



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

03/15/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: Wasco County Plan Amendment
DLCD File Number 003-10

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. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, March 30, 2011

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: Dawn Bird, Wasco County
Jon Jinings, DLCD Community Services Specialist
Amanda Punton, DLCD Regional Representative

<paa> YA

2 Notice of Adoption

DEPT OF

MAR 10 2011

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: Wasco County Local file number: PLAQJR-10-10-0005

Date of Adoption: 3/2/2011 Date Mailed: 3/9/2011

Date original Notice of Proposed Amendment was mailed to DLCD: 9/16/2010

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Comprehensive Plan Text Amendment: Add the Dodge quarry to the Wasco County Comprehensive Plan Aggregate Inventory as a Significant Site; Zoning Map Amendment to add the EPD-5, Mineral & Aggregate Overlay zone to the Permit Area Boumndary and all property within 1/4 mile.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

SAME

Plan Map Changed from: _____ to: _____

Zone Map Changed from: A-1(160) to: A-1(160)/EPD-5

Location: 5S 12E 0 TLs 1200/1300/8500/9200/9300 Acres Involved: 70.2

Specify Density: Previous: N/A New: _____

Applicable Statewide Planning Goals: 5

Was and Exception Adopted? YES NO

DLCD File No.: 003-10 (18609) [16559]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? **Yes** **No**

If no, do the statewide planning goals apply? **Yes** **No**

If no, did Emergency Circumstances require immediate adoption? **Yes** **No**

Affected State or Federal Agencies, Local Governments or Special Districts:

Oregon Dept. of Geology & Mineral Industries

Local Contact: **Dawn Baird, Assoc. Planner** Phone: **(541) 506-2560** Extension: _____

Address: **2705 E Second Street** City: **The Dalles**

Zip Code + 4: **97058-** Email Address: **dawnb@co.wasco.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.

6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**WASCO COUNTY PLANNING
AND DEVELOPMENT**

2705 East Second Street
The Dalles, Oregon 97058



Phone: (541) 506-2560
Fax: (541) 506-2561
Web Address: co.wasco.or.us

NOTICE OF DECISION

Wasco County Board of Commissioners

FILE # PLAQJR-10-10-0005

DECISION DATE: March 2, 2011

REQUESTS: A quasi-judicial request to for: 1) a Comprehensive Plan amendment to add the existing/expanded aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and 2) a Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation. The aggregate site is located on 5S 12E 0, tax lot 8500, and 6S 12E 0, tax lot 1300.

DECISION: Approval, with **conditions**

APPLICANT/OWNER INFORMATION:

Applicant Keith Mobley
P.O. Box 537
Dufur, OR 97021

Owners Richard & Janie Dodge
78888 Walters Road
Maupin, OR 97037

Contact Applicant

PROPERTY INFORMATION:

Township	Range	Section	Tax Lot No.(s)	Acres	Acct. #	Zoning
5S	12E	0	8500	879.10	12458/13052	A-1 (160)/EPD-2
5S	12E	0	9200	396.40	13055	A-1 (160)/EPD-2
5S	12E	0	9300	246.38	13020	A-1 (160)/EPD-2
6S	12E	0	1200	1,011.09	12578/1530/16088	A-1 (160)
6S	12E	0	1300	760.00	12569/15531	A-1 (160)

Address: 78888 Walters Road, 78900 and 78902 Back Walters Road

Location: The property is located south of the intersection of Walters/Back Walters Road, approximately one mile south of Highway 216, approximately 12½ miles southwest of Maupin, Oregon

Attachments:

- A. Conditions of Approval
- B. Appeal Information
- C. Maps
- D. Board of Commissioners Report
- E. Lighting Standards
- F. Farm Management Easement
- G. Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process

Staff Reviewer: Dawn Baird, Associate Planner

ATTACHMENT A –CONDITIONS OF APPROVAL

- A.** Current and future property owners shall comply with the application as reviewed and approved by the staff report which is available at the Wasco County Planning Department. This report details the restrictions on aspects of the approved development including but not limited to location, dimensions and use. This decision does not constitute tacit approval for any other development or use.
- B. Permanent Fire Safety Obligations:** As part of this review the current owner has signed a fire safety self certification form acknowledging that they understand the fire protection standards and commit to achieve compliance with them within one year of the date of approval and maintain them through the life of the development. This certification further commits all future property owners to this same requirement. A copy of this self certification form is available for inspection at the Wasco County Planning Department in file number PLAQJR-10-10-0005.
- C. Prior to Any Use of the Expanded Permit Area, the Property Owners Shall Comply with the Following Conditions:**
1. Farm Management Easement: Sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 prior to receiving zoning approval on a building permit application (**See Attachment F**).
 2. Impact Area Map: Submit a map identifying the Impact Area (all property within ¼ mile of the 70.2 acre Permit Area) to the Planning Dept.
 3. Barrier: Place an effective vehicular barrier or gate at the entrance to the aggregate site.
 4. Liability Policy: Carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$1,000,000.00.
 5. DOGAMI Documents:
 - a. Provide the County Planning Dept. with a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.
 - b. All applicable DOGAMI permits or exemption certificates shall be kept in effect during each year of operation.
- D. Miscellaneous Conditions**
1. All conditions of approval must be satisfied within two years from the date of final approval of this request. This permit will stay valid unless continues to have a valid mining permit, and it has not been abandoned for a period of 12 consecutive years or more.
 2. Hours of drilling and blasting are limited to the hours of 5 a.m./dawn (whichever is earlier) to 5 p.m., Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday. If the earlier starting time created problems, and complaints

were generated and the operator (and owners) did not resolve those complaints, the 9 a.m. start time requirement could be imposed by action of the Board of Commissioners.

3. Hours of operation for aggregate extraction: Except for extraordinary circumstances requiring extended hours, normal hours of operation are limited to daylight hours, Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays unless extraordinary circumstances require such operation. Extraordinary circumstances will be documented and a record of the hours worked beyond normal hours will be made available on request by Wasco County. If operations under this exception generate complaints from neighbors, this exception may be modified or eliminated by the Wasco County Board of Commissioners.
4. Dust Control:
 - a. Water for dust abatement shall be available during all phases of the aggregate operation.
 - b. Water sprays or other suppressive devices shall be operated at all times that dust is created and shall be located in such number as to most effectively suppress the polluting emission.
5. Truck Requirements:
 - a. All trucks hauling aggregate must follow weight, length, and height requirements.
 - b. All trucks hauling aggregate from the site shall be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Walters Road, Back Walters Road, and adjoining routes of travel clear of rock spillage.
6. Maintain Hillside and Vegetation: The hillside north of the existing site, and proposed expansion site shall be preserved and maintained with natural vegetation.
7. DEQ Air Quality:
 - a. Aggregate extraction, processing, and other operations shall conform to applicable DEQ air quality and emissions standards.
 - b. A DEQ permit will be required if on-site rock crushing exceeds 5,000 tons per year.
9. Uses in Permit Area: All operations, including but not limited to aggregate extraction, crushing, screening, batching, stockpiling, equipment storage, etc., shall only occur within the 70.2 acre Permit Area.
10. Removal of Equipment:
 - a. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

- b. Mining equipment shall be removed from the site when it is not in use for more than six months.
11. Permitted Uses in the Mineral & Aggregate Overlay zone: Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis. In addition, the following uses are permitted:
- a. Conditional uses shall be reviewed against the approval criteria of Section 3.845.
 - b. Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.
 - c. Stockpiling and storage of mineral and aggregate materials.
 - d. Processing of:
 - 1) Materials, including crushing, washing, milling, screening, sizing, or batching of portland cement; and
 - 2) Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.
 - e. Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.
 - f. Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.
 - g. Sale of products extracted and processed on-site from a mineral and aggregate operation.
12. Termination of the Mineral & Aggregate Overlay zone shall occur when:
- a. The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and
 - b. The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and
 - c. The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.
13. Water Right Permit: A water right shall be obtained from the Oregon Water Resources Dept. if more than 5,000 gallons of water per day is used from the existing well.
14. Screening: All excavated areas, processing equipment, and other equipment shall be screened from surrounding properties.
15. Dust Control: Maintain all on-site roads, inside and outside of the Extraction Area, with enough gravel on the running surface to cover the dirt base and minimize the amount of airborne dust.

16. Lighting: Outside lighting associated with the existing and/or expanded aggregate operation to be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways and waterways. Shielding and hooding materials shall be composed of nonreflective, opaque materials.

If any finding, conclusion, or condition of this decision is held invalid, neither the remainder of this decision, nor the application of any other finding, conclusion or condition herein shall be affected thereby.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: Oregon Revised Statutes, Chapter 215, requires that if you receive this notice, it must promptly be forwarded to the purchaser.

SIGNED THIS 3rd day of March, 2011, at The Dalles, Oregon.

Gary Nychyk, Interim Planning Director
Wasco County Planning & Development Office

State of Oregon)
County of Wasco)

Signed or attested before me on March 3, 2011, by Gary Nychyk.

Notary Public – State of Oregon

ATTACHMENT B – TIME LIMITS & APPEAL INFORMATION

No development shall occur until all zoning permits are obtained, all applicable zoning conditions are met, all building permits are issued and all appeal periods have expired.

Per Section 2.125 of the Wasco County Land Use & Development Ordinance, if construction is commenced within two years from the date of approval and is not abandoned for one continuous year or more, the approval shall stay in full force and effect. If not, the approval shall expire and a new application shall be made.

Please Note!

No guarantee of extension or subsequent approval either expressed or implied can be made by the Wasco County Planning and Development Office. Please take care in implementing your proposal in a timely manner.

APPEAL PROCESS:

The date of this decision is March 2, 2011. The decision of the Board of Commissioners shall be final unless an appeal from an aggrieved party is received by the Director within twelve (12) days of the mailing date of this decision, **Thursday, March 15, 2011, 4:00 p.m.**, or unless the Planning Commission or County Court on its own motion orders review within twelve (12) days of the date of decision. A complete record of the matter is available for review upon request during regular business hours or copies can be ordered at a reasonable price at the Wasco County Planning and Development Office. Notice of Appeal forms may also be obtained at the Wasco County Planning and Development Office. **The filing fee for an appeal is \$250.00. Fees are refunded if appellant prevails.**

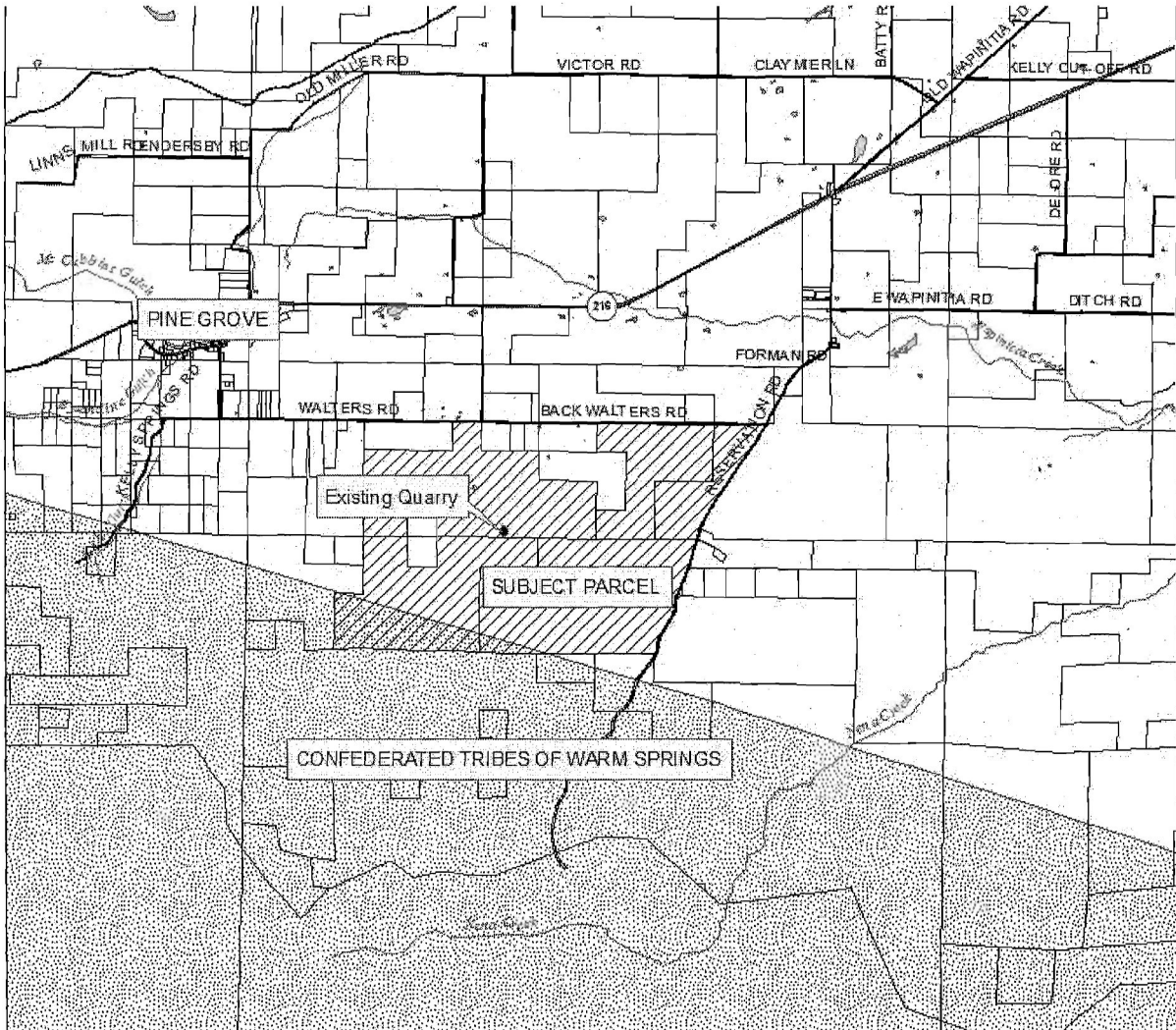
FINDINGS OF FACT:

Findings of fact approving this request may be reviewed at the Wasco County Planning & Development Office, 2705 East Second Street, The Dalles, Oregon, 97058, or are available for purchase at the cost of \$0.25 per page. These documents are also available online at: www.co.wasco.or.us/planning/planhome.html, click on Current Land Use Actions. There is a table for National Scenic Area applications and a table for regular County applications. Each table is sorted alphabetically by the name of the applicant. The information will be available until the end of the appeal period.

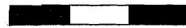
ATTACHMENT C – MAPS

Vicinity Map

5S 12E 0, Tax Lots 8500, 9200, 9300
6S 12E 0, Tax Lots 1200, 1300



0 0.5 1 1.5 Miles



ATTACHMENT D – BOARD OF COMMISSIONERS REPORT

Review Number: PLAQJR-10-10-0005

Applicant: Keith Mobley

Owners: Richard & Janie Dodge

Requests: A quasi-judicial request for: 1) Comprehensive Plan amendment to add the existing/expanded aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and 2) Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation. The aggregate site is located on 5S 12E 0, tax lot 8500, and 6S 12E 0, tax lot 1300.

Decision: Approval with **conditions**

Hearing Date: March 2, 2011

Location: The property is located south of the intersection of Walters/Back Walters Road, approximately one mile south of Highway 216, approximately 12½ miles southwest of Maupin, Oregon; more specifically described as:

<u>Existing</u>	<u>Previous</u>
5S 12E 0 8500	5S 12E 0 7200
5S 12E 0 9200	5S 12E 0 7500
5S 12E 0 9300	5S 12E 0 5401
6S 12E 0 1200	6S 12E 0 500
6S 12E 0 1300	6S 12E 0 204

Zoning District: A-1(160)/EPD-2; Exclusive Farm Use Zone/Geologic Hazard Overlay zone

Contiguous Ownership: 5S 12E 31 100; 6S 12E 0 1500

Past Actions: 5S 12E 0 8500: CUP-97-111, LOC-97, FFD-93-107, MISC-91, AGG, CUP-87-104A, MAP-85-101

Procedure Type: Quasi-Judicial

Prepared by: Dawn Baird, Associate Planner

I. APPLICABLE STANDARDS

A. LAND USE & DEVELOPMENT ORDINANCE (LUDO) - APPLICABLE STANDARDS

1. Chapter 2 – Development Approval Procedures

- Section 2.060.B.1. (Recommendation to County Governing Body on a Legislative or Quasi-Judicial Plan Amendment – Comprehensive Plan)
- Section 2.060.B.2. (Recommendation to the County Governing Body on a Zone Change and/or Ordinance Amendment - Chapter 9)
- Section 2.080.A (Notice)
- Section 2.090 (Contents of Notice)
- Section 2.140 (Hearing Procedure)
- Section 2.150 (Official Notice)
- Section 2.190 (General Conduct of Hearings)

2. Chapter 3 – Basic Provisions

EPD-5, Mineral & Aggregate Overlay zone

- Section 3.810 (Application of Overlay Zone)
- Section 3.815 (Procedure for Applying the Overlay Zone)
- Section 3.825 (Pre-Existing and Nonconforming Uses)
- Section 3.830 (Permitted Uses – Extraction Areas)
- Section 3.835 (Development Standards – Extraction Area)
- Section 3.845 (Impact Area – Uses and Standards)
- Section 3.850 (Designation of Overlay Zone)
- Section 3.855 (Termination of Mineral and Aggregate Overlay Zone)

3. Chapter 9 – Zone Change and Ordinance Amendment

- Section 9.020 (Criteria for Decision)
- Section 9.030 (Transportation Planning Rule Compliance)
- Section 9.040 (Conditions Relative to the Approval of a Zone Change)

- Section 9.060 (Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance)
- Section 9.070 (Notice of Planning Commission Recommendation)
- Section 9.080 (Action by County Governing Body)

B. WASCO COUNTY COMPREHENSIVE PLAN

1. Chapter 2 – Physical Characteristics

- Section G., Mineral & Aggregate Resources

2. Chapter 11 – Revisions Process

- Section E., Quasi-Judicial Revisions
- Section H., General Criteria
- Section I., Transportation Planning Rule Compliance
- Section J., Procedure for the Amendment Process

3. Chapter 14 – Findings and Recommendations

- Section B., Goal 5 Issues

4. Chapter 15 – Goals and Policies

Section E., Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

II. AFFECTED AGENCIES

Oregon Dept. of Geology & Mineral Industries (aggregate Operating Permit)
Wasco County Public Works Dept. (road concerns)
Wasco County Assessor (taxation)

III. **COMMENTS:** Surrounding property owners and interested agencies were provided notice of this request (February 3, 2011) and given 27 calendar days to submit comments. The following comment was submitted.

IV. BACKGROUND INFORMATION

On February 1, 2011, the Planning Commission held a public hearing to consider the request by Keith Mobley for Richard and Janie Dodge, for a quasi-judicial request to expand an existing aggregate extraction site. This request included four applications:

- A. Subject to Standards Review for a Significance Determination for the existing aggregate site;
- B. Comprehensive Plan amendment to add the existing/expanded aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site;
- C. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation; and
- D. Conditional Use Permit to expand the existing aggregate operation. (Uses include aggregate extraction, crushing, screening; batching, stockpiling, and equipment storage)

LUDO Section 2.060.A.3. allows the Director to make the decision on a Subject to Standards Review for a Significance Determination for the existing aggregate site, however, LUDO Section 2.060.B.13. permits the Director to forward applications he elects not to review directly to the Planning Commission.

Since the Planning Commission is required to review and forward a recommendation to the Board for the Zone Change and Comprehensive Plan Amendment, the Director elected not to review the Subject to Standards Review for the Significance Determination, or the Conditional Use Permit, but to send those requests directly to the Planning Commission. This results in consolidation of the process for the applicant and time savings for both the applicant and County.

The results of the Planning Commission hearing were:

- A. On a vote of 5-0, the Dodge Quarry was determined to be a **Significant** rock source;
- B. On a vote of 5-0, the requested Conditional Use Permit for expansion of the quarry was **approved, with conditions**; and
- C. On a vote of 5-0, the Planning Commission forwards a recommendation of **approval, with conditions**, for the Zone Change to apply the EPD-5, Mineral and Aggregate

Overlay zone, and Comprehensive Plan Amendment to update the Aggregate Inventory to list the Dodge Quarry, #217, as a Significant Site, with Goal 5 protection.

Only the portions of the LUDO relevant to the application of the Mineral & Aggregate Overlay zone, and the Comprehensive Plan are addressed in this report. The criteria used to evaluate the Significance Determination and the Conditional Use Permit are located in the Planning Commission packet beginning on page P12.

V. FINDINGS

A. LAND USE & DEVELOPMENT ORDINANCE (LUDO) - APPLICABLE STANDARDS

1. Chapter 2 – Development Approval Procedures

- a. **Sections 2.060.B.1. and 2., state that the Planning Commission will make a Recommendation to the County Governing Body on a Legislative or Quasi-Judicial Plan Amendment - Comprehensive Plan, and a Recommendation to the County Governing body on a Zone Change and/or Ordinance Amendment – Chapter 9.**

FINDING: The request is consistent with a.

- The proposed Comprehensive Plan Amendment and Zone Change were reviewed by the Planning Commission in accordance with the Basic Provisions of Sections 2.060.B.1. and 2. The applicable Ordinance provisions and required findings are outlined in this report. To help ensure ordinance provisions are adhered to, a **condition** is included that requires current and future property owners to comply with the application as reviewed and approved by the staff report which is available at the Wasco County Planning Department. This report details the restrictions on aspects of the approved development

- b. **Section 2.080.A., Notice, requires notice of the land use action to be mailed or sent to agencies within a specified timeline, and Section 2.090, Contents of Notice, requires specific information to be contained within the notice.**

FINDING: Notice of the request, consistent with Sections 2.080 and 2.090, was published in The Dalles Chronicle on February 7, 2011, and was sent to affected agencies and property owners on February 3, 2011, 27 days before the hearing. This exceeds the 10-day requirement in Section 2.080.D.

2. **Chapter 3 – Basic Provisions, Section 3.800 - EPD-5, Mineral & Aggregate Overlay zone. The purpose of the Mineral & Aggregate Overlay zone is to allow the development of mineral and aggregate resources, provide uniform standards for extraction and processing of mineral and aggregate resources. In addition, the purpose is to protect sites zoned EPD-5 and balance conflicts between mining operations and new and existing surrounding conflicting uses.**

- a. **Section 3.810, Application of Overlay Zone**
The provisions of this Chapter shall apply to all lands designated Significant Mineral and Aggregate Overlay. Only sites deemed significant resource

sites shall be zoned Mineral and Aggregate Overlay. The Mineral and Aggregate Overlay consists of two distinct areas: the Extraction area and the Impact area.

FINDING: With **conditions**, the request complies Section 3.810.

- On February 1, 2011, the Planning Commission determined that the Dodge Quarry was a Significant resource.
- **Extraction Area:** The Mineral and Aggregate Overlay zone will be applied to the entire area identified as being within the "Permit Area/Boundary," which contains approximately 70.2 acres. All operations, including but not limited to aggregate extraction, crushing, screening, batching, stockpiling, equipment storage, etc., shall only occur within the Permit Boundary. A **condition** stating this is included.

The Extraction Area is located on a portion of 5S 12E 0, tax lot 8500, and 6S 12E 0, tax lot 1300. A Sensitive Use is defined as a use or structure considered sensitive to dust, odor, vibration and/or noise, such as a residence, school, park, or hospital. Industrial, agricultural and forestry activities are not sensitive uses unless the activity includes an accessory residential use. The closest Sensitive Use to the existing and proposed expanded aggregate site is a residence located slightly more than ¼ mile (1,320') from the extraction area. This exceeds the 750' minimum required by the LUDO.

- **Impact Area:** The Impact Area evaluated in the ESEE Analysis is all land within ¼ mile. The Mineral and Aggregate Overlay zone shall be applied to all land within ¼ mile of the proposed expanded Permit Area, which includes only the subject parcel. A **condition** stating this is included.

b. Section 3.815, Procedure for Applying the Overlay Zone

- 1) **The County Planning Director or the Director's designee shall analyze available information relating to the location, quality and quantity of mineral and aggregate deposits. A decision of significance shall be determined as described pursuant to Section 2.060 (A)(9) of this Ordinance, based on the following. Information to demonstrate the significance of a resource shall include:**
 - a) **A survey map, assessor's/tax lot map(s) or other legal description that identifies the location and perimeter of the mineral and aggregate resource; and**

FINDING: Survey and vicinity maps identify the location of the existing aggregate site and proposed expansion area, as required in criterion a).

- b) **Information demonstrating that the resource meets or can meet two of the following minimum requirements:**

(1) Abrasion: Loss of not more than 35% by weight;

FINDING: The request is consistent with criterion (1)

- Percent loss to abrasion @ 500 revs. Was 19.8%, less than the 35% maximum allowed.

(2) Oregon Air Degradation: Loss of not more than 35% by weight:

FINDING: The request is consistent with criterion (2)

- Percent loss, 12.3%, less than the 35% maximum allowed.

(3) Sodium Sulphate Soundness: Not more than 17% by weight.

FINDING: The request is consistent with criterion (3)

- Course Aggregate, 2%, less than the maximum 17% allowed.
- Fine Aggregate, 7%, less than the maximum 17% allowed.

Information may consist of laboratory test data or the determination of a certified, licensed or registered geologist, or other qualified person; and

FINDING: On December 6, 2000, Carson Testing, Inc., completed a soundness, degradation and abrasion testimony on a sample of quarry run material from the Dodge Quarry, with the results shown above. In addition to the 2000 test, the owners provided a copy of a previous test completed by J. Arlie Bryant in 1989 that shows similar results as the 2000 test.

c) Information that the site meets at least one of the following two criteria:

(1) Is located within an ownership or long-term lease containing reserves in excess of (Amended 7-94 and 1-95) 100,000 tons (69,000 cubic yards); however, an aggregate site is not significant if the criteria in either paragraphs (1) or (2) of this subsection apply, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date:

(a) The site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this rule; or

(b) The site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil on NRCS maps available on the date of this rule. (Amended 11-96)

(2) Is located on property owned by, or under long-term lease to a city, county, or state jurisdiction for the primary purpose of

excavating, or processing of aggregate or stone materials for road maintenance or road construction. (Amended 7-94)

FINDING: The request complies with criterion (1).

- According to maps submitted for the owners by Ben Beseda, P.E. Tenneson Engineering Corp, the estimated excavation volume is estimated at 3,538,848 cubic yards, which exceeds the 69,000 cubic yard requirement in (1).
- The subject parcel does not contain any class I or II soils, or any soils identified as unique.

2) Other mineral resources. Significance of non-aggregate resources shall be determined on a case-by-case basis after consultation with DOGAMI.

FINDING: Non-aggregate resources are not proposed, therefore, criterion 2) is not applicable to this request.

3) Based on the analysis of information relating to the location, quality and quantity of the mineral and aggregate resource, the county shall determine the status of the resource site. Each site considered by the County shall be placed in one of three categories based on the following criteria:

- a) If the resource site meets the definition of a significant site, the county shall include the site on an inventory of "Significant Sites", or
- b) If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites." Sites shall remain on the "Potential Sites" inventory until such time as information is available to determine whether or not the site is significant; or
- c) If the resource site does not meet the definition of a significant site, the county shall include the site on an inventory of "Non-significant Sites'.

FINDING: On February 1, 2011, the Planning Commission determined that the Dodge Quarry was a Significant Aggregate Site.

4) Identify Impact Area. For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area.

FINDING: With a **condition**, the request complies with criterion 4).

- As discussed in 1), the Impact Area is identified as all land within ¼ mile of the Extraction Area.
- A **condition** is included requiring the owners to submit a map identifying the Impact Area, to the Planning Dept., prior to any excavation into the expansion area.

- 5) **Identify Conflicting Uses.** For each significant site, conflicting uses shall be identified. The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).

FINDING: The request is consistent with criterion 5).

- The application states that conflicting uses include those which are sensitive to noise, dust, aesthetic values, and traffic. The following is a list of potentially conflicting uses described in the ESEE analysis, submitted by the applicant.

- 1) An outdoor gathering.
- 2) Dwellings.
- 3) A winery.
- 4) Model Aircraft take-off and landing sites.
- 5) Churches and cemeteries.
- 6) Propagation, cultivation, maintenance, and harvesting of aquatic or insect species.
- 7) Farm ranch recreation.
- 8) Commercial utility facilities (Wind, Hydroelectric or Other).
- 9) A site for disposal of solid waste.
- 10) Personal use airports.
- 11) Fire service facilities, and community centers owned by a government agency or a nonprofit organization.
- 12) Parks and playgrounds.
- 13) Public or private schools for kindergarten through grade 12.
- 14) Home Occupation.
- 15) Dog Kennels.
- 16) Private parks, playgrounds, and campgrounds.
- 17) Golf courses.
- 18) Commercial activities such as roadside stands that are in conjunction with farm use.

- 6) **Analysis of ESEE consequences.** For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.

- a) The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.
- b) The ESEE analysis shall be limited to uses identified pursuant to subsection E. of this section, and County resources.
- c) The ESEE analysis shall consider opportunities to avoid and mitigate conflicts. The analysis shall examine:

- (1) The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining;
- (2) The consequences of allowing mining fully, notwithstanding the possible effects on conflicting uses;
- (3) The consequences of protecting conflicting County resources, and permitted conflicting uses within the zone.

FINDING: An ESEE analysis was prepared for the owners by their attorney and it is included as part of the owners' application. The ESEE analysis addresses each of the above criteria, and finds the request to be consistent with criterion 6). The Planning Commission concurs with this finding.

c. Section 3.825, Pre-Existing and Nonconforming Uses

Section 3.825 states that if an aggregate site existed on the effective date of this ordinance (April 8, 1995), it shall be considered to be a pre-existing site, however, expansion of the site must comply with Section 3.835.

FINDING: The site was approved by Wasco County in 1987, and was created by the owners a short time before County approval. The owner requested approval of an expansion; therefore, Section 3.835 is addressed in e.

d. Section 3.830, Permitted Uses – Extraction Areas

The following uses may be permitted in the Extraction Area subject to Site Plan approval in accordance with Section 3.840:

- 1) Any permitted use allowed in the underlying zone, may be allowed subject to the underlying zone criteria and as otherwise authorized through the ESEE analysis.
- 2) Conditional uses shall be reviewed against the approval criteria of Section 3.845.
- 3) Mining or extraction of rock, clay, soil, sand, gravel, or other mineral or aggregate material.
- 4) Stockpiling and storage of mineral and aggregate materials.
- 5) Processing of:
 - a) Materials, including crushing, washing, milling, screening, sizing, or batching of portland cement; and
 - b) Batching or blending of mineral and aggregate into asphaltic concrete, except within 2 miles of a planted commercial vineyard.
- 6) Buildings (not including residences), structures and equipment directly related to the above permitted aggregate uses.

- 7) **Storage of transportation equipment or storage of machinery or equipment used in conjunction with the on-site mineral and aggregate activity.**
- 8) **Sale of products extracted and processed on-site from a mineral and aggregate operation.**

FINDING: With a **condition**, the request complies with Section 3.830.

- The ESEE Analysis submitted by the owners did not identify any sensitive uses within the Impact Area, therefore, uses should be limited to those listed in d.

- A **condition** is included limiting uses in the Extraction Area to those listed above.

e. Section 3.835, Development Standards – Extraction Area

A development plan shall be submitted to the Wasco County Planning Department for any permitted activity allowed in Section 3.830. The following requirements apply to mining and processing unless other standards are adopted in the County process. Such standards shall be clearly identified in the ESEE analysis. The applicant shall demonstrate that the following standards or site specific replacement standards adopted in the County process, are met or can be met by a specified date.

1) Screening

a) Mining Activities to be Screened.

(1) All excavated areas except areas where reclamation is being performed, internal on-site roads existing of the effective date of this ordinance, new roads approved as part of the site plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation which provides natural screening;

(2) All processing equipment;

(3) All equipment stored on the site.

FINDING: With a **condition**, the request complies with a).

- The proposed expansion site is screened from surrounding properties because of the following reasons:
 - Properties visible from the existing excavated site are located to the north/northeast. The existing aggregate site has been excavated from east to west, and retained a portion of the hillside to the north. Because the hillside has been retained, the proposed expansion area is not visible from surrounding properties, and is topographically screened from surrounding uses.
 - The aggregate site is located over ½ mile from any public or private road
 - The aggregate site is located over ½ mile from the nearest visible house.

- A **condition** is included reminding the owners that all excavated areas, processing equipment, and other equipment shall be screened from surrounding properties.

b) **Types of Screening.**

- (1) **Natural Screening.** Existing vegetation or other landscape features which are located within 50 feet of the boundary of the site, and which screen the view of mining activities from screened uses, shall be preserved and maintained.

FINDING: With a **condition**, the request complies with criterion (1).

- The existing aggregate site has been excavated from an east to west direction. There is a large hillside north of the excavated area which will be left in place with its natural vegetation.
- A **condition** is included requiring the hillside north of the existing site, and proposed expansion site, to be preserved and maintained with natural vegetation.

- (2) **Supplied Screening.** Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied screening shall not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.

FINDING: The existing operation and proposed expansion area are well screened by the large hillside to the north. Due to the distance between the aggregate site and surrounding properties and roads, no additional screening is required.

2) **Access**

- a) **On-site roads used in mining, and access from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards.**

- (1) All access roads intersecting a paved county road or state highway shall be paved thirty feet from the paved county road or state highway unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;

FINDING: There is an existing access road that provides access to the extraction site. This access road is paved for more than 100' from the point it intersects Walters/Back Walters Roads.

- (2) All on-site roads within the Extraction Area, and access roads, shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date;

FINDING: With a **condition**, the request is consistent with (2).

- The existing on-site road is primarily surfaced in gravel. It is well maintained and does not create excessive vehicular noise or dust.
- A **condition** is included requiring current and future property owners to maintain all on-site roads, inside and outside of the Extraction Area, with enough gravel on the running surface to cover the dirt base and minimize the amount of airborne dust.

(3) All on-site roads within the Extraction Area, and access roads, shall be paved at all points within 250 feet of a noise or dust sensitive use existing on the effective date of this ordinance.

FINDING: The request complies with criterion (3).

- The proposed Extraction Area is located over ¼ mile (1,320 feet) from the nearest noise or dust sensitive use (residential use).
- Section 3.805.B. defines Sensitive Use: A use or structure considered sensitive to dust, odor, vibration and/or noise, such as a residence, school, park, or hospital. Industrial, agricultural and forestry activities are not sensitive uses unless the activity includes an accessory residential use.
- The closest sensitive use, a residence, is located approximately ¼ mile from the proposed expanded boundary, therefore, on-site roads within the Exception Area, and access roads, are not required to be paved.

b) An effective vehicular barrier or gate shall be required at all access points to the site.

FINDING: With a **condition**, the request is consistent with (2).

- There is only one access point to the aggregate site.
- A **condition** is included requiring an effective vehicular barrier or gate at the entrance to the aggregate site prior to further excavation within the proposed expansion.

3) Hours of Operation

a) Drilling and blasting shall be restricted to the hours of 9:00 am to 5:00 pm, Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday.

FINDING: With a **condition**, the request complies with criterion a).

- The applicant requests the hours of operation be 5 a.m. – 5 p.m. to accommodate the contractors who do the drilling and blasting. They prefer to begin at daylight, and years of operation at this location have demonstrated that any sound or dust generated by drilling and blasting will not disturb those who are closest to the quarry site. Previous drilling and blasting has resulted in no complaints by neighbors, and delaying the start of work until 9 a.m. would impose an unnecessary and cost-adding burden to the contractors and ultimately, to the

purchasers and users of rock from the quarry. Contractor convenience and attendant economic considerations outweigh the small likelihood of inconvenience or annoyance to neighbors.

- A **condition** is included restricting drilling and blasting to the hours of 5 a.m./dawn (whichever is earlier) to 5 p.m., Monday through Friday, with no drilling on Saturdays, Sundays, or legal holidays. If the earlier starting time creates problems, complaints are generated, and the operator (and owners) did not resolve those complaints, the 9 a.m. start time requirement could be imposed by action of the Board of Commissioners.

b) Mineral and aggregate extraction, processing and equipment operation within 750' or as established by the ESEE analysis of any Sensitive Use existing of the effective date of this ordinance is restricted to the hours of 7:00 am to 6:00 pm, Monday through Friday. All other sites are limited to daylight hours Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays.

FINDING: With a **condition**, the request complies with criterion b).

- The applicant states that some previous contracts for which aggregate was purchased were of an emergency nature, or required a continuous supply of rock for a batch plant supplying a paving contractor. Previous extraction and batch plant operations at this site have resulted in no complaints from neighbors. The ability to respond to this need would be better met by operations at this location than at any other in the region. Customer convenience and attendant economic considerations outweigh the small likelihood of inconvenience or annoyance to neighbors. If extended hours operations do create problems and complaints are generated, the daylight hours requirement could be re-established by action of the Board of Commissioners.
- A **condition** is included stating that except for extraordinary circumstances requiring extended hours, normal hours of operation for aggregate extraction are limited to daylight hours, Monday through Saturday, with no operation on Sundays, or legal holidays, unless extraordinary circumstances require such operation. Extraordinary circumstances will be documented and a record of the hours worked beyond normal hours will be made available on request by Wasco County. If operations under this exception generate complaints from neighbors, this exception may be modified or eliminated by the Wasco County Board of Commissioners.

4) Environmental Standards

DEQ Standards. Mineral and aggregate extraction, processing and other operations shall conform to all the applicable environmental standards of the County and applicable DEQ air quality and emissions standards. The applicant shall provide a copy of an approved DEQ permit(s) prior to commencement of the operation.

FINDING: With a **condition**, the request is consistent with 4).

- Staff spoke with Frank Messina, Oregon Dept. of Environmental Quality, on January 12, 2011. He submitted comments on January 13, 2011 which state: To operate a rock crush, ready-mix plant or asphalt plant in the State of Oregon the plant may be required to have an Air

Contaminate Discharge Permit from the DEQ, depending on the production. The operator must contact the regional office. Also note that aggregate operations are dusty and the Department has rules on controlling visible emissions with the use of water. Associated aggregate activities such as truck and vehicle equipment traffic can cause dust and noise. Mr. Messina asks that this activity be planned so it does not impact the community, and further suggests that water be used to keep the dust from blowing, and that a berm be constructed around noisy activities to prevent noise problems.

- A **condition** is included advising the property owners that the aggregate extraction, processing, and other operations shall conform to applicable DEQ air quality and emissions standards.
- A **condition** is included in i)2) requiring water sprays or other suppressive devices to be operated at all times that dust is created and be located in such number as to most effectively suppress the polluting emission.
- The County does not have any applicable standards for controlling air quality and relies on DEQ to regulate this issue.

5) Equipment Removal. All surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity shall be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

FINDING: With a **condition**, the request complies with criterion 5).

- A **condition** is included requiring all surface mining equipment, machinery, vehicles, buildings and related structures accessory to the mineral and aggregate activity to be removed from the site within 30 days of completion of all mining, processing and reclamation, except for structures which are permitted uses in the underlying zone.

6) Performance Agreement

- a) The operator of a mineral and aggregate site shall keep applicable DOGAMI permits or exemption certificates in effect.**
- b) The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$1,000,000.00.**

FINDING: With **conditions**, the request is consistent with 6).

- A **condition** is included requiring the operator of the aggregate site to keep all applicable DOGAMI permits or exemption certificates in effect.
- A **condition** is included requiring the mining operator to carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$1,000,000.00 prior to the expansion of the existing pit.

7) **Site Reclamation.**

- a) **No mining shall commence without providing the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate.**

FINDING: With a **condition** requiring the owners to provide the County a copy of a DOGAMI operating permit, approved reclamation plan, or exemption certificate prior to the expansion of the existing pit, the request complies with a).

- b) **A reclamation plan shall be submitted concurrently with the development plan required in Section 3.835. The reclamation plan shall include a schedule showing the planned order and sequence of reclamation, shall assure that the site will be restored or rehabilitated for the land uses specified in the underlying zone including subsequent beneficial uses identified through the County process.**

FINDING: With a **condition**, the request is consistent with b).

- In an e-mail to staff dated January 12, 2011, Robert Houston, Oregon Dept. of Geology & Mineral Industries, stated that a reclamation plan must be provided as part of DOGAMI's permit process. The owner must apply for a permit amendment to amend their existing plan. During this process the County will be a reviewing agency.
 - A **condition** is included requiring the owner to submit an amended reclamation plan, approved by DOGAMI, for the expanded aggregate site prior to any excavation in the expanded area. Compliance with this **condition** will ensure that the site is restored /rehabilitated for future land uses permitted in the Exclusive Farm Use zone.
- c) **The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County. When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.**
- (1) **If site plan approval is required, the County shall require that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.**
- (2) **If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.**

FINDING: The current process includes site plan approval, and addresses all of the standards required by Wasco County. When DOGAMI notifies the County that the operator has applied for approval of a reclamation plan and issuance of an operating permit for the expansion area, it will be reviewed for consistency with Wasco County's approval.

8) **Water Management**

- a) All surface water shall be managed to provide protection against sediment discharge into streams, rivers and lakes. Existing natural drainage on the site shall not be changed in a manner which interferes with drainage patterns on adjoining property, or which drains waste materials or waste water onto adjoining property or perennial streams. Where the mineral and aggregate operation abuts a lake, river, or perennial stream, all existing vegetation within 100 feet of the mean high water mark shall be retained unless otherwise authorized in accordance with the ESEE analysis and the development plan.

FINDING: The owners propose to create a ditch system to drain surface runoff into a sediment pond. As proposed, no sediment will be discharged into streams, rivers and lakes.

- b) All water required for the mineral and aggregate operation, including dust control, landscaping and processing of material, shall be managed: (a) in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) shall be legally available and appropriated for such use. The applicant shall provide written documentation of water rights from the State Department of Water Resources and/or local water district prior to the commencement of any site operation.

FINDING: With conditions, the request is consistent with b).

- Water for the existing and expanded aggregate operation is piped to the stockpile area from a well. According to the applicant, the quarry site has little soil and creates little dust. Dust abatement has not been a problem, and is not expected to be in the future. If dust is generated in the future, the water available on-site will be sufficient to keep it down.
- A **condition** is included requiring water for dust abatement to be available during all phases of the aggregate operation.
- A water right from Oregon Water Resources Dept. is not required for the aggregate operation unless the aggregate operation uses more than 5,000 gallons per day. A **condition** is included advising the owners that they are required to apply for and receive approval of a water right from the Oregon Water Resources Dept. if they use more than 5,000 gallons of water per day from their existing well.

- 9) **Flood Plain.** Any extraction Area located wholly or in part in a Flood Hazard Area shall receive approval in accordance with Chapter 22 of this Ordinance prior to any site operation.

FINDING: The subject parcel is not located in a Flood Hazard Area.

- 10) **Compliance with Special Conditions.** The applicant shall demonstrate that all special conditions or requirements adopted as part of the County process have been satisfied or will be satisfied by a specified date.

FINDING: With a **condition**, the request complies with criterion 10).

- Per Section 2.125 of the Wasco County Land Use & Development Ordinance, if the proposed use is commenced within two years from the date of approval, it shall stay valid unless it is abandoned for a period of 1 year or more.
- Chapter 13 – Nonconforming Uses, Buildings & Lots, Section 13.050, Verification of Nonconforming Use, B., establishes a different abandonment period for surface mining. B.5. states that a surface mining use shall not be deemed to be interrupted or abandoned for any period after July 1, 1972, provided:
 - The owner or operator was issued and continuously renewed a state or local surface mining permit, or received and maintained a state or local exemption from surface mining regulation; and
 - The surface mining use was not inactive for a period of 12 consecutive years or more. For purposes of this subsection, “inactive” means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.
- A **condition** is included stating all conditions of approval must be satisfied within two years from the date of final approval of this request. This permit will stay valid as long as it continues to have a valid mining permit, and it has not been abandoned for a period of 12 consecutive years or more.

11) Security. Fencing of site boundaries shall be required on the boundary between a significant site and a parcel zoned to allow dwellings as an outright permitted use. Fencing shall be a cyclone type fence, shall be earth tone color, and shall be a minimum of six feet high.

FINDING: The request is consistent with 11).

- The subject parcel and all surrounding properties are zoned Exclusive Farm Use. Dwellings are not permitted outright, therefore, no security fencing is required. In addition, the closest dwelling is over ¼ mile to the west.

f. Section 3.850, Designation of Overlay Zone

The Mineral and Aggregate Overlay Zone may be applied through the plan update process, or through individual application for an Aggregate Overlay zone/Comprehensive Plan amendment pursuant to Section 2.060 (B)(15) of this Ordinance. The approving authority shall approve the overlay zone designation if the provisions of Chapter 3, Section 3.800 - 3.850 of this Ordinance have been met.

The boundary of the Overlay Zone shall be all property contained in the Mineral and Aggregate Extraction Area and Mineral and Aggregate Impact Area.

FINDING: The request complies with section 3.850.

- The owners have requested that the proposed 70.2 acre Permit Area, which includes all facets of the aggregate business including but not limited to extraction, stockpile,

processing, and equipment storage, and all property within ¼ mile of the 70.2 acre Permit Area. This is consistent with the requirement of Section 3.850.

- g. **Section 3.855, Termination of Mineral and Aggregate Overlay Zone**
The Mineral and Aggregate Overlay Zone designation shall be removed by the owner or the County through the Zone Change process when:
- a) **The owner of the Mineral and Aggregate resource site submits evidence showing a significant resource no longer exists on the site; and**
 - b) **The mineral and aggregate resource site has been reclaimed in accordance with the approved reclamation plan; and**
 - c) **The operator has caused to be released any operation easements, restrictions or waivers of remonstrance and indemnity relating to the application of this Ordinance.**

FINDING: A **condition** is included advising the owner that the termination of the Mineral & Aggregate Overlay zone shall occur when one of the above criteria has been met.

3. Chapter 5 – Conditional Use Review

- On February 1, 2011, the Planning Commission approved, with **conditions**, the Conditional Use Permit to expand the aggregate operation. These conditions are listed below. If the request for the Zone Change and Comprehensive Plan Amendment are approved, these conditions will be applied to the request.
 - All trucks hauling aggregate from the site shall be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Walters Road, Back Walters Road, and adjoining routes of travel clear of rock spillage.
 - Obtain a Road Approach Permit from the Wasco County Public Works Department prior to extraction from the proposed expansion area. (*This condition has been met.*)
 - Farm Management Easement: Sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 prior to receiving zoning approval on a building permit application (**See Attachment E**).
 - A DEQ permit will be required if on-site rock crushing exceeds 5,000 tons per year.
 - Water for dust abatement shall be available during all phases of the aggregate operation.
 - Water sprays or other suppressive devices shall be operated at all times that dust is created and shall be located in such number as to most effectively suppress the polluting emission.
 - Mining equipment shall be removed from the site when it is not in use for more than six months.

- o Lighting: Outside lighting associated with the existing and/or expanded aggregate operation to be sited, limited in intensity, shielded and hooded in a manner that prevents the lighting from projecting onto adjacent properties, roadways and waterways. Shielding and hooding materials shall be composed of nonreflective, opaque materials.

4. Chapter 9 – Zone Change and Ordinance Amendment

a. Section 9.010, Application for Zone Change

Section 9.010.C. states that an application for a zone change may be initiated by an application being filed with the Director of Planning on the appropriate forms, containing information required to establish the criteria for the change (quasi-judicial only).

FINDING: The property owners made application for a quasi-judicial zone change to apply the EPD-5, Mineral & Aggregate Overlay zone to the proposed expanded quarry and Impact Area, as required by Section 9.010.C.

b. Section 9.020, Criteria for Decision

The Approving Authority may grant a zone change only if specific circumstances are found to exist:

1) The original zoning was the product of a mistake; or

2) It is established that:

a) The rezoning will conform with the Comprehensive Plan; and,

FINDING: The reason the EPD-5, Mineral and Aggregate zone was not applied to the property originally was due to lack of information about the rock resource, not because of a mistake. The Comprehensive Plan is addressed in B. where it is found that the application of the EPD-5 zone will conform with the Comprehensive Plan.

b) The site is suitable to the proposed zone; and

FINDING: The request complies with criterion b).

- The owners have requested application of the EPD-5, Mineral & Aggregate Overlay zone to the expanded Permit Area.
- Wasco County approved an aggregate and processing operation on the proposed site in 1987.
- The area being mined contains primarily agricultural capability class VII soil. There is very little top soil, and the quarry and expansion area are primarily composed of rock.
- The site is suitable for the proposed use because of the lack of top soil, the abundance of high quality aggregate material, and the distance between the aggregate site and Sensitive Uses such as residences.

c) **There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.**

FINDING: The request complies with criterion c).

- These items were evaluated by the Planning Commission during the Conditional Use Review, where it was found, with **conditions**, that the proposed use would have no impact on public health, safety and welfare.
- Proposed findings included:
 - The property is located within a fire protection district.
 - The area is patrolled by the Wasco County Sheriff's Dept. and has police protection.
 - Sewer facilities are not required for the quarry.
 - The quarry uses water for dust suppression from an on-site well and does not utilize public water facilities.
 - Electrical service and solid waste disposal service are both available to the subject parcel.
 - Due to
- Proposed **conditions** to ensure public health, safety and welfare, include:
 - All trucks hauling aggregate must follow weight, length, and height requirements to ensure that public roads are not burdened by the expanded use.
 - All trucks hauling aggregate from the site shall be properly contained to avoid the spillage of rock and debris onto public roads. The owner shall keep Walters Road, Back Walters Road, and adjoining routes of travel clear of rock spillage.
 - A Road Approach Permit was obtained from the Wasco County Public Works Dept. This permit ensures that the driveway approach onto the County road has adequate width and visual clearance to maintain vehicular safety.
 - Hours of drilling and blasting are limited to the hours of 5 a.m./dawn (whichever is earlier) to 5 p.m., Monday through Friday. No blasting or drilling shall occur on Saturdays, Sundays, or any specified legal holiday. If the earlier starting time created problems, and complaints were generated and the operator (and owners) did not resolve those complaints, the 9 a.m. start time requirement could be imposed by action of the Board of Commissioners
 - Hours of operation for aggregate extraction: Except for extraordinary circumstances requiring extended hours, normal hours of operation are limited to daylight hours, Monday through Saturday. No operation shall occur on Sundays or recognized legal holidays unless extraordinary circumstances require such operation. Extraordinary circumstances will be documented and a record of the hours worked beyond normal hours will be made available on request by Wasco County. If operations under this exception generate complaints from neighbors, this exception may be modified or eliminated by the Wasco County Board of Commissioners.
 - Owners are advised that a DEQ permit will be required if on-site rock crushing exceeds 5,000 tons per year. This permit addresses dust created by the rock crushing only.
 - Water sprays or other suppressive devices to be operated at all times that dust is created and shall be located in such number as to most effectively suppress the polluting emission.
 - Receive approval of a Reclamation Plan by DOGAMI to ensure land resource quality after the extraction has been completed.

c. Section 9.030, Transportation Planning Rule Compliance

- 1) Review of Applications for Effect on Transportation Facilities - A proposed zone change or land use regulation change, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – “TPR”).**

FINDING: In an e-mail dated January 18, 2011, Marty Matherly, Wasco County Roadmaster, stated that Walters Road to State Hwy 216 has been rebuilt and meets current road design standards. This includes sub grade, base, width, drainage and surface. Trucks hauling aggregate must follow weight, length and height requirements. If they are hauling legally, the road should wear normally, therefore, there will not significantly affect a transportation facility.

- 2) Amendments That Affect Transportation Facilities - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP.**

FINDING: As discussed in 1), application of the Mineral & Aggregate Overlay zone will not affect any transportation facility.

- 3) Traffic Impact Analysis - A Traffic Impact Analysis shall be submitted with a zone change application pursuant to Section 4.140 Traffic Impact Analysis (TIA))**

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Zone Change. The mineral extraction operation is an existing use. If the expansion is approved, the use will continue as it has for the past 24 years, and no change to the use will occur. According to the County Roadmaster, there will be no impact on Walters Road if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

- d. Section 9.040, Conditions Relative to the Approval of a Zone Change**
Reasonable conditions may be imposed, pursuant to Section 2.110(D) as are necessary to insure the compatibility of a zone change to surrounding uses and as are necessary to fulfill the general and specific purposes of this Ordinance.

FINDING: **Conditions** have been included throughout this report to insure the Zone Change and Comprehensive Plan Amendment are compatible with surrounding uses.

- e. Section 9.060, Recommendation on Zone Change or Amendment to the Land Use and Development Ordinance**
After hearing information presented at the hearing, the Approving Authority shall recommend that the proposed zone change or amendment to the Zoning Ordinance be granted or denied. The Director of Planning or his assistants shall reduce to writing the Commission's recommendations together with a brief statement of the facts and reasons upon which such recommendation is based.

FINDING: With **conditions** throughout this report, the request is consistent with all of the requirements of the LUDO. As discussed in IV., the Planning Commission recommends approval of the Comprehensive Plan Amendment and Zone Change, with conditions. The Board of Commissioners will take final action on this request. Upon issuance of a Board of Commissioners decision, Planning Staff will reduce to writing the Commission's decision, conditions, and findings.

- f. **Section 9.070, Notice of Planning Commission Recommendation**
Within ten (10) days of the final Planning Commission hearing, the Director of Planning or his assistants shall give notice thereof to any persons who signed in and testified at the hearing and to such other persons as may have requested the same in writing.

FINDING: Upon completion of the Board hearing, Planning Staff shall provide notice as required by Section 9.070.

- g. **Section 9.080, Action by County Governing Body**
Upon receipt of the Commission report, the County Governing Body shall take such action as may appear appropriate to that body, or as it feels the public interest requires, provided that in no event shall the County Governing Body act until at least twenty (20) days after the Notice of Planning Commission Recommendation has been mailed.

FINDING: Notice of the Board of Commissioners hearing was mailed on February 3, 2011, 27 days before the hearing. Upon conclusion of the Board hearing and a decision in this matter, notice of the decision will be mailed and a 12-day appeal period given.

B. WASCO COUNTY COMPREHENSIVE PLAN

1. Chapter 2 – Physical Characteristics Section G., Mineral & Aggregate Resources

FINDING: The request is consistent with the requirements of Chapter 2, Section G.

- Section G. provides general information about rock sources in Wasco County, instructions on how to apply for the Mineral & Aggregate Overlay zone, the requirements of an ESEE Analysis, as well as Table 8, Wasco County Aggregate Inventory.
- On February 1, 2011, the Dodge Quarry was determined to be a "Significant" site.
- If the request is approved, staff will update Table 8, Wasco County Aggregate Inventory.

2. Chapter 11 – Revisions Process

The Comprehensive Plan for Wasco County including all urbanizable areas is the primary document which guides and controls land use within Wasco County excluding incorporated areas. The plan is intended to reflect the community's current thoughts on land use planning and to be responsive to the needs and desires of citizens. In order to achieve this, the plan must respond to changing community attitudes and needs and to unforeseen circumstances which may affect the use of land in the future. It is, therefore, the intent of this section to permit the amendments of the Comprehensive

Plan on a periodic basis and to describe the procedure for the amendment process.

a. A Comprehensive Plan Amendment May Take the Following Forms:

- 1) Amendment of one or more policies of the plan.(Legislative)**
- 2) Amendment to the text, inventories, maps or figures of the plan. (Legislative or Quasi-Judicial)**
- 3) Amendment of a portion of the Comprehensive Plan Land Use Designation map. (Legislative or Quasi-Judicial)**
- 4) Amendment to the urban growth boundary. (Legislative or Quasi-Judicial)**
- 5) A combination plan change/zone amendment. (Legislative or Quasi-Judicial)**

FINDING: The request is for a quasi-judicial amendment to the Comprehensive Plan Mineral and Aggregate Inventory.

b. Who May Apply For a Plan Revision

A Comprehensive Plan Revision may be initiated by:

- 1) Wasco County Governing Body. (Legislative)**
- 2) Planning Commission by majority vote confirmed by the Wasco County Governing Body. (Legislative)**
- 3) Property owner or his authorized representative. (Quasi-Judicial)**

FINDING: A request for a revision to the Wasco County Aggregate Inventory to amend the Dodge Quarry designation from "Potentially Significant Site" to "Significant Site" was made for the property owners by their attorney (authorized representative).

c. Quasi-Judicial Revisions

Section E. states that quasi-judicial revisions are those which do not have significant effect beyond the immediate area of the change, i.e., narrow in scope and focusing on specific situations.

Each plan change or revision will first be heard by the Planning Commission on a first-come, first-serve basis. Such hearing shall be conducted in accordance with the Wasco County Planning Commission "Rules and Regulations".

FINDING: The request is consistent with criterion c.

- The proposed amendment focuses on an existing aggregate operation. The proposed amendment will not affect any other quarry in Wasco County except the existing Dodge Quarry.**

d. **Section H. establishes general criteria which must be considered before approval of an amendment to the Comprehensive Plan is given.**

- 1) **Compliance with the statewide land use goal as provided by Chapter 15 or further amended by the Land Conservation and Development Commission, where applicable.**

FINDING: The request is consistent with the statewide land use goal in Chapter 15, as discussed in 4.

- 2) **Substantial proof that such change shall not be detrimental to the spirit and intent of such goals.**

FINDING: As discussed in 4., the request complies with the goals and policies related to aggregate operations.

- 3) **A mistake in the original comprehensive plan or change in the character of the neighborhood can be demonstrated.**

FINDING: A change in the character of southern Wasco County has resulted in the request for the Comprehensive Plan Amendment.

- The Wasco County Comprehensive Plan inventories were compiled in the late 1970's and early 1980's. Since the aggregate inventory was compiled, many events have occurred to change the character of the county. For instance, due to Spotted Owl concerns, timber harvesting was severely restricted resulting in the closure of lumber mills; and due to high electricity rates, the aluminum plant in The Dalles closed.
- Stimulus money made available from the federal government for road and bridge repairs have resulted in an increased need for rock.
- New methods of generating electricity have been found to be cost effective, resulting in the placement of wind turbines in adjacent Oregon and Washington counties. Wasco County expects to see wind turbine placement in the next few years. This requires much rock for roads to the wind turbines.
- There are no active county or state aggregate quarries in this area of Wasco County.

- 4) **Factors which relate to the public need for healthful, safe and aesthetic surroundings and conditions.**

FINDING: These factors were addressed in 4.b.2)c), and **conditions** have been implemented throughout this report to ensure consistency.

- 5) **Proof of change in the inventories originally developed.**

FINDING: The request complies with 5).

- The existing inventory identifies as County and State aggregate sites as "Significant Sites," however, many have become inactive or are only used as winter gravel stockpile sites.

- There are only two other privately owned sites on the aggregate inventory in southern Wasco County that have been determined to be significant. One site is located approximately 20 miles north of the Dodge property, and one site is located approximately 21 miles south of the Dodge property.
- Oregon Dept. of Transportation and Wasco County Public Works Dept. do not sell rock from their aggregate sites to the general public. The Dodge Quarry is the best source of rock in the Pine Grove/Maupin area.

6) Revisions shall be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change must be established.

FINDING: The request complies with 6).

- There is no private quarry within 20 miles of the subject parcel that contains a rock source identified as "Significant." If quality rock is needed in the Pine Grove area, or all points east and west, the cost will be high due to the long haul distance.
- Based on distance to available private rock sources, the public need and justification for the quarry expansion has been established.
- The owners submitted two tests from two separate testing facilities for the rock in the Dodge Quarry. Copies of two individual test results show that the rock quality is very good, and these reports serve as the factual basis to support the change.

e. Transportation Planning Rule Compliance

- 1) **Review of Applications for Effect on Transportation Facilities - A proposed plan amendment, whether initiated by the County or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – "TPR"). "Significant" means the proposal would:**
 - a) **Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**
 - b) **Change standards implementing a functional classification system;**
or
 - c) **As measured at the end of the planning period identified in the adopted transportation system plan:**
 - (1) **Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**

- (2) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
- (3) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

FINDING: If trucks hauling rock obey the laws of the road and conditions within this report, the proposed expansion of the Dodge Quarry will not significantly impact a transportation facility.

- 2) **Amendments That Affect Transportation Facilities** - Amendments to the land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
 - a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section - 0060 of the TPR.
 - c) Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
 - d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

FINDING: As addressed in 3), the proposed amendment to the Comprehensive Plan is consistent with the TSP.

- 3) **Traffic Impact Analysis** - A Traffic Impact Analysis shall be submitted with a plan amendment application pursuant to Section 4.140 Traffic Impact Analysis (TIA) of the Land Use and Development Ordinance.

FINDING: The purpose of a Traffic Impact Analysis is to determine additional impacts on the road system from a Comprehensive Plan Amendment. The mineral extraction operation is an existing use. If the expansion is approved, the use will continue as it has for the past 24 years, and no change to the use will occur. According to the County Roadmaster, there will be no impact on Walters Road if the drivers follow normal traffic laws, such as stopping at stop signs, using turn signals, yielding when required, etc., therefore, no Traffic Impact Analysis is required.

f. Procedure for the Amendment Process

- 1) A petition must be filed with the Planning Offices on forms prescribed by the Director of Planning.**

FINDING: The owners' attorney made application to the Planning Dept. for a Comprehensive Plan Amendment to amend the Aggregate Inventory to identify the existing Dodge Quarry as a Significant Site.

- 2) Notice of a proposed revision within, or to, the urban growth boundary will be given to the appropriate city at least thirty (30) days before the County public hearing.**

FINDING: The proposed amendment is not within or adjacent to an urban growth boundary.

- 3) Notification of Hearing:**

- a) Notices of public hearings shall summarize the issues in an understandable and meaningful manner.**
- b) Notice of a legislative or judicial public hearing shall be given as prescribed in ORS 215.503. In any event, notice shall be given by publishing notice in newspapers of general circulation at least twenty (20) days, but not more than forty (40) days, prior to the date of the hearing.**

FINDING: The request complies with 3).

- A twenty day notice for the first evidentiary hearing is required. This hearing was at the Planning Commission level, and notice was published in The Dalles Chronicle and mailed to agencies/notice 21 days notice prior to this hearing.
 - A ten day notice is required for the second evidentiary hearing. This hearing is the current hearing at the Board of Commissioners level. Notice of this hearing was published on February 8, 2011, and was provided to property owners/agencies on the same date, 27 days prior to the Board of Commissioners hearing.
- c) A quorum of the Planning Commission must be present before a public hearing can be held. If the majority of the County Planning Commission present cannot agree on a proposed change, the Commission will hold another public hearing in an attempt to resolve the difference or send the proposed change to the County Governing Body with no recommendation.**

FINDING: Five Planning Commissioners were present at their hearing. A quorum is four members. The Planning Commission voted unanimously (5-0) to recommend approval of the requested Comprehensive Plan Amendment.

- d) After the public hearing, the Planning Commission shall recommend to the County Governing Body that the revision be granted or denied, and the facts and reasons supporting their decision. In all**

cases the Planning Commission shall enter findings based on the record before it to justify the decision. If the Planning Commission sends the proposed change with no recommendation, the findings shall reflect those items agreed upon and those items not agreed upon that resulted in no recommendation.

FINDING: The Planning Commission vote was unanimous to recommend approval of the proposed Plan and Zone Change, and agreed upon all proposed conditions and findings.

- e) Upon receiving the Planning Commission's recommendation, the County Governing Body shall take such action as they deem appropriate. The County Governing Body may or may not hold a public hearing. In no event shall the County Governing Body approve the amendment until at least twenty (20) days have passed since the mailing of the recommendation to parties.

FINDING: A public hearing was been scheduled for March 2, 2011, before the Wasco County Board of Commissioners. This notice was mailed to parties 27 days before the Board hearing, as required by criterion e).

3. Chapter 14 – Findings and Recommendations

Section B.2., Goal 5 Issues – Mineral and Aggregate Resources

As stated in the Goals and Policies under Goal #5, rock and aggregate resources will be identified and protected by placement of the Environmental Protection District zone.

Extraction of these resources is a conditional use in the agricultural and forestry zones and a permitted use in the manufacturing zones.

Generally, residential uses are the uses which come into conflict with the extraction of aggregate and mineral resources. The provisions of the Environmental Protection District Division 5 overlay zone provide the protection necessary for all aggregate sites.

FINDING: The request complies with Chapter 14 of the Comprehensive Plan.

- The property owners made application to expand an existing aggregate operation, and requested that the EPD-5, Mineral & Aggregate Overlay zone be applied to the expanded Permit Area, and all land within ¼ mile of the Permit Area, to protect the aggregate resource.
- The owners made application for a Conditional Use Permit to allow the expansion of the quarry operation, and it was approved by the Planning Commission on February 1, 2011.
- There are no existing Sensitive Uses within ¼ mile of the proposed expansion boundary. The EPD-5 zone will protect the aggregate resource from future Sensitive Uses within the Impact Area.

4. Chapter 15 – Goals and Policies

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

a. Policy 1 – Mineral Resources

Protect and utilize appropriately the mineral and aggregate resources of Wasco County, and minimize conflict between surface mining and surrounding land uses.

Implementation

- 1) The development of new rock and aggregate resource sites shall be consistent with the State Planning Goal 5 and Oregon Administrative Rules Chapter 660, Division 16 process to balance conflicts between mining operations and new and existing surrounding conflicting uses.**

FINDING: The request is consistent with criterion 1).

- Wasco County updated all sections of the Wasco County Comprehensive Plan relating to Goal 5 – Mineral and Aggregate Resources, during its 1994 Periodic Review project.
- In addition to updates made to the Comprehensive Plan in 1994, Section 3.750 of the Wasco County LUDO was also updated to comply with current OAR regulations.
- Conflicts between mining operations and existing surrounding uses were evaluated in the ESEE Analysis submitted by the owners. Considering existing topographic separation and distance from existing Sensitive Uses, no conflicting uses were identified in the Impact Area.
- Application of the Mineral & Aggregate Overlay zone will protect the significant aggregate site and its Impact Area from future potential conflicting uses.

- 2) Sites identified as significant aggregate resource sites shall not support interim or permanent uses which may jeopardize the future availability of the resource.**

FINDING: The request complies with criterion 2).

- The request is to expand an existing aggregate resource. No other interim or permanent uses are proposed or considered as part of this request.

- 3) Mining and processing of gravel and mineral materials may only be allowed at sites included on the "Other Site" inventory or "Significant Sites" inventory.**

a) Mining at sites on the "Other Sites" inventory may be allowed by a conditional use permit.

b) Mining at sites on the "Significant Sites" inventory may only be permitted in accordance with the Mineral Resources Overlay.

FINDING: The request is consistent with criterion 3).

- The owners submitted an ESEE analysis which evaluated the quality and quantity of rock in the proposed Permit Area. Based on the findings of this analysis, a determination must be made whether the Dodge Quarry is a Significant Site.
- On February 1, 2011, the Planning Commission determined that the Dodge quarry is a Significant Site.
 - 4) **For each site determined to be significant, the County shall complete the remainder of the County Goal 5 process identifying conflicting uses, analyzing the ESEE consequences of the conflicting use(s), and designating a level of protection from conflicting uses. If the final decision concerning the site is to preserve fully or partially protect the resource from conflicting uses, the County shall zone the site with the Mineral Resources Overlay.**

FINDING: The request complies with criterion 4).

- The owners submitted an ESEE analysis which concludes that the Dodge quarry is a Significant Site, and there are no conflicting or sensitive uses within the proposed expanded Permit Area.
- This quarry is an important resource in the southern portion of Wasco County, and should be preserved and protected for aggregate extraction. The Planning Commission recommends that the Board of County Commissioners approve application of the Mineral & Aggregate Overlay zone.

b. Policy 2 – Mineral Resources

The County shall maintain an inventory of mineral and aggregate resource sites. The comprehensive plan inventory shall consist of three parts:

- 1) **An inventory of "Significant Sites" identified through the Goal 5 process as important resources that will be protected from conflicting uses;**
- 2) **An inventory of "Potential Sites" for which sufficient information concerning the location, quality, and quantity of a resource site is not adequate to allow the County to make a determination of significance;**
- 3) **An inventory of "Other Sites" for which available information demonstrates that the site is not a significant resource to be protected.**

Implementation

- 1) **The significance of non-aggregate mineral resources shall be judged on a case-by-case basis, taking into account information concerning the commercial or industrial use of the resource, as well as the relative quality and relative abundance of the resource within at least the County.**

FINDING: The request complies with criterion 1).

- An ESEE analysis was submitted by the owners evaluating the quality and quantity of rock on this specific parcel. Additional on-site information for the subject parcel was submitted by the owners' engineer.

2) The scope of an existing or "grandfathered" aggregate operation shall be established by:

- a) authorization by a County land use approval; or
- b) the extent of the area disturbed by mining on the date that the mining operation became a non-conforming use.

FINDING: Wasco County approved the existing aggregate extraction operation in 1987 as a Conditional Use Permit, therefore, the request is consistent with criterion 2)a).

3) In order to approve surface mining at a site zoned for exclusive farm or forestry use, the County shall find, as part of the ESEE analysis, that the proposed activity will not: 1) force a significant change in, or significantly increase the cost of, accepted farming or forestry practices on surrounding lands, and 2) will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

FINDING: The request will not force a significant change in or significantly increase the cost of accepted farm and forest practices on surrounding lands, and it will not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel.

- During the formulation of the property setback requirements for the Exclusive Farm Use zone, the Agricultural Resource Group, Planning Commission and Board of County Commissioners considered how much separation needed to occur between farm and nonfarm uses to prevent adverse affects on farm uses. It was determined that a setback of 200' would create adequate space to separate farm and nonfarm uses.
- Surrounding properties are enrolled in a farm deferral program and are used for wheat/hay production, as well as grazing.
- The proposed Permit Area will be located more than ¼ mile from all surrounding properties.
- The subject property has contained an approved quarry operation since 1987. The Planning Dept. has not received any complaints from farm operators in the area about impacts of the quarry on their farm use.
- That said, any nonfarm use *could potentially* change or increase the cost of accepted farm or forest practices if it creates interference with existing farm or forest practices by complaining about and/or threatening legal action over farm practices. It must be recognized that it is impossible to prove with certainty that a non-farm use will not conflict with nearby resource uses. It is possible however, to evaluate the likelihood of potential conflicts and make a reasonable conclusion regarding potential changes to or increases in costs for resource practices based on review of factual evidence. To minimize potential conflicts between the proposed expanded Permit Area and surrounding farm uses, a

condition is included requiring the owners to sign and record a farm management easement with the Wasco County Clerk. In addition they were provided a copy of the document entitled: Protection for Generally Accepted Farming and Forest Practices – Complain and Mediation Process.

- A portion of the subject parcel is located within the Juniper Flat Rural Fire Protection District. A portion of the subject parcel is protected from wildfire by the Bureau of Indian Affairs. The entire parcel receives wildfire protection from the Oregon Dept. of Forestry.
- According to Don Uhalde, Road Supervisor, Wasco County Public Works Dept. (January 12, 2011), equipment for aggregate operations is generally brought to a site when needed. Fuel, equipment, and spare equipment parts are often stored on-site. Mr. Uhalde said it is his experience that all of the equipment used in a crushing operation is well equipped with fire extinguishers. There is a risk of fire with any piece of machinery, however, the location of a potential fire in a location surrounded by rock would likely prevent the fire from spreading to other properties. OSHA requirements that protect workers by requiring safety equipment to be used also reduce the potential for fire danger. Based on these facts, the proposed use will not significantly increase fire hazard or fire suppression costs, nor will it significantly increase risks to fire suppression personnel.

4) The County may establish and impose conditions on operation of a surface mine when deemed necessary as a result of a site-specific Goal 5 analysis. Where such conditions conflict with criteria and standards in the Mineral and Aggregate Resources Overlay, the conditions developed through the Goal 5 analysis shall control.

FINDING: Conditions for the expansion of the quarry operation are included throughout this report.

5) No surface mining or processing activity, as defined by the zoning ordinance, shall commence without land use approval from the County, and approval of a reclamation plan and issuance of an operating permit by DOGAMI.

FINDING: With conditions, the request complies with criterion 5).

- **Conditions** are included throughout this report to ensure the aggregate expansion is consistent with all of the requirements in the LUDO.
- Upon approval of this request, the owners are required to submit a request to DOGAMI for an amended Operating Permit and reclamation plan. A **condition** is included requiring the owners to submit copies of their approved Operating Permit and reclamation plan prior to excavation in the expansion area.

6) Aggregate sites shall be subordinate to the landscape setting as seen from travel corridors when such travel corridors have been determined to be significant by the ESEE analysis.

FINDING: The request is consistent with criterion 6).

- There are no significant travel corridors within two miles of the subject parcel.
- The subject parcel is located directly south of the intersection of Walters/Back Walters Road, and the aggregate site is located approximately ½ mile south of this intersection, and more than two miles south of Highway 216.
- The eastern portion of the original 10 acre site is slightly visible from Back Walters Road from a distance of 1¼ to 2¼ miles to the northeast, however, with the naked eye it looks like several of the other seasonal drainages or creases in the hillside.
- The proposed expansion area will be located west of the existing permit area. Much of the existing hillside north of the existing and expanded extraction site will be left in place and will screen the entire expansion area from area roads and surrounding properties.

VI. CONCLUSIONS:

- A. The application is for a quasi-judicial request for:
1. Comprehensive Plan amendment to add the existing/expanded aggregate operation to the Comprehensive Plan Mineral & Aggregate Inventory as a Significant Site; and
 2. Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone to the existing and expanded operation.
- B. On February 1, 2011, the Planning Commission recommended approval of the Comprehensive Plan and Zone Change, and approved, with **conditions**, the following requests in conjunction with the Plan and Zone Change:
1. Subject to Standards Review for a Significance Determination for the existing aggregate site;
 2. Conditional Use Permit to expand the existing aggregate operation.
- C. The Comprehensive Plan designation for the property is Exclusive Farm Use and the zone is A-1(160)/EPD-2, Exclusive Farm Use/Geologic Hazard Overlay zone.
- D. Based upon the Findings and Conditions in Section V., the requests for a Comprehensive Plan amendment to include the Dodge Quarry as a Significant Site on the Aggregate Inventory, and a Zone Change to apply the EPD-5, Mineral & Aggregate Overlay zone, are consistent with applicable requirements in the Comprehensive Plan and LUDO.

ATTACHMENT E – LIGHTING STANDARDS

Good Neighbor OUTDOOR LIGHTING

PRESENTED BY THE NEW ENGLAND LIGHT POLLUTION ADVISORY GROUP (NELPAG) AND SKY PUBLISHING CORP.

What is good lighting?

Good outdoor lights improve visibility, safety, and a sense of security, while minimizing energy use, operating costs, and ugly, dazzling glare.

Why should we be concerned?

Many outdoor lights are poorly designed or improperly aimed. Such lights are costly, wasteful, and distractingly glary. They harm the nighttime environment and neighbors' property values.

Glare Here's the basic rule of thumb: If you can see the bright bulb from a distance, it's a bad light. With a good light, you see lit ground instead of the dazzling bulb. "Glare" is light that beams directly from a bulb into your eye. It hampers the vision of pedestrians, cyclists, and drivers.

Light Trespass Poor outdoor lighting shines onto neighbors' properties and into bedroom windows, reducing privacy, hindering sleep, and giving the area an unattractive, trashy look.

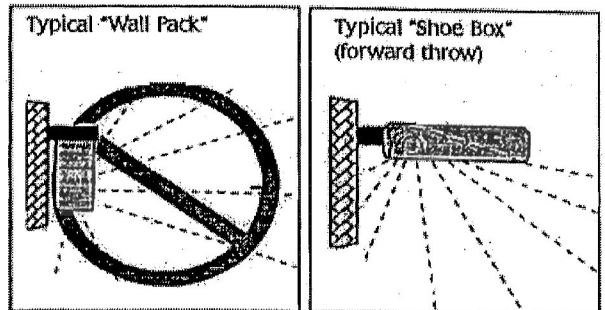
Energy Waste Many outdoor lights waste energy by spilling much of their light where it is not needed, such as up into the sky. This waste results in high operating costs. We waste over a billion dollars a year in the United States needlessly lighting the night sky.

Sky Glow Rays that beam uselessly above the horizon create murky skyglow – the "light pollution" that washes out our view of the stars.

How do I switch to good lighting?

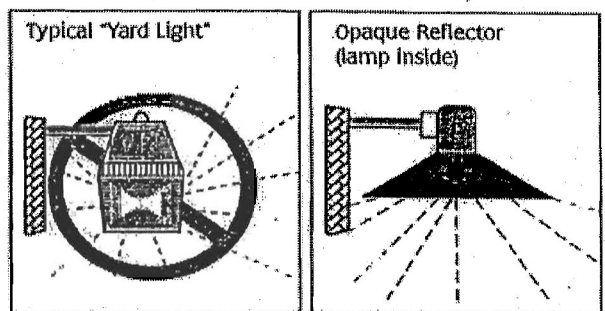
- 1 Provide only enough light for the task at hand; don't over-light, and don't spill light off your property. Specifying enough light for a job is sometimes hard to do on paper. Remember that a full Moon can make an area quite bright. Some lighting systems illuminate areas 100 times more brightly than the

Some Good and Bad Light Fixtures



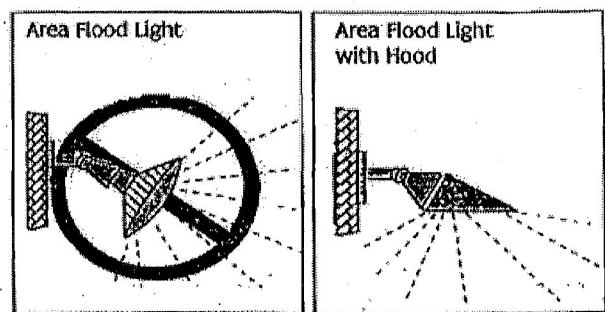
BAD

GOOD



BAD

GOOD



BAD

GOOD

full Moon! More importantly, by choosing properly shielded lights, you can meet your needs without bothering neighbors or polluting the sky.

- 2 Aim lights down. Choose "full-cutoff shielded" fixtures that keep light from going uselessly up or sideways. Such fixtures produce minimum glare. They create a pleasant-looking environment. They increase safety because you see illuminated people, cars, and terrain, not dazzling bulbs.
- 3 Install fixtures carefully to maximize their effectiveness on the targeted area and minimize their impact elsewhere. Proper aiming of fixtures is crucial. Most are aimed too high. Try to install them at night, when you can see where all the rays actually go.

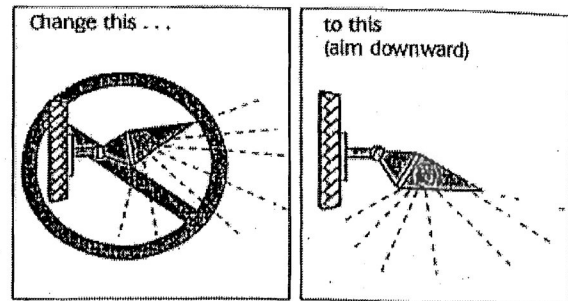
Properly aimed and shielded lights may cost more initially, but they save you far more in the long run. They can illuminate your target with a low-wattage bulb just as brightly as a wasteful light does with a high-wattage bulb.

- 4 Choose energy-efficient low-pressure sodium (LPS) or high-pressure sodium (HPS) lamps wherever yellowish light will do the job. Use less efficient white lights only where ideal color rendition is important.
- 5 Where feasible, put lights on timers to turn them off each night after they are no longer needed. Put home security lights on a motion-detector switch, which turns them on only when someone enters the area; this provides a great deterrent effect!

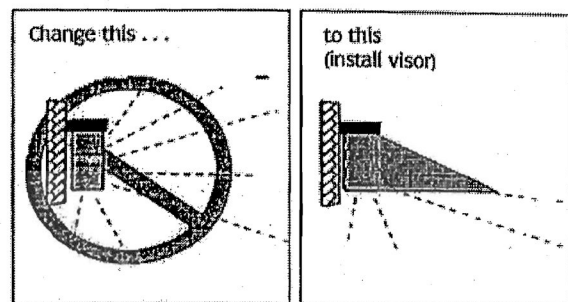
Replace bad lights with good lights.

You'll save energy and money. You'll be a good neighbor. And you'll help preserve our view of the stars.

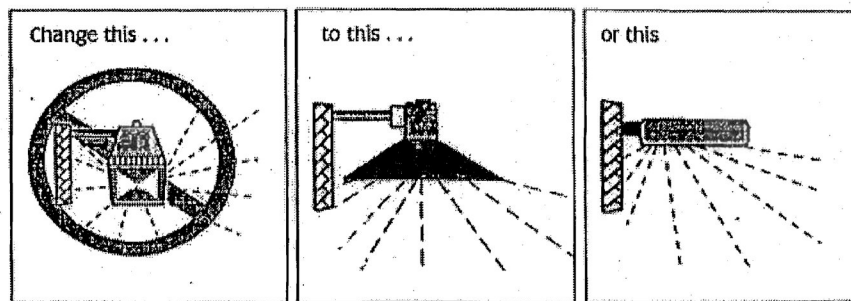
What You Can Do To Modify Existing Fixtures



FLOOD LIGHT



WALL PACK



YARD LIGHT

OPAQUE REFLECTOR

SHOE BOX

Presented by the

New England Light Pollution Advisory Group (NELPAG)

(<http://cfa-www.harvard.edu/cfa/ps/nelpag.html>) and

Sky Publishing Corp. (<http://www.skypub.com/>).

NELPAG and Sky Publishing Corp. support the

International Dark-Sky Association (IDA) (<http://www.darksky.org/>).

We urge all individuals and groups interested in the problems of light pollution and obtrusive lighting to support the IDA and subscribe to its newsletter. IDA membership costs \$30 per year; send your check to IDA, 3225 N. First Avenue, Tucson, AZ 85719, U.S.A.



Sky Publishing Corp.
49 Bay State Road
Cambridge, MA 02138

FOREST-FARM MANAGEMENT EASEMENT

Richard & Janie Dodge, herein called the Grantors, are the owners of real property described as follows:

Township 5 South, Range 12 East W.M., Tax Lots 8500, Assessor Accounts 12458, 13052
Township 5 South, Range 12 East W.M., Tax Lots 9200, Assessor Account 13055
Township 5 South, Range 12 East W.M., Tax Lots 9300, Assessor Account 13020
Township 6 South, Range 12 East W.M., Tax Lots 1200, Assessor Accounts 12578, 1530,
16088
Township 6 South, Range 12 East W.M., Tax Lots 1300, Assessor Accounts 12569, 15531

In accordance with the conditions set forth in the decision of Wasco County Board of Commissioners, dated March 1, 2011, approving a Subject to Standards Review, Comprehensive Plan Amendment, Zone Change, and Conditional Use Permit (PLAQJR-10-10-0005) for the expansion of an existing aggregate operation, on the above described property. In consideration of such approval, Grantors hereby grant to the Owners of all property adjacent to the above described property, a perpetual nonexclusive easement as follows:

1. The Grantors, their heirs, successors, and assigns hereby acknowledge by granting of this easement that the above described property is situated in an Exclusive Farm Use zone in Wasco County, Oregon, and may be subjected to conditions resulting from farm or forest operations on adjacent lands. Farm operations include, but are not limited to, the raising, harvesting and selling of crops or the feeding, breeding, management and sale of livestock or poultry, application of chemicals, road construction and maintenance, and other accepted and customary farm management activities conducted in accordance with Federal and State laws. Forest operations include, but are not limited to reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash, and other accepted and customary forest management activities conducted in accordance with Federal and

After recording, please return original to:
Wasco County Planning Dept.

Attachment F – Farm Management Easement
Page 1 of 2
PLAQJR-10-10-0005 (Dodge)

State laws. Said farm or forest management activities ordinarily and necessarily produce noise, dust, odor, and other conditions, which may conflict with Grantors' use of Grantors' property for forest products processing purposes. Grantors hereby waive all common law rights to object to normal and necessary farm or forest management activities legally conducted on adjacent lands which may conflict with grantors' use of grantors' property for residential purposes and grantors hereby give an easement to adjacent property owners for such activities.

2. Grantors shall comply with all restrictions and conditions for maintaining residences in the Exclusive Farm Use (A-1(160)) zone that may be required by State and local land use laws and regulations.

This easement is appurtenant to all property adjacent to the above described property and shall bind to the heirs, successors and assigns of Grantors and shall endure for the benefit of the adjoining landowners, their heirs, successors and assigns.

IN WITNESS WHEREOF, the Grantors have executed this easement on _____, 2011.

Titleholders Name

Titleholders Name

STATE OF OREGON)
COUNTY OF WASCO)

Personally appeared the above named _____ and _____, and acknowledged the above easement to be their voluntary act and deed.

Notary Public for Oregon

ATTACHMENT G

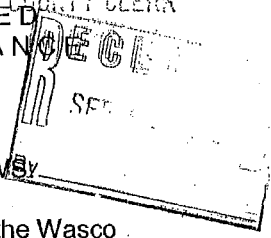
Protection for Generally Accepted Farming and Forestry Practices - Complaint and Mediation Process

IN THE COUNTY COURT OF THE STATE OF OREGON FILED WASCO COUNTY

IN AND FOR THE COUNTY OF WASCO 2003 SEP 12 P 3:15

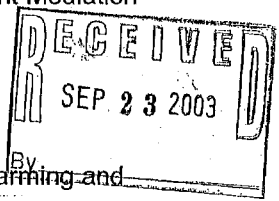
IN THE MATTER OF THE ADOPTION OF) AN AMENDED ORDINANCE PROVIDING) PROTECTION FOR GENERALLY ACCEPTED) FARMING AND FORESTRY PRACTICES AND) ESTABLISHING A COMPLAINT MEDIATION) PROCESS.)

MARION LEBRETON COATS COUNTY CLERK AMENDED ORDINANCE



THE WASCO COUNTY COURT ORDAINS AS FOLLOWS

Section 1. SHORT TITLE. This Ordinance may be cited as the Wasco County Farming and Forestry Practices Protection and Complaint Mediation Ordinance.



Section 2. PURPOSE.

(1) Wasco County recognizes that complaints about farming and forestry practices will sometimes occur because these practices create odors, smoke, dust and noise and there is a close proximity of agricultural and forest lands to expanding urban and rural residential development.

(2) Wasco County recognizes that all resource use complaints have the potential of requiring immediate shutdowns or interruptions of farming and forestry practices which could result in significant economic consequences for resource users.

(3) The purpose of this Ordinance is therefore to provide a rapid complaint response and mediation process for resource use complaints by Wasco County residents in order to protect farming and forestry operations to the greatest extent possible from immediate shutdowns or interruptions.

1 – AMENDED ORDINANCE

Section 3. _ DEFINITIONS. As used in this Ordinance:

(1) "FACILITY" means any real or personal property, including appurtenances thereto and fixtures thereon, associated with a given use.

(2) "FARMING PRACTICE" means the cultivation, growing, harvesting, processing or selling of plants or animals of any kind, which lawfully may be grown, possessed and sold, including but not limited to fish, livestock, poultry, grapes, cherries, apples, pears, wheat, barley, Christmas trees and nursery stock.

(3) "FORESTRY PRACTICE" means any operation conducted on or pertaining to forest land, including but not limited to:

- (a) Reforestation of forest land;
- (b) Road construction and maintenance;
- (c) Harvesting of forest tree species;
- (d) Application of chemicals; and
- (e) Disposal of slash.

(4) "NONRESOURCE USE" means any facility, activity or other use of land which does not constitute a resource use, including but not limited to residential use.

(5) "RESOURCE USE" means any current or future generally accepted farming or forestry practice or facility conducted in compliance with applicable Wasco County Ordinances and Federal and State laws.

(6) "RESOURCE USE NUISANCE" means any current or future generally accepted farming or forestry practice or facility conducted in

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compliance with applicable Wasco County Ordinances and Federal and State laws, which may be considered offensive, annoying, or interferes with or otherwise affects the urban and rural residents of Wasco County.

(7) "RESOURCE USE" does not include:

(a) Any unlawful act;

(b) The willful growing of infested, infected or diseased plants or animals;

(c) Trespass which involves actual physical intrusion onto the property of another by a person or by a person's animals;

(8) "DESIGNEE" means a Case Developer, appointed by the Six Rivers Community Mediation Services Director.

(9) "COMPLAINT MEDIATION PROCESS"

(a) Means a procedure established by the Wasco County Court to provide a forum for the mediation of Wasco County residents complaints regarding farming or forestry practices or facilities, including, but not limited to: odors from domestic livestock operations; blowing smoke from heaters, smokers and slash burning; noise from machines, including those devices producing sounds designed for agricultural purposes in order to frighten predacious birds or animals away from agricultural crops; drift or contamination from chemical and fertilizer applications; hours of operation; and littering of County roads; and

3 – AMENDED ORDINANCE

(b) Shall consist of at least two (2) mediators, working cooperatively in a co-mediation role. Both mediators shall maintain a neutrality and confidentiality throughout and beyond the process. The Six Rivers Community Mediation Services Director or Designee shall serve as a consultant to the Complaint Mediation Process. Consultation may come prior to, during or after the actual mediation, as appropriate.

(10) "PEER REVIEW BOARD" is a Board appointed, as needed, by the Wasco County Court to advise the Six Rivers Community Mediation Services on whether a disputed resource use activity is a generally accepted farming or forest practice or facility. The Board shall consist of 5 persons who regularly are involved in a resource use within the County, at least 3 of whom are regularly involved in the same type of disputed resource use being heard through the Complaint Mediation Process.

Section 4. PROTECTING RESOURCE USES.

(1) Wasco County shall not support a resource use nuisance complaint or claim for relief by nonresource uses or any persons or property associated therewith unless the resource use complaint response and mediation procedure of Section 5 of this Ordinance has been utilized.

(2) This Section applies regardless of:

- (a) The location of the purportedly affected nonresource use;
- (b) Whether the nonresource use purportedly affected existed before or after the occurrence of the resource use;

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(c) Whether the resource use or nonresource use has undergone any change or interruption; and

(d) Whether the resource use is inside or outside an urban growth boundary to the extent permissible under State law.

Section 5. RESOURCE USE COMPLAINT RESPONSE AND MEDIATION PROCEDURE.

(1) Initial resource use complaints involving farming or forestry practices or facilities shall:

(a) Be referred to the Six Rivers Community Mediation Services during regular operating hours or the Wasco County Sheriffs Office after hours and on weekends; and

(b) Be responded to as soon as possible.

(2) The responding Six Rivers Community Mediation Services

Agent or Designee shall:

(a) Use Six Rivers Community Mediation Services'

procedures to respond to a complaint;

(b) Notify the Wasco County Court about the documented complaint as soon as possible and report on the effort and/or success in resolving the complaint.

(3) If the initial contact is through the Wasco County Sheriffs Department, or any other law enforcement agency, the responding officer should:

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- (a) Contact the complainant and document the complaint; and
 - (b) Encourage the complainant to call or meet with the resource user and attempt a one-on-one resolution of the complaint; and
 - (c) Provide both complainant and resource user with written documentation of the complaint, including, but not limited to the name and address of complainant, the name and address of the resource user, and a description of the nature of the complaint; and
 - (d) Inform both parties that the complaint will be referred to Six Rivers Community Mediation Services and that they will be contacted by that agency; and
 - (e) Deliver a copy of the complaint to the Six Rivers Community Mediation Services as soon as possible.
- (4) If the complainant and resource user that are principles in a documented resource use complaint within Wasco County request assistance beyond that provided by the Case Developer, the Case Developer shall implement the Complaint Mediation Process.
- (5) The Complaint Mediation Process shall:
- (a) Set a date to hear the complaint from both complainant and resource user within a reasonable amount of time; and
- Work with both complainant and resource user in an attempt to resolve the complaint.

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- (6) The Complaint Mediation Process may:
- (a) Request the Wasco County Court to set up a Peer Review Board for assistance in determining whether an activity or facility is a generally accepted farming or forestry practice or facility;
 - (b) Suggest recommendations for Peer Review Board members to the Wasco County Court; and
 - (c) Meet with the complainant and resource user any number of times if the Mediators determine that progress is being made toward a resolution of the complaint.
- (7) If the Complaint Mediation Process is unable to resolve the complaint, the complainant and resource user shall be advised by the Six Rivers Community Mediation Services of their additional options including, but not limited to, seeking advice from private counsel.

Section 6. LAND USE DECISIONS. The fact that Wasco County's Comprehensive Plan, Zoning Ordinances and land use decisions allow the siting, development or support of any particular use does not negate the provisions of this Ordinance intended to protect a resource use.

Section 7. EFFECT ON OTHER REMEDIES. The provisions of this Ordinance shall not impair the right of any Wasco County resident to pursue any remedy authorized by applicable Wasco County Ordinances or Federal and State laws that:

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- (1) Concerns matters other than a resource use nuisance;
- (2) Does not expressly purport to prohibit or regulate a farming or forestry practice as a resource use nuisance; or
- (3) Prohibits or regulates the use or physical condition of resource use activities or facilities that adversely affect public health or safety.

Section 8. SEVERABILITY CLAUSE. If any portion of this Ordinance is held invalid by a Court of competent jurisdiction, such decision shall apply only with respect to the specific portion held invalid by the decision. It is the intent of Wasco County that the remaining portions of this Ordinance continue in full force and effect.

Section 9. EMERGENCY CLAUSE. This Ordinance being immediately necessary for the preservation of the public well being, an emergency is declared to exist and this Ordinance shall take effect immediately upon adoption.

Regularly passed and adopted by the unanimous vote of all members of the County Court of the County of Wasco, State of Oregon, present on this day.

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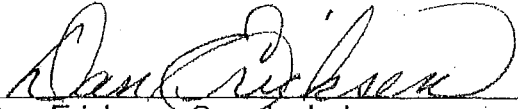
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DONE AND DATED this 3rd day of September, 2003

WASCO COUNTY COURT



Dan Ericksen, County Judge




Scott McKay, County Commissioner



Sherry Holliday, County Commissioner

APPROVED AS TO FORM:



Eric J. Nisley
Wasco County District Attorney

9 – AMENDED ORDINANCE

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