



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

September 10, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Baker County Plan Amendment
DLCD File Number 002-08



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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: September 26, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

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

Cc: Doug White, DLCD Community Services Specialist
Amanda Punton, DLCD Natural Resource Specialist
Jon Jinings, DLCD Regional Representative
Lauri Hoopes, Baker County

<paa> ya/

Notice of Adoption

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



Jurisdiction: **Baker County**

Local file number: **PA-08-002**

Date of Adoption: **9/3/2008**

Date Mailed: **9/8/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: *7/2/2008*

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Addition to Mining Inventory**

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

This request is to add the proposed site to the Baker County Comprehensive Plan Inventory. The applicant seeks a Post Acknowledged Plan Amendment and Conditional Use permit to site an aggregate mining operation on a 10+/- acre portion of a 685.25+/- acre parcel in the EFU Zone. The purpose of this operation is to supply an OWEB Restoration Grant funded project on Eagle Creek, near Richland, Oregon, with large 3'-4' boulders required to construct two fish-friendly diversion structures.

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

Plan Map Changed from: **157 sites**

to: **158 sites**

Zone Map Changed from:

to:

Location: **8S 44E Sec. 13 & 24 TL 2600**

Acres Involved: **10**

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD file No. 002-08 (16984)

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

Baker County, DLCD, OWEB, DOGAMI, ODFW, ODSL, Forest Service, BLM

Local Contact: **Lauri Hoopes**

Phone: **(541) 523-8219** Extension:

Address: **1995 Third Street**

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

City: **Baker City, Oregon**

Zip: **97814-**

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

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 Complete Copies** (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
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 now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

Baker County Department of Planning and Community Development
STAFF REPORT for
PLAN AMENDMENT PA-08-002 and CONDITIONAL USE REQUEST CU-08-003
STAFF REPORT DATE: September 3, 2008
REPORT PREPARED BY: Lauri Hoopes, Planner

I. GENERAL INFORMATION AND FACTS

Applicants/Owner: Rocky Randall
42742 New Bridge Road
Richland, Oregon 97870

Land Use Review: Plan Amendment and Conditional Use Request in an Exclusive Farm Use (EFU) Zone

Property Description: Tax Lot 2600 in Sections 13 & 24 of Township 8 South, Range 44 East, W.M., Baker County, Oregon (08S44 Sec. 13 & 24 TL 2600 Ref. 15615)

Location: North of Richland, Oregon on Sparta Lane

Existing Development: None

Proposed Development: Aggregate Site

Zone: EFU (Exclusive Farm Use) Zone

Overlay Zone(s): The parcel is in the Big Game Habitat Overlay.

The parcel is not in a flood zone according to FIRM map #41001C0275C.

Wetlands exist on the parcel according to National Wetlands Inventory Map for Sparta, Oregon.

Current Land Use: Agricultural Grazing

Size of Tract: 685.25+/- acres
A ten-acre site is proposed for the requested use.

Parcel Legally Created: Yes, as evidenced by Deed 91-41-060, dated September 17, 1991

Water Rights: There are no water rights on the parcel.

NRCS Soils Data:

Soil Class for 685.25+/- acres

(Baker County GIS):

Class III 15.5%
Class IV 17.5%
Class VI 45.5%
Class VII 20.5%
Class VIII 1 %

Soil Class for 10+/- acres

(Browne Consulting Submittal):

Class III 8.3%
Class VII 91.7%

Tax Status: Farm Tax Deferral

II. REQUEST

The applicant, Rocky Randall, requested a post acknowledged plan amendment and a conditional use permit to site an aggregate mining operation on a 10+/- acre portion of a 685.25+/- acre parcel located in the EFU Zone known as Tax Lot 2600 in Sections 13 & 24 of Township 8 South, Range 44 East, W.M., Baker County, Oregon. The purpose of this proposed aggregate mining operation is to supply an OWEB Restoration Grant funded project on Eagle Creek with large 3' to 4' boulders required to construct two fish-friendly diversion structures in nearby Eagle Creek. In addition to the OWEB Restoration Grant project, the applicant would also utilize this aggregate site for commercial purposes. This request specifically seeks to amend the Baker County Comprehensive Plan to allow an additional site to be added to the Mineral and Aggregate Inventory of the Comprehensive Plan and to conduct aggregate mining activity in the Exclusive Farm Use (EFU) Zone.

III. APPLICABLE STATUTE AND ADMINISTRATIVE RULE PROVISIONS

Oregon Revised Statute (ORS) 215.298 requires that a site for aggregate mining be included on an inventory for an acknowledged comprehensive plan. Oregon Administrative Rules (OAR) 660 Division 18 contains the procedures which must be followed for a comprehensive plan amendment. OAR 660 Division 23 contains the specific review criteria for amending a County's Comprehensive Plan to include additional sites on the Mineral and Aggregate Inventory. This request specifically seeks to amend the Baker County Comprehensive Plan to allow an additional site to be added to the Mineral and Aggregate Inventory of the Comprehensive Plan and to conduct an aggregate mining activity in the Exclusive Farm Use (EFU) Zone.

The Baker County Planning Department accepted a completed application for Plan Amendment PA-08-002 on July 31, 2008. Notice of County review of the proposed Plan Amendment was published in the Baker City Record Courier on July 31, 2008 in accordance with ORS 197.763. Notice was also provided to the Department of Land Conservation and Development on July 2, 2008 in accordance with ORS 197.610. Notice was provided to property owners of record within 750 feet of the subject property boundary and the affected agencies on August 6, 2008 in accordance with OAR 660 Division 23, and ORS 197.763.

III. FINDINGS OF FACT

- 1) The parcel is known as Tax Lot 2600 in Sections 13 & 24 of Township 8 South, Range 44 East, W.M., Baker County, Oregon (08S44 Sec. 13 & 24 TL 2600 Ref. 15615).
- 2) The parcel consists of 685.25+/- acres. The proposal is for a 10+/- acre portion of the 685.25+/- acre parcel.
- 3) The proposed mining operation will be located on a 10+/- acre portion of Tax Lot 2600. This 10+/- acre area consists of a steep slope and rock outcropping covered with sparse topsoil and vegetation.
- 4) The owner of Tax Lot 2600 is Rocky Randall.
- 5) The location of the proposed aggregate site within Tax Lot 2600 is north of Sparta Lane, just east of the intersection with Seismograph Road.
- 6) According to the Baker County Assessor's office, Tax Lot 2600 is currently receiving farm tax deferral.
- 7) Tax Lot 2600 is located in the Exclusive Farm Use (EFU) Zone and used for grazing.
- 8) Tax Lot 2600 is located in the Big Game Habitat Overlay.
- 9) The parcel is not in a flood zone according to FIRM map #41001C0275C.
- 10) According to Baker County GIS Soil Data and the Natural Resources Conservation Service Soil Survey for Baker County, the parcel consists of 15% Class III, 17.5% Class IV, 45.5% Class VI, 20.5% Class VII, and 1% Class VIII soils.
- 11) The applicant submitted the appropriate application, maps, and site plan, accompanied by the required fee, to the Baker County Planning Department. The requirements of the application, as outlined in the Baker County Zoning and Subdivision Ordinance 83-3 Section 905, were completed on July 31, 2008.
- 12) No structures or dwellings are proposed as part of this request.
- 13) The proposed aggregate mining site is approximately 200 feet from Sparta Lane, and is enclosed by a fence and access gate. The proposed aggregate mining site will be visible from the road, but not from any existing dwellings. The access gate will be locked when the operation is not active.
- 14) Sparta Lane (County Road 852) is the proposed route to and from Eagle Creek. Exhibit 1, submitted by Browne Consulting, identifies the proposed ingress and egress for equipment from the aggregate site onto Sparta Lane, the proposed haul route along Sparta Lane, and a map of the access points to both the Kay-Young and Nash diversion and bank restoration sites.

15) On July 10, 2008, the Baker County Planning Department received a copy of a letter sent to Peggy Browne, Browne Consulting, from Ken Helgerson, Baker County Roadmaster regarding this proposal. In the letter, Mr. Helgerson stated he visited the site adjacent to County Road 852 (Sparta Lane) on July 2, 2008. At the time of the site visit, preliminary dozer work had been done at the site and a small explosive shot had produced some base rock and rip rap. Mr. Helgerson stated both of these rock products looked to be of good quality and suitable for construction projects requiring rock. Mr. Helgerson informed Ms. Browne that due to budget constraints and the fact that priorities exist in areas of the County that have no stockpiled crushed surface gravel, the Road Department cannot, at this time, utilize this proposed rock source. Mr. Helgerson informed Ms. Browne that he felt the rock source to be valid and an asset to Baker County.

16) An existing stock pond will be used to collect water run off from the site.

17) The purpose of this aggregate mining operation is to fulfill a community-initiated state funded OWEB Restoration Grant project on Eagle Creek to help restore the eroding streambanks. Large 3' to 4' boulders are required to construct two fish-friendly diversion structures in nearby Eagle Creek to provide fish passage year round. In addition to the OWEB Restoration Grant project, the applicant proposes to utilize the aggregate site for commercial purposes.

EAGLE CREEK PROJECT INFORMATION SUBMITTED BY BROWNE CONSULTING

- a. The current diversion structures on Eagle Creek are dams which block fish passage and contribute to severe streambank erosion, which is removing adjacent landowners' property and fences.
- b. Streambanks are eroded to the point that all riparian vegetation and streambank armor is devoid due to large sediment load.
- c. Oregon Department of Forestry identified remaining cottonwood galleries adjacent to Eagle Creek as rare habitat. It is likely the next high water event will strip these trees from the bank and the creek will move farther into the flood plain.
- d. Primary Areas: Kay Young Ditch (Site #1) and Nash Ditch (Site #2)
- e. Only portions of the degraded 4.5-mile reach will be reconstructed (no time frame specified). This will be the first major step to restoring the creek.
- f. Agencies involved: Eagle Valley SWCD Board of Directors, Oregon Department of Fish and Wildlife, Oregon Department Water Resources, US Fish and Wildlife Service.
- g. Project Description:
Site #1—Kay-Young Ditch: A new rock structure will be constructed instream that will divert water to the Kay-Young diversion and eliminate the need for logs to be added to the dam on Eagle Creek. The rock structure will resemble a "riffle" that will be fully passable for fish of all stages. Random rocks will be placed upstream and downstream to decrease the energy of the water and provide resting places for fish.
Site #2—Nash Ditch: There is severe erosion for approximately 350' above the Nash diversion.
- h. Streambank restoration provides fish habitat, retains water temperature, and improves stream and riparian area function.
- i. The rock weir design is believed to be the one with the best chance of success for this project. Engineers are aware of anchor ice that plagues Eagle Creek in the winter and the extreme high and low flows that must be calculated into the equation.

- 18) Browne Consulting states that less than 500,000 tons of aggregate will be produced because the “main purpose of the site is to provide rock for the Eagle Creek diversion project which will amount to less than 2,000 cubic yards.”
- 19) The proposed mining operation plans to excavate more than 1, 000 cubic yards of aggregate.
- 20) The proposed aggregate mining operation site is not included in the Baker County Comprehensive Plan Inventory of Mineral and Aggregate Sites.
- 21) The aggregate to be excavated will be used for a project site that is NOT owned by the applicant.
- 22) The application was submitted to the Baker County Planning Department on June 11, 2008.
- 23) Notice to the Department of Land Conservation and Development was sent on July 2, 2008.
- 24) The Baker County Planning Department issued a letter of incompleteness to Browne Consulting and the applicant, Rocky Randall, on July 10, 2008. The applicant, Rocky Randall, and Peggy Browne of Browne Consulting met with Planning Department staff to discuss the letter of incompleteness and the Environmental Review Checklist on July 15, 2008.
- 25) Required copies of the Environmental Review Checklist were circulated to the affected agencies on July 17th, 2008. The deadline for comments from affected agencies was August 1, 2008. No comments were received from the affected agencies.
- 26) Browne Consulting submitted the information requested in the letter of incompleteness on July 31, 2008. The Baker County Planning Department accepted the information and deemed the application complete on August 1, 2008.
- 27) A letter dated August 12, 2008, from Ken Helgerson, Roadmaster for Baker County Road Department stated that the Baker County Road Department has reviewed the ingress and egress routes to and from the proposed aggregate mining operation for Rocky Randall. In addition, the proposed haul route along Eagle Creek near New Bridge has also been reviewed. Mr. Helgerson stated he found no negative impacts that would likely occur due to the use of these routes for the proposed activities, and thus, approves this request.
See Exhibit “E”.

IV. ANALYSIS

A. POST ACKNOWLEDGED PLAN AMENDMENT

1. BAKER COUNTY ZONING AND SUBDIVISION ORDINANCE

BCZO Section 901 Authorization to Initiate Amendments

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

Findings:

The zoning map amendment was initiated by application of the property owner. The request was made by filing an application with the Planning Department in the manner described in Section 905, the Map Amendment Application Procedure.

On July 10, 2008 a letter of incompleteness was issued to the applicant and Browne Consulting. On July 15, 2008, the applicant and Peggy Browne of Browne Consulting met with Planning Department staff to discuss the application and the letter of incompleteness. At this time, the applicant and Planning Department staff jointly discussed the Environmental Review Checklist to determine areas of concern. The Environmental Review Checklist was circulated to affected agencies on July 17, 2008. The Planning Department received no response letters from the affected agencies. Browne Consulting submitted to the Planning Department the information requested by the letter of incompleteness on July 31, 2008. The Planning Department deemed the application complete on August 1, 2008.

Conclusions:

Criteria are met.

BCZO Section 902 Authorization to Approve or Deny Proposed Amendments

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

Findings:

The Planning Commission, in keeping with this authorization, approves the map amendment and recommends the County Commissioners approve and adopt this map amendment. **Criteria are met.**

Conclusions:

Criteria are met.

BCZO Section 903 Standards for Granting an Amendment

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

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

Findings:

The proposed Aggregate Mining Operation is not part of the Baker County Comprehensive Plan's Mineral and Aggregate Site Inventory.

Note: The requirements for this section are superceded by OAR 660-023-0180 (9). The regulations set forth in the Baker County Comprehensive Plan were acknowledged prior to 1989. No subsequent updates have been made; therefore, according to OAR 660-023-0180 (9) the PAPA and CUP shall conform to the applicable State ordinances as listed in this report.

Conclusions:

The requirements of this section are superceded by the above listed Oregon Administrative Rules.

BCZO Section 904 Public Hearing on Amendment

The Planning Commission shall conduct a public hearing on a proposed Amendment within 60 days after the Amendment is proposed and shall, within five working days after the hearing, recommend to the County Court approval, disapproval, or modified approval of the proposed Amendment. This hearing may be continued for just cause. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed Amendment within 30 days of Planning Commission action on the request. The Court shall announce its decision within 30 days of its public hearing. Amendments shall be subject to review by the State pursuant to ORS 197.610-630.

Findings:

The application for an Aggregate Mining Operation in the EFU Zone for Rocky Randall was deemed complete on August 1, 2008. The Baker County Planning Commission held a public hearing to review the proposed Post Acknowledged Plan Amendment (PAPA) PA-08-002 and Conditional Use request CU-08-003 on August 21, 2008, within 60 days of the completion of those application requirements. During the public hearing held by the Planning Commission, the Planning Commission approved the Conditional Use request under the Condition that the Board of Commissioners approve the Plan Amendment proposal.

Conclusions:

Criteria are met.

BCZO Section 905 Map Amendment Application Procedure

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

A. The applicant shall submit a site plan to the Planning Department and discuss the property involved in the action and the development to be placed on the property if the Amendment is approved. This discussion is to assist the applicant in understanding the Amendment process and to review the development proposal for conformance with the physical requirements of the Zoning and Subdivision Ordinance as early in the process as possible.

Findings:

The applicant submitted a site plan to the Planning Department detailing the proposed development to be placed on the property if the map amendment is approved. The applicant and Planning Department staff reviewed the development proposal for conformance with the physical requirements of the Zoning and Subdivision Ordinance.

Conclusions:

Criteria are met.

B. The applicant and the Planning Department shall jointly complete an environmental review checklist provided by the Planning Department to survey environmental consequences of the proposed action. Copies of the completed environmental review checklist will be circulated to other departments and affected agencies. Department comments will be attached to the original and will remain in the application file.

Findings:

On July 15, 2008, the applicant and Planning Department staff jointly completed an Environmental Review Checklist provided by the Planning Department to survey environmental consequences of the proposed action. Copies of the completed environmental review checklist were circulated to other departments and affected agencies on July 17, 2008, as are included in the applicant's file as "Agency Envelopes" See Exhibit "I". The deadline for comments from the affected agencies was August 1, 2008. No comments were received.

Conclusions:

Criteria are met.

C. Impact Report: After response from the other departments and agencies, the Site Plan Review advisory committee will recommend to the Planning Commission whether or not the project has a significant effect on the environment and hence whether an environmental impact report of a negative declaration is appropriate.

Findings:

The Planning Department received no letters of response from the affected agencies. The Site Plan Review advisory committee recommended to the Planning Commission that no significant environmental effect appears likely, and an environmental impact report should therefore not be required. The Planning Commission accepted the Site Plan Review advisory committee's recommendation. The Checklist addressed areas that would be of concern, and it is not likely that a negative environmental impact will occur given the current and historical use of the land as pasture for grazing of cattle.

Conclusions:

Criteria are met.

D. If it is determined by the Planning Commission that an environmental impact report is required, the applicant shall be informed by mail that the report must be completed before the application can be considered. The applicant has 10 working days to appeal this requirement to the County Court. If the environmental impact report is required, the mandatory time limit for action on the application shall be extended for the period of time necessary to prepare and adopt a satisfactory report.

Findings:

The Planning Commission determined an environmental impact report is not required.

Conclusions:

An environmental impact report is not required.

BCZO Section 908 Record of Amendments

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

Findings:

If approved by the County Commissioners, the Planning Department will be responsible for filing the amendment with the County Clerk. The Planning Department will then maintain records of the amendment to the zoning map.

The Amendment shall read as follows:

Site #: 158 Randall Pit 8S 44E 13/24 TL2600 N

| | | |
|----------------------------|--------------|-------------|
| TWP. 8S | RNG. 44E | Sec. 13, 24 |
| Tax Lot: 2600 | Zone: EFU | |
| Quad 1: | Scale: | |
| Quad 2: | Scale: | |
| Mining Dist: *See Also: | | |

| | |
|--------------------|---|
| Record Number: | 158 |
| Site: | Randall Pit |
| Zoning: | EFU |
| Class: | |
| Commodities: | Rock |
| Deposit Type: | |
| Land Use: | Primarily Livestock, Grazing |
| Adj. Land Use: | Primarily Livestock, Grazing |
| Land Status: | Private |
| Land Owner: | Rocky Randall |
| Address: | 42742 New Bridge Road Richland, Oregon 97870 |
| Phone: | 541-540-6322 |
| Lessee/Operator: | Rocky Randall |
| Specific Location: | North of Sparta Lane, east of the intersection of Seismograph Road. |
| Quality: | Angular Dense Basalt |
| Quantity: | |
| Conflicts: | |
| History: | Livestock Grazing |
| Activity: | |
| Planning File: | PA-08-002 & CU-08-003 |
| ODOT File: | |
| DOGAMI File: | |
| Notes: | |

Also non metallic inventory pg. V104 site # 122 as follows:

| NO. | 1/4 | Sec | Twp | Rge | RES | Acres | Yds | Status | Resource Owner | Land Owner | Dogami # | Comments |
|-----|-----|---------|-----|-----|-----|-------|-----|--------|----------------|---------------|----------|--------------------|
| 122 | | 13 & 24 | 8S | 44 | Gr | 10 | | | Rocky Randall | Rocky Randall | | OWEB Grant Project |

PA-08-002 & CU-08-003 Rocky Randall

Conclusions:

Criteria are met.

2. OREGON REVISED STATUTES

ORS 215.298 Mining in Exclusive Farm Use Zone; Land Use Permit.

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

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

(3) For purposes of ORS 215.213 (2) and 215.283 (2) and this section, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines. [1989 c.861 §7]

Findings:

1) The applicant is proposing to add an aggregate mining operation on a 10+/- acre portion of a 685 25+/- acre parcel located in the Exclusive Farm Use (EFU) zone. The applicant proposes to mine more than 1,000 cubic yards of material.

2) The site proposed by the applicant is not currently listed in the Mineral and Aggregate Inventory for the Baker County Comprehensive Plan. The applicant, Rocky Randall, has submitted an application to amend the Baker County Comprehensive Plan to include the proposed site in the inventory for the Plan in accordance with OAR 660 Division 23.

3) The Baker County Planning Commission held a public hearing to review the Conditional Use request CU-08-003, and approved the Conditional Use request on August 21, 2008, subject to the Condition that the Conditional Permit is only valid if the Baker County Board of Commissioners approves the Comprehensive Plan Amendment.

Conclusions:

Criteria are met.

3. OREGON ADMINISTRATIVE RULES

OAR 660-023-020 (1) Standard and Specific Rules

(1) The standard Goal 5 process, OAR 660-023-0030 through 660-023-0050, consists of procedures and requirements to guide local planning for all Goal 5 resource categories. This division also provides specific rules for each of the fifteen Goal 5 resource categories (see OAR 660-023-0090 through 660-023-0230). In some cases this division indicates that both the standard and the specific rules apply to Goal 5 decisions. In other cases, this division indicates that the specific rules supersede parts or all of the standard process rules (i.e., local governments must follow the specific rules rather than the standard Goal 5 process). In case of conflict, the resource-specific rules set forth in OAR 660-023-0090 through 660-023-0230 shall supersede the standard provisions in OAR 660-023-0030 through 660-023-0050.

OAR 660-023-0030 (1) Inventory Process

*(1) Inventories provide the information necessary to locate and evaluate resources and develop programs to protect such resources. The purpose of the inventory process is to compile or update a list of significant Goal 5 resources in a jurisdiction. This rule divides the inventory process into four steps. However, all four steps are not necessarily applicable, depending on the type of Goal 5 resource and the scope of a particular PAPA or periodic review work task. **For example, when proceeding under a quasi-judicial PAPA for a particular site, the initial inventory step in section (2) of this rule is not applicable in that a local government may rely on information submitted by applicants and other participants in the local process.** The inventory process may be followed for a single site, for sites in a particular geographical area, or for the entire jurisdiction or urban growth boundary (UGB), and a single inventory process may be followed for multiple resource categories that are being considered simultaneously. The standard Goal 5 inventory process consists of the following steps, which are set out in detail in sections (2) through (5) of this rule and further explained in sections (6) and (7) of this rule: [Emphasis added]*

- (a) Collect information about Goal 5 resource sites;*
- (b) Determine the adequacy of the information;*
- (c) Determine the significance of resource sites; and*
- (d) Adopt a list of significant resource sites.*

Findings:

The applicant has submitted a request for a Post Acknowledged Plan Amendment (PAPA) to add an aggregate site to the inventory for the Baker County Comprehensive Plan. On June 11, 2008, the applicant, Rocky Randall, submitted an application for an aggregate mineral operation to be located on a 10+/- acre portion of a 685.25+/- acre parcel located in the EFU zone. The proposed site is not listed in the Baker County Comprehensive Plan Inventory.

Conclusions:

Criteria are met.

(2) Collect information about Goal 5 resource sites: The inventory process begins with the collection of existing and available information, including inventories, surveys, and other applicable data about potential Goal 5 resource sites. If a PAPA or periodic review work task pertains to certain specified sites, the local government is not required to collect information regarding other resource sites in the jurisdiction. When collecting information about potential Goal 5 sites, local governments shall, at a minimum:

(a) Notify state and federal resource management agencies and request current resource information; and

(b) Consider other information submitted in the local process.

Findings:

According to OAR 660-023-0030 (1) when proceeding under a quasi-judicial PAPA for a particular site, the initial inventory step in section (2) of this rule is not applicable in that a local government may rely on information submitted by applicants and other participants in the local process.

Conclusions:

Criteria are not applicable.

OAR 660-023-0030 (3) Determine the adequacy of the information:

(3) Determine the adequacy of the information: In order to conduct the Goal 5 process, information about each potential site must be adequate. A local government may determine that the information about a site is inadequate to complete the Goal 5 process based on the criteria in this section. This determination shall be clearly indicated in the record of proceedings. The issue of adequacy may be raised by the department or objectors, but final determination is made by the commission or the Land Use Board of Appeals, as provided by law. When local governments determine that information about a site is inadequate, they shall not proceed with the Goal 5 process for such sites unless adequate information is obtained, and they shall not regulate land uses in order to protect such sites. The information about a particular Goal 5 resource site shall be deemed adequate if it provides the location, quality and quantity of the resource, as follows:

(a) Information about location shall include a description or map of the resource area for each site. The information must be sufficient to determine whether a resource exists on a particular site. However, a precise location of the resource for a particular site, such as would be required for building permits, is not necessary at this stage in the process.

Findings:

3a) **Location:** A site plan and several maps showing the location and topography of the proposed site were included with the application. In addition, the applicant also included photos of the aggregate to be mined from the 10+/- acre site. According to Browne Consulting, geologists confirmed the proposed site contains the appropriate type of rock necessary for the OWEB grant project mentioned in the application and proposal. According to Browne Consulting, *the location of the rock quarry is approximately 6 miles west of New Bridge, in a pocket on the top of Sparta Grade surrounded by hills and rock outcroppings.* As part of Exhibit “H”, Browne Consulting submitted a map showing the proximity of the existing aggregate pits and the proposed Randall pit.

Conclusions:

Criteria are met.

*(b) Information on **quality** shall indicate a resource site's value relative to other known examples of the same resource. While a regional comparison is recommended, a comparison with resource sites within the jurisdiction itself is sufficient unless there are no other local examples of the resource. Local governments shall consider any determinations about resource quality provided in available state or federal inventories.*

Findings:

3b) **Quality:** According to information submitted by Browne Consulting on June 24, 2008, *the main purpose of the proposed aggregate site is to provide the large 3' by 4' boulders required to construct two new fish-friendly diversion structures in nearby Eagle Creek. After much research, adequate rock is not available from other local permitted rock quarries. Ralph Graven tested Jack Corning's pit numerous times and large boulders of the correct type of rock and density are not available. Additionally, Mike Lattin was contacted on two occasions. The proposed site is the closest site with a willing landowner to provide rock needed for this project. The rock will stay within the community of Richland/New Bridge and will benefit ditch users and landowners adjacent to Eagle Creek.*

According to Browne Consulting, rock that was large enough for the Eagle Creek project was found in Jack Corning's pit, but it is a Sandstone type rock and is not dense enough and is highly susceptible to erosion, therefore, it will not work for restoration projects. The type of aggregate found in the Randall site is angular Basalt that is ideal for restoration projects due to the density and durability of the rock. A letter submitted to the Planning Department from Ralph Graven, dated August 15, 2008, confirmed that his quarry was blasted to extract the large rock and samples were taken to the Baker City DOGAMI office on June 2, 2008. The geologists confirmed that the boulders were “ashflow tuff”, can fall apart from abrasion, are not suitable for in-water structures and may last only a few years because it is too soft and too lightweight. On August 21, 2008, Browne Consulting submitted additional documents of support from the Forest Service and the Oregon Department of Transportation stating existing quarries maintained by these departments did not contain the type of rock necessary for the OWEB project.

Conclusions:

Information is adequate. **Criteria are met.**

(c) Information on **quantity** shall include an estimate of the relative abundance or scarcity of the resource.

Findings:

3c) **Quantity:** The type of rock necessary for the OWEB Eagle Creek project is 3' by 4' or larger angular, dense Basalt, of quantities more than 2500 yards. Aggregate pits in the vicinity of the OWEB project did not contain the 3' x 4' angular Basalt necessary for the reconstruction projects. *See Exhibit "H".*

Information submitted by Browne Consulting on July 31, 2008 states: *Based upon the material extracted from the area blasted, it is estimated that there is approximately 193,600 tons of rock available within the proposed 10-acre site.*

The calculations are as follows:

- *The test blasted area produced 200 ton of rock*
- *Dimension of blasted area: 15ft x 30ft = 450 square feet*
- *43,560 square ft x 10 acres = 435,600 square feet*
- *435,600 square ft / 450ft = 968*
- *968 [450 square ft sections within the 10 acre area] x 200 ton rock = 193,600 ton rock within the 10 acre area*

A letter from Laurie Owens, District Manager, Eagle Valley Soil and Water Conservation District, dated August 20, 2008, states "*The design that has been engineered and approved by US Fish and Wildlife Service, Oregon Department of State Lands and other vital agencies, requires approximately 2,000 cubic yards of large dense rock (3'x4'). The Conservation District Staff has worked closely with Browne Consulting to locate a source for this rock in the surrounding area (including Halfway and Keating Valley), that would meet the material specifications and that is economically feasible.*

Conclusions:

The Baker County Commissioners found the criteria for quality, quantity, and location to be met. The Commissioners also felt there was adequate information to determine a need for the site. As a Condition of Approval, the amount of aggregate extracted from the proposed mining site shall not exceed 500,000 ton. **Criteria can be met and will be required as a Condition of Approval.**

OAR 660-023-0030 (4)

(4) Determine the significance of resource sites: For sites where information is adequate, local governments shall determine whether the site is significant. This determination shall be adequate if based on the criteria in subsections (a) through (c) of this section, unless challenged by the department, objectors, or the commission based upon contradictory information. The determination of significance shall be based on:

(a) The quality, quantity, and location information;

(b) Supplemental or superseding significance criteria set out in OAR 660-023-0090 through 660-023-0230; and

(c) Any additional criteria adopted by the local government, provided these criteria do not conflict with the requirements of OAR 660-023-0090 through 660-023-0230.

Findings:

This section is superceded by OAR 660-023-0180 (2)(b).

Conclusions:

Criteria are not applicable.

OAR 660-023-0030 (5) Adopt a list of significant resource sites:

(5) Adopt a list of significant resource sites: When a local government determines that a particular resource site is significant, the local government shall include the site on a list of significant Goal 5 resources adopted as a part of the comprehensive plan or as a land use regulation. Local governments shall complete the Goal 5 process for all sites included on the resource list except as provided in OAR 660-023-0200(7) for historic resources, and OAR 660-023-0220(3) for open space acquisition areas.

Findings:

The applicant has submitted a request for a Post Acknowledgment Plan Amendment (PAPA) to add an aggregate site to the inventory of the Baker County Comprehensive Plan. The proposed site is not currently listed in the Baker County Comprehensive Land Use Plan Inventory.

Conclusions:

Criteria are met.

OAR 660-023-0030 (6)

(6) Local governments may determine that a particular resource site is not significant, provided they maintain a record of that determination. Local governments shall not proceed with the Goal 5 process for such sites and shall not regulate land uses in order to protect such sites under Goal 5.

Findings:

The Baker County Commissioners found the proposed aggregate mining site to be significant based on the information provided for quality, quantity, and location in this report.

Conclusions:

Criteria are not applicable.

OAR 660-023-0030 (7)

(7) Local governments may adopt limited interim protection measures for those sites that are determined to be significant, provided:

(a) The measures are determined to be necessary because existing development regulations are inadequate to prevent irrevocable harm to the resources on the site during the time necessary to complete the ESEE process and adopt a permanent program to achieve Goal 5; and

(b) The measures shall remain effective only for 120 days from the date they are adopted, or until adoption of a program to achieve Goal 5, whichever occurs first.

Findings:

The Baker County Commissioners determined interim protection measures were not necessary.

Conclusions:

Criteria are met.

Staff Note: The following section, OAR 660-023-0040 ESEE Decision Process, can be skipped if no conflicting uses are identified. If the Board agrees, please move to OAR 660-023-0180. Staff has provided the following information regarding potential conflicts:

| <u>Study Area</u> | | | | | |
|--------------------------|--------------|----------------|--------------------|--|-----------------------------|
| Township | Range | Tax Lot | Reference # | Existing Development | Approved Development |
| 8S | 44 | 2601 | 16451 | None | None |
| 8S | 44 | 6900 | 12481 | Quonset Building | None |
| 8S | 44 | 3100 | 12431 | None | None |
| 8S | 44 | 3000 | 12425 | Machine Shed with camper underneath, Wood deck | None |

Traffic Impact Assessment

There are currently no dwellings or other developments within one mile of the entrance/exit of the proposed aggregate site. The proposed haul route the trucks would be traveling is approximately 7 miles in length from the entrance/exit of the proposed aggregate site onto Sparta Road to the access for the Kay-Young diversion. It appears that the biggest potential conflict is around New Bridge, where there are a number of existing residences. These potential problems have been addressed in the proposal by proposing the following mitigation:

- As a Condition of Approval, the applicant will be required to observe all setback requirements as listed in Article 4 of the Baker County Zoning Ordinance.
- As a Condition of Approval, hours of operation for trucks and aggregate hauling will be limited to daylight hours only, seven days a week.

- As a Condition of Approval, the applicant will provide signage near the entrance of the proposal to warn traffic of trucks entering the County Road

660-023-0040: ESEE Decision Process

(1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:

- (a) Identify conflicting uses;*
- (b) Determine the impact area;*
- (c) Analyze the ESEE consequences; and*
- (d) Develop a program to achieve Goal 5.*

(2) Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0020(1)).

(3) Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.

(4) Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or

acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

(5) Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:

(a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.

(b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

Findings:

The preceding section, OAR 660-023-0040 ESEE Decision Process, is only necessary if no conflicting uses are identified.

Conclusions:

No conflicting uses were identified. **Criteria are met.**

OAR 660-023-0180 Mineral and Aggregate Resources

(1) For purposes of this rule, the following definitions apply:

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

(b) "Conflicting use" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site (as specified in subsection (5)(b) and section (7) of this rule).

(c) **"Existing site"** is an aggregate site that meets the requirements of subsection (3)(a) of this rule and was lawfully operating, or was included on an inventory of significant aggregate sites in an acknowledged plan, on September 1, 1996.

(d) **"Expansion area"** is an aggregate mining area contiguous to an existing site.

(e) **"Farmland"** means land planned and zoned for exclusive farm use pursuant to Goal 3 and OAR chapter 660, division 033.

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

(g) **"Minimize a conflict"** means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels), to "minimize a conflict" means to ensure conformance to the applicable standard.

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

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

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

(k) **"Protect"** means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site. For purposes of subsection (2)(d) of this rule, "protect" also means to limit or prohibit new conflicting uses within the impact area of the site.

(l) **"Thickness" of the aggregate layer"** means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and nonaggregate overburden.

(m) **"Willamette Valley"** means Clackamas, Columbia, Linn, Marion, Multnomah, Polk, Washington, and Yamhill counties and the portions of Lane and Benton Counties east of the summit of the Coast Range.

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

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

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

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

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

Findings:

The application is for a Post Acknowledgement Plan Amendment (PAPA).

Section (b) – apply criteria for section (3) or (4) of this rule.

Section (c) – follow the requirements of section (5) or (6) of this rule.

Section (d) – If conflicts exist that cannot be mitigated, please follow the information process for *OAR 660-023-0040 ESEE Decision Process*.

Conclusions:

The Baker County Board of Commissioners found that subsections (b) and (c) are met and subsection (d) does not apply. No conflicting uses were identified. **Criteria are met.**

(3) An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (a) through (c) of this section, except as provided in subsection (d) of this section.

(a) A representative set of samples of aggregate material in the deposit on the site meets applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;

Findings:

Browne Consulting states that the estimated amount of aggregate to be removed from the site is more than 1000 cubic yards and less than 500,000 tons.

Based upon the material extracted from the area blasted, it is estimated that there is approximately 193,600 tons of rock available within the proposed 10-acre site.

The calculations are as follows:

- *The test blasted area produced 200 ton of rock*
- *Dimension of blasted area: 15 ft x 30 ft = 450 square feet*
- *43,560 square ft x 10 acres = 435,600 square feet*
- *435,600 square ft / 450 ft = 968*
- *968 [450 square ft sections within the 10 acre area] x 200 ton rock = 193,600 ton rock within the 10 acre area*

The rock quarry is for commercial rock to be sold on demand; however, its primary purpose is as a riprap source whereas the two known riprap sources are near Oxbow and in the Grande Ronde Valley. Both sources would be cost prohibitive to haul rock from for projects in the Eagle Valley Area.

Information is not available to determine if the aggregate material meet ODOT specifications for base rock for air degradation, abrasion and soundness.

Conclusions:

The Baker County Board of Commissioners determined ODOT testing was not necessary as the site will not produce more than 500,000 ton. As a Condition of Approval, no more than 500,000 ton can be removed from the proposed site. **Criteria are met, or can be met as a Condition of Approval.**

(b) The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section; or

Findings:

The requirements for this subsection (b) are superceded by OAR 660-023-0180 (9) because the implementation of Goal 5 in the Baker County Comprehensive Land Use Plan were acknowledged prior to 1989 and no subsequent updates have been made.

Conclusions:

Criteria are not applicable.

(c) The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

Findings:

The proposed site was not on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

Conclusions:

Criteria are not applicable.

(d) Notwithstanding subsections (a) and (b) of this section, 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, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:

(A) 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 June 11, 2004; or

(B) 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 June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds:

- (i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties;*
- (ii) 25 feet in Polk, Yamhill, and Clackamas counties; or*
- (iii) 17 feet in Linn and Benton counties.*

Findings:

The proposed site is not an existing site.

| | |
|--|--|
| <p><u>Soil Class for 685.25+/- acres</u> <u>(Baker County GIS):</u> Class III 15.5% Class IV 17.5% Class VI 45.5% Class VII 20.5% Class VIII 1 %</p> | <p><u>Soil Class for 10+/- acres</u> <u>(Browne Consulting Submittal):</u> Class III 8.3% Class VII 91.7%</p> |
|--|--|

Conclusions:

Criteria is not applicable.

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

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

(b) Not more than 35 percent of the proposed mining area consists of soil

(A) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or

(B) Classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in paragraph (B) of subsection (3)(d) of this rule; or

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

Findings:

- a) The proposed site located in the EFU zone was not on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996. Based upon the material extracted from the area*

blasted, it is estimated that there is approximately 193,600 tons of rock available within the proposed 10-acre site.

The calculations are as follows:

- *The test blasted area produced 200 ton of rock*
- *Dimension of blasted area: 15ft x 30ft = 450 square feet*
- *43,560 square ft x 10 acres = 435,600 square feet*
- *435,600 square ft / 450ft = 968*
- *968 [450 square ft sections within the 10 acre area] x 200 ton rock = 193,600 ton rock within the 10 acre area*

b) Soil Classification:

| <u>Soil Class for 685.25+/- acres (Baker County GIS):</u> | <u>Soil Class for 10+/- acres (Browne Consulting Submittal):</u> |
|---|--|
| Class III 15.5% | Class III 8.3% |
| Class IV 17.5% | Class VII 91.7% |
| Class VI 45.5% | |
| Class VII 20.5% | |
| Class VIII 1 % | |

c) No land use permit to allow mining was issued prior to April 3, 2003.

Conclusions:

The 10+/- acre site does not contain Class I or II soils, and the site was not issued a permit to allow mining prior to April 3, 2003. The Baker County Board of Commissioners determined the quantity of aggregate to be extracted from the proposed site would be limited to less than 500,000 tons as a Condition of Approval. **Criteria are met or can be met as a Condition of Approval.**

(5) For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.

(a) The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.

Findings:

The application was deemed complete on August 1, 2008. The Planning Commission approved the Conditional Use request CU-08-003 contingent upon the Baker County Board of Commissioners' approval of the Post Acknowledgement Plan Amendment on September 3, 2008. This emergency order for PA-08-002 was approved by the Baker County Board of Commissioners on September 3, 2008 within 180 days after the receipt of a complete application.

An Impact Area of 1500 feet from the boundaries of the mining area was determined. See Exhibit "J" Impact Area Map.

Conclusions:

Criteria are met.

(b) The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

Findings:

Existing and approved land uses within the impact area:

| Impact Area | | | | | |
|--------------------|-------|---------|-------------|--|----------------------|
| Township | Range | Tax Lot | Reference # | Existing Development | Approved Development |
| 8S | 44 | 2601 | 16451 | None | None |
| 8S | 44 | 6900 | 12481 | Quonset Building | None |
| 8S | 44 | 3100 | 12431 | None | None |
| 8S | 44 | 3000 | 12425 | Machine Shed with camper underneath, Wood deck | None |

The Baker County Board of Commissioners determined no conflicts exist within the 1500-foot impact area. As a Condition of Approval, hours of operation for trucks and hauling will be limited to daylight hours, 7 days a week. In addition, as a Condition of Approval, signage will be required at the entrance/exit of the proposed site to warn traffic of trucks entering the County Road.

Conclusions:

Criteria are met.

(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

Findings:

The Baker County Board of Commissioners determined that no schools, houses, or dwellings existed within the 1500-foot boundary of the Impact Area. No conflicts were identified with existing uses; no additional uses have been approved.

Conclusions:

Criteria are met.

(B) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

Findings

Traffic Impact Assessment

There are currently no dwellings or other developments within one mile of the entrance/exit of the proposed aggregate site. The proposed haul route the trucks would be traveling is approximately 7 miles in length from the entrance/exit of the proposed aggregate site onto Sparta Road to the access for the Kay-Young diversion. It appears that the biggest potential conflict is around New Bridge, where there are a number of existing residences. These potential problems have been addressed in the proposal by proposing the following mitigation:

- As a Condition of Approval, hours of operation for trucks and aggregate hauling will be limited to daylight hours only, seven days a week.
- As a Condition of Approval, the applicant will provide signage near the entrance of the proposal to warn traffic of trucks entering the County Road.

Conclusions:

The Baker County Board of Commissioners determined the potential conflicts have been addressed and have been mitigated by the following Conditions of Approval:

- As a Condition of Approval, hours of operation for trucks and aggregate hauling will be limited to daylight hours only, seven days a week.
- As a Condition of Approval, the applicant will provide signage near the entrance of the proposal to warn traffic of trucks entering the County Road.

Criteria are met.

(C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR chapter 660, division 013;

Findings:

Criteria are not applicable.

Conclusions:

Criteria are not applicable.

(D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

Findings:

The Baker County Board of Commissioners determined no potential conflicts with agricultural practices exist.

Conclusions:

Criteria are met.

(E) Conflicts with agricultural practices; and

Findings:

The Baker County Board of Commissioners determined no potential conflicts exist.

Conclusions:

Criteria are met.

(F) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780;

Findings:

The Baker County Board of Commissioners determined no conflicts exist.

Conclusions:

Criteria are met.

(c) The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

Findings:

The Baker County Board of Commissioners determined no conflicts exist that have not been minimized by Conditions of Approval.

Conclusions:

Criteria are met.

(d) The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:

(A) The degree of adverse effect on existing land uses within the impact area;

(B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects, and

(C) The probable duration of the mining operation and the proposed post-mining use of the site.

Findings:

The Baker County Board of Commissioners determined no conflicts exist that have not been minimized by Conditions of Approval.

Conclusions:

Criteria are met.

(e) Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities.

(A) For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;

(B) Not requested in the PAPA application; or

(C) For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

Findings:

The Baker County Board of Commissioners determined that no conflicts exist.

Conclusions:

Criteria are met.

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

Findings:

As a Condition of Approval, reclamation for the site shall be in conformance with the standards and regulations of the Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ).

Conclusions:

The Baker County Board of Commissioners determined that as a Condition of Approval, reclamation of the proposed site will be in conformance with the standards and regulations of DOGAMI and DEQ, and the site shall be returned to its original use (agricultural use and grazing).

(g) Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.

Findings:

The proposed aggregate site is not a currently approved existing site.

Conclusions:

Note: If the County Commissioners find no conflicting uses within the Impact Study area, please apply the criteria for section (4) of this rule, with the exception of subsection (5)(f) as listed in subsection (6)(b) of this rule.

The Baker County Board of Commissioners determined no conflicting uses exist with the Impact Study area. **Criteria are met.**

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

(a) The proposed aggregate mine shall satisfy discretionary conditional use permit approval standards adopted by the local government pursuant to applicable requirements of ORS 215.213(2)(marginal lands—does not apply) or 215.283(2)(non-marginal lands—applies), and the requirements of ORS 215.296 and 215.402 through 215.416;

Findings:

If the County Commissioners do not find any conflicting uses within the impact area study, please follow the criteria listed under section (4) of this rule and subsection (5)(f).

If the PAPA is approved by the County Commissioners, the Conditional Use will be permitted.

Conclusions:

The Baker County Board of Commissioners found the site to be significant under section (4) of this rule and subsection (5)(f). The PAPA request PA-08-002 was approved by the Board of Commissioners and the Conditional Use request CU-08-003 will be permitted. **Criteria are met.**

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

Findings:

As a Condition of Approval, reclamation for the site shall be in conformance with the standards and regulations of the Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ). *See subsection(5)(f).*

Conclusions:

Criteria are met

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

Findings:

A Post Acknowledged Plan Amendment (PAPA) is required to add the aggregate site to the Baker County Comprehensive Land Use Plan's Mineral and Aggregate Site Inventory. The Conditional Use request is contingent upon the approval of the PAPA by the Baker County Commissioners. The applicant, Rocky Randall, submitted a complete application to the Baker County Planning Department for a PAPA (PA-08-002) and a Conditional Use request (CU-08-003) on July 31, 2008.

Conclusions:

The Baker County Board of Commissioners determined no conflicting uses exist. Criteria are met.

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

OAR 660-023-0180 (4)(a) The quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley, or 500,000 tons or less for a site outside the Willamette Valley; and

Findings:

According to Browne Consulting, the aggregate mining site will produce less than 500,000 tons of aggregate.

Conclusions:

As a Condition of Approval, aggregate extraction will be limited to 500,000 tons or less. **Criteria can be met as a Condition of Approval.**

(7) Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.)

Findings:

If this aggregate site is determined to be significant under section (4) of this rule, on pages 23 and 24 of this report, this criterion is not applicable.

Conclusions:

The Baker County Board of Commissioners determined the site to be significant under section (4) of this rule. **Criteria are not applicable.**

(8) In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, local government shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for approval of an aggregate site following sections (4) and (6) of this rule shall be adequate if it provides sufficient information to determine whether the requirements in those sections are satisfied. An application for a PAPA concerning a significant aggregate site following sections (3) and (5) of this rule shall be adequate if it includes:

(a) Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of this rule are satisfied;

(b) A conceptual site reclamation plan;

(NOTE: Final approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780)

(c) A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (5)(b)(B) of this rule;

(d) Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and

(e) A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.

Findings:

If the County Commissioners determine the information for the PAPA submittal concerning an aggregate site is adequate, please follow the requirements of this section.

a) Quality, Quantity, and Location as listed in OAR 660-023-0030 (3) on page 13 of this report.

b) As a Condition of Approval, reclamation for the site shall be in conformance with the standards and regulations of the Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ).

c) Traffic Impact Assessment:

There are currently no dwellings or other developments within one mile of the entrance/exit of the proposed aggregate site. The proposed haul route the trucks would be traveling is approximately 7 miles in length from the entrance/exit of the proposed aggregate site onto Sparta Road to the access for the Kay-Young diversion. It appears that the biggest potential conflict is around New Bridge, where there are a number of existing residences. These potential problems have been addressed in the proposal by proposing the following mitigation:

- As a Condition of Approval, hours of operation for trucks and aggregate hauling will be limited to daylight hours only, seven days a week.
- As a Condition of Approval, the applicant will provide signage near the entrance of the proposal to warn traffic of trucks entering the County Road.

d)

| Impact Area | | | | | |
|--------------------|-------|---------|-------------|--|----------------------|
| Towns hip | Range | Tax Lot | Reference # | Existing Development | Approved Development |
| 8S | 44 | 2601 | 16451 | None | None |
| 8S | 44 | 6900 | 12481 | Quonset Building | None |
| 8S | 44 | 3100 | 12431 | None | None |
| 8S | 44 | 3000 | 12425 | Machine Shed with camper underneath, Wood deck | None |

e) A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses was submitted with the completed application was submitted by Browne Consulting for the applicant Rocky Randall. *See Exhibit "B"*

Conclusions:

Criteria are met.

(9) Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for the consideration of PAPAs concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of a PAPA concerning mining authorization, unless the local plan contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:

(a) Such regulations were acknowledged subsequent to 1989; and

(b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-023-0250(7).

Findings:

The regulations set forth in the Baker County Comprehensive Plan were acknowledged prior to 1989. No subsequent updates have been made; therefore, according to OAR 660-023-0180 (9) the PAPA and CUP shall conform to the applicable State ordinances as listed in this report.

Conclusions:

Criteria are met.

B. CONDITIONAL USE

1. BAKER COUNTY ZONING AND SUBDIVISION ORDINANCE

BCZO Section 301.02 Conditional Uses

F. Operations conducted for the exploration, mining and processing of aggregate and other mineral resources or other subsurface resources subject to the restrictions and permits of the Department of Geology and Minerals Industry. See, Mineral Extraction Zone when dealing with patented mining claims. [Ref. ORS 215.283(1)(h), ORS 215.283(2)(b)(A)(1994)]

Findings:

Tax Lot 2600 is located in the EFU Zone. The applicant, Rocky Randall, requests approval for an aggregate mining operation on a 10+/- acre portion of Tax Lot 2600. Aggregate mining is a conditional use in the EFU Zone and subject to the conditions of state, federal, and local restrictions and permits.

Conclusions:

As a Condition of Approval, the applicant will be required to obtain the required permits and authorization from County authorities, DOGAMI, and all applicable state, federal, and local agencies. **Criteria can be met and will be required as a Condition of Approval.**

BCZO Section 301.05 Minimum Parcel Sizes

Except as provided for under Section 502 of this Ordinance, new parcels in the EFU Zone shall comply with the following minimum parcel size requirements.

A. 80 acres if fully covered by valid primary water rights.

B. 160 acres for non-irrigated land, or two acres for each dry acre less than 80 for land partially covered by valid primary water rights. For example, 60 acres of irrigated land would require a

minimum parcel size of 100 acres (80 - 60 = 20; 20 x 2 = 40; 60 irrigated acres + 40 non-irrigated acres = 100 acres).

C. In the EFU Zone, a parcel created to accommodate a conditional use shall comply with the following requirements.

1) The proposed parcel shall be the minimum amount of land necessary for the proposed use, considering applicable state and local standards and the criteria set forth in this Ordinance, but shall be no less than 2 acres; and

2) The remaining parcel complies with the requirements under Section 301.05(A) or (B), as applicable.

Findings:

According to information submitted by Browne Consulting on June 24, 2008, the proposed aggregate site is within the 685.25+/- acre parcel owned by the applicant and the aggregate operation will be limited to 10 acres.

Conclusions:

The 685.25+/- acre parcel exceeds the minimum parcel size in the EFU Zone. The proposed aggregate mining operation will be conducted on a 10+/- acre portion of the 685.25+/- acre parcel. **Criteria are met.**

BCZO Section 301.06 Standards for Conditional Uses in the EFU Zone

In addition to other required conditions and to optional stipulations that may be attached to the approval of a conditional use as provided by Article 6 of this Ordinance, the following criteria shall be satisfied for all conditional uses permitted in subsection 301.02.

Conditional uses permitted by subsection 301.02 of this section may be established on agricultural lands subject to the criteria set forth in this section and upon written findings by the Commission that each of the following is satisfied. A finding of non-applicability shall include a reason for the non-applicability.

A. The use or activities associated with the use will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

B. The use will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated and whether creation of the parcel will lead to the creation of other nonfarm parcels to the detriment of agriculture in the area will be considered pursuant to OAR 660-033-0130(4)(a)(D).

C. The use is situated on a parcel or portion of a parcel which is generally unsuitable for the production of farm crops and livestock considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation and location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with

other land.

D. When the use is a dwelling, the dwelling will be situated upon land which, as a condition of approval, can be approved for sub-surface sewage disposal or an approved alternative sewage disposal system.

E. The portion of land approved for a use under Section 301.02 of this Ordinance shall be disqualified from farm deferral where the land cannot reasonably continue in farm use.

F. Explanation acceptable to the County is provided to demonstrate that:

- 1) Existing public services, utilities, and road systems are adequate to accommodate the proposed use, or that any such need will be provided by the applicant.*
- 2) The proposed development is designed to minimize adverse impacts to existing terrain, slope, and ground cover and to protect the immediate and surrounding area from potential adverse impacts caused by surface water run-off.*
- 3) Water, both in terms of quantity and quality, is available and adequate for the use, and adequate provisions for solid waste disposal will be provided.*

G. The use complies with such other conditions, as the Planning Commission considers necessary.

Findings:

A) According to information submitted by Browne Consulting on June 24, 2008, the proposed aggregate site is within the 685+/- acre parcel owned by the applicant and the aggregate operation will be limited to 10 acres. The location of the site mostly includes a rock outcropping and steep slope. This property and surrounding land are used primarily for grazing. There will be a limited amount of aggregate removed therefore the proposed site will not affect nearby farmlands.

B) According to information submitted by Browne Consulting on June 24, 2008, *the proposed 10 acre aggregate site includes a rock outcropping and a steep slope. The effect on the overall land use pattern of the area—grazing—will be minimal because this area is not heavily grazed. (Also, there is no proposed dwelling or any building as part of this application).*

C) According to information submitted by Browne Consulting on June 24, 2008, the proposed 10 acre aggregate site includes road access to the rocky outcropping and steep slope. The rocky slope has very little topsoil sparsely scattered with minimal vegetation. There is minimal to no production in this area due to the steep slope and large rocks. Soil classification for the 10+/- acre portion of the 685.25+/- acre parcel is Class III 8.3% and Class VII 91.7%.

D) No dwellings have been proposed as part of this proposal. Criterion does not apply.

E) According to information submitted by Browne Consulting on June 24, 2008, *the applicant will abide by this ordinance.* As a Condition of Approval, the Baker County Assessor's office will be notified of the proposed activity and the parcel removed from farm tax deferral.

F1) According to information submitted by Browne Consulting on June 24, 2008, *Sparta Lane is Count Road 852 and will be able to accommodate the trucks and machinery that will be traveling to and from the proposed aggregate site. The Baker County Road Department advised the applicant to cease hauling during the spring break up when there are soft spots on the road. Otherwise, Sparta Lane has*

been and is used for hauling with large trucks. From Sparta Lane, the aggregate site is accessed along an access road constructed to withstand the equipment and trucks needed to extract the large boulders needed for the Eagle Creek diversion project. There are no existing public services and utilities to the site and they are not necessary for the mining operation. According to a letter from the Baker County Roadmaster, Ken Helgerson, dated August 12, 2008, the Baker County Road Department found no negative impacts from the use of the ingress and egress routes designated for the proposed project. No letters of concern were submitted to the Baker County Planning Department regarding the proposed aggregate mining proposal.

F2) According to information submitted by Browne Consulting on June 24, 2008, *within the 10 acre site, large boulders and rock will be removed from the top of the ridge and small areas will be excavated downslope of the ridge. See photos within Exhibit "F", the existing conditions contain minimal vegetation and rock is exposed. At the base of the hill and the site, there is an existing stock pond which will serve as a collection site for water runoff. A 200 foot –wide strip of vegetation between the road and disturbed site is downslope of the mining area and this area will filter any runoff. There will be small areas of disturbance within the 10 acre site which will aid in less disturbance and potential runoff.* According to information submitted by Browne Consulting on July 31, 2008, the following statement addresses what actions the applicant will take to minimize adverse impacts to existing terrain, slope, and ground cover and to protect immediate and surrounding area from potential adverse impact caused by surface water run off: *The terrain, slope and ground cover will be protected as much as possible by keeping equipment located upon prepared surfaces and not out on grassy areas away from the quarry site. Additionally, excess rock will be placed down slope of the mined area to minimize any impact to terrain or slope of land not within the 10 acres to be mined.*

F3) According to information submitted by Browne Consulting on June 24, 2008, *a water source is not available onsite so a portable water tank will be brought to the site during active mining operation.*

G) As a Condition of Approval, the applicant will be required to post signs at the entrance of the proposed aggregate mining site warning traffic of truck traffic entering the County road.

Conclusions:

The proposed aggregate mining operation is designated for a 10+/- acre site of a 685.25+/- acre parcel known as Tax Lot 2600. The parcel consists of Class III and VII soils. The parcel is primarily used for grazing purposes, and no dwelling is proposed as part of this request. The Baker County Roadmaster identified the ingress and egress routes to be adequate for the proposed use. The Planning Department received no letters of opposition for the proposal. As a Condition of Approval, the applicant will provide signage near the entrance of the proposal to warn traffic of trucks entering the County Road.

BCZO Section 601 Authorization to Grant or Deny Conditional Uses

A. A Conditional Use listed in this Ordinance shall be permitted, altered or denied in accordance with the standards and procedures of this Ordinance and this Article by action of the Planning Commission for each of the following actions.

1) *Permitting a new Conditional Use.*

Findings:

The applicant Rocky Randall requests to site a new Aggregate Mining operation on Tax Lot 2600 located in the EFU zone. A Post Acknowledged Plan Amendment (PAPA) is required to add the aggregate site to the Baker County Comprehensive Plan's Mineral and Aggregate Site Inventory. The Conditional Use request is contingent upon the approval of the PAPA by the Baker County Commissioners.

Conclusions:

The Conditional Use request is contingent upon the approval of the Post Acknowledged Plan Amendment (PAPA) by the Baker County Commissioners. The Conditional Use request was reviewed and approved by the Baker County Planning Commission on August 21, 2008.

BCZO Section 602 Standards for Granting a Conditional Use

To determine whether a Conditional Use proposal shall be approved or denied, the Commission shall find that the following standards, where applicable, are met.

A. The proposal will be consistent with the Comprehensive Plan and objectives of this Zoning and Subdivision Ordinance and other applicable policies of the County.

B. Taking into account location, size, design and operating characteristics, the proposal will have a minimal adverse impact on the (1) livability, (2) value, and (3) appropriate development of abutting properties and the surrounding area compared to the impact of development that is permitted outright.

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

D. The proposal will preserve assets of particular interest to the community.

E. In permitting a new Conditional Use or the alteration of an existing Conditional Use, the Planning Commission may impose in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interests of the surrounding area or the County as a whole. These conditions may include, but are not limited to, the following:

1) Increasing the required lot size or yard dimension.

2) Limiting the height, size or location of buildings.

3) Controlling the location and number of vehicle access points.

4) Increasing the street width.

- 5) *Increasing the number of required offstreet parking spaces.*
- 6) *Limiting the number, size, location and lighting of signs.*
- 7) *Requiring diking, fencing, screening, buffering through the use of increased setbacks, landscaping or other means to protect adjacent or nearby property.*
- 8) *Designating sites for open spaces.*
- 9) *Limiting the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibrations, air pollution, glare and odor.*

Findings:

A) The Conditional Use request for an Aggregate Mining Operation on Tax Lot 2600 located in the EFU zone is contingent upon the approval of the Post Acknowledged Plan Amendment (PAPA) by the Baker County Commissioners. The Conditional Use request was reviewed and approved by the Baker County Planning Commission on August 21, 2008. The Baker County Commissioners will review the criteria for the PAPA on September 3, 2008.

B) According to information submitted by Browne Consulting on June 24, 2008, *See Exhibit "B", this map displays the existing homes and distances from the proposed aggregate site. The closest dwelling is 1.0 straight miles from the site. Other dwellings are over 1 mile straight away.*

According to information submitted by Browne Consulting on July 31, 2008, the following statement addresses what actions the applicant will take to minimize adverse impacts on the livability, value, and appropriate development of the abutting properties and the surrounding area compared to the impact of development that is permitted outright: *The location of the rock quarry is approximately 6 miles west of New Bridge. It is located in a pocket on the top of Sparta Grade surrounded by hills and rock outcroppings. There are no dwellings that can be seen from the site. Due to this fact as well as the fact that the nearest dwelling is farther than 1 mile away shows that the livability and value of the area will not be negatively affected.*

Appropriate development is not only influenced by no close dwellings, but also by the type of soils and vegetation present. Soils on the site are more than 90% Class VII with little to no topsoil and vegetation. The rock is Basalt formed from the Columbia Basalt Flows.

As previously stated, potential nuisances caused by the rock quarry are naturally mitigated due to the surrounding topography of the site. It is in an isolated area located in a pocket surrounded by hills thus mitigating any potential noise or dust that will be omitted.

Noise, vibrations, air pollution, glare and odor will be minimal due to natural topography of the mining site.

C) According to information submitted by Browne Consulting on June 24, 2008, *the southern boundary of the 10 acre aggregate site is 200 feet from Sparta Lane. There is existing fence and a gate at the access road that separates the site from the road. The site will be visible from the road but not from any dwellings. Sparta Lane is not a well-traveled road; therefore the impact to the community will be slight if any.*

D) According to information submitted by Browne Consulting on June 24, 2008, *the main purpose of the proposed aggregate site is to provide the large 3' by 4' boulders required to construct two new fish-friendly diversion structures in nearby Eagle Creek. The current diversion structures are dams which block fish passage and contribute to the severe streambank erosion that is removing adjacent landowners' property and fences. After much research, adequate rock is not available from other local permitted rock quarries. Ralph Graven tested Jack Corning's pit numerous times and large boulders of the correct type of rock and density are not available. Additionally, Mike Lattin was contacted on two occasions. The proposed site is the closest site with a willing landowner to provide rock needed for this project. The rock will stay within the community of Richland/New Bridge and will benefit ditch users and landowners adjacent to Eagle Creek.*

E)

1. Lot size and dimension:
2. Limiting height, size or location of buildings:
3. Controlling the location and number of vehicle access points: *According to Browne Consulting, only one vehicle access point will be used.*
4. Increasing street width:
5. Increasing the number of off street parking spaces:
6. Limiting the number, size, location and lighting of signs:
7. Requiring diking, fencing, screening, buffering through the use of increased setbacks, landscaping or other means to protect adjacent or nearby property:
8. Designating sites for open spaces:
9. Limiting the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibrations, air pollution, glare and odor:

According to information submitted by Browne Consulting on July 31, 2008, the following statement addresses what **processes will be implemented to minimize noise, vibrations air pollution, dust control and odor**: *Trucks hauling rock through or near New Bridge will be advised to keep speed to what is posted. Residences along the haul route are consolidated to the town of New Bridge and along Foothill Road. Speed on Foothill Road will be kept minimal to minimize dust, noise, and vibrations to residences along the route. Dust control will be provided if necessary. The rock quarry itself will not affect any residences, as the closest one is more than one mile away. See Exhibit 4—Aerial Map with one-mile radius.*

*According to information submitted by Browne Consulting on July 31, 2008, the following statement addresses what **the hours of operation** will be: *The quarry will be operated during daylight hours and used Monday through Friday with the exception of during the Eagle Creek Restoration. During restoration, it may be necessary to operate Saturday and Sunday as well so that instream work windows will be abided by as set forth by the Oregon Department of Fish and Wildlife. On the current Eagle Creek Restoration Project there will be no hauling during the spring months when there is high water. Months of operation will be dependent predominantly upon demand. It will be operating during September and October of 2008 if permitted.*

* According to information submitted by Browne Consulting on July 31, 2008, the following statement addresses what **methods of extraction** will be used: *The rock quarry will need to be blown when stockpiled riprap sources are depleted. This will be very infrequent. The vast majority of the extraction will be by large excavator with thumb.*

Conclusions:

As a Condition of Approval, the applicant will be required to observe all setback requirements as listed in Article 4 of the Baker County Zoning Ordinance. In addition, hours of operation for trucks and aggregate hauling will be limited to daylight hours only, seven days a week. **Criteria can be met and will be required as Conditions of Approval.**

BCZO Section 603.04 Mining/Quarrying/Other Extraction Activity

Extraction of resources may be allowed as a Conditional Use when in compliance with the following.

A. Plans and specifications submitted to the Planning Commission for approval must contain sufficient information to allow the Planning Commission to consider and set standards pertaining to the following.

- 1) The most appropriate use of the land.*
- 2) Setback from the property line.*
- 3) The protection of pedestrians and vehicles through the use of fencing, screening and setbacks.*
- 4) The protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants.*
- 5) The prevention of the collection and stagnation of water of all stages of the operation.*
- 6) The rehabilitation of the land upon termination of the operation including consideration of final slope of cut banks and leveling and/or restoration of terrain.*

B. Surface mining equipment, the mining process itself, and necessary access roads shall be constructed, maintained and operated in conformance with the standards and regulations of the Oregon Department of Geology and Mineral Industries and the Department of Environmental Quality.

Findings:

A1) According to information submitted by Browne Consulting on July 31, 2008, the following statement addresses what is the **most appropriate use of the land**: *Rock is required for the restoration of Eagle Creek with the dimensions of 3'x4' or larger of angular dense Basalt, of quantities greater than 2500 yards. Ralph Graven, the operator of Jack Corning's rock quarry blew his pit numerous times (at least 3) to attempt to extract rocks large enough to fit the criteria. When the pit was blown the last time, rock that was large enough was found, however, it is a Sandstone type rock and is not dense enough and is highly susceptible to erosion and will not work for restoration projects. Mr. Graven is aware of this fact and is supportive of Mr. Randall's proposed quarry. Mr. Mike Lattin was contacted on or about 7/2/08 by telephone and he said that there is no large rip rap at the Comco rock quarry, but some may be available from the Forest Service up Eagle Creek.*

When the Forest Service was contacted, no one knew of a large permitted rip rap source up Eagle Creek. They thought that if there is rip rap available it would just be along the road and need to go

through the permitting process as well as NEPA and it would not be an adequate quantity for the restoration project. There will be excess rock that will be sold as needed for other projects. There are no known projects that the rock will be sold for at this time.

A2) According to information submitted by Browne Consulting on June 24, 2008, the following statement addresses how the **setback requirements will be met**: *The southern edge of the aggregate site is 200 feet from the property line and Sparta Lane.*

A3) According to information submitted by Browne Consulting on June 24, 2008, the following statement addresses the **protection of pedestrians and vehicles through the use of fencing, screening and setbacks**: *Currently, fences exist along Sparta Lane and along the property lines. These fences will not change and will provide security to the rock site. Also, there is an existing gate at the access road which will be locked when the operation is not active. Signs titled "Trucks Entering Roadway" will be posted on either side of the entrance gate on Sparta Lane.*

A4) According to information submitted by Browne Consulting on June 24, 2008, the following statement addresses the **protection of fish and wildlife habitat and ecological systems through control of potential air and water pollutants**: *There will be approximately 200' filter strip of existing vegetation to filter any sediments prior to the runoff collecting in low areas near Sparta Lane. There are no streams or drainages within or near the site*

A5) According to information submitted by Browne Consulting on July 31, 2008, the following statement addresses what actions the applicant will take to prevent the collection and stagnation of water at all stages of the operation: *Water will not be necessary for the proposed method of extraction. Thus, the only run-off that needs to be addressed is that caused by natural events. As stated previously, a 200' buffer will be left between the rock extraction site and the road, which is down slope. Additionally, by disturbing the ground, precipitation will penetrate the area easier than if the area were left undisturbed. A vegetation strip will be adequate for filtering purposes. This method was approved by DOGAMI on Jack Corning's rock quarry*

A6) According to information submitted by Browne Consulting on June 24, 2008, the following statement addresses the **rehabilitation of the land upon termination of the operation including consideration of final slope of cut banks and leveling and/or restoration of terrain**: *A DOGAMI Operation Permit will be applied for pending approval of this application. Reclamation of the site after the mining is complete will be required with the DOGAMI permit. The reclamation will fulfill this rule.*

B) According to information submitted by Browne Consulting on June 24, 2008, the following statement addresses **surface mining equipment, the mining process itself, and necessary access roads shall be constructed, maintained and operated in conformance with the standards and regulations of the Oregon Department of Geology and Mineral Industries and the Department of Environmental Quality**: *The proposed mining operation will disturb more than one acre and possibly extract more than 5,000 cubic yards within a one year period, therefore the applicant will also apply for a DOGAMI Operating Permit. Therefore, the standards and regulations of DOGAMI and DEQ will be followed in accordance with the DOGAMI Operating Permit. In addition, once mining is complete, site reclamation will be performed to DOGAMI post mining standards.*

Conclusions:

The rock necessary for the Eagle Creek project is available from the proposed site. As a Condition of Approval, the applicant will be required to observe all setback requirements. Ecological systems will be protected by the use of a 200' vegetation filter strip. As a Condition of Approval, mining equipment, the mining process, and access roads shall be constructed, maintained and operated in conformance with the standards and regulations of the Oregon Department of Geology and Mineral Industries (DOGAMI) and the Department of Environmental Quality (DEQ). **Criteria are met or can be met as Conditions of Approval.**

2. OREGON REVISED STATUTES

ORS 215.283 Uses Permitted in Exclusive Farm Use Zones in Nonmarginal Lands Counties; Rules

(1) The following uses may be established in any area zoned for exclusive farm use:

(h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (2)(a) or (b).

(2) The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

(a) Commercial activities that are in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(u) of this section.

(b) Operations conducted for:

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

Findings:

Tax Lot 2600 is located in the EFU Zone. The applicant, Rocky Randall, requests approval for an aggregate mining operation on a 10+/- acre portion of Tax Lot 2600. Aggregate mining is a conditional use in the EFU Zone and subject to the conditions of state, federal, and local restrictions and permits. A Post Acknowledged Plan Amendment (PAPA) is required to add the aggregate site to the Baker County Comprehensive Plan's Mineral and Aggregate Site Inventory. The Conditional Use request is contingent upon the approval of the PAPA by the Baker County Commissioners.

Conclusions:

Criteria are met.

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

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

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

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

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

Findings:

The proposed aggregate mining operation is located on a 10+/- acre portion of a 685.25+/- parcel in the EFU Zone known as Tax Lot 2600. The parcel is currently used for grazing. The proposed aggregate mining operation will have very minimal impact to grazing on the 685.25+/- acre parcel and other parcels in the surrounding area due to the soil type (Class III & VII soils) and topography and location of the proposed site.

Conclusions:

As required by ORS 215.293 the applicant/property owner shall record a signed and notarized “Acknowledgement of Farm and Forest Practices” with the Baker County Clerk, and submit a copy of the recorded document to the Baker County Planning Department. This shall be accomplished prior to obtaining zoning clearance.

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

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

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

(3) For purposes of ORS 215.213 (2) and 215.283 (2) and this section, “mining” includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. “Mining” does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant’s property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines. [1989 c.861 §7]

Findings: Tax Lot 2600 is located in the EFU Zone. The applicant, Rocky Randall, requests approval for an aggregate mining operation on a 10+/- acre portion of Tax Lot 2600. Aggregate mining is a conditional use in the EFU Zone and subject to the conditions of state, federal, and local restrictions and permits. A Post Acknowledged Plan Amendment (PAPA) is required to add the aggregate site to the Baker County Comprehensive Plan's Mineral and Aggregate Site Inventory. The Conditional Use request is contingent upon the approval of the PAPA by the Baker County Commissioners.

1) According to information submitted by Browne Consulting on June 24, 2008, *there are plans to excavate more than 1,000 cubic yards of aggregate therefore a land use permit is required.*

2) According to information submitted by Browne Consulting on June 24, 2008, *the property in question is not on the Baker County Inventory of Mineral and Aggregate Sites. Therefore, the applicant is applying consecutively for a Post Acknowledged Plan Amendment to be added to the inventory as a small-significant site. Thus, the permit for mining of aggregate can be issued after the PAPA is approved.*

3) According to information submitted by Browne Consulting on June 24, 2008, *the aggregate being excavated will be used off-site.*

Conclusions: Criteria are met.

3. OREGON ADMINISTRATIVE RULES

OAR 660-033-0120 Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

(1) A -- Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(2) R -- Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

*(3) * -- Use not permitted.*

(4) # -- Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:

Table 1 = R5--Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

(R) Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

Findings:

Use has been approved through review of the Baker County Planning Commission. The proposed use will not force a significant change in accepted farm practices (livestock, grazing) or significantly increase the cost of said practices.

Conclusion:

Criteria are met.

V. SUMMARY CONCLUSIONS AND PLANNING COMMISSION RECOMMENDATION

A site proposed to be included in the Mineral and Aggregate Inventory of the Baker County Comprehensive Plan may be allowed through the PAPA process if the applicant demonstrates that the proposal meets, or is capable of meeting, all applicable review criteria and standards. The applicant has demonstrated that this request for an aggregate site to be included in the Mineral and Aggregate Inventory for the Baker County Comprehensive Plan is able to meet all of the applicable review criteria for inclusion in the Mineral and Aggregate Inventory as a **significant site**.

Therefore, based on the information contained in Sections I and II of this report, the above review criteria, findings of fact and conclusions, and public testimony received, the Baker County Board of
PA-08-002 & CU-08-003 Rocky Randall

Commissioners **APPROVES** this Plan Amendment request, PA-08-002 to amend the Baker County Comprehensive Plan to include an aggregate site on property located in the EFU Zone identified as Tax lot 2600 in Sections 13 & 24, Township 8 South, Range 44 East, W.M, Baker County, Oregon, in the EFU (Exclusive Farm Use) Zone, in the Mineral and Aggregate Inventory for the Comprehensive Plan.

VI. SUGGESTED CONDITIONS OF APPROVAL

1. The applicants must establish the proposed use of an aggregate mining and processing operations **within two years from the date of this approval**, unless the applicants apply for and receive an extension prior to expiration of this approval.
2. If approved, a record of all amendments must be filed with the Baker County Clerk.
3. The Planning Department shall maintain a record of the amendment to the zoning map, if approved.
4. The Baker County Road Department is authorized to further limit, in writing, some or all hauling on approved haul routes for periods when such activity, due to weather or similar circumstances, may cause excessive damage to county roads.
5. Any and all blasting shall be done in accordance with all Federal and State laws and regulations. All licenses and permits required for blasting shall be obtained prior to commencement of any blasting.
6. The applicant shall obtain and submit copies to the Planning Department of all required federal, state, or local permits for the aggregate mining and processing operation including, but not necessarily limited to, DEQ and DOGAMI permits.
7. Reclamation of the proposed site will be in conformance with the standards and regulations of DOGAMI and DEQ, and the site shall be returned to its original use (agricultural use and grazing)
8. The applicant will be required to observe all setback requirements as listed in Article 4 of the Baker County Zoning Ordinance.
9. Hours of operation for trucks and aggregate hauling will be limited to daylight hours only, seven days a week.
10. The applicant will provide signage near the entrance of the proposal to warn traffic of trucks entering the County Road.
11. The amount of aggregate extracted from the proposed mining site shall not exceed 500,000 ton.
12. Failure to comply with all conditions of approval may result in immediate nullification of the land use approval contained herein.

VII. EXHIBITS (Attached as included as part of this report)

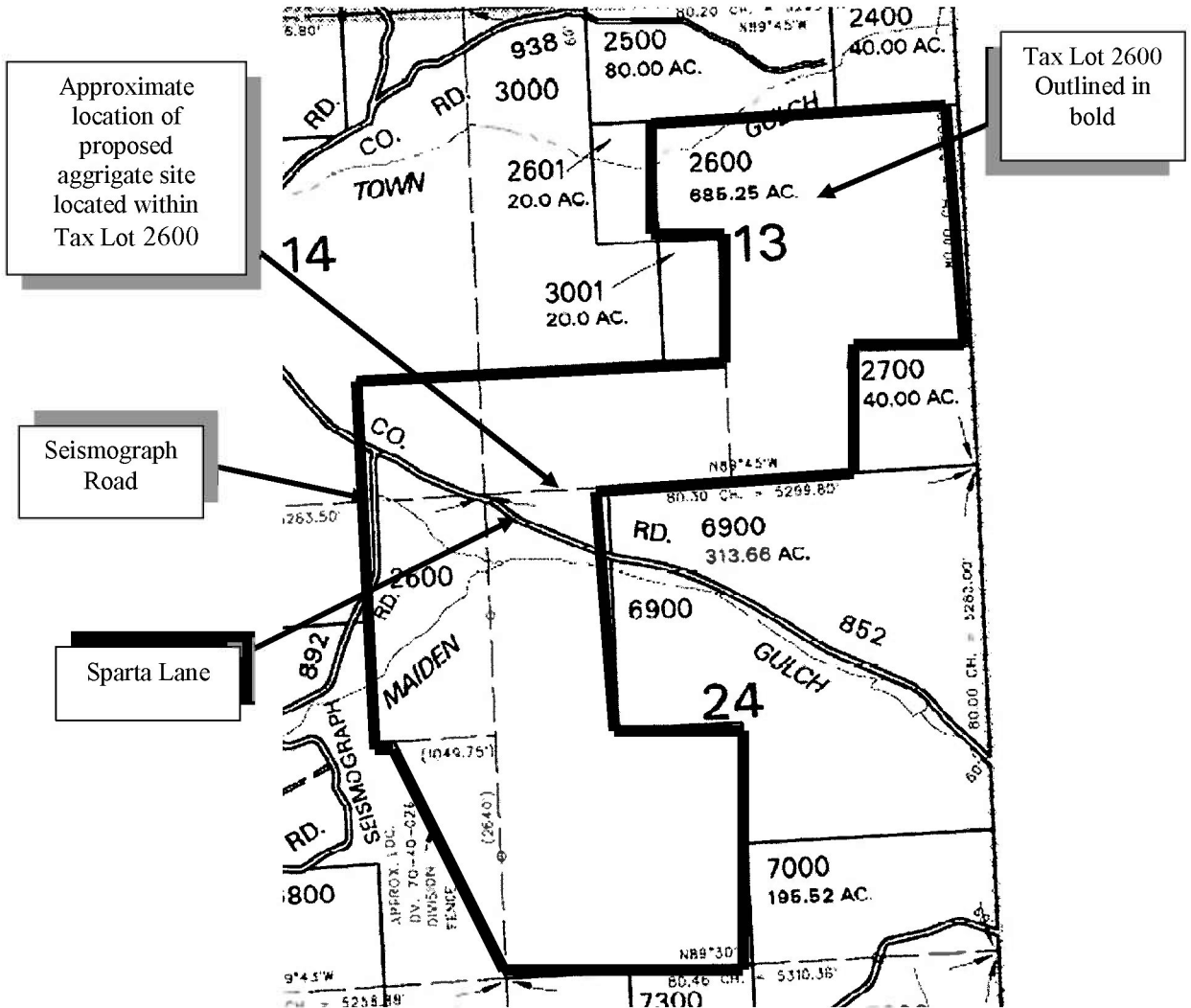
- Exhibit "A" Assessor's map of area
- Exhibit "B" Copy of Browne Consulting Proposal
- Exhibit "C" Copy of Browne Consulting Incomplete Application Response
- Exhibit "D" Site Significance Flow Chart
- Exhibit "E" Comprehensive Plan Aggregate Resource Policies
- Exhibit "F" Letter from Baker County Road Department 8/12/08
- Exhibit "G" Environmental Review Checklist
- Exhibit "H" Browne Consulting Aggregate Site Map
- Exhibit "I" Agency Listing

Cc: Applicants/Property Owners
Office File

EXHIBIT 'A'

Assessor's Map of Area

Tax Lot 2600 in
Sections 13 & 24 of Township 8 South,
Range 44 East, W.M., Baker County, Oregon



Baker County Aggregate and Mineral Inventory**Site #: 158 Randall Pit 8S 44E 13/24 TL2600 N**

| | | |
|---------------|-----------|-------------|
| TWP. 8S | RNG. 44E | Sec. 13, 24 |
| Tax Lot: 2600 | Zone: EFU | |
| Quad 1 | Scale: | |
| Quad 2: | Scale: | |
| Mining Dist: | NA | |
| *See Also: | | |

| | |
|--------------------|--|
| Record Number: | 158 |
| Site: | Randall Pit |
| Zoning: | EFU |
| Class: | |
| Commodities: | Angular Basalt Rock |
| Deposit Type: | |
| Land Use: | Primarily Livestock, Grazing |
| Adj. Land Use: | Primarily Livestock, Grazing |
| Land Status: | Private |
| Land Owner: | Rocky Randall |
| Address: | 42742 New Bridge Road Richland, Oregon 97870 |
| Phone: | 541-540-6322 |
| Lessee/Operator: | Rocky Randall |
| Specific Location: | North of Sparta Lane, east of the intersection of Seismograph Road. |
| Quality: | Angular Dense Basalt |
| Quantity: | Est. Amt. 193,600 tons |
| Conflicts: | Signage to be posted at entrance/exit of proposed 10 acre mining site. Truck hauling limited to day light hours 7 days a week. |
| History: | Livestock Grazing |
| Activity: | Activity and reclamation in accordance with DOGAMI Permit. No more than 500,000 tons of aggregate can be extracted during the lifetime of the pit. |
| Planning File: | PA-08-002 & CU-08-003 |
| ODOT File: | |
| DOGAMI File: | |
| Notes: | Pit is primarily for Eagle Creek restoration. Approved for commercial use. No more than 500,000 tons of aggregate can be extracted during the lifetime of the pit. |

Baker County Mineral and Aggregate
Non Metallic Inventory
Site # 122

| No. | 1/4 | Sec | Twp | Rge | RES 1 | Acres | Yds | Status | Resource Owner | Land Owner | Dogami # | Comments |
|-----|-----|------------|-----|-----|----------|-------|--|--------|-------------------|---------------|----------|---|
| 122 | | 13 & 24 | 8S | 44 | Gr | 10 | Commercial Quantities Total extraction not to exceed 500,000 tons/lifetime. | ACTIVE | Rocky Randall | Rocky Randall | | OWEB Grant Project for Eagle Creek restoration and Commercial Purposes |