



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

12/18/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: Baker County Plan Amendment
DLCD File Number 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Wednesday, January 02, 2013

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: Tara Andrews, Baker County
Jon Jinings, DLCD Community Services Specialist
Grant Young, DLCD Regional Representative
Amanda Punton, DLCD Natural Resources Specialist

<paa> YA



FORM

2

DLCD

Notice of Adoption

☐ In person ☐ electronic ☐ mailed
DATE
STAMP

DEPT OF

DEC 14 2012

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

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

Jurisdiction: **Baker County**Local file number: **PA-12-002**Date of Adoption: **12/5/2012**Date Mailed: **12/12/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 8/23/2012☐ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☐ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☒ Other: **Ordinance Amendment**

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

The Baker County Board of Commissioners approved an amendment to amend language and make minor nonsubstantive edits to the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan of Baker County, Series 1979, Revised 1984, recorded with the Baker County Clerk as Court #84-11-096, to make the Ordinance consistent with the language of the Baker County Comprehensive Land Use Plan. The Board approved Ordinance No. 2012-03, an amendment to Court #84-11-096.

Does the Adoption differ from proposal? Yes, Please explain below:

The Board of Commissioners (BOC) adopted the recommendations of the Planning Commission, but also made additional edits to the Implementing Ordinance. The BOC struck out what used to be Section 2.020.E., Personal-Use/Public-Use Airstrip.

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
☐ ☐ ☐ ☐ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

DLCD File No. 002-12 (19473) [17273]

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

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

DLCD, Baker County

Local Contact: **Tara Andrews**

Phone: (541) 523-8219 Extension:

Address: **1995 Third St., Ste. 131**

Fax Number: **541-523-5925**

City: **Baker City**

Zip: **97814-**

E-mail Address: **tandrews@bakercounty.org**

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.

ORDINANCE NUMBER 2012-03
Amending the Ordinance recorded as Court 84-11-096

SERIES 1979, REVISED 1984, REVISED 2012

**AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION OF THE SUMPTER VALLEY
DREDGE TAILING MANAGEMENT PLAN**

The COUNTY OF BAKER Ordains as Follows:

SECTION 1.010. **SHORT TITLE.** This Ordinance may be cited as the "Dredge Tailing Ordinance" or as "Ordinance Number _____."

SECTION 1.020. **PURPOSES.** The purposes of this Ordinance are several:

- A. To provide for the public health, safety and general welfare.
- B. To provide for the adoption of the Sumpter Valley Dredge Tailing Management Plan.
- C. To implement, or carry out, such Management Plan.

SECTION 1.030. **VIOLATION OF PROVISION: PERMITS REQUIRED.**

- A. No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of any provision of this Ordinance.
- B. Where a permit is required by any provision of this Ordinance, no person shall take any action or do anything mentioned in (A) of this Section without such permit in writing issued by the Baker County Planning Commission.

SECTION 1.040. **OTHER REGULATION NOT CIRCUMVENTED.** A use or action allowed by this Ordinance, or a permit issued pursuant hereto, may not be construed to circumvent or supersede other State or Federal regulations applicable to the land are involved.

SECTION 1.050. **DEFINITIONS.** As used in this Ordinance:

- A. "Buffer Zone" refers to the area of land in the county adjoining the geographic area and bounded as follows:
 - 1. North boundary: Sumpter Valley Highway (Hwy. 7)
 - 2. West boundary: Highway 7; also known as Whitney-Tipton Hwy.
 - 3. East boundary: Clear Creek Road (Hudspeth Lane)
 - 4. South boundary: Huckleberry Loop where such road exists; otherwise, a distance of 1000 feet south of the South Dredge Line.
- B. "Dredge Line" refers to that line of demarcation between soils affected by dredge mining operations and soils unaffected by such operations.
- C. "Geographic Area" refers to the area of land in the County bounded as follows:

1. West boundary: Highway 7 (Whitney-Tipton) in Sections 3 and 10, Township 10 South, Range 37 East, W.M.
 2. East boundary: Clear Creek Road (Hudspeth Lane) along the common section line of Sections 17 and 18, Township 10 South, Range 38 East, W.M.
 3. North boundary: The North Dredge Line.
 4. South boundary: The South Dredge Line.
- D. "Gravel operations" refer to the use of land for the recovery of small stones or rocks and cobbles, or a mixture of such with sand. The term shall include the crushing, sorting, screening and asphaltic compounding normally associated with such operations, whether for immediate removal or stockpiling; Provided, however, that "gravel operations" do not include the storing or stockpiling of asphaltic compounds or compounded materials or any wastes or residues thereof on a continuing basis.
- E. "Mining" refers to the extraction of organic or inorganic ores or minerals from the earth in gravel or quarried materials.
- F. "Right-of-way of the Sumpter Valley Railway" refers to the existing railroad bed, including land within 34 feet of and parallel to the center line thereof.

SECTION 2.010. USES ALLOWED OUTRIGHT: GEOGRAPHIC AREA.

- A. The following uses are allowed outright in the Geographic Area:
1. Wildlife management according to Section 2.030.
 2. Recreational development according to Section 2.040.
 3. Livestock grazing.
 4. Local distribution utility facilities (local sewer, water, gas, telephone and power distribution lines). Towers 200' or higher must be reviewed as a Conditional Use.

SECTION 2.020. USES SUBJECT TO APPROVAL: PERMIT REQUIRED: STANDARDS AND CRITERIA: GEOGRAPHIC AREA.

- A. Mining operations may be allowed in the following locations within the Geographic Area, providing that such operations conform to the standards and criteria of this Section and providing further that such operations shall be subject to a zoning permit in writing issued by the Baker County Planning Commission:
1. On County-owned land.
 2. On State-owned land in the E½NE¼SE¼ of Section 18, Township 10 South, Range 38 East, W.M.
 3. On privately-owned land.
- B. All mining operations allowed by this Section shall be conducted and reclaimed in a manner:
1. To maintain a setback distance of no less than 20 feet from any portion of the banks of the Powder River.

2. a. On Baker County-owned Property: to maintain a setback distance of no less than 300 feet from the center line of the Sumpter Valley Railway Bed.

b. All other parcels: To maintain a setback distance of no less than 34 feet from the center line of the Sumpter Valley Railway Bed.
 3. To leave no cutbanks with slopes greater than a ratio of three feet horizontal distance to one foot vertical distance (3:1).
 4. To protect the naturally growing, riparian vegetation along the banks of the Powder River and around the Tailing Ponds.
 5. To prevent adverse siltation or other pollution or filling of the Powder River or Tailing Ponds or adverse pollution of the ground water.
- C. Mining Operations permitted according to this Section may also be subject to a permit pursuant to the State Surface Mining Laws.
- D. Major utility facilities (any major facility or structure, as distinguished from local distribution utility facilities, owned or operated by a public private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste, or byproducts and including power transmission lines, major trunk pipelines, power substations, dams, water towers, railroad tracks, sewage lagoons, sanitary landfills and similar facilities. Excluded from this definition are dams whose impoundments exceed 1000 acre feet or electric transmission lines greater than 115 KV).

Section 2.030, as described below, does not currently apply as there is not an active license between the Oregon Department of Fish & Wildlife and Baker County. If, in the future, a license agreement is instated, this Section may be amended.

SECTION 2.030. WILDLIFE MANAGEMENT: GEOGRAPHIC AREA.

- A. The State Department of Fish and Wildlife, in accordance with its license with the Baker County Board of Commissioners, shall have authority to take those actions and do those things reasonably necessary to establish, maintain, and perpetuate the various kinds of wildlife associated with the Geographic Area or that may be introduced by such Department into the area.
- B. Such Department shall have authority to cause one or more of the Tailing Ponds to be deepened to an extent calculated to provide an adequate depth of water for fish survival: Provided, however, that one or more of such ponds deepened shall have structures designed to accommodate the elderly or physically handicapped person as to access for fishing therein.
- C. Such Department shall have authority to establish those structures, or make those fills, designed to stabilize the depth of water in those Tailing Ponds intended to be stocked and maintained with fish or other forms of aquatic wildlife.
- D. In order to reduce or alleviate the conflicts between the wildlife management of lands and the mineral resource management of lands in the Geographic Area, such Department shall give due consideration to those land areas designated for mineral removal; such consideration shall include the utilization of setback distances from mineral resource areas.

- E. Nothing in this Section may be construed to deny vehicular access to the Powder River Gauging Station, which access is reasonably required for the inspection and maintenance of such Station.

SECTION 2.040. RECREATIONAL DEVELOPMENT: GEOGRAPHIC AREA.

- A. The Baker County Board of Commissioners shall have authority to establish and maintain a County Park and automobile parking areas in the Geographic Area as follows:
1. County Park and parking area: On the west side of the Huckleberry Loop within the boundaries of a triangle of land described by commencing at the intersection of the Huckleberry Loop and the Sumpter Valley Railroad Bed; thence northwesterly along said railroad bed a distance of 1360 feet; thence southerly to the intersection of the Powder River; thence southeasterly along the river to the Huckleberry Loop; thence northerly along said road to the point of beginning.
 2. Other parking area: On the east side of the Huckleberry Loop, within 300 feet of the center line thereof between the Powder River and Highway 7; and on the east side of the Whitney-Tipton Highway, within 300 feet of the center line thereof, between the Powder River and the Sumpter Valley Railroad Bed.
- B. Should the Baker County Board of Commissioners elect to construct pedestrian trails in the Geographic Area, the following factors will be considered:
1. The State Department of Fish and Wildlife may be consulted regarding the location of such trails.
 2. One or more of such trails shall be designed to accommodate the elderly or the physically handicapped person.
- C. The Sumpter Valley Railroad Restoration, Incorporated, shall have the authority:
1. To establish and maintain a recreational railroad operation, including a depot building and other buildings and spaces reasonably necessary for maintenance and storage of railroad steam engines, parts thereof, and trackage: Provided, however, that such buildings and spaces shall be confined to that triangle of land described in subsection A.1 of this Section.
 2. To use the existing road bed and right-of-way of the Sumpter Valley Railroad, throughout its course in the Geographic Area, for trackage necessary to support steam locomotive travel.

SECTION 3.010. USES ALLOWED OUTRIGHT: BUFFER ZONE. The following uses are allowed outright in the Buffer Zone:

- A. Farm Use.
- B. Propagation and harvesting of forest products.
- C. Local distribution utility facilities (see Section 2.010, A.4, page 3).
- D. The outbuildings customarily used in conjunction with farm use.

SECTION 3.020. USES SUBJECT TO APPROVAL; PERMIT REQUIRED; STANDARDS AND CRITERIA: BUFFER ZONE.

- A. Uses: The following uses may be allowed in the Buffer Zone, providing such uses conform to the applicable standards and criteria of this Section and providing that such uses shall be subject to a permit in writing issued by the Baker County Planning Commission:
1. Single family dwellings accessory to and necessary for farm use.
 2. Single family dwellings not in conjunction with farm use, subject to criteria of ORS 215.284.
 3. Home occupations.
 4. Major utility facilities (see Section 2.020, D, page 4).
 5. Exploration for mineral and aggregate resources. "Exploration" means all activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade, or economic viability of a deposit. See ORS 517 for further explanation.
- B. Standards and Criteria:
1. The dwellings and accessory buildings allowed by this Section shall be located upon naturally elevated or terraced land above the meadowland grasslands and wetlands and shall not be located upon land that has been dredge mined.
 2. The standards for minimum ownerships, dimensional standards and setbacks from property lines in the Buffer Zone shall be no less than those of the Exclusive Farm Use (EFU) Zone as determined by the applicable provisions of the Baker County Zoning and Subdivision Ordinance of 1983 as amended or revised.
 3. The Dwellings and other buildings requiring a sewage disposal system shall be located on land approved by the Department of Environmental Quality.

SECTION 3.030. NONCONFORMING USE.

- A. A legal use of land or a building or other structure, existing prior to the effective date of this Ordinance, that does not conform to the provisions of this Ordinance, may be continued; but such use shall not be expanded or otherwise made further nonconforming.
- B. A new use replacing a nonconforming use shall conform to the provisions of this Ordinance.

SECTION 3.040. VARIANCE; PERMIT; NOTIFICATION; FEES.

- A. The Baker County Planning Commission shall have authority to grant a Variance permit from the provisions of this Ordinance where it can be shown that owing to a special and unusual circumstance relating to a particular lot or parcel of land, or to a particular building or other structure, the literal interpretation of this Ordinance would cause an undue or unnecessary hardship.
- B. No Variance permit shall be granted unless it can be shown that all of the following circumstances exist:
1. The Variance is necessary for the preservation of a property right of an applicant substantially the same as owners of other property in the same vicinity.

2. The granting of the Variance will not be materially detrimental to any purpose of this Ordinance nor be injurious to other property in the same vicinity.
 3. The Variance requested is the minimum Variance which will alleviate the hardship.
- C. A Variance permit issued according to this Section shall apply to and run with the land involved: Provided, however, that the Baker County Planning Commission shall have authority to set reasonable time limits during which time the use of land or the use of a building or other structure shall be commenced and diligently pursued.
 - D. A use not established in accordance with the provisions of (C) of this Section shall be subject to a review and reconsideration by the Baker County Planning Commission. The reconsideration, depending upon changing conditions and circumstances, may include a revocation of a permit formerly authorized.
 - E. An application for a Variance permit shall be made to the Planning Director on forms provided for that purpose, along with an administrative fee as established by the Baker County Board of Commissioners.
 - F. The Baker County Board of Commissioners, by order thereof, shall have authority to adjust the fee in (E) of this Section, from time to time, as it deems necessary.
 - G. All applications for a Variance shall be published in a newspaper of general circulation in the County at least one time no later than 14 days prior to the date set for the public hearing upon the application. In addition, all land owners of record owning land within 250 feet of the land involved in a Variance application shall receive individual notice by mail of the date, time and place of the hearing.

SECTION 4.010. SUMPTER VALLEY DREDGE TAILING MANAGEMENT PLAN.

Included in this Ordinance, and by this reference made a part hereof, is the "Sumpter Valley Dredge Tailing Management Plan," which Plan shall be adopted by the Baker County Board of Commissioners and which Plan may be referred to as the "Dredge Tailing Plan."

SECTION 4.020. ZONING MAP. Included in this Ordinance, and by this reference made a part hereof, is the "Zoning Map Sumpter Valley Dredge Tailing Management Plan," which map shall be adopted and revised by the Baker County Board of Commissioners and referred to as the "Dredge Tailing Zoning Map."

SECTION 4.030. FILING; RECORDING.

- A. A certified copy of the Dredge Tailing Plan, including any revision thereof, shall be filed and recorded with the Baker County Clerk.
- B. A certified copy of this Ordinance, including any revision hereof, and a certified copy of the zoning map hereto, including any revision thereof, shall be filed and recorded with the Baker County Clerk.
- C. The Plan, Ordinance and zoning map mentioned in this Section, including any revisions, shall not become operative until filed and recorded as required by this Section.

SECTION 4.040. REVIEWS; REVISIONS.

- A. The Dredge Tailing Plan shall be reviewed and may be revised every two years, as necessary, in order to allow for changing conditions and circumstances that reasonably may require such revision:

Provided, however, that such revisions of the Dredge Tailing Plan shall not be in conflict with any provision of the overall Baker County Land Use Plan.

- B. This Ordinance, including the zoning map hereto, may be reviewed and revised periodically, as necessary: Provided, however, that any revision of this Ordinance and zoning map shall not be in conflict with any provision of the Dredge Tailing Plan.
- C. "Revision" including any amendment.

SECTION 4.050. SUPERCEDES EXISTING PLAN AND ORDINANCE.

The provisions of this Dredge Tailing Ordinance and the Dredge Tailing Plan, as to the land area involved, except as provided in Section 3.020 (B)(2), shall supersede the provisions of any land use plan and zoning ordinance of the County adopted prior to the effective date of this Ordinance.

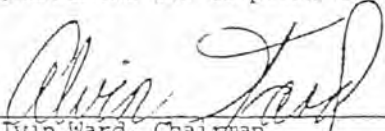
SECTION 5.010. ADMINISTRATION; APPEAL; FEES.

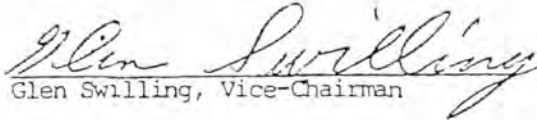
- A. The Planning Director shall have authority to administer and enforce the provisions of this Ordinance.
- B. A ruling or other action of the Planning Director may be appealed to the Baker County Planning Commission: Provided, however, that such appeal is filed in writing with such Director within 14 days of the date of such ruling or action from which appeal is taken.
- C. A ruling or action of the Baker County Planning Commission may be appealed to the Baker County Board of Commissioners: Provided, however, that such appeal is filed in writing with the Baker County Planning Department, along with the prescribed filing fee, within 14 days of the action or ruling from which the appeal is taken.
- D. An appeal filed according to this Section shall contain:
 - 1. The ruling or other action from which appeal is taken.
 - 2. The grounds upon which the appeal is taken.
- E. Action upon an appeal filed according to this Section shall be taken within 30 days of the date the appeal is filed.
- F. The Baker County Board of Commissioners, by an order thereof, shall have authority to adjust the filing fee according to this Section, from time to time, as it deems appropriate.

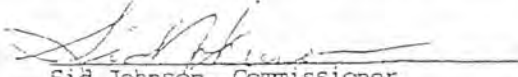
SECTION 5.020. REMEDIES; VIOLATIONS.

- A. In addition to other remedies provided by law, violations of the provisions of this Ordinance shall be subject to such remedies as provided in ORS 215.185.
- B. A violation of the provisions of this Ordinance is held to be a nuisance and shall be subject to the provisions of ORS 203.065.

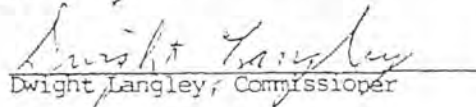
Recommended for adoption this 22 day of December, 1983.

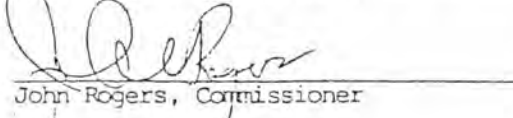

 Alvin Ward, Chairman
 Baker County Planning Commission


 Glen Swilling, Vice-Chairman


 Sid Johnson, Commissioner

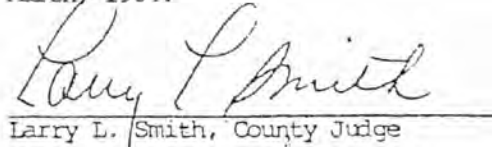

 Mike McLean, Commissioner


 Dwight Langley, Commissioner


 John Rogers, Commissioner


 Floyd Taylor, Commissioner

REVISED AND ADOPTED this 9th day of March, 1984.


 Larry L. Smith, County Judge


 Ben Dunleavy, County Commissioner


 Fred Ringer, County Commissioner

REVISED AND ADOPTED this 5th day of December, 2012.


Fred Warner, Jr., Commission Chair


Tim L. Kerns, Commissioner


Carl E. Stiff, M.D., Commissioner

SECTION 5.030. EMERGENCY.

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect immediately upon being filed, recorded, and acknowledged by the Land Conservation and Development Commission.

Recommended for adoption this 22 day of December, 1983.

Alvin Ward
Alvin Ward, Chairman
Baker County Planning Commission

Glen Swilling
Glen Swilling, Vice-Chairman

Sid Johnson
Sid Johnson, Commissioner

Mike McLean
Mike McLean, Commissioner

Dwight Langley
Dwight Langley, Commissioner

John Rogers
John Rogers, Commissioner

Floyd Taylor
Floyd Taylor, Commissioner

REVISED AND ADOPTED this 9th day of March, 1984.

Larry L. Smith
Larry L. Smith, County Judge

Ben K. Dunleavy
Ben Dunleavy, County Commissioner

Fred W. Ringer
Fred Ringer, County Commissioner

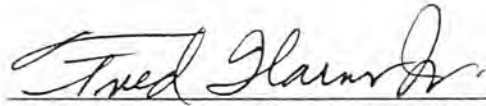
REVISED AND ADOPTED this 24th day of October, 1984

Larry L. Smith, County Judge

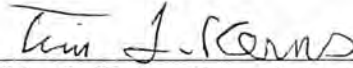
Fred W. Ringer, County Commissioner

Ben K. Dunleavy, County Commissioner

REVISED AND ADOPTED this 5th day of December, 2012.



Fred Warner, Jr., Commission Chair



Tim L. Kerns, Commissioner



Carl E. Stiff, M.D., Commissioner

**Baker County Department of Planning
FINAL REPORT & DECISION**

Text Amendment to Amend Language in the Implementing Ordinance of the
Sumpter Valley Dredge Tailing Management Plan
PA-12-002

STAFF REPORT DATE: December 12, 2012

BOARD OF COMMISSIONER HEARINGS: October 3, October 17 and December 5, 2012

REPORT PREPARED BY: Tara Andrews, Planner

I. GENERAL INFORMATION AND FACTS

Applicant:	Karen Spencer Baker County Parks Director 1995 Third Street Baker City, OR 97814
Property Owner:	County of Baker 1995 Third Street Baker City, OR 97814
Land Use Review:	Text Amendment – Proposal to amend language in the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan of Baker County, Series 1979, Revised 1984, which was recorded with the Baker County Clerk's Office as Court #84-11-096, to make the Ordinance consistent with the language of the Baker County Comprehensive Land Use Plan.

II. NATURE OF REQUEST

Property owner, Baker County, represented by its agent, Karen Spencer, is proposing to amend language in the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan (Dredge Tailing Plan) of Baker County, Series 1979, Revised 1984, which was recorded with the Baker County Clerk's Office as Court #84-11-096, in order to make the Ordinance consistent with the language of the Baker County Comprehensive Land Use Plan and the Sumpter Valley Dredge Tailing Management Plan. The entirety of said Implementing Ordinance is attached to the end of this report as Exhibit C.

According to Article 1, Section B, of the Dredge Tailing Plan, the geographic area involved in this Plan generally shall include land lying West of the Clear Creek Road (Hudspeth Lane); East of the Whitney-Tipton Road; South of the North Dredge Line; and North of the South Dredge Line in Township 10 South, Ranges 37 and 38 East, W.M. (See Exhibit D for a map of this Geographic Area)

The applicant stated that the "language in the current document does not allow the intended use to meet its full potential. Baker County is seeking an amendment to the Implementing Ordinance to

support the preferred alternative” and “it is the intent of Baker County to be good stewards of the land and to achieve the management objectives set forth by preferred alternative.” (See Exhibit A)

III. APPLICABLE STATE, COMPREHENSIVE PLAN, AND ORDINANCE PROVISIONS

The applicable statutory criteria for a Plan Amendment are from the Baker County Zoning and Subdivision Ordinance 83-3, Article 9. Generally, unless otherwise noted, if a request is found to be consistent with the Baker County Zoning and Subdivision Ordinance, it is considered to be consistent with the Baker County Comprehensive Land Use Plan.

IV. ANALYSIS

A. Baker County Zoning and Subdivision Ordinance 83-3

SECTION 901 AUTHORIZATION TO INITIATE AMENDMENTS

An Amendment to the text of this Ordinance or the Zoning Map may be initiated by the County Court, the County Planning Commission, or by application of a property owner. The request by a property owner for an Amendment shall be accomplished by filing an application with the Planning Department in a manner described in Section 905 or 907 of this Article at least by the first working day of the month during which the action is to be heard.

Planning Commission Findings: The application for an amendment request was submitted by the property owner, Baker County, represented by Karen Spencer, agent. The applicant submitted the application on July 26, 2012.

Conclusion: The application was properly submitted.

Board of Commissioner’s Findings: The Board of Commissioners accepts the Planning Commission’s findings. The Board of Commissioners heard the Plan Amendment request on both Wednesday, October 3rd and 17th, 2012.

Conclusion: Criteria are met.

SECTION 902 AUTHORIZATION TO APPROVE OR DENY PROPOSED AMENDMENTS

The Planning Commission may approve, deny, or modify proposed Amendments to the Map or text of this Ordinance when such action is taken in accordance with the appropriate portions of Sections 903 through 907 of this Article.

Planning Commission Findings: Property owner, Baker County, represented by its agent, Karen Spencer, has applied for a text amendment to the Implementing Ordinance of the Dredge Tailing Plan.

The appropriate portions of Sections 903 through 907 are included on the following pages of this report.

Conclusions: The Planning Commission found the criteria are met.

Board of Commissioner's Findings: The Board of Commissioners accepts the findings of the Planning Commission.

Conclusion: Criteria are met.

SECTION 903 STANDARDS FOR GRANTING AN AMENDMENT

To determine whether an Amendment shall be approved, denied or modified, the Commission shall find, in addition to the specific requirements in Sections 905, 906, and 907 of this Ordinance, that the proposal conforms with the County's Comprehensive Plan.

Note: In the Baker County Zoning and Subdivision Ordinance 83-3, Section 905 is titled Map Amendment Application Procedure, Section 906 is titled Environmental Impact Report Procedure, and Section 907 is titled Text Amendment Application Procedure.

Planning Commission Findings: The property owner, Baker County, represented by its agent, Karen Spencer, submitted an application for an amendment to the Implementing Ordinance of the Dredge Tailing Plan in order to make the Ordinance consistent with the language of the Sumpter Valley Dredge Tailing Management Plan and the Baker County Comprehensive Land Use Plan. This request is for a Text Amendment, therefore, Sections 905 and 906 do not apply to this request as those sections apply to Map Amendments only. The criteria for Section 907 are included below.

Conclusion: The Planning Commission found the criteria are met.

Board of Commissioner's Findings: The Board of Commissioners accepts the findings of the Planning Commission.

Conclusion: Criteria are met.

SECTION 904 PUBLIC HEARING ON AMENDMENT

The Planning Commission shall conduct a public hearing on a proposed Amendment within 60 days after the Amendment is proposed and shall, within five working days after the hearing, recommend to the County Court approval, disapproval, or modified approval of the proposed Amendment. This hearing may be continued for just cause. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed Amendment within 30 days of Planning Commission action on the request. The Court shall announce its decision within 30 days of its public hearing. Amendments shall be subject to review by the State pursuant to ORS 197.610-197.630.

Planning Commission Findings: The applicant and property owner made application for the proposed Amendment on July 26, 2012. The Planning Commission conducted a public hearing on the proposed amendment on Thursday, September 27, 2012, at 7:00 PM, at the Baker County Courthouse, and made a recommendation of approval with modifications to the Baker County Board of Commissioners. The Board of Commissioners heard the request on Wednesday, October 3rd and Wednesday, October 17th, both scheduled at 10:00 a.m.

Conclusion: The Planning Commission conducted a public hearing on September 27, 2012. DLCD was properly noticed of the proposed amendment in accordance with ORS 197.610.

Board of Commissioner's Findings: The Board of Commissioners accepts the Planning Commission's findings. The Board held public hearings on October 3rd and October 17, 2012. The Board approved the Plan Amendment by signing Ordinance Number 2012-03, at a hearing on December 5, 2012. The Board of Commissioners' public hearing was held within 30 days of the Planning Commission's action on the request.

Conclusion: Based on the findings above, the Board of Commissioners determined the criteria are met.

SECTION 907 TEXT AMENDMENT APPLICATION PROCEDURES

The following procedure shall be followed when initiating an Amendment to the text of this Ordinance.

- A. The applicant shall submit to the Planning Department a paper which includes the Section and Subsection of concern, the text of that Section as written, and the language change being applied for.
- B. The applicant shall also present written statements explaining why the change is being requested, the implications of the requested change for his specific property and for all property in general which is affected by the change, and a demonstration of compatibility of the change with the Comprehensive Plan.
- C. A Text Amendment is a legislative action. The Planning Commission shall make a recommendation to approve or deny a text amendment to the Board of Commissioners, after holding one or more public hearings. The Board of Commissioners may approve the text amendment and adopt an ordinance to enact the provisions into law, or may deny the text amendment, after holding one or more public hearings as required by law. In either case, the decision by the Board of Commissioners shall be final.

Planning Commission Findings:

- A) The applicant submitted the existing and proposed language of the specific sections of the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan (Sections 2.020(A)(1), 2.020(B)(2), and 2.020(E)(1)(c)) that are to be amended. The applicant's proposed language and narrative of the amendment request are included with this report as Exhibits A and B. The entirety of the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan showing the proposed edits are included with this report as Exhibit C.

- B) The applicant's written statement explaining why the amendment was applied for is attached to this report as Exhibit A.
- C) The Planning Commission held a public hearing on September 27, 2012, at 7:00 PM, at the Baker County Courthouse to review the proposed amendment and made a recommendation to approve the request to the Baker County Board of Commissioners. The Board will hear the request at two hearings, scheduled for Wednesday, October 3rd, and Wednesday, October 17th, both at 10:00 a.m.

Conclusion: The Planning Commission held a public hearing on September 27, 2012, and determined the criteria are met.

Board of Commissioner's Findings: The Board of Commissioners accepts the findings of the Planning Commission. The Board held two public hearings on the request; the first was Wednesday, October 3rd and the second was Wednesday, October 17th. The Board signed and adopted Ordinance Number 2012-03, at a hearing on December 5, 2012.

Conclusion: Based on the findings above, the Board of Commissioners find the criteria are met.

SECTION 908 RECORD OF AMENDMENTS

After filing the Amendment(s) with the County Clerk, the County Planning Department shall maintain records of Amendments to the text of the Ordinance and the Zoning Map.

V. SUMMARY CONCLUSIONS

Based on the above review criteria, findings of fact and conclusions, and public testimony received, the Baker County Planning Commission recommends **APPROVAL** of this request, PA-12-002, to amend language in the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan.

Therefore, based on the information contained in Sections I and II of this report, the above review criteria, findings of fact and conclusions, and public testimony received, the Baker County Board of Commissioners **APPROVES** this Plan Amendment request, PA-12-002, to amend the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan, with edits.

VI. EXHIBITS

Exhibit A	Applicant's Narrative
Exhibit B	Applicant's Ordinance Amendment Language
Exhibit C	Dredge Tailing Ordinance with Proposed Changes
Exhibit D	Aerial Map of the Sumpter Valley Dredge Tailings
Exhibit E	Dredge Tailing Ordinance – Amended as Proposed

- Exhibit F Written Testimony (This was submitted after the Planning Commission Hearing – the Planning Commission did not review this)
- Exhibit G Maps of the Dredge Tailings

Baker County Planning Application Narrative

Ordinance Number 84 11 096
Series 1979, Revised 1984
Sumpter Valley Management Area

Baker County owns and manages 1,578 acres of dredge tailings, irregularly striated piles of cobbles and gravels, in the Sumpter area. The entire geographical area was overturned during the placer mining era that began in 1912 and ceased operation in 1954. The historic landscape was a grassy meadow with the Powder River meandering through it. Riparian species of deciduous hardwoods most likely lined the banks of the waterway.

After considerable research and input, a land use alternative was recommended. The Implementing Ordinance (cert 84 11 096) identifies Alternative 5 as the recommended land use for the Dredge Tailings (Pg. 12, Article 8 Section A & B). This article states that the Sumpter Valley Dredge Tailing area be managed for wildlife with coordinated development of recreational activities and gravel/gold operations. The language in the current document does not allow the intended use to meet its full potential. Baker County is seeking an amendment to the Implementing Ordinance to support the preferred alternative.

There is tremendous potential to enhance the wildlife habitat and recreational opportunities in the area. A positive outcome of development in the geographical area could be high-paying, long-term jobs. The revenue generation could improve the sustainability of services for the County.

In order to achieve the desired results, an amendment to the implementing ordinance is needed. The mineral deposits within the tailings must be verified in order to determine the viability of the reclamation. If gold resources are proven to support the operation, a request for proposals will ensue. A conditional use process involving stakeholders and public regulatory agencies will guide the permitting process for this project.

Once the feasibility of the project is deemed achievable, Baker County will engage the public and overseeing agencies to develop a conceptual plan for the tailings. A balance of recreational use, wildlife habitat and economic development will be the desired outcome.

The Amendment to the Implementing Ordinance is the first step in calculating the richness of the mineral resource. Until the resource is accessed, the viability is unknown.

It is the intent of Baker County to be good stewards of the land and to achieve the management objectives set forth by preferred alternative.

Ordinance Number 84 11 096
Series 1979, Revised 1984
Sumpter Valley Management Area

Proposed Ordinance Amendment

AN ORDINANCE PROVIDING FOR THE IMPLEMENTAION OF THE SUMPTER VALLEY TAILING
MANAGEMENT PLAN

The Baker County Parks Department, serving as the representative to the land owner, proposes an amendment to the revised 1984 ordinance. The change will allow the consideration of gold and mineral extraction on County owned land through the conditional use process. The amendment is compatible with the recommended management alternative for the geographical area.

ARTICLE 8. MANAGEMENT ALTERNATIVES

- B. Alternative (5) is the recommended land use management plan for the geographical area.
 - 5. Wildlife management with coordinated development of recreational activities and gravel/gold resources.

The specific proposed amendment:

SECTION 2.020 USES SUBJECT TO APPROVAL: PERMIT REQUIRED: STANARDS AND CRITERIA: GEOGRAPHICAL AREA.

A. Mining operations may be allowed in the following locations within the Geographical Area, providing that such operations conform to the standards and criteria of this section and providing further that such operations shall be subject to a zoning permit in writing issued by the County governing body.

- 1. On County – owned land. ~~within 2000 feet of the center line of highway 7 (Whitney Tipton) on the east side thereof.~~

The second revision is to increase the setback distance from the center line of the Sumpter Valley Railroad bed, ensuring greater stability of the track. The distance is amended from 34 feet to no less than 75 feet.

The specific proposed amendment:

SECTION 2.020 USES SUBJECT TO APPROVAL: PERMIT REQUIRED: STANDARDS AND CRITERIA: GEOGRAPHICAL AREA.

B. All mining operations allowed by this section shall be conducted and reclaimed in a manner:

2. To maintain a setback of now less than ~~34~~ 75 feet from the center line of the Sumpter Valley Railway Bed.

E. Personal – Use/Public-Use Airstrip.

1. A personal use/public use airstrip may be allowed in the following locations within the Geographical Area, providing that said use conforms to the standards and criteria of this section and providing further that such use shall be subject to a written zoning permit from the County governing body or designate:

- C. On land no closer than ~~34~~ 75 feet from the center line of the Sumpter Valley Railway Bed.

The changes support the management objectives for the Sumpter Valley Dredge Tailings.

EXHIBIT C
Dredge Tailing Ordinance with Proposed Changes

ORDINANCE NUMBER 2012-03

SERIES 1979, REVISED 1984, REVISED 2012

**AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION OF THE SUMPTER VALLEY
DREDGE TAILING MANAGEMENT PLAN**

The COUNTY OF BAKER Ordains as Follows:

SECTION 1.010. **SHORT TITLE.** This Ordinance may be cited as the "Dredge Tailing Ordinance" or as "Ordinance Number _____."

SECTION 1.020. **PURPOSES.** The purposes of this Ordinance are several:

- A. To provide for the public health, safety and general welfare.
- B. To provide for the adoption of the Sumpter Valley Dredge Tailing Management Plan.
- C. To implement, or carry out, such Management Plan.

SECTION 1.030. **VIOLATION OF PROVISION: PERMITS REQUIRED.**

- A. No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of any provision of this Ordinance.
- B. Where a permit is required by any provision of this Ordinance, no person shall take any action or do anything mentioned in (A) of this Section without such permit in writing issued by the ~~County governing body~~ Baker County Planning Commission.

SECTION 1.040. **OTHER REGULATION NOT CIRCUMVENTED.** A use or action allowed by this Ordinance, or a permit issued pursuant hereto, may not be construed to circumvent or supersede other State or Federal regulations applicable to the land are involved.

SECTION 1.050. **DEFINITIONS.** As used in this Ordinance:

- A. "Buffer Zone" refers to the area of land in the county adjoining the geographic area and bounded as follows:
 - 1. North boundary: Sumpter Valley Highway (Hwy. 7)
 - 2. West boundary: Highway 7; also known as Whitney-Tipton Hwy.
 - 3. East boundary: Clear Creek Road (Hudspeth Lane)
 - 4. South boundary: Dredge Lane Road where such road exists; otherwise, a distance of 1000 feet south of the South Dredge Line.
- B. "Dredge Line" refers to that line of demarcation between soils affected by dredge mining operations and soils unaffected by such operations.
- C. "Geographic Area" refers to the area of land in the County bounded as follows:

EXHIBIT C

Dredge Tailing Ordinance with Proposed Changes

1. West boundary: Highway 7 (Whitney-Tipton) in Sections 3 and 10, Township 10 South, Range 37 East, W.M.
 2. East boundary: Clear Creek Road (Hudspeth Lane) along the common section line of Sections 17 and 18, Township 10 South, Range 38 East, W.M.
 3. North boundary: The North Dredge Line.
 4. South boundary: The South Dredge Line.
- D. "Gravel operations" refer to the use of land for the recovery of small stones or rocks and cobbles, or a mixture of such with sand. The term shall include the crushing, sorting, screening and asphaltic compounding normally associated with such operations, whether for immediate removal or stockpiling; Provided, however, that "gravel operations" do not include the storing or stockpiling of asphaltic compounds or compounded materials or any wastes or residues thereof on a continuing basis.
- E. "Mining" refers to the extraction of organic or inorganic ores or minerals from the earth in gravel or quarried materials.
- F. "Right-of-way of the Sumpter Valley Railway" refers to the existing railroad bed, including land within 34 feet of and parallel to the center line thereof.

SECTION 2.010. USES ALLOWED OUTRIGHT: GEOGRAPHIC AREA.

- A. The following uses are allowed outright in the Geographic Area:
1. Wildlife management according to Section 2.030.
 2. Recreational development according to Section 2.040.
 3. Livestock grazing.
 4. Local distribution utility facilities (local sewer, water, gas, telephone and power distribution lines). Towers 200' or higher must be reviewed as a Conditional Use.

SECTION 2.020. USES SUBJECT TO APPROVAL: PERMIT REQUIRED: STANDARDS AND CRITERIA: GEOGRAPHIC AREA.

- A. Mining operations may be allowed in the following locations within the Geographic Area, providing that such operations conform to the standards and criteria of this Section and providing further that such operations shall be subject to a zoning permit in writing issued by the ~~County governing body~~ Baker County Planning Commission:

~~1. On County-owned land, within 2000 feet of the center line of Highway 7 (Whitney-Tipton) on the east side thereof.~~

~~2. On State-owned land in the E½NE¼SE¼ of Section 18, Township 10 South, Range 38 East, W.M.~~

~~3. On privately-owned land.~~

- B. All mining operations allowed by this Section shall be conducted and reclaimed in a manner:

1. To maintain a setback distance of no less than 20 feet from any portion of the banks of the Powder River.

EXHIBIT C

Dredge Tailing Ordinance with Proposed Changes

2. To maintain a setback distance of no less than ~~34~~75 feet from the center line of the Sumpter Valley Railway Bed.
 3. To leave no cutbanks with slopes greater than a ratio of three feet horizontal distance to one foot vertical distance (3:1).
 4. To protect the naturally growing, riparian vegetation along the banks of the Powder River and around the Tailing Ponds.
 5. To prevent adverse siltation or other pollution or filling of the Powder River or Tailing Ponds or adverse pollution of the ground water.
- C. Mining Operations permitted according to this Section may also be subject to a permit pursuant to the State Surface Mining Laws.
- D. Major utility facilities (any major facility or structure, as distinguished from local distribution utility facilities, owned or operated by a public private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste, or byproducts and including power transmission lines, major trunk pipelines, power substations, dams, water towers, railroad tracks, sewage lagoons, sanitary landfills and similar facilities. Excluded from this definition are dams whose impoundments exceed 1000 acre feet or electric transmission lines greater than 115 KVs).
- E. Personal-Use/Public-Use Airstrip
1. A Personal-Use/Public Use airstrip may be allowed in the following locations within the Geographic Area, providing that said use conforms to the standards and criteria of this Section and providing further that such use shall be subject to a written zoning permit from the ~~County governing body~~Baker County Planning Commission or its designate:
 - a. On land within 2000 feet of the center line of the Whitney-Tipton Highway at the west boundary of the Geographic Area;
 - b. On land no closer than 20 feet to the banks of the Powder River;
 - c. On land no closer than ~~34~~75 feet from the center line of the Sumpter Valley Railway Bed.
 2. A personal use airstrip allowed by this Section shall be constructed and operated in the following manner:
 - a. Naturally occurring riparian vegetation along the Powder River shall be maintained and preserved;
 - b. Siltation, filling, or pollution of the Powder River shall be prevented;
 - c. Pollution of the groundwater shall be prevented by constructing a concrete catch basin underneath the area of fuel storage or fueling activities. Said concrete pad shall be diked and be of adequate size to contain any leaks or spills. The storage of fuel shall be limited to a maximum of 2000 gallons.

EXHIBIT C

Dredge Tailing Ordinance with Proposed Changes

- d. A noise boundary study to demonstrate the impact of the proposed airstrip on surrounding land uses shall be required. Said study shall be adequate to also fulfill DEQ requirements.
 - e. The proposal shall satisfy the permit requirements of all state and federal agencies whose involvement is legislated, including but not necessarily limited to DEQ, DOC, State Fire Marshal, ~~State Aeronautics~~Oregon Department of Aviation, and Federal Aviation Administration.
 - f. The traffic pattern shall be designed to minimize disturbance of waterfowl in the area which will minimize risk to aircraft.
 - g. The use of the airstrip shall be limited to daylight hours.
 - h. The airstrip shall be sited to minimize risk to/from utility wires, highways, and residences.
3. Airstrip Uses Prohibited in the Geographic Area:
- a. No airstrip shall be allowed to store fuel below ground.
 - b. Chemical applicators shall not be an allowed use of any airstrip.
4. A personal use airstrip may be converted to a public use airstrip but shall be subject to additional public hearing(s) and regulation by the ~~State Aeronautics Department~~Oregon Department of Aviation.

SECTION 2.030.

WILDLIFE MANAGEMENT: GEOGRAPHIC AREA.

- A. The State Department of Fish and Wildlife, in accordance with its license with the ~~County governing body Baker County Board of Commissioners~~, shall have authority to take those actions and do those things reasonably necessary to establish, maintain, and perpetuate the various kinds of wildlife associated with the Geographic Area or that may be introduced by such Department into the area.
- B. Such Department shall have authority to cause one or more of the Tailing Ponds to be deepened to an extent calculated to provide an adequate depth of water for fish survival: Provided, however, that one or more of such ponds deepened shall have structures designed to accommodate the elderly or physically handicapped person as to access for fishing therein.
- C. Such Department shall have authority to establish those structures, or make those fills, designed to stabilize the depth of water in those Tailing Ponds intended to be stocked and maintained with fish or other forms of aquatic wildlife.
- D. In order to reduce or alleviate the conflicts between the wildlife management of lands and the mineral resource management of lands in the in the Geographic Area, such Department shall give due consideration to those land areas designated for mineral removal; such consideration shall include the utilization of setback distances from mineral resource areas.
- E. Nothing in this Section may be construed to deny vehicular access to the Powder River Gauging Station, which access is reasonably required for the inspection and maintenance of such Station.

EXHIBIT C
Dredge Tailing Ordinance with Proposed Changes

SECTION 2.040. RECREATIONAL DEVELOPMENT: GEOGRAPHIC AREA.

- A. ~~The County governing body~~ Baker County Board of Commissioners shall have authority to establish and maintain a County Park and automobile parking areas in the Geographic Area as follows:
1. County Park and parking area: On the west side of the Dredge Lane Road within the boundaries of a triangle of land described by commencing at the intersection of the Dredge Lane Road and the Sumpter Valley Railroad Bed; thence northwesterly along said railroad bed a distance of 1360 feet; thence southerly to the intersection of the Powder River; thence southeasterly along the river to the Dredge Lane Road; thence northerly along said road to the point of beginning.
 2. Other parking area: On the east side of the Dredge Lane Road, within 300 feet of the center line thereof between the Powder River and Highway 7; and on the east side of the Whitney-Tipton Highway, within 300 feet of the center line thereof, between the Powder River and the Sumpter Valley Railroad Bed.
- B. ~~The County governing body~~ Baker County Board of Commissioners may cause to be constructed pedestrian trails in the Geographic Area: Provided, however, that:
1. The State Department of Fish and Wildlife concurs in the location of such trails.
 2. One or more of such trails shall be designed to accommodate the elderly or the physically handicapped person.
- C. The Sumpter Valley Railroad Restoration, Incorporated, shall have the authority:
1. To establish and maintain a recreational railroad operation, including a depot building and other buildings and spaces reasonably necessary for maintenance and storage of railroad steam engines, parts thereof, and trackage: Provided, however, that such buildings and spaces shall be confined to that triangle of land described in subsection A.1 of this Section.
 2. To use the existing road bed and right-of-way of the Sumpter Valley Railroad, throughout its course in the Geographic Area, for trackage necessary to support steam locomotive travel.

SECTION 3.010. USES ALLOWED OUTRIGHT: BUFFER ZONE. The following uses are allowed outright in the Buffer Zone:

- A. Farm Use.
- B. Propagation and harvesting of forest products.
- C. Local distribution utility facilities (see Section 2.010, A.4, page 3).
- D. The outbuildings customarily used in conjunction with farm use.

SECTION 3.020. USES SUBJECT TO APPROVAL; PERMIT REQUIRED; STANDARDS AND CRITERIA: BUFFER ZONE.

- A. Uses: The following uses may be allowed in the Buffer Zone, providing such uses conform to the applicable standards and criteria of this Section and providing that such uses shall be subject to a permit in writing issued by the ~~County governing body~~ Baker County Planning Commission:

EXHIBIT C
Dredge Tailing Ordinance with Proposed Changes

1. Single family dwellings accessory to and necessary for farm use.
2. Single family dwellings not in conjunction with farm use, subject to criteria of ORS 215.283(3).
3. Home occupations.
4. Major utility facilities (see Section 2.020, D, page 4).
- 4.5. Exploration for mineral and aggregate resources. "Exploration" means all activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade, or economic viability of a deposit. See ORS 517 for further explanation.

B. Standards and Criteria:

1. The dwellings and accessory buildings allowed by this Section shall be located upon naturally elevated or terraced land above the meadowland grasslands and wetlands and shall not be located upon land that has been dredge mined.
2. The standards for minimum ownerships, dimensional standards and setbacks from property lines in the Buffer Zone shall be no less than those of the Exclusive Farm Use (EFU) Zone as determined by the applicable provisions of the Baker County Zoning and Subdivision Ordinance of 1983 as amended or revised.
3. The Dwellings and other buildings requiring a sewage disposal system shall be located on land approved by the Department of Environmental Quality.

SECTION 3.030. NONCONFORMING USE.

- A. A legal use of land or a building or other structure, existing prior to the effective date of this Ordinance, that does not conform to the provisions of this Ordinance, may be continued; but such use shall not be expanded or otherwise made further nonconforming.
- B. A new use replacing a nonconforming use shall conform to the provisions of this Ordinance.

SECTION 3.040. VARIANCE; PERMIT; NOTIFICATION; FEES.

- A. ~~The Hearings Officer~~Baker County Planning Commission shall have authority to grant a Variance permit from the provisions of this Ordinance where it can be shown that owing to a special and unusual circumstance relating to a particular lot or parcel of land, or to a particular building or other structure, the literal interpretation of this Ordinance would cause an undue or unnecessary hardship.
- B. No Variance permit shall be granted unless it can be shown that all of the following circumstances exist:
 1. The Variance is necessary for the preservation of a property right of an applicant substantially the same as owners of other property in the same vicinity.
 2. The granting of the Variance will not be materially detrimental to any purpose of this Ordinance nor be injurious to other property in the same vicinity.
 3. The Variance requested is the minimum Variance which will alleviate the hardship.

EXHIBIT C

Dredge Tailing Ordinance with Proposed Changes

- C. A Variance permit issued according to this Section shall apply to and run with the land involved; Provided, however, that the ~~Hearings Officer~~Baker County Planning Commission shall have authority to set reasonable time limits during which time the use of land or the use of a building or other structure shall be commenced and diligently pursued.
- D. A use not established in accordance with the provisions of (C) of this Section shall be subject to a review and reconsideration by the ~~hearing officer~~Baker County Planning Commission. The reconsideration, depending upon changing conditions and circumstances, may include a revocation of a permit formerly authorized.
- E. An application for a Variance permit shall be made to the Planning Director on forms provided for that purpose, along with an administrative fee as established by the ~~County governing body~~Baker County Board of Commissioners.
- F. The ~~County governing body~~Baker County Board of Commissioners, by order thereof, shall have authority to adjust the fee in (E) of this Section, from time to time, as it deems necessary.
- G. All applications for a Variance shall be published in a newspaper of general circulation in the County at least one time no later than ~~40~~14 days prior to the date set for the public hearing upon the application. In addition, all land owners of record owning land within 250 feet of the land involved in a Variance application shall receive individual notice by mail of the date, time and place of the hearing.

SECTION 4.010. SUMPTER VALLEY DREDGE TAILING MANAGEMENT PLAN.

Included in this Ordinance, and by this reference made a part hereof, is the "Sumpter Valley Dredge Tailing Management Plan," which Plan shall be adopted by the ~~County governing body~~Baker County Board of Commissioners and which Plan may be referred to as the "Dredge Tailing Plan."

SECTION 4.020. ZONING MAP.

Included in this Ordinance, and by this reference made a part hereof, is the "Zoning Map Sumpter Valley Dredge Tailing Management Plan," which map shall be adopted and revised by the ~~County governing body~~Baker County Board of Commissioners and referred to as the "Dredge Tailing Zoning Map."

SECTION 4.030. FILING; RECORDING.

- A. A certified copy of the Dredge Tailing Plan, including any revision thereof, shall be filed and recorded with the ~~County Recording Officer~~Baker County Clerk.
- B. A certified copy of this Ordinance, including any revision hereof, and a certified copy of the zoning map hereto, including any revision thereof, shall be filed and recorded with the ~~County Recording Officer~~Baker County Clerk.
- C. The Plan, Ordinance and zoning map mentioned in this Section, including any revisions, shall not become operative until filed and recorded as required by this Section.

SECTION 4.040. REVIEWS; REVISIONS.

- A. The Dredge Tailing Plan shall be reviewed and may be revised every two years, as necessary, in order to allow for changing conditions and circumstances that reasonably may require such revision: Provided, however, that such revisions of the Dredge Tailing Plan shall not be in conflict with any provision of the overall Baker County Land Use Plan.

EXHIBIT C

Dredge Tailing Ordinance with Proposed Changes

- B. This Ordinance, including the zoning map hereto, may be reviewed and revised periodically, as necessary: Provided, however, that any revision of this Ordinance and zoning map shall not be in conflict with any provision of the Dredge Tailing Plan.
- C. "Revision" including any amendment.

SECTION 4.050. SUPERCEDES EXISTING PLAN AND ORDINANCE. The provisions of this Dredge Tailing Ordinance and the Dredge Tailing Plan, as to the land area involved, except as provided in Section 3.020 (B)(2), shall supersede the provisions of any land use plan and zoning ordinance of the County adopted prior to the effective date of this Ordinance.

SECTION 5.010. ADMINISTRATION; APPEAL; FEES.

- A. The Planning Director shall have authority to administer and enforce the provisions of this Ordinance.
- B. A ruling or other action of the Planning Director may be appealed to the ~~Hearing Officer~~ Baker County Planning Commission: Provided, however, that such appeal is filed in writing with such Director within ~~40~~ 14 days of the date of such ruling or action from which appeal is taken.
- C. A ruling or action of the ~~Hearings Officer~~ Baker County Planning Commission may be appealed to the ~~County governing body~~ Baker County Board of Commissioners: Provided, however, that such appeal is filed in writing with the ~~County Clerk~~ Baker County Planning Department, along with the prescribed filing fee, within ~~40~~ 14 days of the action or ruling from which the appeal is taken.
- D. An appeal filed according to this Section shall contain:
 - 1. The ruling or other action from which appeal is taken.
 - 2. The grounds upon which the appeal is taken.
- E. Action upon an appeal filed according to this Section shall be taken within 30 days of the date the appeal is filed.
- F. The ~~County governing body~~ Baker County Board of Commissioners, by an order thereof, shall have authority to adjust the filing fee according to this Section, from time to time, as it deems appropriate.

SECTION 5.020. REMEDIES; VIOLATIONS.

- A. In addition to other remedies provided by law, violations of the provisions of this Ordinance shall be subject to such remedies as provided in ORS 215.185.
- B. A violation of the provisions of this Ordinance is held to be a nuisance and shall be subject to the provisions of ORS 203.065.

EXHIBIT C
Dredge Tailing Ordinance with Proposed Changes

Recommended for adoption this 22nd day of December, 1983.

Alvin Ward, Chairman
Baker County Planning Commission

Glen Swilling, Vice-Chairman

Sid Johnson, Commissioner

Mike McLean, Commissioner

Dwight Langley, Commissioner

John Rogers, Commissioner

Floyd Taylor, Commissioner

REVISED AND ADOPTED this 9th day of March, 1984.

Larry L. Smith, County Judge

Ben Dunleavy, County Commissioner

Fred Ringer, County Commissioner

EXHIBIT C

Dredge Tailing Ordinance with Proposed Changes

REVISED AND ADOPTED this 17th day of October, 2012.

Fred Warner, Jr., Commission Chair

Tim L. Kerns, Commissioner

Carl E. Stiff, M.D., Commissioner

EXHIBIT C

Dredge Tailing Ordinance with Proposed Changes

SECTION 5.030. EMERGENCY.

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect immediately upon being filed, recorded, and acknowledged by the Land Conservation and Development Commission.

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REVISED AND ADOPTED this 24th day of October, 1984.

Larry L. Smith, County Judge

Fred W. Ringer, County Commissioner

Ben K. Dunleavy, County Commissioner

EXHIBIT C

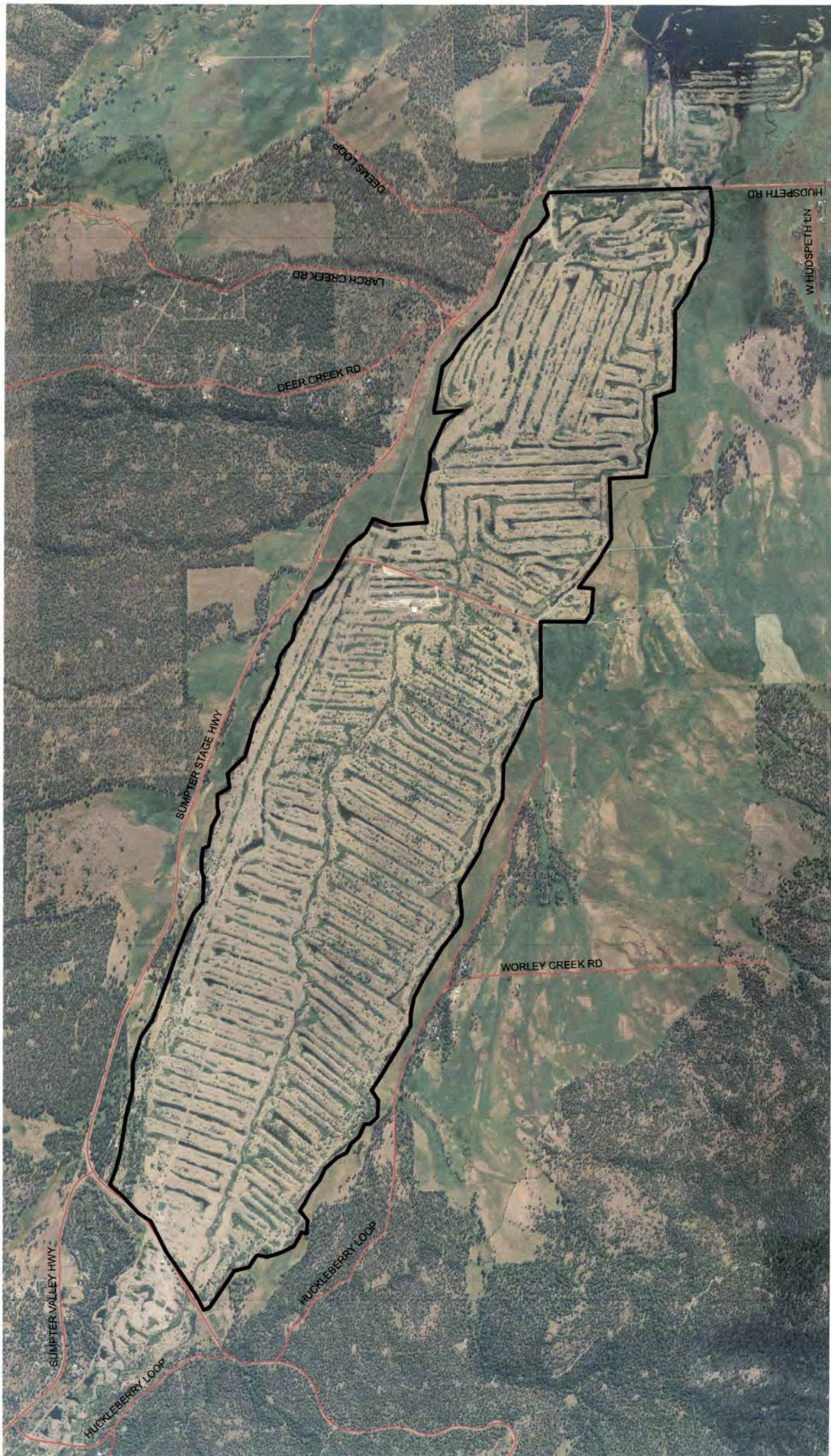
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ORDINANCE NUMBER 2012-03
Amending the Ordinance Recorded as Court 84-11-096

SERIES 1979, REVISED 1984, REVISED 2012

**AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION OF THE SUMPTER VALLEY
DREDGE TAILING MANAGEMENT PLAN**

The COUNTY OF BAKER Ordains as Follows:

SECTION 1.010. **SHORT TITLE.** This Ordinance may be cited as the "Dredge Tailing Ordinance" or as "Ordinance Number _____."

SECTION 1.020. **PURPOSES.** The purposes of this Ordinance are several:

- A. To provide for the public health, safety and general welfare.
- B. To provide for the adoption of the Sumpter Valley Dredge Tailing Management Plan.
- C. To implement, or carry out, such Management Plan.

SECTION 1.030. **VIOLATION OF PROVISION: PERMITS REQUIRED.**

- A. No person shall locate, construct, maintain, repair, alter, or use a building or other structure or use or transfer land in violation of any provision of this Ordinance.
- B. Where a permit is required by any provision of this Ordinance, no person shall take any action or do anything mentioned in (A) of this Section without such permit in writing issued by the Baker County Planning Commission.

SECTION 1.040. **OTHER REGULATION NOT CIRCUMVENTED.** A use or action allowed by this Ordinance, or a permit issued pursuant hereto, may not be construed to circumvent or supersede other State or Federal regulations applicable to the land are involved.

SECTION 1.050. **DEFINITIONS.** As used in this Ordinance:

- A. "Buffer Zone" refers to the area of land in the county adjoining the geographic area and bounded as follows:
 - 1. North boundary: Sumpter Valley Highway (Hwy. 7)
 - 2. West boundary: Highway 7; also known as Whitney-Tipton Hwy.
 - 3. East boundary: Clear Creek Road (Hudspeth Lane)
 - 4. South boundary: Dredge Lane Road where such road exists; otherwise, a distance of 1000 feet south of the South Dredge Line.
- B. "Dredge Line" refers to that line of demarcation between soils affected by dredge mining operations and soils unaffected by such operations.
- C. "Geographic Area" refers to the area of land in the County bounded as follows:

1. West boundary: Highway 7 (Whitney-Tipton) in Sections 3 and 10, Township 10 South, Range 37 East, W.M.
 2. East boundary: Clear Creek Road (Hudspeth Lane) along the common section line of Sections 17 and 18, Township 10 South, Range 38 East, W.M.
 3. North boundary: The North Dredge Line.
 4. South boundary: The South Dredge Line.
- D. "Gravel operations" refer to the use of land for the recovery of small stones or rocks and cobbles, or a mixture of such with sand. The term shall include the crushing, sorting, screening and asphaltic compounding normally associated with such operations, whether for immediate removal or stockpiling: Provided, however, that "gravel operations" do not include the storing or stockpiling of asphaltic compounds or compounded materials or any wastes or residues thereof on a continuing basis.
- E. "Mining" refers to the extraction of organic or inorganic ores or minerals from the earth in gravel or quarried materials.
- F. "Right-of-way of the Sumpter Valley Railway" refers to the existing railroad bed, including land within 34 feet of and parallel to the center line thereof.

SECTION 2.010. USES ALLOWED OUTRIGHT: GEOGRAPHIC AREA.

- A. The following uses are allowed outright in the Geographic Area:
1. Wildlife management according to Section 2.030.
 2. Recreational development according to Section 2.040.
 3. Livestock grazing.
 4. Local distribution utility facilities (local sewer, water, gas, telephone and power distribution lines). Towers 200' or higher must be reviewed as a Conditional Use.

SECTION 2.020. USES SUBJECT TO APPROVAL: PERMIT REQUIRED: STANDARDS AND CRITERIA: GEOGRAPHIC AREA.

- A. Mining operations may be allowed in the following locations within the Geographic Area, providing that such operations conform to the standards and criteria of this Section and providing further that such operations shall be subject to a zoning permit in writing issued by the Baker County Planning Commission:
1. On County-owned land.
 2. On State-owned land in the E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 10 South, Range 38 East, W.M.
 3. On privately-owned land.
- B. All mining operations allowed by this Section shall be conducted and reclaimed in a manner:
1. To maintain a setback distance of no less than 20 feet from any portion of the banks of the Powder River.

2. To maintain a setback distance of no less than 75 feet from the center line of the Sumpter Valley Railway Bed.
 3. To leave no cutbanks with slopes greater than a ratio of three feet horizontal distance to one foot vertical distance (3:1).
 4. To protect the naturally growing, riparian vegetation along the banks of the Powder River and around the Tailing Ponds.
 5. To prevent adverse siltation or other pollution or filling of the Powder River or Tailing Ponds or adverse pollution of the ground water.
- C. Mining Operations permitted according to this Section may also be subject to a permit pursuant to the State Surface Mining Laws.
- D. Major utility facilities (any major facility or structure, as distinguished from local distribution utility facilities, owned or operated by a public private or cooperative electric, fuel, communication, sewage or water company for the generation, transmission, distribution, or processing of its products or for the disposal of cooling water, waste, or byproducts and including power transmission lines, major trunk pipelines, power substations, dams, water towers, railroad tracks, sewage lagoons, sanitary landfills and similar facilities. Excluded from this definition are dams whose impoundments exceed 1000 acre feet or electric transmission lines greater than 115 KVs).
- E. Personal-Use/Public-Use Airstrip
1. A Personal-Use/Public Use airstrip may be allowed in the following locations within the Geographic Area, providing that said use conforms to the standards and criteria of this Section and providing further that such use shall be subject to a written zoning permit from the Baker County Planning Commission or its designate:
 - a. On land within 2000 feet of the center line of the Whitney-Tipton Highway at the west boundary of the Geographic Area;
 - b. On land no closer than 20 feet to the banks of the Powder River;
 - c. On land no closer than 75 feet from the center line of the Sumpter Valley Railway Bed.
 2. A personal use airstrip allowed by this Section shall be constructed and operated in the following manner:
 - a. Naturally occurring riparian vegetation along the Powder River shall be maintained and preserved;
 - b. Siltation, filling, or pollution of the Powder River shall be prevented;
 - c. Pollution of the groundwater shall be prevented by constructing a concrete catch basin underneath the area of fuel storage or fueling activities. Said concrete pad shall be diked and be of adequate size to contain any leaks or spills. The storage of fuel shall be limited to a maximum of 2000 gallons.
 - d. A noise boundary study to demonstrate the impact of the proposed airstrip on surrounding land uses shall be required. Said study shall be adequate to also fulfill DEQ requirements.

- e. The proposal shall satisfy the permit requirements of all state and federal agencies whose involvement is legislated, including but not necessarily limited to DEQ, DOC, State Fire Marshal, Oregon Department of Aviation, and Federal Aviation Administration.
 - f. The traffic pattern shall be designed to minimize disturbance of waterfowl in the area which will minimize risk to aircraft.
 - g. The use of the airstrip shall be limited to daylight hours.
 - h. The airstrip shall be sited to minimize risk to/from utility wires, highways, and residences.
3. Airstrip Uses Prohibited in the Geographic Area:
- a. No airstrip shall be allowed to store fuel below ground.
 - b. Chemical applicators shall not be an allowed use of any airstrip.
4. A personal use airstrip may be converted to a public use airstrip but shall be subject to additional public hearing(s) and regulation by the Oregon Department of Aviation.

Section 2.030, as described below, does not currently apply as there is not an active license between the Oregon Department of Fish & Wildlife and Baker County. If, in the future, a license agreement is instated, this Section may be amended.

SECTION 2.030. WILDLIFE MANAGEMENT: GEOGRAPHIC AREA.

- A. The State Department of Fish and Wildlife, in accordance with its license with the Baker County Board of Commissioners, shall have authority to take those actions and do those things reasonably necessary to establish, maintain, and perpetuate the various kinds of wildlife associated with the Geographic Area or that may be introduced by such Department into the area.
- B. Such Department shall have authority to cause one or more of the Tailing Ponds to be deepened to an extent calculated to provide an adequate depth of water for fish survival: Provided, however, that one or more of such ponds deepened shall have structures designed to accommodate the elderly or physically handicapped person as to access for fishing therein.
- C. Such Department shall have authority to establish those structures, or make those fills, designed to stabilize the depth of water in those Tailing Ponds intended to be stocked and maintained with fish or other forms of aquatic wildlife.
- D. In order to reduce or alleviate the conflicts between the wildlife management of lands and the mineral resource management of lands in the Geographic Area, such Department shall give due consideration to those land areas designated for mineral removal; such consideration shall include the utilization of setback distances from mineral resource areas.
- E. Nothing in this Section may be construed to deny vehicular access to the Powder River Gauging Station, which access is reasonably required for the inspection and maintenance of such Station.

SECTION 2.040. RECREATIONAL DEVELOPMENT: GEOGRAPHIC AREA.

- A. The Baker County Board of Commissioners shall have authority to establish and maintain a County Park and automobile parking areas in the Geographic Area as follows:

1. County Park and parking area: On the west side of the Dredge Lane Road within the boundaries of a triangle of land described by commencing at the intersection of the Dredge Lane Road and the Sumpter Valley Railroad Bed; thence northwesterly along said railroad bed a distance of 1360 feet; thence southerly to the intersection of the Powder River; thence southeasterly along the river to the Dredge Lane Road; thence northerly along said road to the point of beginning.
 2. Other parking area: On the east side of the Dredge Lane Road, within 300 feet of the center line thereof between the Powder River and Highway 7; and on the east side of the Whitney-Tipton Highway, within 300 feet of the center line thereof, between the Powder River and the Sumpter Valley Railroad Bed.
- B. Should the Baker County Board of Commissioners elect to construct pedestrian trails in the Geographic Area, the following factors will be considered:
1. The State Department of Fish and Wildlife may be consulted regarding the location of such trails.
 2. One or more of such trails shall be designed to accommodate the elderly or the physically handicapped person.
- C. The Sumpter Valley Railroad Restoration, Incorporated, shall have the authority:
1. To establish and maintain a recreational railroad operation, including a depot building and other buildings and spaces reasonably necessary for maintenance and storage of railroad steam engines, parts thereof, and trackage: Provided, however, that such buildings and spaces shall be confined to that triangle of land described in subsection A.1 of this Section.
 2. To use the existing road bed and right-of-way of the Sumpter Valley Railroad, throughout its course in the Geographic Area, for trackage necessary to support steam locomotive travel.

SECTION 3.010. USES ALLOWED OUTRIGHT: BUFFER ZONE. The following uses are allowed outright in the Buffer Zone:

- A. Farm Use.
- B. Propagation and harvesting of forest products.
- C. Local distribution utility facilities (see Section 2.010, A.4, page 3).
- D. The outbuildings customarily used in conjunction with farm use.

SECTION 3.020. USES SUBJECT TO APPROVAL; PERMIT REQUIRED; STANDARDS AND CRITERIA: BUFFER ZONE.

- A. Uses: The following uses may be allowed in the Buffer Zone, providing such uses conform to the applicable standards and criteria of this Section and providing that such uses shall be subject to a permit in writing issued by the Baker County Planning Commission:
1. Single family dwellings accessory to and necessary for farm use.
 2. Single family dwellings not in conjunction with farm use, subject to criteria of ORS 215.284.
 3. Home occupations.

4. Major utility facilities (see Section 2.020, D, page 4).
5. Exploration for mineral and aggregate resources. "Exploration" means all activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade, or economic viability of a deposit. See ORS 517 for further explanation.

B. Standards and Criteria:

1. The dwellings and accessory buildings allowed by this Section shall be located upon naturally elevated or terraced land above the meadowland grasslands and wetlands and shall not be located upon land that has been dredge mined.
2. The standards for minimum ownerships, dimensional standards and setbacks from property lines in the Buffer Zone shall be no less than those of the Exclusive Farm Use (EFU) Zone as determined by the applicable provisions of the Baker County Zoning and Subdivision Ordinance of 1983 as amended or revised.
3. The Dwellings and other buildings requiring a sewage disposal system shall be located on land approved by the Department of Environmental Quality.

SECTION 3.030. NONCONFORMING USE.

- A. A legal use of land or a building or other structure, existing prior to the effective date of this Ordinance, that does not conform to the provisions of this Ordinance, may be continued; but such use shall not be expanded or otherwise made further nonconforming.
- B. A new use replacing a nonconforming use shall conform to the provisions of this Ordinance.

SECTION 3.040. VARIANCE; PERMIT; NOTIFICATION; FEES.

- A. The Baker County Planning Commission shall have authority to grant a Variance permit from the provisions of this Ordinance where it can be shown that owing to a special and unusual circumstance relating to a particular lot or parcel of land, or to a particular building or other structure, the literal interpretation of this Ordinance would cause an undue or unnecessary hardship.
- B. No Variance permit shall be granted unless it can be shown that all of the following circumstances exist:
 1. The Variance is necessary for the preservation of a property right of an applicant substantially the same as owners of other property in the same vicinity.
 2. The granting of the Variance will not be materially detrimental to any purpose of this Ordinance nor be injurious to other property in the same vicinity.
 3. The Variance requested is the minimum Variance which will alleviate the hardship.
- C. A Variance permit issued according to this Section shall apply to and run with the land involved: Provided, however, that the Baker County Planning Commission shall have authority to set reasonable time limits during which time the use of land or the use of a building or other structure shall be commenced and diligently pursued.
- D. A use not established in accordance with the provisions of (C) of this Section shall be subject to a review and reconsideration by the Baker County Planning Commission. The reconsideration,

depending upon changing conditions and circumstances, may include a revocation of a permit formerly authorized.

- E. An application for a Variance permit shall be made to the Planning Director on forms provided for that purpose, along with an administrative fee as established by the Baker County Board of Commissioners.
- F. The Baker County Board of Commissioners, by order thereof, shall have authority to adjust the fee in (E) of this Section, from time to time, as it deems necessary.
- G. All applications for a Variance shall be published in a newspaper of general circulation in the County at least one time no later than 14 days prior to the date set for the public hearing upon the application. In addition, all land owners of record owning land within 250 feet of the land involved in a Variance application shall receive individual notice by mail of the date, time and place of the hearing.

SECTION 4.010. SUMPTER VALLEY DREDGE TAILING MANAGEMENT PLAN.

Included in this Ordinance, and by this reference made a part hereof, is the "Sumpter Valley Dredge Tailing Management Plan," which Plan shall be adopted by the Baker County Board of Commissioners and which Plan may be referred to as the "Dredge Tailing Plan."

SECTION 4.020. ZONING MAP.

Included in this Ordinance, and by this reference made a part hereof, is the "Zoning Map Sumpter Valley Dredge Tailing Management Plan," which map shall be adopted and revised by the Baker County Board of Commissioners and referred to as the "Dredge Tailing Zoning Map."

SECTION 4.030. FILING; RECORDING.

- A. A certified copy of the Dredge Tailing Plan, including any revision thereof, shall be filed and recorded with the Baker County Clerk.
- B. A certified copy of this Ordinance, including any revision hereof, and a certified copy of the zoning map hereto, including any revision thereof, shall be filed and recorded with the Baker County Clerk.
- C. The Plan, Ordinance and zoning map mentioned in this Section, including any revisions, shall not become operative until filed and recorded as required by this Section.

SECTION 4.040. REVIEWS; REVISIONS.

- A. The Dredge Tailing Plan shall be reviewed and may be revised every two years, as necessary, in order to allow for changing conditions and circumstances that reasonably may require such revision: Provided, however, that such revisions of the Dredge Tailing Plan shall not be in conflict with any provision of the overall Baker County Land Use Plan.
- B. This Ordinance, including the zoning map hereto, may be reviewed and revised periodically, as necessary: Provided, however, that any revision of this Ordinance and zoning map shall not be in conflict with any provision of the Dredge Tailing Plan.
- C. "Revision" including any amendment.

SECTION 4.050. SUPERCEDES EXISTING PLAN AND ORDINANCE. The provisions of this Dredge Tailing Ordinance and the Dredge Tailing Plan, as to the land area involved, except as provided in Section 3.020 (B)(2), shall supersede the provisions of any land use plan and zoning ordinance of the County adopted prior to the effective date of this Ordinance.


SECTION 5.010. ADMINISTRATION; APPEAL; FEES.

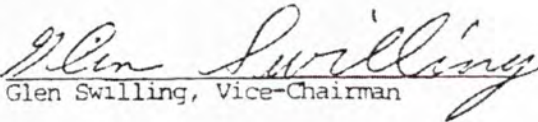
- A. The Planning Director shall have authority to administer and enforce the provisions of this Ordinance.
- B. A ruling or other action of the Planning Director may be appealed to the Baker County Planning Commission: Provided, however, that such appeal is filed in writing with such Director within 14 days of the date of such ruling or action from which appeal is taken.
- C. A ruling or action of the Baker County Planning Commission may be appealed to the Baker County Board of Commissioners: Provided, however, that such appeal is filed in writing with the Baker County Planning Department, along with the prescribed filing fee, within 14 days of the action or ruling from which the appeal is taken.
- D. An appeal filed according to this Section shall contain:
 - 1. The ruling or other action from which appeal is taken.
 - 2. The grounds upon which the appeal is taken.
- E. Action upon an appeal filed according to this Section shall be taken within 30 days of the date the appeal is filed.
- F. The Baker County Board of Commissioners, by an order thereof, shall have authority to adjust the filing fee according to this Section, from time to time, as it deems appropriate.

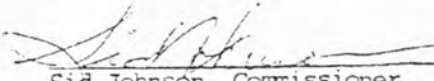
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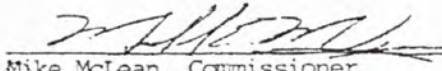
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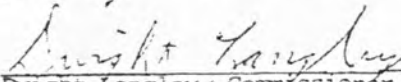
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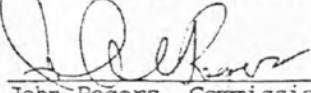

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 Baker County Planning Commission

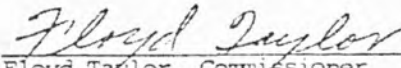

 Glen Swilling, Vice-Chairman


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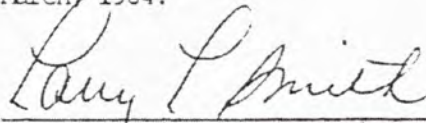

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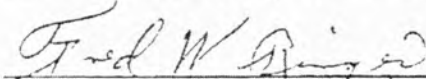

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 Floyd Taylor, Commissioner

REVISED AND ADOPTED this 9th day of March, 1984.


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 Fred Ringer, County Commissioner

REVISED AND ADOPTED this 17th day of October, 2012.

Fred Warner, Jr., Commission Chair

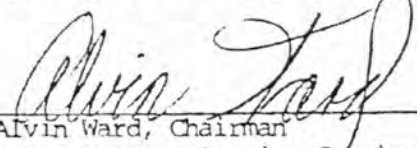
Tim L. Kerns, Commissioner

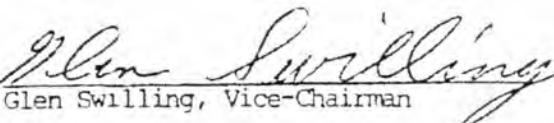
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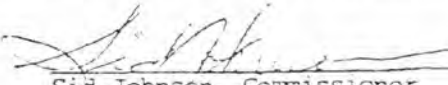
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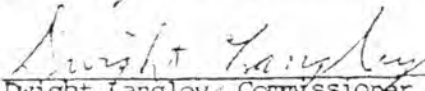
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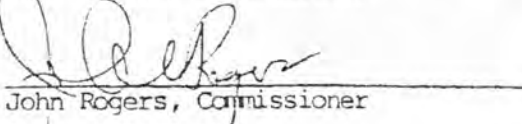

Alvin Ward, Chairman
Baker County Planning Commission

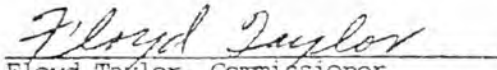

Glen Swilling, Vice-Chairman


Sid Johnson, Commissioner

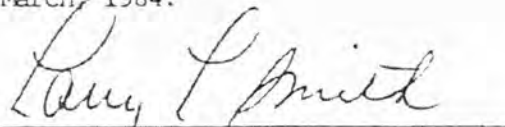

Mike McLean, Commissioner


Dwight Langley, Commissioner



John Rogers, Commissioner


Floyd Taylor, Commissioner

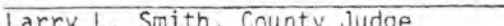
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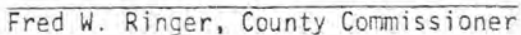

Larry L. Smith, County Judge

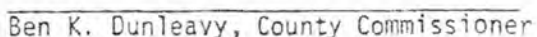

Ben Dunleavy, County Commissioner


Fred Ringer, County Commissioner

REVISED AND ADOPTED this 24th day of October, 1984


Larry L. Smith, County Judge


Fred W. Ringer, County Commissioner


Ben K. Dunleavy, County Commissioner

REVISED AND ADOPTED this 17th day of October, 2012.

Fred Warner, Jr., Commission Chair

Tim L. Kerns, Commissioner

Carl E. Stiff, M.D., Commissioner

EXHIBIT F

Baker County Planning Department
Baker County Court House
1995 Third Street, Suite 131
Baker City, Oregon 97814

September 27, 2012

Planning Department Staff:

As a resident of Baker County, I wish to voice my concerns regarding the request for a Plan Amendment to amend the text in the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan, PA-12-002. While I wish to support Baker County's efforts to develop our resource economy, I do not support the proposed change to the ordinance for the following reasons:

- Currently the County-owned dredge tailings provide wildlife habitat as well as hunting and recreation opportunities that will be lost to residents should long term mining result from the ordinance change.
- The downstream consequences of mining exploration have not been adequately researched nor explained to the community.
- While in theory mining development will lead to restoration activity along the Upper Powder River, there is little likelihood that the venture would be profitable enough to fund jobs, revenue to the county, revenue to the mining concern, and the millions of dollars necessary to insure the rehabilitation of the channel and floodplain.
- The County has done an inadequate job of including the public in the planning process. Tonight's meeting before the planning board was poorly advertised and did not give enough notice to all stakeholders to voice concerns.

I urge the County to leave the current Ordinance as written. The potential value of mining jobs and revenue are not equal to the current value the tailings provide as a cultural resource and as habitat for wildlife.

Sincerely,

Johanna Sedell
2735 1st Street
Baker City, Oregon 97814

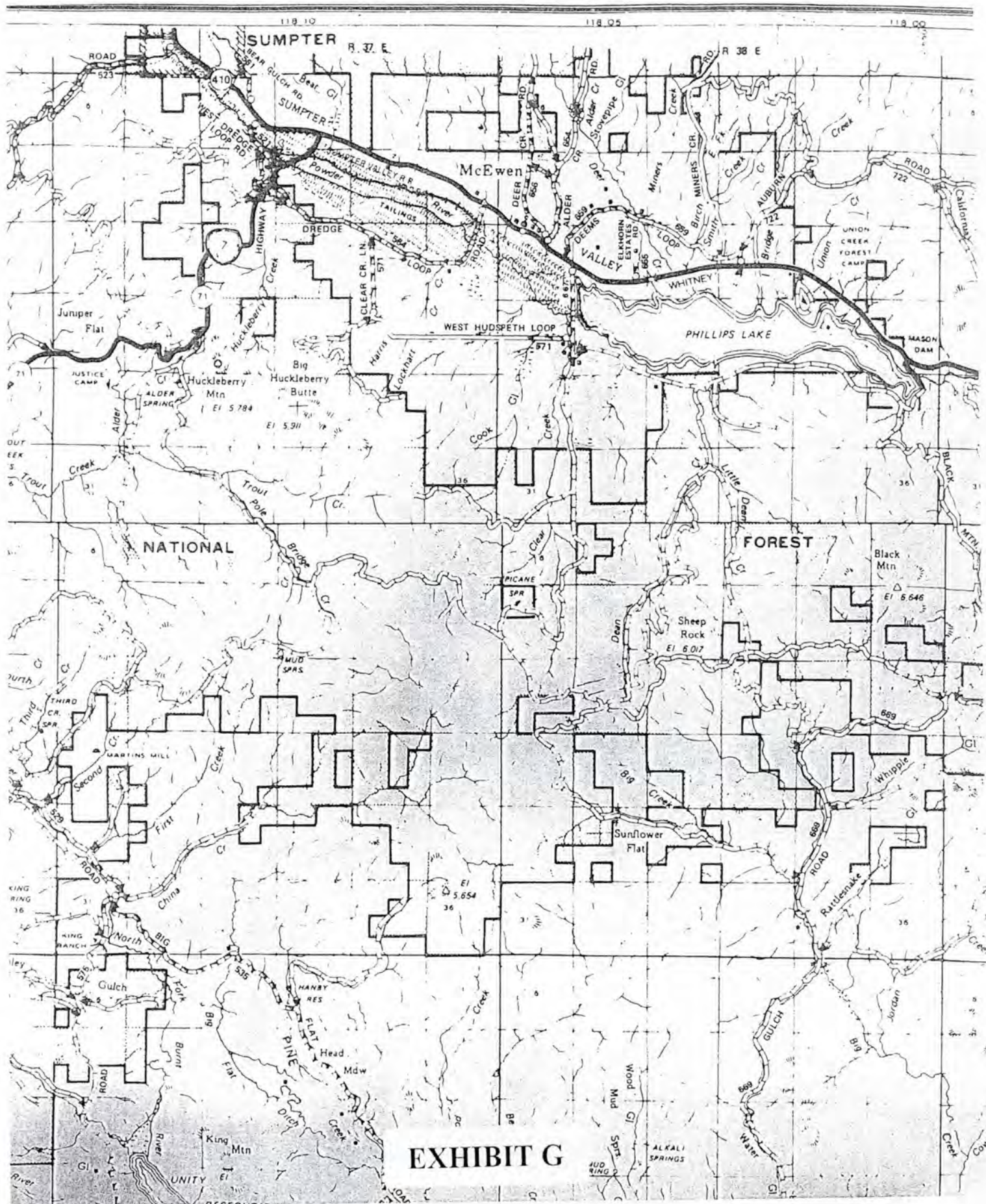
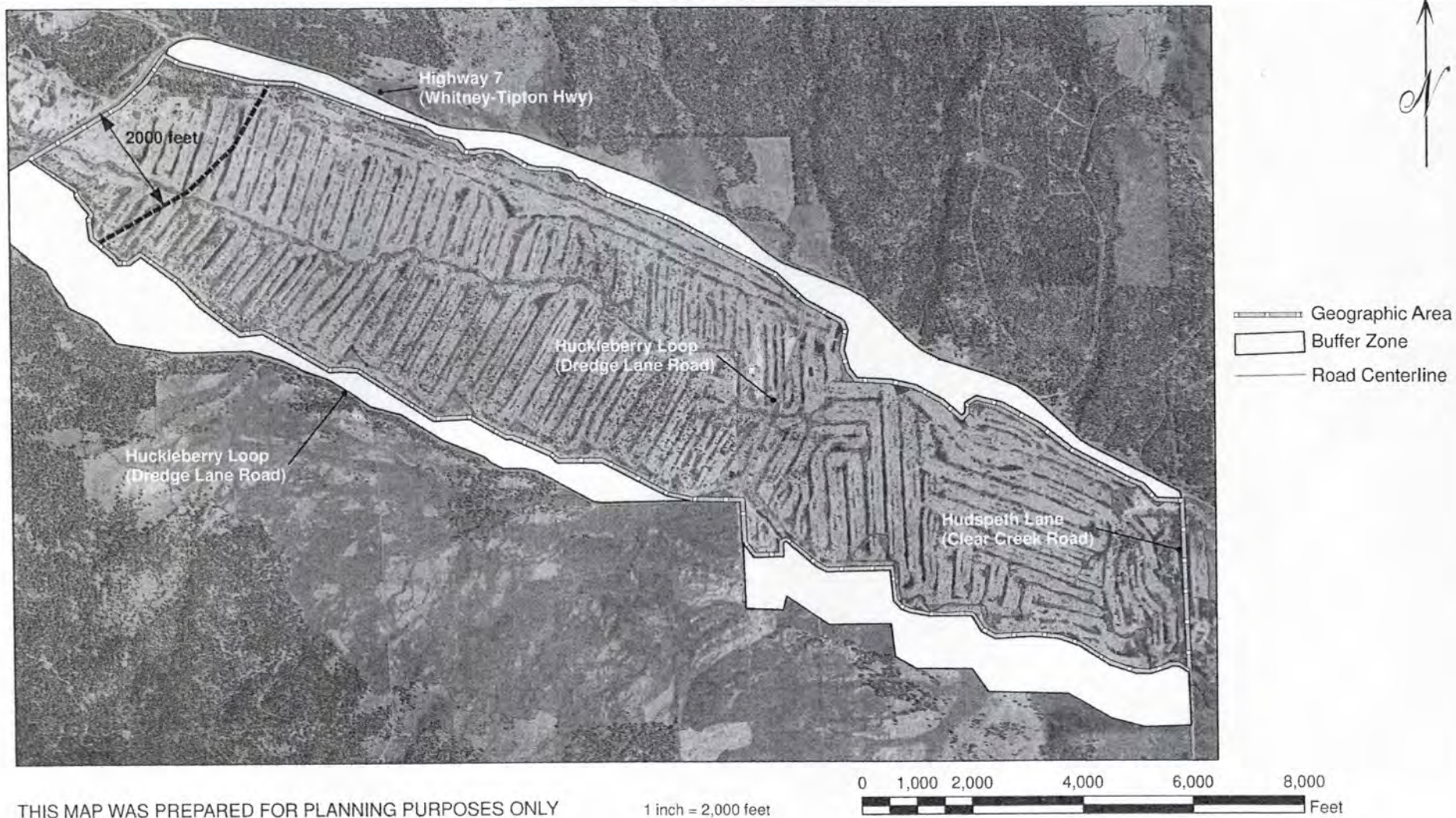
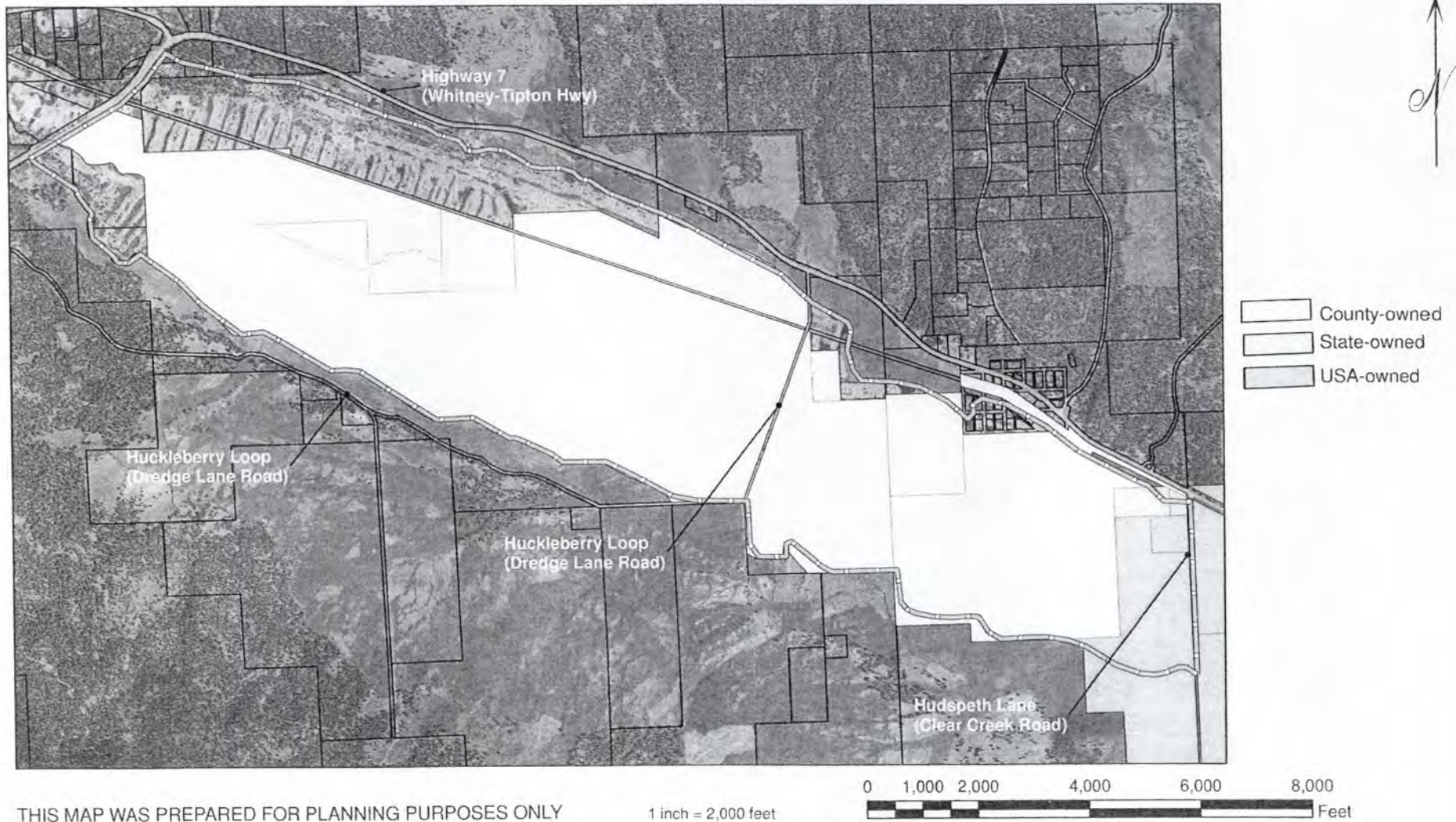


EXHIBIT G

Sumpter Valley Dredge Tailings



Sumpter Valley Dredge Tailings



THIS MAP WAS PREPARED FOR PLANNING PURPOSES ONLY



BAKER COUNTY Planning

Baker County Department of Planning
1995 Third Street, Ste. 131
Baker City, OR 97814
Phone: 541-523-8219, Fax: 541-523-5925

PUBLIC NOTICE

December 12, 2012

Dear Landowners and Affected Agencies,

Baker County Parks Director Karen Spencer, applicant and representative for the property owner, Baker County, has applied for a Plan Amendment to amend language in the Implementing Ordinance of the Sumpter Valley Dredge Tailing Management Plan (Dredge Tailing Plan), to make the Ordinance consistent with the language of the Baker County Comprehensive Land Use Plan.

The Baker County Planning Commission heard the Plan Amendment request on Thursday, September 27, 2012. At the hearing, the Planning Commission recommended approval of the Plan Amendment to the Baker County Board of Commissioners. The Board of Commissioners held two public hearings, one on Wednesday, October 3rd and the second on Wednesday, October 17, 2012. The Board of Commissioners took public testimony regarding the proposed Amendment at these hearings and at another public hearing on December 5, 2012, the Board of Commissioners approved the Plan Amendment request.

The Text Amendment was reviewed in accordance with Article 9 of the Baker County Zoning & Subdivision Ordinance and the Baker County Comprehensive Land Use Plan. These criteria are outlined in the Baker County Planning Department staff report for PA-12-002.

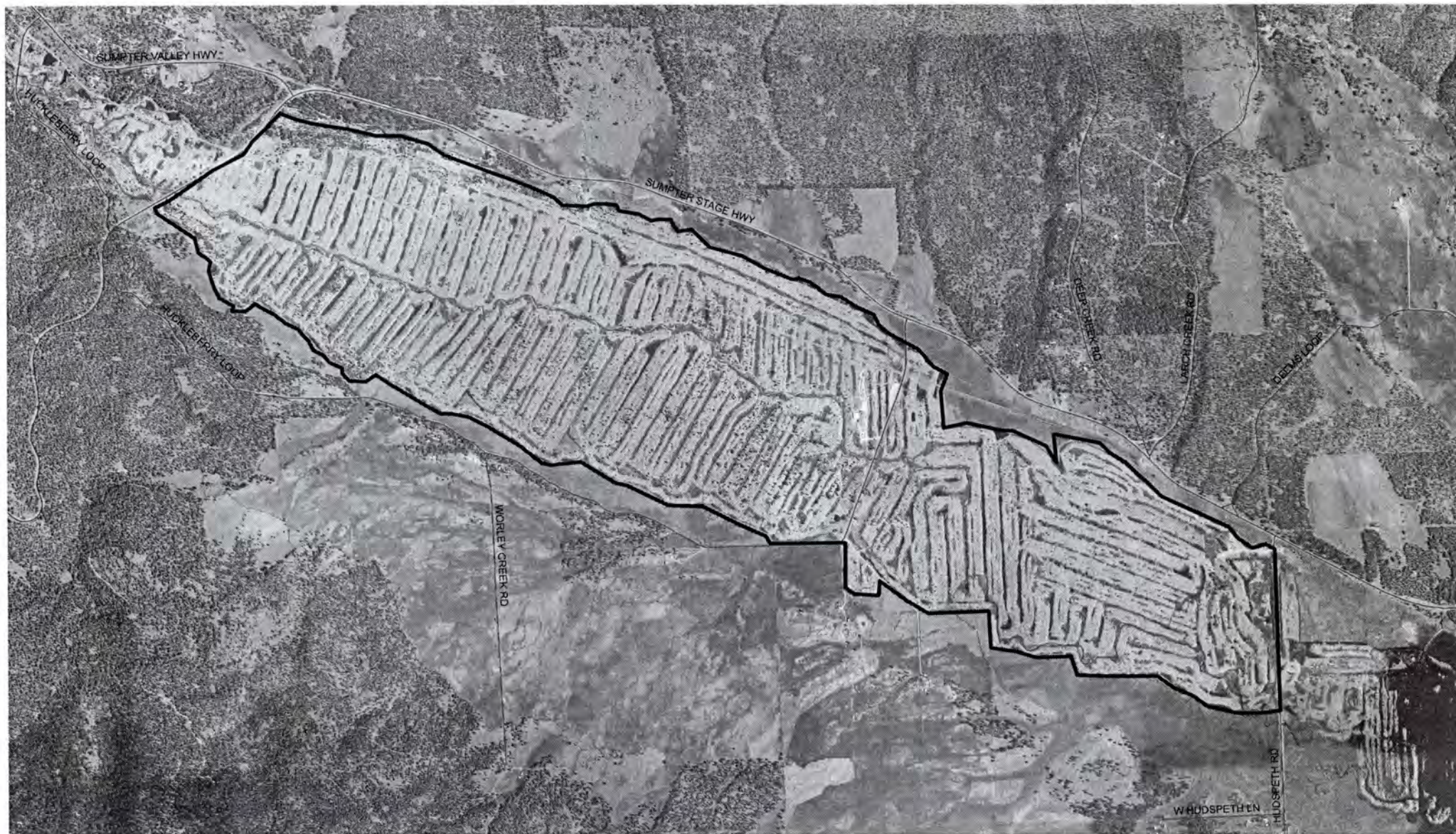
A copy of the staff report which documents the applicable criteria, findings of fact and conclusions that the Board of Commission utilized in its decision is available for review in the office of the Baker County Planning Department or, if you prefer, a copy of the report can be emailed to you or sent to you at a reasonable cost upon request. The Baker County Planning Department is located at the **Baker County Courthouse, 1995 Third Street, Suite 131, Baker City, OR 97814**. For additional information, please contact Tara Andrews at the Baker County Planning Department by phone at (541) 523-8219, by email at tandrews@bakercounty.org, or by fax at (541) 523-5925.

You are required by law to be notified of this land use decision and you may be eligible to appeal this determination for the Plan Amendment to the Oregon Land Use Board of Appeals within 21 days of the date of this notice. If there is no appeal within this time period, then the decision will be final. **It is the responsibility of the appellant to file a "Notice of Intent to Appeal" with the Oregon Land Use Board of Appeals, as defined in ORS 197.830.**

Please note: If you are a mortgagee, leinholder, vendor or seller: The Baker County Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.

Cc: Applicant & Property Owner
Affected Agencies
Tax Lot File

** This notice has been sent to all property owners within 750 feet of the subject property **



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LAND CONSERVATION
AND DEVELOPMENT

Baker County Planning Department

Baker County Courthouse
1995 Third Street, Suite 131
Baker City, OR 97814
(541) 523-8219

TO

ATTN: PLAN AMENDMENT SPEC
DEPT OF LAND CONSERV. & DEV.
635 CAPITOL STREET NE, STE.
150
SALEM, OR 97301-2540