant to ORS 215.213(2) into Lane Code 16.212(4)(y)(iii). The criteria are substantially identical to ORS 215.296(1)(a) and (b) below and require review of the potential impacts to accepted farm and forest practices conducted on lands devoted to farm or forest use. The Board finds that the application submitted to Lane County requests both the addition of the site to the inventory of significant aggregate sites and the authorization of mining and processing. No additional application is necessary under the Goal 5 Rule provisions. The Goal 5 Rule contains the applicable requirements for review of this application to allow issuance of a permit to authorize mining concurrently with the addition of the site to the significant inventory. OAR 660-023-0180(6) directs that "local governments shall decide whether mining is permitted by applying subsections (a) through (d) ..." This provision requires the County to decide whether mining is permitted once it is determined to be significant. The Board finds that there is no basis to require a subsequent redundant Conditional Use Permit application following addition of the site to the inventory. The Goal 5 Rule contains all the necessary review procedures and criteria to authorize mining and processing of the aggregate resource on the property, and use of the existing access road to Territorial Road.

The Wilson case (*Wilson v. Washington County*, LUBA #2011-007) stands for the proposition that an access road is part of the use, and cannot cross a zone where that use is not permitted. In this case, the application includes the access road. The access road traverses the same zoning district (EFU) its entire length. Sand and gravel extraction is a conditional use (in Lane County called a Special Use) in EFU, LC 16.212(y) and (z). The application is to authorize the use pursuant to the Goal 5 Rule consistent with Lane County EFU zone which mirrors the Rule. The application is consistent with the holdings in the Wilson, supra, case and a violation of the EFU zoning district simply does not exist in this case.

Lane Code 16.257(2)(a) is Lane County's site review process. This requirement is not applicable as the zone is not Quarry Mining. The use is

being authorized by the Rule, not the Lane Code. The Eugene Sand, supra, case makes it clear that the Rule is the comprehensive process by which mining is to be allowed. Also, the mining location and the access road were all part of the application. Note section 16.257(3) of the Lane Code which indicates site review is not required when a SUP is required. Since the application covers the substance of a SUP application, LC 16.257(3) is not applicable.

Subsequent to the adoption of this Ordinance, the Planning Director is authorized to monitor the operation, and any proposals for modification of the operating permit shall be reviewed and processed as a Special Use Permit authorized by Lane Code 16.212(4)(y).

ORS 215.296 Standards for approval of certain uses in exclusive farm use zones; violation of standards; complaint; penalties; exceptions to standards.

(1) A use allowed under ORS 215.213 (2) or 215.283 (2) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

(9)(a) The standards set forth in subsection (1) of this section do not apply to farm or forest uses conducted within:

(A) Lots or parcels with a single-family residential dwelling approved under ORS 215.213 (3), 215.284 (1), (2), (3), (4) or (7) or 215.705;

(B) An exception area approved under ORS 197.732; or

(C) An acknowledged urban growth boundary.

The operating characteristics of the proposed mining and processing will differ from the existing mining operations in the following manner:

1. Blasting duration and intensity will occur in the same manner as the last 24 years. The same level of explosives will continue to be utilized but the area of blasting will move to the northwest as the mining progresses. The frequency of the events will change from a maximum of 6 times per year to a maximum of 3 times per month and totaling not more than 12 times per year.
2. Crushing will continue to occur at the same location and in the same manner as the last 24 years. An additional crusher will be added in the expanded extraction area to the northwest after extraction has proceeded substantially into the new area. The hours of operation of the crushers will

only be extended by ½ hour from 5:00pm to 5:30 pm Monday through Saturday.

3. The hauling of rock will continue to occur on Monday through Friday during 8:00 am to 5:00 pm. The expanded hours proposed in this application will allow hauling to begin 1 hour earlier and last 1 hour longer Monday through Friday. The proposed expansion would also allow hauling to occur on Saturday from 7:00 am to 6:00 pm. The new proposal restricts all activities on January 1, Memorial Day, July 4, Labor Day, Thanksgiving Day and December 25.
4. Truck travel within the panhandle access will increase from the current 10 gravel trucks per day to an average maximum of 37 trips per day which includes employee's vehicles and gravel trucks.

Surrounding Lands

The quarry area is located in the northern half of the subject property where surrounding lands are primarily devoted to the production of timber. Agricultural operations occurring near the southern half of the subject property on surrounding lands consist of the grazing of sheep, cattle, and hay production on taxlots 903 & 801 and the production of Christmas trees on taxlots 700, 200, 100, 101 & 904. A hay field is located on taxlot 100 and operated by the owner of taxlot 102. The quarry operator owns the adjacent property (904) used for Christmas tree production. Refer to Exhibit "B".

The properties located to the south of the panhandle access (taxlot 903) are located within Developed and Committed Exception Area 206-1 which was approved under ORS 197.732 in 1990 during re-acknowledgement of the Lane County Rural Comprehensive Plan (90-ACK-657). Under ORS 215.296(9), impacts to any farm or forest practices occurring on these lands are not relevant to the review of this proposal. Likewise, impacts to the existing golf course facility to the northeast are not subject to review under the criteria of ORS 215.296.

Accepted Farming Practices

ORS 215.296 requires review of impacts to "accepted farming practices" occurring on surrounding lands. That phrase is defined in ORS 215.203(2)(c) as follows: "As used in this subsection, 'accepted farming practice' means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use."

Accepted farming practices associated with the production of Christmas trees include the preparation of the land, planting of the seedling trees in a prearranged spacing to allow room for growth to full maturity. The area

between the trees is kept free of vegetation or planted in grass to prevent erosion. Weeds are controlled by mowing, cultivation and herbicides. Agricultural chemicals may be used to control insects, rodents and plant disease. The trees are pruned and shaped over the years to produce a desirable shape. Fertilizer is applied as needed. Trees are cut at the desired height and size, usually around six or seven years after planting. After the trees have been harvested, the field is prepared for another crop cycle.

Accepted farming practices associated with the production of a hay crop and the grazing of livestock (sheep, cattle, horses) include the establishment and maintenance of pasture for grazing during the growing season, and the provision of adequate shelter. Pasture plants consist of grass or grass and clover combinations that are adapted to grazing and provide nutritious livestock forage. The land is prepared through the use of various farm implements and planted with the desired seeds. Weeds, insects, rodents and plant disease are controlled as necessary utilizing agricultural chemicals. Additional fertilizer is applied to increase crop production. The hay crops are harvested during the summer by cutting the plants close to the ground level and placing the plant material in windrows. The hay is picked up and baled with self-propelled machines when the crop is sufficiently dry. The bales are moved to a storage facility or are stacked in the field for later transportation.

Evaluation of Impacts to Farm and Forest Practices

The new quarry area is located northwest of the existing quarry. This location is separated from the nearest farm use (Christmas trees) by at least 1700 feet (1/3 mile). The mining area is at least 1/2 mile from the property used for hay production and raising of sheep and cattle adjacent to the access panhandle. No impacts to the existing farm or forest practices occurring on surrounding lands are expected with this proposal since the existing quarry has operated for twenty years without generating any complaints from the neighboring properties. The newly mined material will be conveyed to the existing processing area that has been in use for the last twenty years. The operating characteristics of the operation will be similar to the existing operation except for slightly longer operating hours and an increase in truck traffic. Dust, noise, groundwater impacts, and traffic were evaluated for issuance of the Special Use Permit in 1988 with no significant impacts to farm uses identified in that review.

Owners of forested parcels to the north (Tinker), south (Knox), and west (Girard) expressed support for the proposed quarry activity during review of the application. No conflicts with existing forest practices have been identified during the review of this application or review of the 1988 Special Use Permit. The owner of the Benton-Lane Vineyard and Winery to the north (Girard) in Benton County also expressed support for the project.

Impacts to the Christmas tree production to the south and southwest (100 & 200) are minimized by the distance to the quarry (approximately ½ mile from the processing area). Impacts to the Christmas tree production on the properties to the east of the subject property (700 & 101), adjacent to Territorial Highway, are minimized by the intervening timbered areas which measure approximately 1/3 and ½ mile wide respectively. No significant impacts to the accepted farming practices associated with the growing of Christmas trees have been identified that would require a change in accepted farming practices or an increase in the cost of those practices.

The concerns of the parties in opposition can be characterized in the following manner with regards to the evaluation of potential farm or forest impacts:

- Don & Kathy Kling, owners of a timbered parcel immediately to the east of the existing quarry area and owners of the nearby competitor Conser quarry represented by Bill Kloos, raised a wide variety of issues but did not identify any farm or forest practices occurring on their adjacent 26-acre property that are impacted in any way by the proposal.
- Jim Herriott, owner of a timbered property east of the subject property, expressed concern for blasting and potential impacts to his well. He did not identify any farm or forest practices on his 10-acre timbered parcel that would be impacted by the quarry activity or any impacts to his well that have occurred since the original approval of the Special Use Permit.
- Kris Jeremiah is not a nearby property owner and did not identify any impacts to farm or forest practices.
- Mr. Timmins expressed concern with hearing additional truck traffic on Territorial Highway, a State Highway. No information was provided that related this concern to any farm or forest practice that may be occurring on the residential property at 95640 Territorial Highway where he resides.
- Richard and Cheryl Brunader, owners of the farm parcel immediately north of the panhandle access road represented by Jeffrey Kleinman, expressed concern for their activities associated with hay production and raising sheep and cattle on their 81-acre parcel adjacent to the panhandle access road.
- Robert Barnes, owner of a timbered property east of the subject property, expressed concern for his well. No information was provided that related this concern to any farm or forest practice that may be occurring on the property.

Only two parties (Brunader and Herriott), identified concerns regarding impacts to their farm practices associated with dust, noise and water quantity and quality.

Dust

Ample evidence in the record documents the minimum level of dust associated with the existing processing area and access road. The evidence consists of eyewitness observations regarding the level of noise that reaches neighboring properties from the blasting, crushing, processing and transport of the material

from the quarry. It also includes staff's observations made during an onsite visit.

The applicant operates within the limits established by Basic Air Contaminant Discharge Permit #206447 issued by Lane Regional Air Protection Agency (LRAPA). Inspection of the facility on October 19, 2010 resulted in the following comments from LRAPA staff: "Much has been done and is in place to reduce fugitive emissions. Water sprays are installed to control dust on crusher and conveyors, roadway from Territorial Hwy to quarry has been surfaced with asphalt, and dust collection system is installed on equipment and controlled by a fabric filter (baghouse), probably the only portable crusher in Lane County with a baghouse." "At the time of my visit observed fugitive emissions were minimal and well within compliance standards.

To further minimize any potential for dust impacts, the applicant has eliminated the concrete batch plant from the proposal and limited the amount of blasting to 12 times per year. There is nothing in the Brunaders or Herriott submittals that claims dust from the existing blasting and crushing operations has impacted their hay production in any way. The Brunader April 25th submittal also demonstrates that while the existing quarry has been operating, they have been able to lease their farm pasture to one cattle rancher, two separate sheep ranchers, and also maintain their own 340 sheep. With the elimination of the concrete batch plant, the lack of impacts to the Brunader parcel from excavation and processing of the aggregate at the mining site will not change significantly. Although blasting will increase from a maximum of 6 to 12 times per year, the blasting will occur further away to the northwest, at a distance of ½ mile to the Brunader pasture. The second crusher added to the operation sometime in the future will operate in the same manner and location as the existing crusher which does not produce fugitive dust onto the Brunader parcel or the hay field managed by Mr. Herriott.

The trucks traveling on the paved road access to Territorial Highway are not producing dust that will impact the Brunader parcel. Evidence in the record in the form of testimony from the neighbors along the south side of the road documents the lack of dust along the road. In addition Suzanne Lloyd, owner of the parcel south of the access road near the west end at the turn states: "I have a beautiful very well developed horse standing in my pasture that was born and raised right here with trucks on the property line. NO problems all."

Noise

Only one party, the Brunaders, have stated concerns that noise produced by the increase in blasting events and increased truck traffic will interfere with their farm practices associated with the raising of livestock, specifically sheep and cattle, on their property.

Ample evidence in the record documents the minimum level of noise associated with the existing processing area and access road. The evidence consists of eyewitness testimony regarding the level of noise that reaches neighboring properties from the blasting, crushing, processing and transport of the material from the quarry. It also includes staff's observations made during an onsite visit.

The noise from the operation is not expected to increase significantly because the operation of the expanded quarry will utilize the existing processing area with crusher hours extending only ½ hour later in the day. The loudness of the blasting noise will remain at the same level as currently approved because of the continued limitation on the size of the charges used for the blast proposed by the applicant. The blasting area will also move to the northwest, away from the Brunader parcel. The occasional use of jake brakes identified by the Brunaders appears to be limited to trucks travelling south on Territorial Road. Any use of jake brakes by trucks associated with the subject quarry is actively monitored and controlled by the applicant to limit the occurrence as documented by neighbor's letters. Brett Lemhouse, DVM verifies in his letter submitted April 25, 2012 that he does "not expect any developmental or lambing problems associated with the passing of trucks." He also states: ". . . in my experience of twenty plus years, I has not been involved with or heard of any abortion storms or higher than normal incidence of congenital anomalies brought about by or associated with blasting, sound cannons, gun fire, etc."

Water

The report by EGR & Associates "Geology, Hydrogeology and Resource Report: Precision Aggregate Products, February 2009" establishes that groundwater will not be adversely affected by mining practices. No problems with neighboring wells have been reported during the 24 years since the approval of the mining operation. Concerns raised by Northwest Geological Services, Inc., planning commissioners, and opponents have been adequately addressed in the supplemental submittals by EGR and Associates. There are no discharges to surface waters occurring or proposed from the site. The existing stormwater detention ponds and french drain system assure that no surface waters, including Browning Creek, are affected by the mining of the property. In 2005, DOGAMI determined that the existing operation does not need a DEQ National Pollutant Discharge Elimination System (NPDES) 1200-A storm water permit. Groundwater quality and quantity are not subject to degradation due to the type of subsurface formations and the distance of the site to nearby properties. The evidence in the record supports the conclusion that there will be no impact to water resources either in the vicinity of the quarry or to the farm activities on the Brunader property.

The Board finds that the entire record in this matter identifies the existing farm and forest uses occurring on surrounding lands as directed by the Goal 5 Rule

and ORS 215.296. The Board finds that the evidence provided into the record by neighboring property owners, County staff, the applicants' licensed geologist, and a local veterinarian, regarding noise, dust, and water is reliable. The Board further finds that the authorization of mining and processing as proposed in this application will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The Board finds that no conditions are necessary to meet the requirements of the rule except for one regarding the limit to mining to 2,000,000 tons as directed by OAR 660-023-0180(6)(d). Although no conditions are necessary to prevent significant impacts to farm or forest practices on nearby lands, the Board accepts the conditions proposed by the applicant that are consistent with the proposed operating characteristics of the quarry, and sets a limit on the quantity of material that may be mined from the site.

OAR 660-023-0180(6)(b) The local government shall determine the post-mining use in accordance with subsection (5)(f) of this rule;

OAR 660-023-0180(5)(f) Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. Local governments shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.

The aggregate site is not located on Class I, II or Unique farmland. The post-mining use of the area shall consist of open space, agricultural land and timber land. These uses are already provided for as permitted uses within the current Exclusive Farm Use Zone designation for the property.

OAR 660-023-0180(6)(c) The local government shall issue a permit for mining aggregate only for a site included on an inventory of significant aggregate sites in the comprehensive plan in accordance with ORS 215.298(2); and

This provision requires that the mining area be determined to be significant and placed on the Goal 5 inventory if mining is to be authorized. The Board finds that the evaluation above has demonstrated that the site qualifies as a significant aggregate site under OAR 660-023-0180(4). The Board finds that

the site shall be added to the inventory of significant sites and mining and processing of the aggregate shall be authorized.

OAR 660-023-0180(6)(d) The conditional use permit shall not allow mining of more than the maximum amount of aggregate material specified under subsection (4)(a) of this rule.

The Board finds that a condition on the mining approval shall limit the maximum amount of aggregate mining from the entire site to 2,000,000 tons.

OAR 660-023-0180(8) In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, local government shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for approval of an aggregate site following sections (4) and (6) of this rule shall be adequate if it provides sufficient information to determine whether the requirements in those sections are satisfied.

The Board finds that the applicant has provided sufficient information to address the relevant criteria of sections (4) and (6) above. This information includes identification of the soil map units found on the subject property and an analysis of potential impacts to accepted farm and forest practices conducted on surrounding lands devoted to farm or forest use.

OAR 660-023-0180(9) Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for the consideration of PAPAs concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of a PAPA concerning mining authorization, unless the local plan contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:
(a) Such regulations were acknowledged subsequent to 1989; and
(b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-023-0250(7).

Lane County has not amended the Lane County Rural Comprehensive Plan or land use regulations for consistency with the Goal 5 Rule provisions adopted in 1996. The Oregon Land Use Board of Appeals (LUBA) has determined that the Goal 5 rule for mineral and aggregate establishes a comprehensive regulatory scheme that is intended to supersede local review standards for aggregate. *Eugene Sand & Gravel, Inc. v. Lane County*. LUBA No. 2002-068. The Board finds that the criteria which govern the review of this application to add a site to the significant aggregate sites and authorize mining

and processing are found in the Oregon Administrative Rules and the Statewide Planning Goals only.

4. STATEWIDE PLANNING GOALS

As directed by ORS 197.175(2)(a), comprehensive plan amendments must comply with the Statewide Planning Goals.

Goal 1: Citizen Involvement

To provide for widespread citizen involvement.

This goal requires that citizens and affected public agencies be provided an opportunity to comment on the proposed plan amendment. As part of the application review process, public notification in the form of a mailed notice was sent by Lane County to affected public agencies, including local service providers, Oregon Department of Transportation (ODOT), and the Department of Land Conservation and Development (DLCD). All owners of record within 750 feet of the subject property were also notified. Public notice of the Planning Commission and Board of Commissioners hearings were published in the Register-Guard, a general circulation newspaper. The Lane County Planning Commission conducted a public hearing on September 21, 2010, after provision of the required notices to citizens and agencies. The Planning Commission recommended approval of the proposed ordinance at their meeting of November 23, 2010.

Goal 2: Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

This goal requires governmental units to adopt land use plans and implementation ordinances after public hearing. Lane County has conformed to the Goal through adoption of the Rural Comprehensive Plan (RCP) and the implementing ordinances found in Lane Code Chapter 16. The County is required to provide for review and comment by citizens and affected governmental units during any revision of the adopted plans and implementation ordinances. Lane County's planning documents specify certain criteria that must be met to justify an amendment to the comprehensive plan. The criteria are addressed in this application; therefore, the Board finds that the Plan Amendment is consistent with Goal 2.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands.

This goal recognizes the importance of maintaining agricultural lands as those are defined under the goal. In western Oregon, agricultural land consists of predominantly Class I through IV soils identified by the Soil Conservation Service and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm and irrigation purposes, existing land use patterns, technological

and energy input required, for accepted farm practices. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

Consistency with Goal 3 is determined through review of the Goal 5 Rule provisions found at OAR 660-023-0180(4) & (6). The rule limits the designation of significant aggregate resources on Class I & II soils. The rule also requires findings that the issuance of approval for mining and processing does not create significant changes or costs in accepted farm or forest practices on surrounding lands. In this manner the rule balances the need for aggregate with the protection of prime agricultural lands. The analysis provided to address OAR 660-023-0180 above demonstrates that the proposed mining area does not occur on any Class I and II soils and does not impact farm or forest practices on the surrounding lands. The Board finds that the Plan Amendment is consistent with Goal 3.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The property is not designated as forestland and does not include forest resources. The Goal 5 rule requires findings that the issuance of approval for mining and processing does not create significant changes or costs in accepted farm or forest practices on surrounding lands. In this manner the rule balances the need for aggregate with the protection of forest lands. The analysis provided within the record to address OAR 660-023-0180 above demonstrates that the proposed mining area does not impact farm or forest practices on the surrounding lands. The Board finds that the Plan Amendment is consistent with Goal 4.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas open spaces.

The Goal 5 Rule for mineral and aggregate resources contains the relevant criteria to determine the significance of the aggregate resource found in the proposed mining area. These criteria have been adequately addressed in the record. No historic, riparian, or cultural resources have been inventoried on the subject property and the site is not designated as a scenic resource. A wetland drainage (Browning Creek) traverses the southern end of the property but its location west of the existing paved road and the significant distance from the proposed mining area assure that no impacts will occur to the wetland resource. No conflicts with

Goal 5 resources have been identified. The Board finds that the Plan Amendment is consistent with Goal 5.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards.

Waste and Process Discharges -- refers to solid waste, thermal, noise, atmospheric or water pollutants, contaminants, or products therefrom. Included here also are indirect sources of air pollution which result in emissions of air contaminants for which the state has established standards.

As applied to this specific application, this goal requires adequate protection measures for preservation of air, water and land quality. Goal 6 requires the local government to adopt findings explaining why it is reasonable to expect that applicable state and federal environmental quality standards can be met by the proposed use.

Air Resources

The Lane Regional Air Protection Agency (LRAPA) rules and permit requirements regulate the release of particulate matter into the air under an existing permit for the site. The existing and proposed crushers are equipped with dust control devices so that the emissions will remain within the applicable air quality standards. All equipment has been and can continue to be operated in a manner consistent with the LRAPA permit requirements while maintaining a valid permit with LRAPA. A former problem with dust from the haul road identified in the 1988 Special Use Permit has been eliminated by paving the road from the quarry within the panhandle access to Territorial Highway. Adjoining property owners located in each direction from the existing and proposed quarry site and along the panhandle access road have provided evidence during the Planning Commission review that dust is not a concern on their properties. This evidence in the record demonstrates that the air quality in the vicinity of the quarry is being maintained. The valid LRAPA permit for the site demonstrates that it is feasible to continue to operate the quarry in a manner consistent with State and Federal Air Quality standards as administered by LRAPA.

Water Resources

The report by EGR & Associates "Geology, Hydrogeology and Resource Report: Precision Aggregate Products, February 2009" establishes that groundwater will not be adversely affected by mining practices. No problems with neighboring wells have been reported during the 20 years since the approval of the mining operation. Concerns raised by Northwest Geological Services, Inc., planning commissioners, and opponents have been adequately addressed in supplemental submittals by EGR.

and Associates. There are no discharges to surface waters occurring or proposed from the site. The existing stormwater detention ponds and french drain system assure that no surface waters, including Browning Creek, are affected by the mining of the property. In 2005, DOGAMI determined that the existing operation does not need a DEQ National Pollutant Discharge Elimination System (NPDES) 1200-A storm water permit. Groundwater quality and quantity are not subject to degradation due to the type of subsurface formations and the distance of the site to nearby properties. The evidence in the record supports the conclusion that there will be no impact to water resources in the vicinity of the quarry.

Land Resources

Aggregate resources such as those located on the subject property are a protected land resource under Goal 5. A mining and reclamation plan has been prepared that demonstrates that the mining and the reclamation of the land will conform to DOGAMI requirements. Soil in the form of overburden is retained on site in adequate quantities for use in restoring the site to a beneficial use in the Exclusive Farm Use Zone. The issuance of the DOGAMI permits for the existing and proposed mining areas, including the posting of reclamation bonds, insures that the site is mined in a way that guarantees the reclamation will be completed.

Summary

The Board finds that the operating characteristics of the existing and proposed mining operation conform to Goal 6 requirements. The air quality is protected with the operating baghouse system of dust collection and the use of the paved access road. Maintenance of a valid permit with LRAPA assures conformance with the air resources portion of the Goal. There are no discharges to surface waters occurring or proposed from the site. The existing stormwater detention ponds and French drain system assure that no surface waters, including Browning Creek, are affected by the mining of the property. DOGAMI has reviewed the site and determined that no stormwater discharge permit is needed. Groundwater quality and quantity are not subject to degradation due to the type of subsurface formations and the distance of the site to nearby properties. The land will be reclaimed as part of the DOGAMI requirements for the mining permit. The Board finds that the record in this matter demonstrates that it feasible to operate the quarry in a manner that meets state and federal quality standards in conformance with Goal 6 requirements.

Goal 7: Areas Subject to Natural Disasters and Hazards

To protect life and property from Natural Disasters and Hazards.

Under this goal, natural hazards are identified as floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires. This area is not subject to such hazards and the risk of such hazards is not increased by the activity allowed by the plan amendment. The site is not subject to stream flooding, erosion or other particular natural hazards. The Board finds that the Plan Amendment is consistent with Goal 7.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including Destination Resorts.

No recreational facilities have been identified on the site by the Rural Comprehensive Plan. Recreational needs in the area are provided by the existing Diamond Woods Golf Course located on adjacent property to the east. Any other future parks adjacent to the site must obtain a conditional use permit in the Exclusive Farm Use Zone or the Non-Impacted Forest Lands Zone. The Board finds that the Plan Amendment is consistent with Goal 8.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

The goal contemplates that comprehensive plans and policies will contribute to a stable and healthy economy in the state. The goal primarily addresses commercial and industrial development within urban areas. To the extent the goal is applicable to this application, the operation will contribute to the economy of the local area by its employment of persons and by providing the natural resource for construction of roads, which in turn facilitate the economy of the state. The Board finds that the Plan Amendment is consistent with Goal 9.

Goal 10: Housing

To provide for the housing needs of the citizens of the state.

This application demonstrates conformance with the housing goal of the state to the extent that an adequate supply of aggregate is necessary for the construction of housing in the form of foundations, driveways, and streets and roads to provide access to such housing. The Board finds that the Plan Amendment is consistent with Goal 10.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

This application does not directly relate to this goal. The public facilities and services in the form of roads exist to provide access to and from the site. The approval does not result in the extension of public facilities and services beyond those existing. The Board finds that the Plan Amendment is consistent with Goal 11.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

Material is transported from the site by way of an existing access onto Territorial Highway, a State Highway. The access operates under an Oregon Department of Transportation (ODOT) road approach Permit #52691. The ODOT access permit allows up to 279 average daily trips to be conducted from the subject property. The project has been adequately evaluated for conformance with Goal 12 in the report prepared by Damien Gilbert, P.E. of Branch Engineering: "*Goal 12 Transportation Analysis for Precision Aggregate Products Inc.*" No conflict with the public road system has been identified during review of this application. The Board finds that the Plan Amendment is consistent with Goal 12.

Goal 13: Energy Conservation

To conserve energy.

This goal contemplates that land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

To the extent that this goal is relevant to this application, the application will make aggregate resource available to the northwestern and western areas of Lane County, thus reducing fossil fuel use for transportation purposes. The Board finds that the Plan Amendment is consistent with Goal 13.

Goal 14: Urbanization

To provide for an orderly and efficient transition from rural to urban use.

The subject property is not within an urban growth boundary and is not urbanizable; therefore, this goal does not have relevance to this application. The Board finds that the Plan Amendment is consistent with and does not affect the RCP compliance with Goal 14.

Goal 15 Willamette Greenway

To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The subject property is not located near the Willamette River or within the Willamette Greenway boundaries. This goal does not have relevance to this application. The Board finds that the Plan Amendment is consistent with and does not affect the RCP compliance with Goal 15.

Goal 16: Estuarine Resources

Goal 17: Coastal Shorelands

Goal 18: Beaches and Dunes

Goal 19: Ocean Resources.

These four goals are geographically oriented to coastal resources, therefore, the Board finds that these Goals are not applicable to this application for mining within the Willamette Valley.

V. SUMMARY

The Board finds that the subject property contains an aggregate resource which has been mined continuously since 1988 under a valid Special Use Permit. The resource site shall be added to the Lane County inventory of significant mineral and aggregate resources to allow continued mining into the future. The Oregon Administrative Rules are the relevant provisions to evaluate the resource for significance and allow mining and processing. This request to mine less than 2,000,000 tons aggregate satisfies the OAR requirements for inclusion on the inventory of significant Mineral and Aggregate Sites on the basis that the mining area does not occur on Class I, Class II, or Unique soils. Mining and processing of the resource is authorized under the authority of OAR on the basis that the operation does not significantly impact accepted farm or forest practices occurring on surrounding lands. The record demonstrates that the existing quarry does not impact farm or forest operations on the surrounding lands and the expanded mine area can operate in the same manner. The Board finds that the mining and processing of the aggregate resource contained on the subject property is approved with conditions contained in Exhibit "C".

VI. EXHIBITS

- A. Mining Area
- B. Surrounding Lands
- C. Conditions of Approval

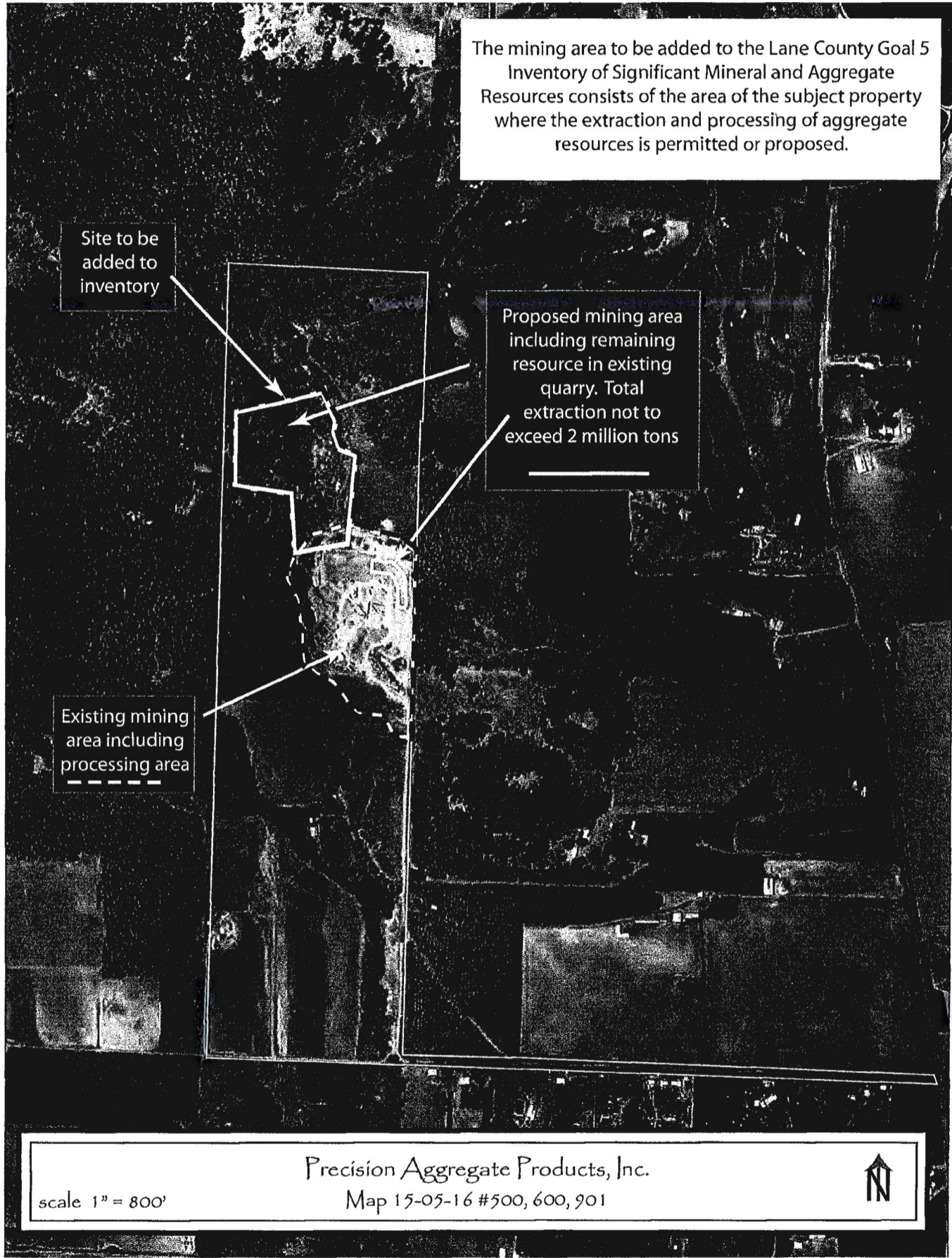


Exhibit A
Mining Area Map



Surrounding Lands						
property number	map	taxlots	owner	acres	address	land use
1	15-05-09	400	Todd & Lee Tinker	40	96360 & 96366 Territorial Highway	timber
2	15-05-09 & 15-05-16	600, 100	Monroe Golf LLC	160	96040 & 96088 & 96092 Territorial Highway	golf course
3	15-05-16	102	James & Jeanine Herriott	10	96100 Territorial Highway	timber
4	15-05-16	400	GMT Corporation Kathy & Donald Kling	26	vacant	timber
5	15-05-16	101	Robert & Helen Barnes	35	95990 & 95986 Territorial Highway	timber
6	15-05-16	700 & 800	Francis Peterson	94	95700 & 95854 & 95850 Territorial Highway	timber / Christmas Trees
7	15-05-16	904	Joseph Pilling	20	95710 Territorial Highway	Christmas Trees
8	15-05-21	601	Victor & Ann Knox	40	vacant	timber
9	15-05-20 & 15-05-17	100, 200	Chase Brothers Tree Farm	380	26253 Ferguson Road	timber / Christmas Trees
10	15-05-17	301	Stephen & Carol Girard	159	vacant	timber
11	15-05-16	801, 900, 903	Richard & Cheryl Brunader	81	95818 Territorial Highway	hay / sheep grazing
12	15-05-21	511	Luther & Arietta Nicholson	4.77	26559 Berg Drive	residential
13	15-05-21	509	Jean Kitchen	4.77	26591 Berg Drive	residential
14	15-05-21	508	Marc & Suzanne Lloyd	4.77	26615 Berg Drive	residential
15	15-05-21	510	Shawn Wilson	4.77	26641 Berg Drive	residential
16	15-05-21	515	Mark Beaty	4.77	26675 Berg Drive	residential
17	15-05-21	517	Jerry Beaty	4.77	26721 Berg Drive	residential
18	15-05-21	503	Shane & Mary Bails	9.54	26795 Berg Drive	residential
19	15-05-21	505	Michael & Rita Edwards	4.77	26825 Berg Drive	residential
20	15-05-21	504	John & Tamyra Davis	4.77	26835 Berg Drive	residential
21	15-05-21	518	David & Lynette Lane	4.77	26877 Berg Drive	residential

Exhibit B
Surrounding Lands Map

Exhibit "C"

Conditions of Approval

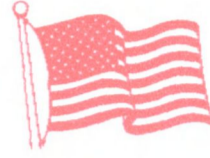
1. Hauling of rock shall be limited to 7 a.m. to 6 p.m. Monday through Saturday. Hauling of rock may begin at 6:30 a.m. when required by contract with Lane County Public Works.
2. The operation of the crushers shall be limited to the hours of 7 a.m. to 5:30 p.m. Monday through Saturday.
3. Blasting shall only be conducted between the hours of 10:00 a.m. and 6:00 p.m., Monday through Friday, not more than three times per month, and totaling no more than twelve times per year. The applicant shall employ a blasting program where 8 blasting delays (actual detonation of explosives), at a maximum of 300 pounds of explosives per delay, are permitted during each of the blasts. The applicant shall provide all residents within one-half mile of the blasting location with written notice of all blasting. This notice shall provide no less than one week of warning of an impending blast and shall provide the specific hour(s) of the blasting and information on how to contact the applicant. All blasting and notice thereof shall be conducted in accordance with all applicable state and local regulations regarding the blasting of aggregate.
4. There shall be no activity at the site on January 1, Memorial Day, July 4, Labor Day, Thanksgiving Day and December 25. All hours and days of operation are subject to changes for performance of a public works project designated as an emergency by a governmental body.
5. No concrete batching plant is authorized under this approval.
6. The total volume of aggregate extraction shall be limited to 2 million tons. Every 4 years, the applicant shall submit certification to the Land Management Division by a professional registered engineer that the removal of rock from the proposed mining area has not exceeded the limit. The certification shall be based upon a survey demonstrating that the depth of the excavation area has not exceeded the contours shown on Figure 5 of the Mining and Reclamation Plan prepared by EGR & Associates dated May 2009.
7. Access to and from the site shall be limited to the panhandle access road across taxlot 901 and the easement across taxlot 904. The road shall be maintained in good condition. Vehicle traffic shall be limited to an average of 37 trucks per workday.
8. The applicant shall direct all drivers to observe a 15 mph speed limit on the haul road. Speed limit signs shall be maintained at the exit from the quarry site and the entrance to the property near Territorial Road.

9. If Territorial Highway is a Lane County Road at the time of adoption of this Ordinance, the applicant shall prepare and submit a pavement structure analysis of Territorial Highway at the approved access location within 90 days to Lane County Transportation Planning in accordance with LC 15.697(3)(d) and LC 15.707.
10. The applicant shall maintain a 6-foot high fence along the edges of the quarry where the distance between the Quarry lip and its base is in excess of three feet in height.
11. The applicant shall maintain a 150' setback from adjacent properties to the west for all mining and processing operations.
12. All mining and processing shall occur in accordance with all necessary DOGAMI and LRAPA permits.
13. The applicant shall maintain valid operating permits with DOGAMI and LRAPA.
14. Discharge of water at the site shall be limited by the DOGAMI permit.
15. The applicant shall restore the site to farm or forest use consistent with the approved DOGAMI reclamation plan upon conclusion of the mining operation.
16. Any proposals for modification of the operating permit shall be reviewed and processed by the Planning Director in accordance with Lane Code 16.212(4)(y).



70

**PUBLIC WORKS DEPARTMENT
LAND MANAGEMENT DIVISION
125 EAST 8TH AVENUE
EUGENE, OREGON 97401**



Priority Mail
ComBasPrice



UNITED STATES POSTAGE
PITNEY BOWES
02 1A \$ 05.04⁰
0004622341 JUN 15 2012
MAILED FROM ZIP CODE 97401

DEPT OF

JUN 18 2012

**LAND CONSERVATION
AND DEVELOPMENT**



ATTN: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION & DEVELOPMENT
635 CAPITOL ST. NE, SUITE 150
SALEM, OR. 97301-2540