



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

07/06/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Linn County Plan Amendment
DLCD File Number 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, July 16, 2009

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

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

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

Cc: Olivia Glantz, Linn County
Doug White, DLCD Community Services Specialist
Amanda Punton, DLCD Regional Representative
Ed Moore, DLCD Regional Representative

<paa> YA

DLCD

Notice of Adoption

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

In person electronic mailed

DEPT OF

JUN 26 2009

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Linn County**

Local file number: **BC08-0005**

Date of Adoption: **6/17/2009**

Date Mailed: **6/18/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 3/29/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

A comprehensive plan text amendment to add a 216-acre portion of a 451.21-acre property to the Linn County aggregate inventory as a significant aggregate resource site. A zone map amendment to add an aggregate resource overlay (ARO) designation to the 216-acre portion of the property is also requested

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

Conditions of approval were altered. (See Attached)

Plan Map Changed from: **Agriculture Resource**

to: **No Change**

Zone Map Changed from: **Exclusive Farm Use**

to: **EFU w/ Aggregate Resource Overlay**

Location: **10S-03W-11/10A (see attached legal)**

Acres Involved: **216**

Specify Density: Previous: **na**

New: **na**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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. See First Page

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

Linn County Environmental Health, Linn County Assessor, Linn County Building Official, Linn County Roads Department, Scio Rural Fire Protection District, State Fire Marshall, Department of Forestry, DEQ, WRD, DOGAMI, United State Army Corps of Engineer

Local Contact: **Olivia Glantz**

Phone: **(541) 967-3816** Extension: **2368**

Address: **PO BOX 100**

Fax Number: **541-926-2060**

City: **Albany**

Zip: **97322-**

E-mail Address: **oglantz@co.linn.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

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

1. **Send this Form and TWO 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.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY

IN THE MATTER OF AMENDING THE)
LINN COUNTY *COMPREHENSIVE*)
PLAN TEXT AND THE LINN COUNTY)
ZONING MAP)

ORDINANCE NO. 2009-260
(Amending Code)
(Planning & Building Department BC08-0005)

WHEREAS, The Linn County Planning Commission held a duly advertised hearing on May 12, 2009 to make a recommendation to the Board of Commissioners (Board) regarding proposed amendments to the Linn County *Comprehensive Plan* text and zoning map;

WHEREAS, At 10:00 a.m., on May 27, 2009, the Board conducted a regularly scheduled and duly advertised public hearing and considered the proposed amendments of the *Comprehensive Plan* text and the zoning map;

WHEREAS, The Board having read the proposed ordinance and having received and considered the oral and written public testimony presented prior to and at the hearing; and

WHEREAS, The findings in support of this ordinance are attached to Resolution and Order No. 2009-259 and entitled Exhibit 1, (Resolution and Order No. 2009-259; Planning File BC08-0005; Knife River; Weddle Site; Decision Criteria, Findings and Conclusions); and, now, therefore, be it

Ordained by the Linn County Board of Commissioners, That:

Section 1. Text Amendment. The Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6, entitled *Inventory of Significant Sites With All Conflicts Minimized*, be amended to add the following subsection and text:

6003 Weddle T10S R03W S10A, TL100 & 300; and T10S R03W S11, TL302 & 400; Acreage: 216 acres

Section 2. Text Amendment. The Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6A, entitled *Analyses Justifying a Classification as a Significant Site With All Conflicts Minimized*, be amended to add the following subsection and text:

905.6003 Weddle Site

(A) Goal 5 analysis.

(1) Findings of Fact.

The findings of fact in support of this resource site analysis are contained in Resolution and Order No. 2009-259. The record supporting this analysis is located in the office of the Linn County Clerk. Copies of the application, evidence and decision documents are contained in Planning and Building Department case file number BC08-0005.

(2) Inventory Information.

- (a) The resource site is a 216-acre portion of a 451.21-acre property identified on Linn County Assessor maps as T10S R03W S10A, TL 100 & 300; and T10S R03W S11, TL 302 & 400. The site is in an Exclusive Farm Use Zone, and located approximately 630 feet east of, and across the Santiam River from, the City of Jefferson. The 216-acre extraction area added to the inventory is an expansion of an existing extraction and processing facility, located at 39304 Highway 99E, Jefferson, Oregon.
- (b) The area added to the inventory contains an estimated 10.61 million tons, or 7.074 million cubic yards, of aggregate material that meets the Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness. The average thickness of the aggregate layer is 20.3 feet. The 216-acre aggregate resource site is a significant site as set forth in the *Comprehensive Plan* and the Goal 5 rule for aggregate.

(c) Impact Area

To determine conflicts associated with the proposed mining of this resource site, an impact area including land within 1500 feet from the boundaries of the site was established and conflicts analyzed. There is no substantive evidence of potential significant impacts or conflicts beyond the 1500-foot impact area boundary.

(B) Conflicts Due to Noise, Dust or Other Discharges

- (1) The proposed haul road is fully developed from the processing site to Highway 99E. The road approach is paved and improved to ODOT standards. There are no conflicts identified with the haul road due to noise, dust or other discharges.
- (2) The property is a new noise source on a previously unused site. A noise study was conducted to collect ambient noise and "worst case" scenario measurements for the mining operation. Based on the analysis and modeling results a noise compliance boundary was established below DEQ limits. With operating conditions in Resolution and Order No. 2009-259, Exhibit 2, the quarry will meet DEQ noise standards for all noise sensitive uses in the impact area.

- (3) The findings adopted in Resolution and Order 2009-259 establish that all identified potential conflicts with the Weddle Site are prevented or minimized. Measures to minimize conflicts adopted in that resolution are included in the County's program to achieve Goal 5 compliance for the site. Mining at this site, as proposed, will not cause significant conflicts with any land uses that are sensitive to noise, dust, or other discharges when mining is conducted in compliance with the adopted measures to minimize conflicts. All potential conflicts will be minimized such that they are not significant.

Flooding of the site by the Santiam River and the return of flood waters to the river are key considerations in the design of the mining operation. The design of the flow channel is included in a hydrologic study provided for review. The location is shown on the site plan. The design of this project ensures that at all relevant times, the operator will be able to meet all clean water requirements, particularly turbidity standards.

Potential dust conflicts with dwellings within the impact area are minimized by wet mining and through applications of water and dust palliatives on the site as necessary to prevent the generation of fugitive dust and meet DEQ nuisance standards. The noise study identified a potential impact at a receiver at the boat ramp in the City of Jefferson. Potential noise impacts will be minimized by limiting noise at the existing processing site and by using quieter equipment when mining reach the eastern edge of the site.

- (4) Several dwellings west of the site obtain their water from two wells located on the applicant's property. The groundwater study concludes that the mining operation will not negatively impact the quality or quantity of water in any of the wells within the impact area. The operator will use identified management practices in conjunction with a monitoring well as described in the water study to ensure protection of nearby wells. The Conditions of Approval in Resolution and Order 2009-259 also include a bonded guarantee to respond to any impacts to the wells caused by the operator, with additional monitoring and emergency response.

(C) *Other Potential Conflicts*

- (1) No potential conflicts with local roads are identified.
- (2) No safety conflicts with existing public airports are identified.
- (3) No conflicts with other Goal 5 resource sites are identified.
- (4) No existing or potential conflicts with agricultural practices are identified.

(D) *Measures to Minimize Identified Conflicts*

Potential conflicts are identified with some residential uses within the 1500-foot impact area boundary. Resolution and Order No. 2009-259 contains a list of reasonable and practical measures that will ensure all existing and potential conflicts will be minimized. The development permit

to mine the expansion area of this site shall require compliance with all the conditions set for in Resolution and Order No. 2009-259.

The program to protect the resource is contained in the Plan policies for aggregate resources in LCC 905.820(B); by the application of the Aggregate Resource Overlay (ARO) pursuant to LCC 939.200(B) and LCC 931.700 to 931.755; by the provisions set forth in this resource site analysis; and by the Conditions of Approval adopted as part of Resolution and Order 2009-259.

(E) Post-mining Use and Reclamation.

Reclamation of this site will be sequential and concurrent with mining and operation. The proposed post-mining use is farm uses, wetlands, and fish and wildlife habitat.

(F) Potential Future Conflicting Uses.

The mining operation is designed and permitted to minimize all potential conflicts with surrounding uses such that they are not significant. New uses permitted within the identified impact area, including farming areas and areas within the City of Jefferson, will not be significantly impacted by extraction area activities and will not significantly impact those activities. The County is not limiting land uses within the impact area beyond limitations already contained in the code, but has established conditions for operations in the proposed extraction expansion area to prevent impacts to existing and potential future uses within the impact area.

Section 3. Map Amendment. Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to apply the Aggregate Resource Overlay (ARO) designation to the significant 216-acre resource site identified as portions of Linn county Assessor maps T10S R03W S10A, TL 100 & 300; and T10S R03W S11, TL 302 & 400.

Section 4. Map Amendment. Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to designate the land that is within 1500 feet of the identified ARO mining area boundaries as Aggregate Resource Overlay (ARO) impact area, with no additional restrictions other than those established by existing code.

Section 5. Savings clause. Repeal of a code section or ordinance shall not revive a code section or ordinance in force before or at the time the repealed code section or ordinance took effect. The repeal shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed code section or ordinance.

Section 6. Severability. Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.


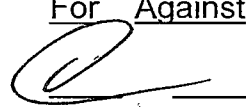
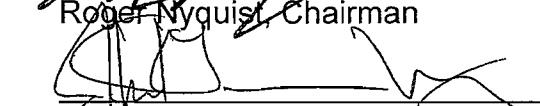
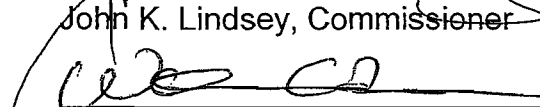
Section 7. Effective date. To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption.

Section 8. Codification. Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.


Public reading held May 27, 2009.
Adopted and passed May 27, 2009.
The effective date of this Ordinance shall be June 17, 2009.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

Signed June 17, 2009

		Voting	
		For	Against
Steve Druckenmiller, Linn County Clerk Recording Secretary	 _____ Robert Nyquist, Chairman		_____
By _____	 _____ John K. Lindsey, Commissioner	X	_____
	 _____ William Tucker, Commissioner	X	_____

APPROVED AS TO CONTENT:



Robert Wheeldon
Linn County Planning and Building Director

APPROVED AS TO FORM:



Thomas N. Corr
Linn County Legal Counsel



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816, 1-800-319-3816
Fax 541-926-2060 www.co.linn.or.us

NOTICE OF ADOPTION

RESOLUTION NO: 2009-259
ORDINANCE NO. 2009-260
PLANNING FILE NO: BC08-0005
APPLICANT Morse Bros, Inc dba Knife River
PROPOSAL

Applications by Morse bros. Inc dba Knife River for a *Comprehensive Plan* text amendment to include a 216-acre portion of a 451.21-acre property in the Linn County aggregate inventory as a significant aggregate resource site, an Aggregate Resource Overlay (ARO) zone amendment, and a development permit for aggregate mining and processing. The proposed development permit would authorize the mining, crushing, processing, batching, stockpiling and hauling of aggregate within the proposed 216-acre resource site. The property is identified as T10S, R03W, Section 10A, Tax Lots 100 & 300; Section 11, Tax Lots 302 & 400, TL100 and is zoned Exclusive Farm Use (EFU). The proposed mining site is located approximately 630 feet east, across the Santiam River of the City of Jefferson, 39304 Hwy 99E, Jefferson.

Board Action: Resolution and Order No. 2009-259

The Linn County Board Of Commissioners approved *Resolution and Order No. 2009-259* to: (1) Approve the Findings and Conclusions supporting the Board decision; (2) Order that the applications be approved as proposed to include the identified 216-acre portion of the subject 451.21-acre property in the Linn County aggregate inventory as a significant aggregate resource site without conflicting uses; (3) apply the aggregate resource overlay (ARO) zone to the resource site and the impact area; and (4) Authorize mining consistent with the ARO and other applicable regulations.

Board Action: Ordinance No. 2009-260

The Linn County Board Of Commissioners approved *Ordinance No. 2009-260* to: (1) Amend the Linn County *Comprehensive Plan* text to include the subject 216-acre resource site in the Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 5, entitled *Inventory of Significant Sites Without Conflicting Uses – Privately Owned Aggregate Sites*; and (2) Amend the Linn County *Comprehensive Plan*, LCC Chapter 905 Appendix 6A, entitled *Inventory of significant Sites With all Conflicts Minimized* to add the adopted subsection and text.

If you wish to appeal this decision, an appeal must be filed with the Land Use Board of Appeals (LUBA) within 21 days from the date this notice is mailed.

Appeals to LUBA must be filed in accordance with ORS 197.830. If you have any questions about this process, you should contact LUBA in Salem.

Resolution/Order No. 2009-259 and Ordinance No. 2009-260 may be reviewed at the office of the Linn County Clerk, Room 205, Linn County Courthouse; that office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. A copy of the ordinance is available in the office of the Linn County Clerk. A fee to cover copying costs will be charged.

Robert Wheeldon
Robert Wheeldon
Director

6/18/09
Date

- c: Knife River, DLCD, DOGAMI, DEQ, ODOT, Linn County EHP. Linn County Road Department, Jefferson RFPD, Diana Elms, Joan Haller, Patricia Haller, Jan Jakubowski, Margaret Gilbert, Cris Alba, Christina Lask, Kathleen Baker, Monte Grenz, Dave Ball, Nirmal Singh, Chris Lidstone, Charlene Kizer, Dick Kizer, Linda Pierson, Kathryn Henderson, John Lenssen, Goal One Coalition, Robert Jacobson, James Grass, Clarence Nunes, Todd Sadlo, Jim Just, Bernard Bentz, Jeff Marcec, Chris Giffen, Ron Sawyer, Steve Motz and Debora Hall

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY OREGON

IN THE MATTER OF AMENDING THE)
LINN COUNTY *COMPREHENSIVE*)
PLAN TEXT AND THE LINN COUNTY)
ZONING MAP; AND APPROVING AN)
AGGREGATE MINING PERMIT)

RESOLUTION &
ORDER NO. 2009-259

(Planning and Building Department BC08-0005)
(Findings and Conclusions)

WHEREAS, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on May 27, 2009 for the purpose of considering the matter of a proposed *Comprehensive Plan* text amendment and zoning map amendment that would amend the *Comprehensive Plan* text to include a 216-acre portion of the property identified as Tax Lots 100 and 300 on Assessor map T10S, R03W, Section 10A, and Tax Lots 302 and 400 on Assessor map T10S, R03W Section 11, in the inventory of significant aggregate resource sites with all conflicts minimized; amend the Zoning Map to apply the Aggregate Resource Overlay (ARO) to the resource site; and permit the mining and processing of aggregate on the property;

WHEREAS, The proposed *Comprehensive Plan* text amendment and proposed zoning map amendment had been previously considered by the Linn County Planning Commission at a duly advertised hearing on May 12, 2009, which voted unanimously to recommend approval to the Board;

WHEREAS, The Board, after considering all testimony and evidence submitted, reached a consensus to recommend that the proposed *Comprehensive Plan* text amendment and proposed zoning map amendment be adopted to permit the proposed aggregate mining and processing; and

WHEREAS, The findings in support of the proposed *Comprehensive Plan* text amendment and zoning map amendment are attached hereto as Exhibit 1 (Resolution and Order No. 2009-259; Planning File BC08-0005; Knife River; Weddle Site; Decision Criteria, Findings and Conclusions); and

WHEREAS, The Conditions of Approval, to ensure minimization of all potential conflicts and to supplement the County's program to achieve goal 5 for the Weddle Site are attached hereto as Exhibit 2 (Resolution and Order No. 2009-259; Planning File BC08-0005; Conditions of Approval and Site-specific Program to Achieve Goal 5; Knife River; Weddle Site) now, therefore, be it

RESOLVED, That the Board of County Commissioners for Linn County approve the Findings and Conclusions as set forth in Exhibit 1 (Resolution and Order No. 2009-

259; Planning File BC08-0005; Knife River; Weddle Site; Decision Criteria, Findings and Conclusions) and Conditions of Approval in Exhibit 2 (Resolution and Order No. 2009-259; Planning File BC08-0005; Conditions of Approval and Site-specific Program to Achieve Goal 5; Knife River; Weddle Site); and

ORDERED, That the applications be approved as proposed to include a 216-acre portion of the subject 451.21-acre property in the Linn County aggregate inventory as a significant aggregate resource site with all conflicts minimized; to apply the aggregate resource overlay (ARO) zone to the resource site and the impact area; and to authorize mining consistent with the ARO, the Conditions of Approval, and other applicable regulations;

ORDERED, That the *Linn County Comprehensive Plan* text be prepared for Board adoption amending LCC Chapter 905, Appendix 6, entitled "*Inventory of Significant Sites With All Conflicts Minimized*" to include the 216-acre portion of the property identified on Linn County Assessor maps as Tax Lots 100 and 300 on Assessor map T10S, R03W, Section 10A; and Tax Lots 302 and 400 on Assessor map T10S, R03W Section 11 containing a significant aggregate resource;

ORDERED, That *Linn County Comprehensive Plan* text be prepared for Board adoption amending LCC Chapter 905, Appendix 6A, entitled "*Analyses Justifying a Classification as a Significant Site With All Conflicts Minimized*" to include the conclusions of the Goal 5 resource and conflict analysis in support of adding the identified 216-acre portion of the property identified on Linn County Assessor maps as Tax Lots 100 and 300 on Assessor map T10S, R03W, Section 10A; and Tax Lots 302 and 400 on Assessor map T10S, R03W Section 11, to the aggregate inventory as a significant site;

ORDERED, That the proposed Zoning Map amendment be prepared for adoption to apply the Aggregate Resource Overlay (ARO) to the 216-acre portion of the property identified on Linn County Assessor maps as Tax Lots 100 and 300 on Assessor map T10S, R03W, Section 10A; and Tax Lots 302 and 400 on Assessor map T10S, R03W Section 11 that is identified as a significant aggregate resource site, as delineated in Exhibit 1, Attachment A; and

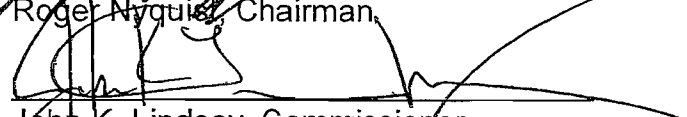
ORDERED, That a development permit be issued to authorize aggregate mining and processing on the 216-acre portion of the property identified on Linn County Assessor maps as Tax Lots 100 and 300 on Assessor map T10S, R03W, Section 10A; and Tax Lots 302 and 400 on Assessor map T10S, R03W Section 11, that is identified as a significant aggregate resource site, consistent with LCC Chapter 905, Appendix 6 and Appendix 6A; LCC Chapter 921; LCC Chapter 931; LCC Chapter 934; and the Conditions of Approval attached hereto as Exhibit 2.

Resolved this _____, day of June, 2009.

BOARD OF COUNTY
COMMISSIONERS FOR LINN
COUNTY



Roger Nyquist, Chairman



John K. Lindsey, Commissioner



William Tucker, Commissioner

APPROVED AS TO CONTENT:



Robert Wheeldon
Linn County Planning and Building Director




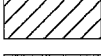

APPROVED AS TO FORM:



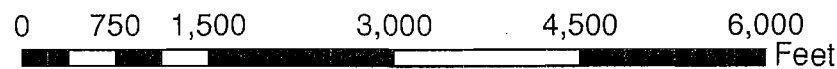
Thomas N. Corr
Linn County Legal Counsel

Aggregate Resource Overlay Map - Exhibit 3



-  Subject Properties
-  ARO- Impact Area
-  ARO- Mining Area
-  Current Mining Area
-  taxlots

10S03W11 00302
MORSE BROS INC
305.1 acres



1 inch = 1,500 feet

Date: 06/09/2009

EXHIBIT 1
Resolution and Order No. 2009-259
Planning File BC08-0005
Knife River
Weddle Site
Decision Criteria, Findings and Conclusions

I. APPLICATION SUMMARY

- A. A Comprehensive Plan (Plan) text amendment application to include a 216-acre portion of a 451.21-acre property in the Linn County aggregate inventory as a significant aggregate resource site.
- B. An aggregate resource overlay (ARO) zone amendment application to apply the ARO to the 216-acre resource site.
- C. A development permit application for aggregate mining and processing on the resource site consistent with adopted provisions in the Plan and the ARO, if applicable, and Conditions of Approval.

II. DECISION CRITERIA

The proposed aggregate inventory Plan text amendment has been reviewed and decided using the applicable criteria and procedures in *Linn County Code (LCC) 921.872* and *LCC 939*. The decision by the Board is to include the property in the aggregate inventory. The mining and processing development permit is subject to the criteria in *LCC 921.540* to *921.569*.

In the above referenced proceedings, the resource site has been established as a significant site that is approved for mining. The Aggregate Resource Overlay (ARO) will be applied to the site. Mining and processing aggregate is an allowed use in the ARO, and as specified and limited by the Conditions of Approval. The operating standards that govern aggregate mining and processing are identified in *LCC 934.350* to *934.359*.

III. FINDINGS

A. Proposal Summary

The subject property is a 216-acre portion of property identified as Tax Lots 100 and 300 on Assessor map T10S, R03W, Section 10A, and Tax Lots 302 and 400 on Assessor map T10S, R03W Section 11. Portions of the property are owned by Morse Bros. Inc, dba Knife River an MDU Resources Company ("Knife River" or "applicant" or "operator") and portions are owned by either Dennis Youngblood or William Case. The applicant has established its authority to make the application.

The subject property is an expansion of the existing Weddle mining and processing site located on Hwy 99E, less than two miles east of Interstate Highway 5, near the City of Jefferson. High quality, well-graded alluvial sand and gravel have been mined and processed at the existing site since the 1950s.

Mining of the existing site is nearly complete. For that reason, the applicant is seeking permission to mine adjacent areas that contain the same deposit of aggregate that has been extracted for decades from the existing site. The resource available at the site is suitable for use as base rock, and for the production of both asphalt and concrete.

An aggregate resource is considered "significant" if the available deposit exceeds 2,000,000 tons. Over 10,000,000 tons of alluvial sand and gravel is available in the proposed extraction area, and can be easily mined using an excavator. Sand and gravel will be extracted from ponds constructed adjacent to the Santiam River and separated from the river by 200- to 400-foot vegetated setbacks. Processing activities will continue to take place only in the existing processing area, and not in the proposed new excavation area.

The new excavation area is 216 acres and contains Class II soils, some of which will be retained for use in reclamation. Sixty acres of the listed tax lots contains the existing extraction areas and processing facilities. The remaining 175-acres of the ownership contains similar soils, farm uses, riparian areas, and fish and wildlife habitat. Undisturbed areas currently in farm use will continue to be farmed as mining progresses, within and adjacent to the mining area. All existing riparian areas and fish and wildlife habitat, have been inventoried and studied as part of this project, and none will be mined or impacted by proposed mining activities.

Site reclamation will be sequential and concurrent with mining, beginning prior to mining and continuing for the life of the project, which is estimated to be 15-20 years, depending on economic factors. The design of the project allows the establishment of variable slopes, shorelines, and pond and wetland depths, enhancing the quality of the reclaimed site as fish and wildlife habitat.

The mining plans were developed with consideration of the site's hydrology. A wooded slough at the downstream end of the site will be preserved. Floodwaters currently back into the site by way of the slough, before entering from upstream. Fish currently enter the site during flood events and leave as floodwaters recede. Project design will allow this process to continue unimpeded during operating and reclaimed phases.

The wet mining operations are designed to prevent potential groundwater impacts and dust generation. Mining will begin downstream near the slough, and progress into upstream areas. The first pond will be isolated from the Santiam River by way of a gated fish passage/low flow channel connected to the slough. The gated culvert will prevent turbid water from escaping during mining, and the vegetated channel will allow fish to exit the site following flood events.

The second pond will be further hydraulically separated from the river by a vegetated leave strip, a fish passage culvert, and a bedrock overflow weir. As the second pond is excavated, reclamation of the first pond will be completed, using native grasses, shrubs and trees. Design of the site during operating and reclaimed phases will enhance the utility of the site for flood storage and as fish and wildlife habitat.

These findings describe why the County has concluded that the proposed Weddle mining operation will be conducted in a manner that is compatible with, and will have minimal impact on, the livability and appropriate development and use of nearby

property. The applicant has presented a detailed engineering- and science-based proposal to allow continued mining adjacent to the existing processing site, to serve local markets.

The application materials included the following information and studies, which are accepted as support for this decision:

1. Project Summary (Introduction and Overview)
2. Application Form
3. Location Map
4. Site Map
5. Proposed Mining Area
6. Current Aerial Photograph
7. Site Plan
8. Soil Map and Soil Descriptions
9. Conceptual Reclamation Plan (also see studies/reports, esp. Tabs 12, 16, 17, 24, and 26)
10. Study/Report: Goal 5 Aggregate Evaluation
11. Impact Area Maps and Table
12. Study/Report: Weddle Site Permit Expansion Surface Water Hydrologic Considerations
13. Study/Report: Groundwater Investigation Weddle Mine Expansion
14. Study/Report: Wetland Delineation Report
15. Department of State Lands, Removal Permit 38338-RP (Including US Corps of Engineers approval)
16. Study/Report: Revegetation Plan for Mine Reclamation
17. Study/Report: Vegetation Plan for Leave Areas
18. Study/Report: Biological Inventory
19. Study/Report: Mitigation and Minimization of Impacts to Threatened and Endangered Species
20. Study/Report: Weddle Aggregate Mine: Noise Study for Proposed New Mining Area
21. Linn County Inventory Information
22. Study/Report: Traffic Impact Analysis
23. Roadmaster letter
24. Operating and Reclamation Plan (DOGAMI) Application
25. Permitting Authority for non-owed parcels
26. Simulated Views of Reclaimed Site (Conceptual Reclamation Plan)
27. Proposed Conditions of Approval

Approval of this application will also allow continuation of a sustainable practice--local production of aggregate to satisfy local demand. Aggregate is essential for construction and maintenance of public infrastructure, and for private commercial, residential, and farm use development. Aggregate is also heavy, and expensive to ship. Local production of aggregate is preferable to long-haul delivery because it generates less greenhouse gas, uses less fuel, and reduces wear and tear on highways. Competitively-priced aggregate is essential to local and state economic health, and conserves scarce tax dollars.

The Planning Commission unanimously recommended approval of the application, and the Board of County Commissioners has approved the application for the reasons

stated in these findings. The site is a significant aggregate resource. As ensured by the Conditions of Approval, which were proposed by the applicant and have been supplemented through the hearing process, the operating and reclaimed phases of the project are designed to minimize all potential conflicts with surrounding uses.

B. Inventory Classification (*LCC 939.120*)

The location, quality and quantity information for this aggregate resource site is in Tab 10 of the application materials, "Goal 5 Aggregate Evaluation." The aggregate evaluation establishes that the site contains high quality alluvial sand and gravel, suitable for use as base rock, and also for the production of asphalt and concrete. To be significant, the site needed to contain at least two million tons of resource meeting ODOT specifications for base rock. The applicant has established that more than ten million tons of resource, meeting ODOT specifications, is available and can be efficiently mined from the site with an excavator. Due to the presence of Class II soils, the Goal 5 rule and County code require that the applicant demonstrate that the average thickness of the aggregate layer is at least 17 feet. The applicant has demonstrated that the average thickness of the aggregate layer exceeds 20 feet. The applicant has identified the location of the resource as Township 10S Range 3W Section 11, Tax Lots 302 and 400; and Township 10S Range 3W Section 10A, Tax Lots 100 and 300, with access by way of the existing Weddle Site entrance, at 39304 Hwy 99E, Jefferson, Oregon 97352. All of the tax lots involved total 451.21 acres. 60 of those acres contain the existing extraction and processing area, and the available resource is located within a 216-acre area that has been identified by the applicant on the Site Plan that is part of the Conditions of Approval, Exhibit 2 to this Order.

The applicant has established the location, quantity and quality of the resource as meeting the requirements of the Goal 5 rule and County Code. The site meets the significance criteria in *LCC 939.120*.

C. Impact Area (*LCC 939.130*)

To determine existing and potential conflicts between the proposed mining and processing activities and other area land uses, Oregon Administrative Rules (OAR) and *LCC 939.130(A)(1)* establish an impact area of 1500 feet from the boundaries of the proposed mining area, except where factual information is adequate to indicate significant potential conflicts beyond this distance. No information was submitted to indicate a larger impact area is required. The Board finds that the designated impact area is consistent with the provisions in *LCC 939.130(A)*.

Impact Area maps and data were provided with the application, and includes the following description of impact area uses:

North: Most of the impact area north of the site is occupied by the existing mining and processing operation. The Santiam River crosses through the impact area north of the site, and a portion of the impact area north of the site is in Marion County. Impact area uses north of the site in Marion County include farm and forest uses, with row crops nearby. Almost the entire area north of the site, within the impact area and in Marion County, is within the floodway of the river, and currently forested.

South: The area south, and within 1500 feet of the proposed mining area, includes farm uses and practices, mostly row crops, grass and hay, and minor livestock grazing. The area north of Highway 99E is owned or leased by the applicant and is planted in row crops, currently corn and beans, and is irrigated. Highway 99E is located on a levee at this location, with three bridges and a culvert to accommodate high floodwaters. Farm uses within the impact area south of the highway are generally similar to or the same as farm uses taking place on the tax lots comprising the project. Farm uses are proposed to continue on all parcels that are part of the project that are not part of the proposed mining area, and within the mining area as well, as mining progresses.

East: East of the site is the Santiam River and the City of Jefferson, in Marion County. The only identified farm use east of the site and across the Santiam River is an orchard, located between residential uses in the City of Jefferson, and the City's sewage treatment plant.

West: West of the proposed mining area and east of Santiam Bluffs Road there are farm uses, and forested wetland areas, on Tax lots that are part of this proposal. The impact area extends west of Santiam Bluffs Road, and includes a bluff with rural residential uses, zoned for farm use. Also west of the site, there are farm uses similar to those that are taking place on tax lots that are part of the proposal, and on farms located south of the site—mostly row crops, grass and hay, and minor livestock grazing.

The number and location of homes, schools, businesses, and other land uses within 1500 feet of the resource site boundary, are as follows:

North: There are two tax lots partially within the impact area in Marion County, north of the Santiam River. Both are zoned EFU, and neither contain dwellings or any other sensitive uses within the impact area.

South: South of the proposed mining area and north of Hwy 99E are three houses owned by Knife River. South of Hwy 99E are nine additional tax lots, all zoned EFU. Three of those tax lots are wholly within the impact area, and the remainder are partially within the impact area. Two dwellings are located south of Hwy 99E in this area, within the impact area. One is located almost 1500-feet from the mining area boundary, and the other is located in the vicinity of the Hwy 99E/Santiam River Bridge. The site is not within direct view of either of these dwellings, due to the elevation of Hwy 99E and train tracks south of the site.

East: East of the proposed mining area is the Santiam River, and across the river, in Marion County, is the City of Jefferson. At the closest point, the City is approximately 630 feet from the site, and it is separated by a thick riparian buffer on top of a berm constructed decades ago, and the river. The City of Jefferson's sewage treatment facility is directly across from the existing processing area, and within the impact area. South of the treatment facility is an orchard. South of the orchard is land within the Jefferson UGB. City land adjacent to the river is zoned Farm Use (F). Land further to the east is zoned Residential High-Density (R3), and for mixed uses, characterized in the City's development ordinance and on its map as "Mixed Use" or as "Commercial(C)," "Historic and Cultural Conservation," (HC) or R3/C/HC. The impact area includes most of the first tier of (mostly residential and some commercial) lots

along the Santiam River in the City; includes some land east of Main Street; and also includes some land south of Hwy 99E. The applicant has identified 44 dwellings within the City of Jefferson that are within the impact area, and there are also commercial uses and public services, including a fire station. The expansion area is separated from the City by the river, and by the existing vegetated riparian strip and berm. The expansion area is not visible to existing uses in the City, nor will it be visible to the similar uses likely to be developed in the future, due to topography and vegetation in flood and riparian areas along the Santiam River.

West: West of the mining area there are 11 tax lots (that are not part of this proposal) wholly within the impact area, and another five tax lots partially within the impact area. All but one of these tax lots are zoned EFU. The lot not zoned EFU is partially within the impact area, is 176 acres, and is zoned Farm/Forest. Eleven dwellings are located on tax lots west of the proposed mining area, and ten of them are located within the impact area. Five dwellings are on a bluff outside the NW corner of the site. Four are located further south, on the east side of Santiam Bluffs Road.

D. Conflicts Due to Noise, Dust or Other Discharges [LCC 939.130(B) (4) (a)]

The applicant was requested by the County to describe all potential conflicts between the proposed mining and any land uses identified in the impact area that are sensitive to noise, dust, or other discharges (e.g. houses and schools). The potential conflicts, and reasons why conflicts will not arise, are as follows:

North: Mining at this site will not lead to conflicts with any land uses that are sensitive to noise, dust, or other discharges. North of the proposed mining extraction area is the existing mining and processing area, which is located on higher-elevation land than the proposed expansion area. Current, permitted mining and processing in this area have not created significant conflicts.

North of the mining area and west of the existing operation is a vegetated riparian fringe area that will be improved and extended, along the Santiam River. Across the river, in Marion County, is an area of farm and forested land that is located almost entirely within the forested meander of the river, and is not likely to be developed for any use. None of these areas are sensitive to noise or dust. More importantly, the applicant has incorporated into the proposal, design elements and management practices to minimize the generation of noise and dust.

With regard to "other discharges;" the Santiam, its riparian fringe and sloughs, has high value as a fishery, as wildlife habitat, recreationally, and aesthetically. The proposal provides extensive buffering to protect and enhance those attributes. All process water (aggregate wash water) will be managed in the higher elevation, easternmost mining cell, well isolated from the river.

Flooding of the site by the Santiam River, and the return of flood waters to the river, have been key considerations in the design of this project. Santiam floodwaters back into the proposed mining area from the slough in the northwest corner of the site, at low velocities. Floodwater historically does not enter from the south or east until the site has already flooded from downstream. The first steps in the mining of the site will be to install vegetated levee areas on the south and east edges of the site, and to

install a fish passage and low flow connection channel between the slough and the mining area.

Following construction of the fish passage channel, mining will begin in the northwest and continue to the east and south, with sequential, concurrent reclamation. In subsequent mining, the river will back into a fully vegetated pond adjacent to the existing slough, where flooding currently occurs at irregular intervals. That pond will in turn be isolated from the remainder of the mining site by an un-mined "leave strip." A bedrock overflow weir will be installed in the leave strip along with gated culverts that, like the connection to the slough, can be opened after flood events, to prevent fish entrapment. Each connection channel will be opened as necessary after a flood event and will not be closed until June, to allow fish that entered the site during the event to return to the river. The design of this project ensures that at all relevant times, the applicant will be able to meet all clean water requirements, particularly turbidity standards, which prohibit discharge of turbid water (no more than 10% over background levels). During the summer and fall months, when all connections are closed to the slough, the site will be physically isolated from the river, with any potentially turbid water contained in the operating pond.

South: The southern boundary of the site is traversed by a levee that elevates Hwy 99E. Floodwaters enter the site from the south under three bridges on the levee, and also overtop the highway near the Santiam Bridge at Jefferson. By the time floodwater enters from this location, the site has already filled from water backing into the site at the location of the slough, in the northwest corner of the site. The applicant will plant a strip of land 75 feet wide along the highway frontage, with native plants and trees. At the location of the easternmost highway levee bridge, the applicant will plant an additional 400-foot wide area to further diminish the velocity and erosive potential of floodwaters entering the site from the south. Planting and maintenance of these vegetated buffers will begin within the first year following final approval of this application.

There are three dwellings south of the mining area and north of Hwy 99E, owned by the applicant. Because they are under the ownership and control of the applicant, they are not considered "conflicting uses." The dwellings will not "interfere with" or be "adversely affected by" mining of the site, because the applicant exercises legal control and authority over their use.

Two other dwellings are located south of the site and within the impact area. Both are buffered from the site by the road levee and railroad. One is located almost 1500 feet away, on the edge of the impact area, and the other is located in the vicinity of the applicant-owned dwellings, but south of the highway. Potential dust conflicts are minimized in this case by wet mining, and through applications of water and dust palliatives on the site as necessary to prevent the generation of fugitive dust in the first instance.

As for noise, receivers were placed within the impact area south of the site, to measure ambient levels of noise and to properly model potential impacts from mining. The study found that, without mitigation, the easternmost dwelling to the south would potentially have been impacted by noise when mining reaches the southeast corner of the site. For that reason, the applicant has agreed to use a quieter excavator when operating within 500 feet of the dwelling, and to take appropriate steps to limit noise

from the existing crushing and screening plant, which is not otherwise under consideration in this application. The plant itself complies with DEQ requirements, but it contributes to overall noise at the easternmost dwelling. Reducing both potential noise sources to protect the dwelling, is feasible and can be accomplished using reasonable and practicable measures.

No other potential "discharges" from the site have been identified that could negatively impact sensitive uses to the south of the site.

East: East of the site is the Santiam River and City of Jefferson. The protection of the Santiam River has been discussed above in this section and is equally relevant to the river at its location east of the site. The existing thick vegetation between the proposed mining area and the river will be maintained and supplemented (200- to 400-foot vegetated buffer), as shown in the vegetation plan for leave areas, and on the site plan. A vegetated berm or levee was constructed on the eastern edge of the site by a previous owner, which minimizes potential noise and visual impacts to sensitive uses in the town of Jefferson. Dust control to meet DEQ nuisance standards is feasible using water available on the site. Dust has not impacted the City of Jefferson in the past, and is not likely to impact the City in the future.

The applicant's noise study originally predicted potential impact to the area of a receiver at the boat ramp in the City of Jefferson. That potential impact will be minimized in the same manner as potential noise impacts to the south of the site—by limiting noise at the existing processing site and by using quieter equipment when mining reaches the eastern edge of the site. The report concluded that: "if an excavator is used that is 6 dB quieter than the John Deere 750 excavator and the noise generated by the crushing and screening plant is reduced by approximately 5 dB, then the noise radiating from the Weddle Mine Site would be in compliance with the DEQ noise regulations at residences to the east during all times when excavation operations occur in the new mining area. That level of noise reduction from both sources is considered very feasible".

West: West of the site, and within the impact area, there are 10 dwellings. For reasons previously stated, dust is not predicted as a conflict for any of these dwellings due to wet mining and the availability of water for dust suppression, as necessary. Two or three of the dwellings to the west and in closest proximity to the site originally appeared to be within the DEQ noise compliance boundary, meaning that when mining is taking place within the two westernmost mining cells, violation of DEQ noise regulations would have been possible as to those two dwellings. The location in question is shown in red on Figure 5 of the noise study, as areas requiring "Level 1" and Level 2" mitigation equipment. The equipment and operating practices recommended in the noise study, as included in the Conditions of Approval, will protect those residences from all potential noise impacts.

Some of the dwellings west of the site obtain their water from two wells located on the applicant's property. To ensure protection of those wells and to minimize all potential conflicts, the applicant commissioned a groundwater study. That study concludes that none of the wells within the impact area will be negatively impacted by the mining operation, in terms of quality or quantity. The applicant will use management practices in the vicinity of the two wells in question, that include moderate pumping of groundwater, to reverse the local groundwater gradient slightly during the mining of the

two westernmost cells, and thereby prevent turbid water in the operating pond from affecting the wells. A monitoring well will be installed in the vicinity to ensure compliance. Water levels and turbidity will be measured weekly during mining of cells 3A, 3B, and 4. The applicant has taken every appropriate step to ensure protection of the wells, and remains committed to ensuring that users of these wells are protected.

In the course of the proceedings to consider the applicant's proposal, the applicant responded to continued concerns of the five households using the two wells on the applicant's property for their domestic water supply. Additional conditions of approval were offered by the applicant, and accepted by the County, to offer additional protection and ensure that potential conflicts regarding the wells are appropriately minimized. An additional condition offers a bonded guarantee by the applicant to protect the quantity and quality of the water available from the wells. Another condition provides emergency response to any concern by well users that a disruption in water quality or quantity has occurred and may be attributable to mining activities.

The Board finds that the proposal does not create conflicts due to noise, dust or other discharges within the impact area, and the standards in the Goal 5 rule and in LCC 939.130(B)(4)(a) are satisfied. The applicant provided additional explanation and evidence, accepted by the County, of steps to be taken to minimize identified conflicts with surrounding land uses, including the following:

Noise: The applicant provided a noise study addressing potential noise impacts. The applicable standards are located in OAR Chapter 340, Division 35, containing Oregon Department of Environmental Quality (DEQ) noise control regulations. Under these standards, the subject property is a new noise source on a previously unused site, for which the noise limits are the lower of the ambient statistical noise level, L10 or L50, plus 10 dBA (decibels on a weighted scale), or the noise level listed in OAR 340-035, Table 8. The more stringent ambient standards apply in this case.

The noise study began with a collection of data regarding the characteristics of the site and area. Ambient noises were measured at and near noise sensitive uses in the area using sound level meters. Information was then collected regarding proposed operations at the site, including the types of machinery, and the proposed location of haul roads, stockpiles, and other activities likely to generate noise. Analysis and modeling was then conducted, to predict the highest hourly statistical noise levels that might occur in a "worst case" scenario that overstates the number of sound sources that would operate simultaneously and the elevation of those sources. Based on the results of this analysis and modeling, a noise compliance boundary was established. Outside the boundary line, the noise caused by mining operations at the site will be below DEQ limits. In any situation in which the compliance boundary was identified as potentially including sensitive uses, the study proposed conditions to limit impacts and ensure that no noise sensitive uses are within the compliance boundary. The study concludes that the applicant will meet DEQ noise standards as to all noise sensitive uses in the impact area, employing reasonable and practicable measures. Use of appropriate equipment and appropriate management of that equipment will ensure compliance with applicable DEQ standards at the site and with regard to uses in the surrounding area.

Dust: The expansion area under consideration does not include any new processing facilities. Existing facilities on adjacent land are not subject to re-permitting in this

proceeding, but nevertheless operate in full compliance with DEQ standards and permits.

With regard to mining activities in the proposed expansion area, the applicant will be required, at all times, to comply with the DEQ fugitive dust standard. The applicable standard is OAR 340-208-0210(2) which states:

“(2) No person may cause or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but not be limited to the following:
(a) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;
(b) Application of asphalt, oil, water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces which can create airborne dusts;”

This is a nuisance standard, requiring all persons to use “reasonable precautions” to prevent particulate matter from becoming airborne, and applies to all aspects of the applicant’s operation. These regulations also constitute the applicable standard for minimizing fugitive dust conflicts under the Goal 5 rule. In this case, potential dust impacts to dust sensitive uses in the impact area will be minimized and prevented through wet mining practices; by watering access roads and stockpiles as necessary to prevent dust generation; and by similar reasonable and practicable measures. These measures will prevent the generation of dust. Water is available at the site for dust control, and commercial palliatives are also available if necessary. In this case, all potential dust conflicts can be minimized to the point where they will no longer be significant as to sensitive uses, and all other uses taking place in the area, using reasonable and practicable measures.

E. Potential Conflicts to Local Roads [LCC 939.130(B) (4) (b)]

Approval as requested will allow the existing aggregate processing facility at the Weddle Site to continue processing at the same or similar levels, depending on economic conditions. Ingress and egress to and from the site is directly to a State Highway, and not to a “local road.” As to local roads in the vicinity that may at times be required to accommodate gravel trucks; the proposal is to shift the extraction area of the Weddle mine from north, to south and west, not to increase current rates of production. The overall number of trucks entering and leaving the site is dictated by the needs of the market and does not change as a result of expanding the available mining area. The Traffic Impact Analysis provided by the applicant concluded that road capacity in the area is currently adequate; existing roads are safe; and the proposal will not significantly affect existing road capacity or the safety of local roads.

The traffic impact analysis also considered the other Goal 5 rule considerations as to roads within one mile of the site, and did not identify significant potential conflicts. The Roadmaster has provided a letter concurring that “there are no significant adverse impacts on the quality of county roads or local access roads in the area of [the]

quarry.” The Oregon Department of Transportation also commented in writing, concluding that approval of the application would not have a significant affect on the transportation system, and that “the existing highway approach road meets ODOT requirements for the additional mining activity.” Neither the applicants study, the Roadmaster, nor ODOT note any improvements to local roads necessary to safely accommodate aggregate trucks that may be entering and exiting the site.

The traffic impact analysis indicates that:

“allowing extraction from additional areas at the Weddle site will not have any significant impacts on traffic on Ore. 99E. There is adequate sight distance and roadway capacity to handle the truck traffic generated by the site. The crash rate on the highway is below the statewide average of this class of highway.”

The analysis demonstrates that there are no significant potential conflicts between the proposal and local roads. No conflicts were found with regard to roadway capacity, roadway cross-section and alignment, or other truck related conflicts.

During the proceedings to consider the application, residents of Santiam Bluff Road indicated that trucks accessing the existing Weddle facility were using Santiam Bluff Road. The applicant has agreed to a condition to provide notice to its own employees and contractors, and others using the Weddle facility, not to use Santiam Bluff Road for through gravel truck trips. To the extent complaints about truck traffic on Santiam Bluff Road can be considered a conflict to local roads, that conflict is minimized through imposition of the proposed limiting condition, to a level at which it can no longer be considered significant. No other potential conflicts with local roads have been identified.

F. Conflicts with Other Goal 5 Resource Sites [LCC 939.130(B)(4)(c)]

The County has not identified any inventoried Goal 5 resources within the impact area, or elsewhere, that are potentially impacted by the proposal. The applicant has established that it nevertheless recognizes that the wetlands present on the site, wildlife areas associated with the slough, riparian features of the Santiam River, and the river itself, are all natural amenities worthy of protection from potential mining impacts. The applicant has conferred extensively with federal and state agencies and has designed every aspect of the project to protect the identified natural resources. The design and proposed management of the facility will allow site reclamation to begin immediately, and to progress as mining progresses, for an estimated 15-20 years, depending on economic conditions. When reclamation is complete, the value of the site as fish and wildlife habitat will be greatly enhanced over existing conditions. Open water and wetland areas will be hydraulically connected to the river, and will be surrounded by native riparian vegetation, enhancing the habitat value of the site and its aesthetic value to the community.

Documents in the record also support findings that the proposal does not pose any conflicts with other Goal 5 resources, and that all potential conflicts are minimized through proper design, planning, and management of the site. These documents include the site plan; the hydrologic analysis and design; the wetland delineation; the State and Federal removal permits already obtained; the revegetation plan; the

vegetation plan for leave areas; the biological inventory; the endangered species protection report; and the conceptual reclamation plan and DOGAMI operating and reclamation plan. All of these studies and plans are designed to ensure compliance with all applicable state and federal environmental laws and to minimize impacts on fish and wildlife. The location of buffers, screens, and physical alterations to meet these standards are identified in all of these reports, and include a channel to allow safe fish passage during high water events and to provide a permanent hydrologic connection of the site to the Santiam River as reclaimed, promoting the health of the river's fisheries. The County has not identified any potential conflicts with other Goal 5 resource sites, and to the extent any may have existed, the applicant's plans minimize potential conflicts to a level at which they can no longer be considered significant.

G. Conflicts with Agricultural Practices [LCC 939.130(B)(4)(d)]

The applicant and County identified the location and types of surrounding farm uses and practices, as follows:

North: Much of the impact area north of the site is occupied by the existing mining and processing operation. The Santiam River crosses through the impact area north of the site, and a portion of the impact area north of the site is in Marion County. Uses north of the site in Marion County include farm and forest uses, including row crops, pasture and hay production. Almost the entire area north of the site, within the impact area and in Marion County, is currently forested and includes the riparian fringe of the Santiam River.

South: The area south, and within 1500 feet of the proposed mining area, includes farm uses and practices, mostly row crops, grass and hay, and minor livestock grazing. The area north of Highway 99E is owned by the applicants and is planted in row crops, currently corn and beans, and is irrigated. Highway 99E is located on a levee or berm at this location. Farm uses within the impact area south of the highway are generally similar or the same as farm uses taking place on the tax lots comprising the project. Farm uses are proposed to continue on all parcels that are part of the project that are not part of the proposed mining area, and within the mining area as well, as mining progresses.

East: East of the site is the Santiam River and the City of Jefferson, in Marion County. The only identified farm use east of the site and across the Santiam River is an orchard, located between residential uses in the City of Jefferson, and the City's sewage treatment plant.

West: West of the proposed mining area and east of Santiam Bluffs Road there are farm uses, and forested wetland areas, on Tax lots that are part of this proposal. The impact area extends west of Santiam Bluffs Road, and includes a bluff with rural residential uses, zoned for exclusive farm use. Also west of the site, there are farm uses similar to those that are taking place on tax lots that are part of the proposal, and on farms south of the site (mostly row crops, grass and hay, and minor livestock grazing).

The County has concluded that the proposed use of the site will not force a significant change in, or significantly increase the cost of, accepted farm or forest practices on surrounding lands devoted to farm or forest use, for the following reasons:

The applicable standard, ORS 215.296, provides, in relevant part, as follows:

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

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

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

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

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

* * *

As explained in Schellenberg v. Polk County, 21 Or LUBA 425, 440 (1991) and successive cases, the ORS 291.296(1) test requires that the county identify the accepted farm and forest practices occurring on surrounding farm lands, and then consider whether the proposed use will force a significant change in, or significantly increase the cost of, identified practices. ORS 215.203 defines “farm use,” and contains the following definition of “accepted farming practice” that is appropriate to reference in this circumstance. ORS 215.203(2)(c) states:

“As used in this subsection, ‘accepted farming practice’ means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.”

For purposes of this analysis the “area” under consideration is the 1500-foot impact area. No significant impacts have been identified in the impact area, and it is therefore highly unlikely that impacts could be identified beyond 1500 feet justifying consideration of a larger area. Surrounding lands are typically used for growing row crops, grass and hay, and for grazing cattle. As noted, there are also orchard uses across the Santiam River. Plowing, application of herbicides and pesticides, disking of orchards and machine harvesting are accepted farm practices if conducted in the area under the ORS 215.203(2)(c) definition, as are organic and sustainable agriculture practices. Farm equipment and laborers are typically used to tend livestock and harvest farm crops. No commercial forestry has been identified in the area, although forest uses accessory to agricultural uses likely take place.

As described in the application, the applicant proposes to continue farming activities on portions of the site while mining occurs over the course of an estimated 15-20 year period. The applicant’s operations are not expected to force a significant change in, or significantly increase the cost of, any identified or likely agricultural practices on the subject property or any neighboring property devoted to farm use.

The proposal will not give rise to any new or increased conflicts with agricultural practices in the area. Farms in the area are maintained with machinery of approximately the same scale and noise level as the proposed extraction equipment.

Aggregate will be predominantly mined wet, and water is available on site to further minimize potential dust production from mining activities. Additional buffering of neighboring farm uses is effectively provided by topography, vegetation, the isolated location of existing processing facilities, and (to the south) elevated Hwy 99E. The operation will not impact groundwater in the area as explained in the groundwater study. Erosion will be minimized as explained in the application documents, and by the design and reclamation of the site. The applicant's aggregate extraction activities poses no conflicts with identified agricultural practices, and will not require changes in agricultural practices or increase agricultural costs in surrounding areas devoted to farm use.

As reclamation is completed, mined portions of the property will return to "farm uses," (as defined in ORS 215.203(2)), including commercial farming, open space and wildlife habitat uses. Existing farm uses will continue on un-mined portions of the site, and the existing agricultural buildings will be retained. As explained, excavated portions of the site will be reclaimed as open water with a forested riparian fringe. The ponds and associated riparian areas to be developed as part of site reclamation are "farm uses" by definition, and are expected to enhance fish and wildlife values in the area from those currently existing.

The applicant also described proposed measures, such as berms, screening, setbacks, and other operational characteristics that will minimize existing and potential mining impacts on farm and forest practices on surrounding lands. Those measures were shown on the Site Plan, the Revegetation Plan, the Vegetation Plan for Leave Areas, and the Noise Study. To prevent potential flood impacts, no new berms are proposed. Setbacks of 200-400 feet from the Santiam River are proposed, and at least 50 feet from wetland areas. Screening is provided by existing vegetation and a vegetated berm along the eastern boundary of the site constructed prior to the applicant's purchase of the site.

The applicant proposes to mine additional areas adjacent to an existing, permitted processing facility that has coexisted with farm uses in the area over many decades. Mining and processing have taken place at this location since the 1950s. The applicant has indicated sensitivity to the concerns of the community and its neighbors, and a willingness to respond to any issues that might arise with regard to localized conflicts. The operating and reclamation plans are designed to minimize conflicts to all sensitive uses and to all agricultural practices occurring, or likely to occur, in the area. In this case, no agricultural practices have been identified within the impact area that will be negatively impacted by the proposal. No aspect of the proposal has any likelihood of forcing a significant change in accepted farm or forest practices or significantly increasing the cost of those practices. The County finds that the proposal does not result in conflicts with agricultural practices within the impact area and that the proposal satisfies the standard in the Goal 5 rule and LCC 939.130(B)(4)(d)

H. Potential Future Conflicting Uses (LCC 939.180)

The County also considered whether there are any potential future land uses (land uses allowed by the Linn County Land Development Code) on property within 1500 feet of the resource area boundaries that might conflict with mining and processing activities at the resource site. No such conflicts were identified. The project has been designed to minimize all potential conflicts with surrounding uses to a level at which

they are no longer considered significant. For that reason, even if additional sensitive uses were to be permitted within farm areas of the impact area, they would not be significantly impacted by activities taking place within the extraction area and would not significantly impact those activities. New sensitive uses are less likely to occur in farm zones within the impact area, and are more likely to occur within the City Limits and Urban Growth Boundary of the City of Jefferson. The applicant has taken appropriate steps to ensure that existing sensitive uses within the City of Jefferson are protected and are screened from the site. Since existing uses are protected, it can be predicted that new development in close proximity to existing development within the City will likewise be protected. The applicant is not seeking to limit uses within the impact area beyond limitations already imposed by the County's code, but to continue to coexist with those uses. The Board finds that the proposal satisfies the requirements of *LCC 939.180*.

I. Measures to Minimize Potential Conflicts (*LCC 939.140*)

The Board finds that no potential conflicts have been identified within the impact area that cannot be minimized to a level at which they can no longer be considered significant. The Board finds that the proposal satisfies the standard in *LCC 939.140*.

J. Economic, Social, Environmental and Energy (ESEE) Consequences (*LCC 939.150*)

The Board finds that there are no conflicts between the proposed mine expansion and adjacent land uses that cannot be minimized to a level at which they can no longer be considered significant. An ESEE conflict analysis, as specified in *LCC 939.150*, is therefore not required.

K. Plan Consistency [*LCC 921.872(A)*]

The proposal would add the identified 216-acre resource site to the inventory of significant aggregate resource sites with all conflicts minimized; apply the Aggregate Resource Overlay (ARO) to the property; and authorize a development permit for aggregate extraction and processing on the site, as limited by the Conditions of Approval. To approve an aggregate inventory Plan amendment, the amendment must be consistent with the intent of the applicable section(s) of the Comprehensive Plan (Plan) [*LCC 921.872(A)*].

The aggregate resources element of the Plan states at *LCC 905.800(F)* that: "Aggregate resources must be inventoried and significant resource sites must be protected for use by future generations." The Plan at *LCC 905.800(G)* states: "...an Aggregate Resource Overlay (ARO) is established in the Agricultural Resource...plan designation(s) when a significant aggregate resource site qualifies for protection from conflicting land uses."

The aggregate resources policy in *LCC 905.820(B)(1)* states, "Linn County shall consider mineral and aggregate resource extraction and processing as a resource use of the land in Agricultural Resources, Farm/Forest and Forest Resource plan designations." The aggregate resources policies in *LCC 905.820(B) (2) to 905.820(B) (20)* establish review policies and procedures to include aggregate resource sites in the Plan inventory as appropriate.

The procedures and criteria in *LCC Chapter 939* implement the Aggregate Resources element of the Plan. This application has been submitted and reviewed pursuant to *LCC Chapter 939* to ensure consistency with the Comprehensive Plan. The Board finds that the record supports a conclusion that the proposal is consistent with the applicable sections of the Comprehensive Plan, and the criteria in *LCC 921.872(A)* are satisfied.

L. Statewide Planning Goals [*LCC 921.872(B)*]

Aggregate is a Goal 5 resource. The aggregate element of the Plan (*LCC 905.800 to 905.820*), and *LCC Chapter 939* are acknowledged to be consistent with the Goal 5 rule for aggregate. The application is consistent with Goal 5 when these procedures and rules governing protection of significant aggregate resources are followed. The applicant has submitted the following goal analysis, which is accepted by the County:

Goal 1—Citizen Involvement: Goal 1 directs local governments to adopt and administer programs to assure citizen involvement in the planning process. The County conducted hearings when it established its original Goal 5 aggregate resource inventory and when it adopted land use regulations governing the development of aggregate resources. Those regulations require review of this application by the Planning Commission and the Board of Commissioners, in a process that includes notice to neighbors and the community and a public hearing or hearings. Citizens have had the opportunity to participate in the review of this application.

Although objections have been raised to Goal 1 compliance by the County in this case, the County rejects those objections. The application was subjected to a hearing before the Planning Commission that was duly noticed in accordance with law. The Planning Commission provided a recommendation of approval to the Board of Commissioners, and a second hearing was held before the Board. The record remained open before the Planning Commission hearing, and in the interim before the Board of Commissioners' hearing. Interested parties were allowed to testify in morning and afternoon sessions of the Board of Commissioners, regarding this proposal. No additional substantial evidence was presented at the Board hearing that opponents did not have an opportunity to comment upon and rebut. The County fully complied with Goal 1 in its consideration of the applicant's proposal in this case.

Goal 2—Land Use Planning (Coordination): Goal 2 requires that the county establish a factual basis for its decisions, and ensure that its decisions are coordinated with other governmental agencies. The factual basis for the decision is contained in the numerous geologic and engineering studies submitted in support of the application. The applicant has coordinated with and has addressed the concerns of numerous governmental agencies in the development of this application and in development of appropriate conflict minimization measures, and has presented the results of that coordination to the County. The County's procedures include notice and opportunity to comment to governmental agencies. By following established procedures in reviewing this application, the County has complied with Goal 2.

Goal 3—Agricultural Lands: Goal 3 directs local governments to preserve and maintain agricultural land. The 1996 Goal 5 Rule established numeric standards for determining when it is appropriate to mine aggregate from farmland. It was a compromise intended to balance the need to protect farm soils and the indispensability of aggregate resources to development and maintenance of local economies. The

County has adequately addressed Goal 3 elsewhere in these findings, and has determined that all conflicts—between use of the site as a source of alluvial aggregate and neighboring agricultural uses—can be minimized in accordance with law, and are not significant.

Goal 4—Forest Lands: Goal 4 directs local governments to conserve forest lands. The site is not zoned for forest uses, and no commercial forest uses have been identified in close enough proximity to the site to potentially be affected by activities proposed to take place on the site. Neighboring EFU and rural residential lands contain forested land, and stands of trees are present on the site. Forested land on site will serve as a partial buffer between site operations and the Santiam River. The applicant has not identified any conflicts between aggregate resource extraction operations on the site and neighboring or nearby forests or forestry uses.

Goal 5—Open Spaces, Scenic and Historic Areas and Natural Resources: Goal 5 is “To conserve open space and protect natural and scenic resources.” The list of resources to be protected under Goal 5 includes aggregate resources. The application was made in conformance with Goal 5 and the Goal 5 administrative rule. The relationship of the applicant’s proposal to other Goal 5 resources was detailed in the application materials. The proposal is in conformance with Goal 5.

Goal 6—Air, Water and Land Resources Quality: Under Goal 6, local governments must ensure that land uses do not threaten to violate, or violate, state or federal environmental quality standards. Since the County does not administer state or federal statutes and regulations itself, it relies on the expertise of state and federal agencies, and coordinates with those agencies to ensure compliance with Goal 6. The County complies with Goal 6 by prohibiting mining activities on the site until the applicant has demonstrated the receipt of all state and federal permits and approvals required for operation of a quarry on the site. The application materials establish the feasibility and likelihood of the applicant receiving all state and federal permits necessary to mine the site.

Goal 7—Areas Subject to Natural Disasters and Hazards: Goal 7 directs local governments to plan developments to avoid known natural hazards. The site is prone to flooding, but does not contain any permanent natural hazards. The hydrologic planning conducted by the applicant for this site is described elsewhere in these findings and is supported by the application studies, especially the hydrologic study. Oversight by state and federal agencies, and the requirements of the site specific program to carry out Goal 5, ensure compliance with the requirements of this goal.

Goal 8—Recreational Needs: Goal 8 directs local governments to plan for the recreational needs of its citizens. This proposal will not negatively impact county recreational facilities, because none are located in the immediate vicinity or impact area of the proposed mining area. Potential conflicts between mining uses and recreational use of the Santiam River are minimized in this case by topography (including a previously constructed berm) and the vegetated riparian buffer to be maintained by the applicant.

Goal 9—Economic Development: Goal 9 seeks to provide adequate opportunities for continued economic growth in Oregon. Guidelines in the Goal specifically emphasize the expansion of existing industries as a means to strengthen local and regional economic development. A mining operation at the site provides jobs in Linn County and raw materials essential for the construction of businesses, homes and infrastructure, promoting this goal. Allowing local demand for aggregate to be met by

local sources is a more sustainable economic model than shipping aggregate from elsewhere. Gravel is heavy, and fuel costs are high. The local economy, including the development and maintenance of businesses, industries and public infrastructure, clearly benefits from County policies and decisionmaking that allows for the local production of aggregate.

Goal 10—Housing: Goal 10 is not relevant to this project or analysis. Approval of this expansion will not result in any restrictions or impacts relative to housing.

Goal 11—Public Facilities and Services: The purpose of this goal is “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” The use of this site does not require extensive public facilities or services, and will not negatively impact any public facilities or services now available in the area. The resources available at the site will contribute to the development and maintenance of public infrastructure in Linn County.

Goal 12—Transportation: Goal 12 directs local governments “to provide and encourage a safe, convenient and economic transportation system.” Aggregate resources can affect the local transportation system, and are also needed to maintain such a system. The County’s transportation plan does not show the need for any new projects in the impact area, or even near the impact area, and does not indicate any undue impacts from past operation of a quarry at this site. The applicant has not identified any undue impacts to transportation facilities from the proposed operation. Continued use of existing access roads in the area by aggregate trucks is not inconsistent with the (current) classification of any of those roads, and if limitations are imposed on Santiam Bluff Road, other appropriate access roads will still be available to fully serve all proposed uses of the site. The proposed use is consistent with this goal.

Because the application is for a plan amendment and zone change, findings of compliance with LCDC’s Transportation Planning Rule, Oregon Administrative Rules (OAR) 660, Division 12, are required. The Traffic Impact Analysis supports findings of compliance with the rule. The analysis concludes that, because the proposal is “traffic and transportation neutral,” it will not cause any of the significant effects described in OAR 660-0012-0060.

Goal 13—Energy Conservation: Goal 13 declares that “land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.” As stated elsewhere in this report, an aggregate mine has been in existence in the immediate vicinity of the expansion site for many years, and is located in close proximity to potential markets. By allowing production to continue at, and adjacent to, an existing mine and processing facility, providing needed aggregate products, existing access roads and processing facilities can be utilized, saving energy that might otherwise be used to develop new aggregate sites. Approval of this application will promote energy conservation and overall sustainability by diminishing the fuel costs of shipping rock from more distant locations to satisfy local aggregate demand.

Remaining Goals: None of the remaining Statewide Land Use Planning Goals, including Goal 14—Urbanization; Goal 15—Willamette River Greenway; and Coastal Goals 16-19, are relevant to this project or analysis.

The Board finds that the proposal meets the requirements of *LCC 921.872(B)*.

M. Rebuttal

In general, and to the extent objections raised are not addressed in this section, the County accepts the applicant's explanations in this matter in response to the objections of opponents. The following specific objections were raised by one or more party, and are resolved by the County as follows:

- a. Concern that the project to allow expanded mining on the subject property will result in potential loss of quiet enjoyment, noise, dust and visual impacts, and diminished property values of neighbors on Santiam Bluff Road:

The applicant has submitted extensive documentation of efforts to minimize the above-mentioned impacts. Visual impacts and diminished property values are subjective, and are not subject to consideration under any standard of approval applicable to the application. Nevertheless, the applicant has not proposed any activities that have not been occurring within the same property view for the past 50 years. The proposed sequential, ongoing reclamation of the site will improve the aesthetics of the property over time.

The applicant has made a concerted effort to limit noise and dust impacts, including by commissioning a noise study and by limiting all processing to the existing processing site. The Conditions of Approval contain additional proposed restrictions, on back-up beepers and mining activities in closer proximity to Santiam Bluff Road properties, to limit impacts to the quiet enjoyment of residents on Santiam Bluff. As for dust, the site will be mined "wet," which will partially wash the aggregate as it is removed from the ground, and will diminish the generation of fugitive dust as aggregate is transported to the existing storage and processing area. Haul road dust is also controlled with application of water as needed, and the proposed Conditions of Approval include a process for receiving and responding to complaints.

- b. Potential loss of well water integrity.

The applicant submitted extensive studies of groundwater, and plans for minimizing any potential impacts to the domestic wells located on Knife River property. Proposed Condition 27 was intended to ensure protection of the wells, and was based on expert advice and study. To further ensure protection of the wells, the applicant has offered amendments to Condition 27 to guarantee protection of the water supply of the residents of Santiam Bluff Road. Additional emergency water guarantees were requested by the Board of Commissioners and have been provided as amendments to the Conditions of Approval.

- c. Use of Santiam Bluff Road by trucks.

To the applicant's knowledge, most trucks accessing the existing mining facility do not use Santiam Bluff Road to travel to or from Interstate 5. Highway 99E provides more direct access to the interstate. Some trucks may be using Santiam Bluff Road, but the applicant indicated its (reasonable) belief that those are trucks making deliveries somewhere along Dever-Conner Road. There is no basis under Oregon law, including the Goal 5 rule, for discriminating against one type of truck or commerce using otherwise public, unrestricted roads. The applicant indicated its willingness to provide notice at its facility for gravel trucks to avoid Santiam Bluff Road, and has agreed to imposition of a Condition of Approval limiting its use of that road for through truck traffic. The applicant has also indicated that it will not object to more general, County-imposed restriction on through truck traffic along Santiam Bluff Road, and the County

has indicated its willingness to explore such limitations with its Roadmaster, pursuant to applicable law.

d. Potential for lack of continued dialogue with neighbors regarding complaints, if approval is granted.

The applicant has assured the neighbors of the facility of its continued 'open door' for comments and complaints regarding the operation of the Weddle Site. The list of complaints from opponents includes claims that rock has been dumped on Santiam Bluff Road; operations all night; health problems of aggregate industry employees; and violation of setbacks. The applicant's response at the hearing was to note that the rocks found on the road appear to be quarry rock (similar to the railroad ballast adjacent to Highway 99-E) and not round alluvial rock of the type being mined from the Weddle Site. As for employee dust exposure, the applicant noted that there is a federal agency (Mine Safety & Health Administration, or MSHA) responsible for monitoring its employees' exposure to dust, and that it complies with all federal and state restrictions on worker exposure and requirements to control fugitive dust. The applicant also reaffirmed its on-going commitment to listen and respond promptly to all complaints by neighbors of the facility regarding any and all suspected or alleged nuisance activities for which the operator might be responsible. The applicant proposed detailed operating conditions (including significant setbacks from the river) to ensure that all potential mining/neighbor/environmental conflicts are minimized to the greatest degree possible. The County accepts the applicant's response.

e. Opponents have proposed a list of conditions to diminish the potential impacts of the mine expansion. Comparing that list to the conditions proposed by the applicant establishes that the applicant has already agreed to almost every one of the proposed conditions, other than prohibiting mining on Tax Lot 300 to protect the wells; sweeping Highway 99 three times per year; and permit renewal every five years.

As for the wells, the applicant offered detailed analysis to support a program of protection for the wells, a guarantee backed by a \$150,000 bond, and delivery of emergency domestic water in case of service disruption. As for sweeping; the applicant indicated that it remains committed to cleaning up any tracking of dirt or aggregate onto public roads and promptly responding to spills of product. As for reopening the permit: the request is to continue mining uses that have been occurring at the site for decades, with all stockpiling and processing to occur at a facility that has been in operation without major complaint by any neighbor for many years. Under these circumstances, forcing the applicant to re-apply in the future for permission to continue operating, a requirement otherwise unprecedented in the County, is not warranted with regard to this operator, on this site. The Conditions of Approval contain significant "good neighbor" requirements, including detailed requirements for response to noise and other complaints.

f. Objection that the expansion could exacerbate flooding of the Weddle Site and areas upstream.

The applicant has studied the hydrology of the site over the course of years and has presented a plan for mining and reclamation of the site that includes additional buffers and significant site design to allow the river to continue flooding in the manner that it now floods. The applicant's conclusion and that of its consultants, supported by detailed analysis and accepted by the County, is that the site will accommodate floodwaters more appropriately during the proposed operating and reclamation phases, than it does now, in its current use for row crops. The design of the site, and

its ongoing regulation by DOGAMI, ensures that the applicant's proposed use of the site will diminish, not increase, potential threats to neighboring properties due to flooding of the site. The mine plan has been designed to incorporate and allow natural river flows without obstruction, and without increasing current velocities.

g. That potential increases in flood flows could damage the Scrael Hill Water Co-op's well.

As stated, the applicant has demonstrated that flood flows will not be exacerbated by the proposed mining. A representative of the Co-op testified at the Planning Commission that his concerns regarding protection of the Co-op's water supply had been satisfied, and the County is also satisfied.

h. Additional testimony was presented orally at the Planning Commission hearing. The concerns raised in that testimony were, for the most part, reflected in the written testimony received. The County is satisfied with, and accepts the oral and written rebuttal by the applicant and applicant's representatives to issues raised orally and in writing during the open record period and at the hearings on this matter.

IV. CONCLUSION

The proposal has been reviewed in compliance with all applicable law, including the procedures and criteria in *LCC 939.050 to LCC 939.200* and *LCC 921.872*. Based on the facts presented in the application materials and in County hearings, the Board hereby concludes that:

1. A 216-acre portion of the subject property is a significant aggregate resource site pursuant to the criteria in *LCC 939.120*.
2. There are no existing or potential conflicts between the proposed mining area and land uses within the impact area that cannot be minimized to a level at which they are no longer considered significant. The binding Conditions of Approval attached as Exhibit 2 to this Order constitute a supplemental, site-specific program to achieve Goal 5 for the site, and ensure conflict minimization.
3. The 216-acre resource site shall be identified in LCC Chapter 905, Appendix 6, entitled "Inventory of Significant Sites With All Conflicts Minimized" pursuant to *LCC 939.200*.
4. The conclusions of the Goal 5 analysis shall be included in LCC Chapter 905, Appendix 6A, entitled "Analyses Justifying a Classification as a Significant Site With All Conflicts Minimized."
5. The zoning map shall be amended to apply the Aggregate Resource Overlay (ARO) to the subject 216-acre resource site and to the impact area pursuant to *LCC 939.200(B)*.
6. A development permit shall be issued authorizing aggregate mining and processing on the 216-acre resource site subject to the applicable provisions of LCC Chapter 921; LCC Chapter 931; LCC Chapter 934; and the Conditions of Approval in Exhibit 2 to this Order.

EXHIBIT 2
Resolution and Order No. 2009-259
Planning File BC08-0005
Conditions of Approval and
Site-specific Program to Achieve Goal 5
Knife River Weddle Site

Linn County adopts and Knife River accepts the following conditions of approval as a site-specific program to achieve Goal 5 for the Weddle Site:

1. These operating conditions shall be posted or otherwise available at the site. It is the operator's responsibility to take appropriate steps to ensure that all employees are aware of these conditions and any rules established by the operator to ensure compliance with these conditions. Employee training shall occur upon initial employment for work within the expansion Mining Area and at least annually. The emphasis of training shall be erosion control; dust control; noise control; spill prevention and response; and good housekeeping and management practices.
2. An Aggregate Resource Overlay is applied to Tax Lots 10S, 3W, Section 11, Tax Lots 302 and 400, and Section 10A, Tax Lots 100 and 300. Mining of these tax lots is allowed within the "Mining Area Expansion Area" (Mining Area) shown on Exhibit 3, including "Weddle Site Mining Area Impact Area Base Map and the Site Plan (Application Tab 11 and Tab 7, respectively). Mining of this site may not be initiated or conducted unless in compliance with applicable permits and the site development plans described by, and attached to, these conditions. The owners and operator are jointly and severally responsible for compliance with these conditions and site plans.
3. The Extraction Area of the Aggregate Resource Overlay is the 'Mining Area' specified on the Site Plan (Exhibit 3). The Extraction Area shall also be subject to an operating permit administered by the Oregon Department of Geology and Mineral Industries (DOGAMI), as specified in State statutes and DOGAMI administrative rules.
4. The Impact Area of the Aggregate Resource Overlay is the site boundary as shown on the Site Plan and those properties shown within the 1,500 foot impact area boundary. No existing or proposed off-site uses are regulated or restricted by this approval except as otherwise set forth in State Statute, Administrative Rule or Linn County Code.
5. Mining operations in the expansion Mining Area on the site shall be limited to the hours of 7:00 a.m. to 7:00 p.m. weekdays, and 8:00 a.m. to 4:00 p.m. Saturdays. No operations shall take place on Sundays or any of the following legal holidays: New Year's Day, Memorial Day; the Fourth of July; Labor Day; Thanksgiving Day or Christmas Day.
6. The planning director may grant an exception allowing additional hours of operation upon a demonstration that such hours are needed to address damage to public roads or structures that require immediate repair; or road construction or repair that is scheduled during nighttime hours or weekends to reduce traffic conflicts.

7. Aggregate extraction may occur year-round, in conformance with these conditions and other applicable law.
8. Mining activities permitted within the Mining Area will include only excavation, loading and hauling. Processing and batching activities will be restricted to the permitted area prior to expansion.
9. Stockpiling of materials above the current pre-mining elevation, including soil, overburden, or aggregate, is not permitted within the Mining Area except for temporary purposes during the summer months. All temporary piles shall be removed prior to October 31st of each year.
10. The operator shall delineate and mark with visible staking, the Mining Area, and setbacks as shown on the Site Plan, Tab 7, (attached) prior to beginning excavation adjacent to such boundaries. No mining shall occur within the specified setback and vegetative leave strip areas.
11. The operator shall not discharge any process water into any body of water that is directly connected by surface flow to the Santiam River, unless a permit for such a discharge is obtained. The operator shall not excavate or deposit fill materials within water that is directly connected by surface flow to the Santiam River. The mechanical connections (gated culverts) shall be closed during all such operations. Once the operating cell is overtopped by a flood event the culvert(s) shall be opened to allow potentially trapped fish to escape. The escape connection via the open culverts shall remain open until June 1, after which they are to be closed prior to beginning operations within the mining cell.
12. The operator shall construct the "Fish Egress Connection" shown on the Site Plan within the first year of mining within the Mining Area, according to the design requirements approved by DOGAMI. The plans may be modified as necessary by DOGAMI to ensure that turbid water in violation of applicable standards is not released from the site. Construction of all hydraulic-related elements as summarized and indicated on the attached Reclamation Plan (Application Tab 9) shall be as approved by DOGAMI. The Operator shall secure a Floodplain Development Permit from Linn County prior to mining in the Extraction Area.
13. The applicant shall maintain and enhance vegetation on the schedule and substantially in the form specified in the "Revegetation Plan for Mine Reclamation" and "Vegetation Plan for Leave Areas," both attached to, and made part of these conditions.
14. The operator shall obtain and maintain all permits necessary for operation and reclamation of the site. Prior to commencing mining operations, the operator shall submit to the County:
 - A. A copy of a DOGAMI approved operating permit and reclamation plan for the site;
 - B. Relevant documents demonstrating that the operator's DOGAMI reclamation bond is in full force and effect;
 - C. Copies of any and all NPDES, Fill and Removal, or other state or federal permits required for operation of the facility.

15. The operator shall make available the name and phone number of a contact person or persons available to neighbors within 1,500 feet of the site boundary to answer questions or receive complaints or concerns regarding mining operations. The operator shall keep a record of calls and responses. The operator shall also, upon request, provide to neighbors within 1,500 feet of the site boundary a list of agencies that regulate activities at the site together with the names and phone numbers of employees of those agencies who currently handle concerns with site activities.

16. Lighting. No permanent nighttime lighting is permitted within the expansion Mining Area.

17. Noise resulting from all mining and processing equipment and activities on the site shall comply with the Department of Environmental Quality noise regulations (currently, EQC Noise Control Regulations for Industry and Commerce; New Industrial or Commercial Noise Source on a Previously Unused Industrial or Commercial Site) at all existing residences within 1500 feet of the site boundary during operating and active reclamation phases.

18. Additional noise attenuation management shall be provided by the operator to ensure compliance with noise regulations, in areas described on the attached "Figure 5" of Application Tab 20, and more specifically, within 500 feet of any dwelling not owned or controlled by the operator. Attached Figure 5 shows areas of the site requiring "Level 1 and Level 2 Mitigation." With regard to operations within the identified mitigation areas, the Mining Area operator shall ensure compliance with noise standards in these areas by:

- A. reducing excavator noise;
- B. reducing excavator noise and attenuating noise generated by the existing Weddle site processing facilities;
- C. limiting the time that machinery is operated;
- D. utilizing other technology as available; or by utilizing any combination of these methods.

To the extent noise impacts to surrounding residences from mining activities in the expansion area can be effectively reduced only by attenuating noise generated at the existing processing facility, the operator and owners agree to employ such equipment and/or management practices.

19. If a noise-related complaint is submitted by a resident within the impact area, the Operator agrees to have the site monitored by a professional acoustical engineer to demonstrate that the site operates in compliance with Oregon noise regulations. If mitigation is required to attain compliance then such mitigation requirements become the ongoing responsibility of the Operator.

20. The operator shall provide "smart" back-up alarms (or equivalent to) on all loaders and dozers operating in the expansion Mining Area. Smart alarms only emit backing alarm noises when they sense an object or person in the path of the machine, with the alarm increasing in volume as the distance to the object or person is reduced.

21. The operator shall manage the site to minimize potential sources of fugitive dust by promptly and properly seeding exposed soil and overburden and through application of water and commercial dust suppressants as necessary. A water source and water truck shall be provided to ensure that there is always sufficient water available on the site for dust control.

22. The paved access road shall be maintained to prevent dust generation and minimize tracking onto public roads. All other internal haul roads or surfaces within the Mining Area shall be constructed and maintained as all-weather, hard surface roads sufficient to handle heavy construction equipment, and shall be watered or treated as necessary to prevent dust generation.

23. The operator shall prevent and control erosion on the site utilizing reasonable and practicable technologies. Erosion control features and structures may include (but are not limited to) properly installed and maintained: seeded and hydroseeded areas; check dams; silt fences; stormwater ditches and pipes; geotextile covers; and erosion blankets, along with pit wall protections as necessary to control erosion and prevent the generation of fugitive dust.

24. A formal walking inspection of all erosion control features and structures, exposed areas, and potentially erosive areas shall be conducted by the operator when operating within the extraction area at least once per week, and during or within 12 hours of any storm that produces more than 0.5 inches of rain in a 24-hour period. During the dry season, visual inspection must occur at least twice weekly when operating within the extraction area. If rain is predicted or occurring the site shall be monitored more closely, and all erosive events and erosion control features and structures that are failing or in need of maintenance shall be cataloged and attended to immediately.

25. To the extent required by law, all stormwater entering the Mining Area shall be managed consistent with an NPDES 1200-A general permit to be issued by DOGAMI on behalf of DEQ and maintained by the operator. All stormwater conveyance systems, control measures, structures, catch basins and treatment facilities shall be regularly inspected, and a record of inspections maintained in accordance with the permit.

26. Throughout operating and active reclamation phases, the operator shall coordinate and cooperate with DOGAMI, ODFW and other interested state agencies regarding methods and designs most likely to improve the value of the site for fish and wildlife habitat, and for agricultural uses.

27. A. There are two domestic water wells near the northwest corner of the Mining Area and within 150 feet of the Santiam River. As to those wells, the operator shall comply with the following groundwater conflict minimization measures:

1. Gravel extraction shall incorporate "wet mining" practices.
2. Gravel extraction shall remove aggregate from the upper shallow gravels (Willamette Aquifer) and not disturb the basal clay layer, which separates the upper aquifer from the deeper aquifer.

3. The operator shall construct a monitoring well between the extraction boundary and the two domestic wells located near the northwest corner of the mine prior to mining Cell 3A.
4. The operator shall obtain water level and turbidity measurements weekly from the monitoring well during mining of Cells 3, 3A and 4.
5. The operator shall partially pump Cell 3A to ensure that the ground water gradient is oriented toward the active mining pond during operations near the domestic wells. Water from Cell 3A will be pumped to Cell 2.

If it is showing that either of the domestic water wells near Cell 3a is negatively impacted by mining, the operator shall ensure that a replacement source of domestic drinking water is made available to those persons using the existing wells, that is of equal or better quality and quantity than water obtained from the existing wells.

- B. Guarantee. The operator shall post a bond in the amount of \$150,000 to ensure that the above described domestic water source is repaired, treated, or replaced if deterioration in quantity or quality occurs as a result of the mining operation. The bond amount will be adjusted every 3 years based on the Consumer Price Index – All Urban Consumers for Portland, Oregon based on a starting index of 216.16, reflecting the second half of 2008. The bond shall be maintained, and monitoring shall occur, until full reclamation of the mining area is completed, or use of the wells for domestic water supply is terminated.
1. Each of the owners of the following five parcels (“Water Users”) will be named on the bond as long as they are relying on this water source, and the protection available will be transferable to subsequent owners.
 - a. Map 10S 3W 10A Lot 800
 - b. Map 10S 3W 10A Lot 700
 - c. Map 10S 3W 10A Lot 600
 - d. Map 10S 3W 10A Lot 500
 - e. Map 10S 3W 10A Lot 400
 2. The operator shall guarantee the quality and quantity of water available at the point at which the pipeline exits Map 10S 3W 10A Lot 100 (Knife River’s parcel). Any interruption in the water service or diminished quality occurring between that point and the end use is not the operator’s responsibility. The quarry operator is not responsible for maintaining or replacing any part of the electrical connection, and servicing or replacing pumps within the wells.
 3. The operator is not required by this condition to make any representations as to the current or past quality or quantity of the water available in the wells, or its suitability or legality for domestic uses. The operator is not responsible for compliance with existing or future community water standards or requirements, except to the extent that

the operator's actions have caused those standards or requirements to be violated.

4. Prior to mining in Cell 3A, the operator shall have samples collected from the above-described water system, and testing performed, by an independent third party specializing in water testing, to establish base conditions for the water in the two above-referenced domestic water wells. The results shall be provided to all of the Water Users. Future samples and testing shall occur quarterly, with the results also provided to the Water Users and compared to the base conditions, to identify any deterioration of the quality and/or quantity resulting from mining. Parameters to be measured shall include:

- | | | |
|-----------------------------|--------------|------------------|
| a. Aluminum | i. Copper | r. Sodium |
| b. Arsenic | j. Fluoride | s. Sulfate |
| c. Barium | k. Hardness | t. Zinc |
| d. Boron | l. Iron | u. Coliform |
| e. Cadmium | m. Lead | v. Iron Bacteria |
| f. Calcium and
Magnesium | n. Lithium | w. Turbidity |
| g. Chloride | o. Manganese | x. Flow Rate |
| h. Conductivity | p. Nitrate | |
| | q. pH | |

5. An Oregon Registered Professional Geologist will oversee: collection of the data; reporting of the base line results; and comparison of future data, for determination of deterioration of the quality or quantity of water available from the wells. All data and reports will be supplied to the Water Users.
6. If deterioration of the quality or quantity of water available from the wells to Water Users is detected, the operator will facilitate the treatment or replacement of the water source to the point at which the pipe exits Map 10S 3W 10A Lot 100 (Knife River's parcel). An alternative remedy or remedies may be implemented upon mutual agreement between the operator and Water Users. Failure of the operator to remedy an identified problem with the quantity or quality of water in the well attributable to mining activities, independently or through agreement with the Water Users, shall be cause for accessing bond funds to remedy an identified problem.

- C. Emergency Water Provision. In addition to the bonded guarantee described in this section (27. B.), the operator shall insure that a potable water supply is immediately available to the Water Users (listed in 27. B. 1.) in the event that there is a disruption to the water supply from the two specified wells, regardless of the cause. Within 30 days following Linn County's final approval of this application (BC08-0005), the operator shall comply with the following elements of this condition:

1. Provide sealed, commercially available, potable water to each of the Water Users based on a 2-day supply per person in the household, at 5 gallons per day. *(For example, if there are two people living in the household, then the water quantity to be supplied by the operator is $5 \times 2 \times 2 = 20$ gallons.)* This water will be provided for each household to store and have available immediately upon a disruption to the water delivery at their household.
2. "Disruption" is herein defined as an event that renders the water supplied to the Water Users from the above specified wells to be unavailable for use due to (i) a change in quality that makes the water available from the wells unfit to drink or (ii) a change in quantity that makes the amount of water available from the wells inadequate for daily household use.
3. If a disruption occurs and is projected to last longer than two days, the operator shall arrange to have additional, commercially available, potable water delivered every other day at the volumes described above, until the water supply from the specified wells is reinstated. After resolution of a disruption, an additional supply of potable water will be delivered to the Water Users by the operator to replenish the volume stored for a future emergency, to the amount specified in this subsection C.1.
4. Within six hours of receiving notification of disruption from a Water User, the operator shall contact and employ a licensed, insured and bonded, professional water well drilling and service firm to be dispatched at the soonest possible time to the Site to determine the nature of the disruption, and to proceed with repairs as might be required to reinstate the water supply. If the Water Users (as a group) have a specific qualified contractor that the Water Users wish to have service the system, and the Users provide that contact information to the operator, the operator shall contact the Users' preferred contractor first. All Water Users will be informed as to the contractor's stated response time. If it is apparent to the operator that the operator or its employees or contractors have physically impacted the well or piping on the operator's parcel (for example, by excavating through the pipeline), the operator shall immediately notify the Water Users and initiate repairs.
5. To expedite repairs and resumption of service following disruption of service, the Water Users should attempt to coordinate notice to the operator. The recommended sequence of notice to the operator from the Water Users, most likely to result in a timely response, is as follows:
 - a. If disruption occurs at any time during normal business hours (Monday through Friday, except holidays, in the hours of 7:00 a.m. to 5:00 p.m.), **please call Knife River at 541-928-6491**. The receptionist will take a message and locate a responsible party;