



# Oregon

Theodore R. Kubongoski, 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

3/30/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Morrow County Plan Amendment  
DLCD File Number 007-09

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

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, April 12, 2010

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

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

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Carla McLane, Morrow County  
Jon Jinings, DLCD Community Services Specialist  
Amanda Punton, DLCD Regional Representative  
Jon Jinings, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

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

In person  electronic  mailed

DATE  
MARCH 22 2010  
STAMP  
DEPT OF  
LAND CONSERVATION  
AND DEVELOPMENT  
For Office Use Only

Jurisdiction: *Morrow County*

Local file number: *AC(M)-017-074AC-018-09*

Date of Adoption: *MARCH 17, 2010*

Date Mailed: *MARCH 22, 2010*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: *November 3, 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".

*Amend the Comprehensive plan to include a locally significant aggregate site to the Morrow County list. Amend the Comprehensive plan map to include the aggregate site location.*

Does the Adoption differ from proposal? Please select one

*No, it is the same.*

Plan Map Changed from: *N/A*

to:

Zone Map Changed from: *N/A*

to:

Location: *3N 27 (38) T2 1700*

Acres Involved: *± 40 acres*

Specify Density: Previous: *N/A*

New:

Applicable statewide planning goals:

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------	--------------------------	--------------------------	-------------------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------	--------------------------

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 007-09 (17941) [16064]

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

DLCD, DOGAMS, DER, ODOT, ODOE

Local Contact: Carla McLane

Phone: 541-922-4624 Extension: ---

Address: PO Box 40

Fax Number: 541-922-3472

City: Irvington

Zip: 97844

E-mail Address:

cmclane@do.morrow.or.us

## ADOPTION SUBMITTAL REQUIREMENTS

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

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this Form 2 on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 - Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp. (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### NOTICE OF DECISION

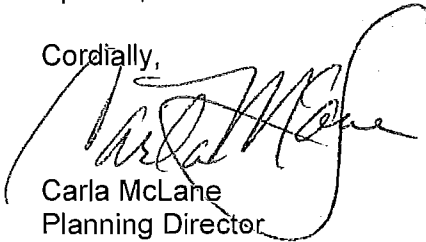
March 22, 2010

AC(M)-017-09  
AC-018-09  
Morrow County Comprehensive Plan Map  
Morrow County Comprehensive Plan

This notice is to inform you that on March 17, 2010, the Morrow County Court adopted Ordinance Number MC-2-2010 amending the Morrow County Comprehensive Plan and Comprehensive Plan Map. Specifically Morrow County added a locally significant aggregate resource site to the Comprehensive Plan list of aggregate sites and identified the location on the Comprehensive Plan Map.

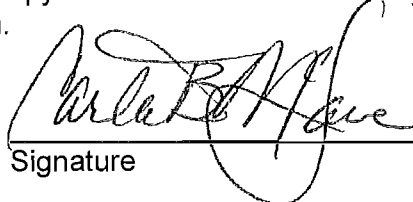
The requirements for filing an appeal of the decision to the Land Use Board of Appeals (LUBA) are set forth in ORS 197.830 to 197.845. State law and associated administrative rules promulgated by LUBA describe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that a notice of intent to appeal plan or land use regulation amendments adopted pursuant to ORS 197.610 to 197.625 "shall be filed not later than 21 days after notice of the decision sought to be reviewed is mailed or otherwise submitted to parties entitled to notice under ORS 197.615." Notice of this decision was mailed on March 22, 2010. The deadline to appeal is April 12, 2010.

Cordially,



Carla McLane  
Planning Director

I certify that on March 22, 2010, I mailed a copy of this Notice of Decision by first class mail to all persons entitled to notice of this decision.

 3/22/2010  
Signature Date

BEFORE THE MORROW COUNTY COURT  
OF MORROW COUNTY

AN ORDINANCE AMENDING THE MORROW  
COUNTY COMPREHENSIVE PLAN AND THE  
COMPREHENSIVE PLAN MAP TO INCLUDE  
A LOCALLY SIGNIFICANT AGGREGATE  
RESOURCE SITE

COUNTY ORDINANCE

NO. 4MC - 2 - 2010

WHEREAS, ORS 203.035 authorizes Morrow County to exercise authority within the county over matters of County concern; and

WHEREAS, Morrow County adopted a Comprehensive Land Use Plan which was acknowledged by the Land Conservation and Development Commission on January 15, 1986; and

WHEREAS, an application was filed by Madison Farms to include approximately 40 acres of ground as a locally significant resource site under Goal 5 and to amend the Morrow County Comprehensive Plan Inventory of Significant Aggregate Sites by a Plan amendment; and

WHEREAS, the Morrow County Planning Commission held a hearing to review the request on January 19, 2010, at the Port of Morrow Riverfront Center in Boardman, Oregon; and

WHEREAS, the Morrow County Planning Commission unanimously recommended approval of the request and adopted Planning Commission Final Findings of Fact; and

WHEREAS, the Morrow County Court held a hearing to consider the recommendation of the Morrow County Planning Commission on March 3, 2010, at the Morrow County Courthouse in Heppner, Oregon; and

WHEREAS, the Morrow County Court affirmed that the proposed aggregate site meets the requirements under Oregon Administrative Rule whereby a site shall produce less than 500,000 tons of aggregate material and the soils contain less than 35 percent of soils classified as Class I or II on NRCS maps; and

WHEREAS, the Morrow County Court deemed the site at the subject property a locally significant aggregate site;

NOW THEREFORE THE COUNTY COURT OF MORROW COUNTY ORDAINS AS FOLLOWS:

Section 1 Title of Ordinance:

This Ordinance shall be known, and may be cited as, the "2010 Madison Farms Quarry

Locally Significant Site Comprehensive Plan and Map Amendment."

Section 2 Affected Documents:

The Morrow County Comprehensive Plan and the Morrow County Comprehensive Plan Map are amended with a text amendment in the Goal 5 Analysis Chapter Aggregate Sites List.

1. Text Amendment: Insert the following on page 102 of the Comprehensive Plan:  
Site/Permit Number TBD Type of Material: Quarry Rock County Zone Designation:  
EFU Remarks: None Goal 5 Designation: Locally Significant CUP# CUP-N-271
2. Map Amendment: The Morrow County Comprehensive Plan Aggregate Resources Map will be amended to indicate the site as shown on the attached Location Map.

Section 3 Effective Date

This ordinance shall be effective on April 1, 2010.

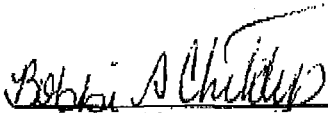
Date of First Reading: March 10, 2010

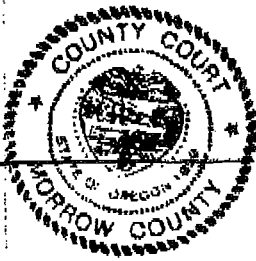
Date of Second Reading: March 17, 2010


DONE AND ADOPTED BY THE MORROW COUNTY COURT THIS 17<sup>th</sup> DAY OF MARCH, 2010


ATTEST:

MORROW COUNTY COURT:


  
 Bobbi Childers  
 County Clerk



  
 Terry K. Tallman, Judge

  
 Ken Grieb, Commissioner

APPROVED AS TO FORM:

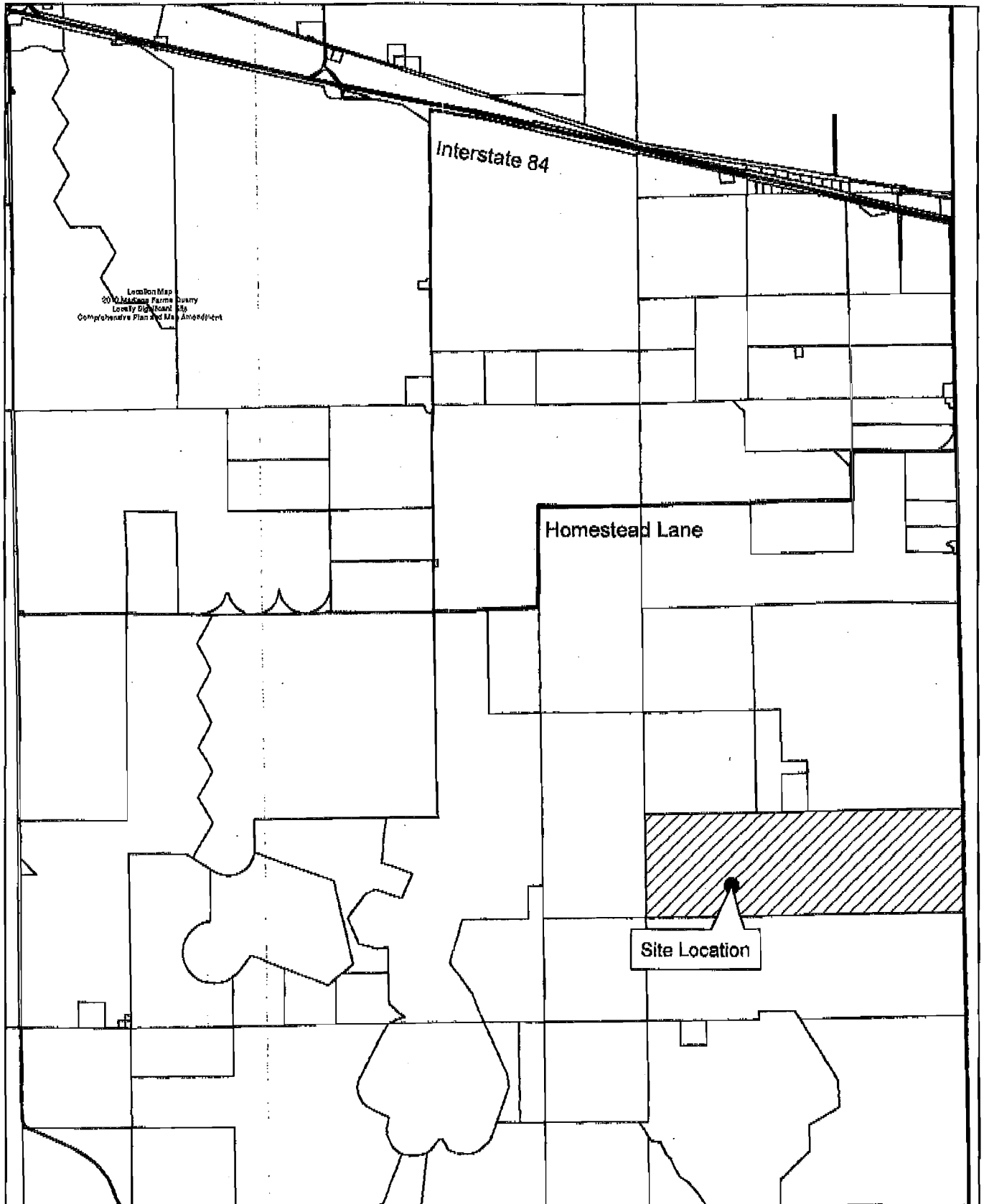
  
 Ryan Swinson  
 County Counsel

  
 Learn Rea, Commissioner



# Location Map 2010 Madison Farms Quarry

 Subject Property





## PLANNING DEPARTMENT

---

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### MEMORANDUM

To: Morrow County Court and Interested Parties  
From: Carla McLane, Planning Director  
Date: February 19, 2010  
RE: Adoption of Comprehensive Plan Amendment adding an Aggregate Site to the List of Significant Aggregate Sites

---

**This memorandum is in reference to the scheduled County Court Public Hearing on March 3, 2010, at 11:00 a.m. at the County Court House in Heppner, Oregon. The purpose of the Public Hearing is to amend the Comprehensive Plan to include a locally significant aggregate site to Morrow County's list of significant aggregate sites and to amend the Comprehensive Plan Map to include the aggregate site location.**

As a result of a need to provide aggregate for an approved wind energy facility an application has been submitted for a new aggregate quarry site. The proposed quarry is estimated to produce less than 500,000 tons of aggregate and, therefore, may be approved as a Conditional Use Permit in conjunction with a comprehensive plan amendment to list the site as a significant site. The Conditional Use Permit allowing the quarry was approved by the Planning Commission at the January 19, 2010 hearing but the approval will not be final until the site has been listed as a significant site in the Comprehensive Plan. Therefore, at this hearing the County Court is being asked to review and approve the required amendment as the final action in approving the new quarry.

The only testimony at the Planning Commission hearing was the applicant who testified that the quarry site is planned to facilitate wind energy facility development. There was no testimony or correspondence in opposition regarding the Conditional Use or the proposed amendment at the Planning Commission hearing during which the Commission reviewed the proposed amendment.

If the County Court supports adoption of the Comprehensive Plan amendment, an adoption hearing will need to be scheduled so that Planning Staff, working with County Counsel, will have time to prepare an adoption Ordinance and other pertinent supporting documentation. The County Court may also recommend additional changes to the language which may, but does not need to, require an additional Public Hearing. A final option would be to deny the request.

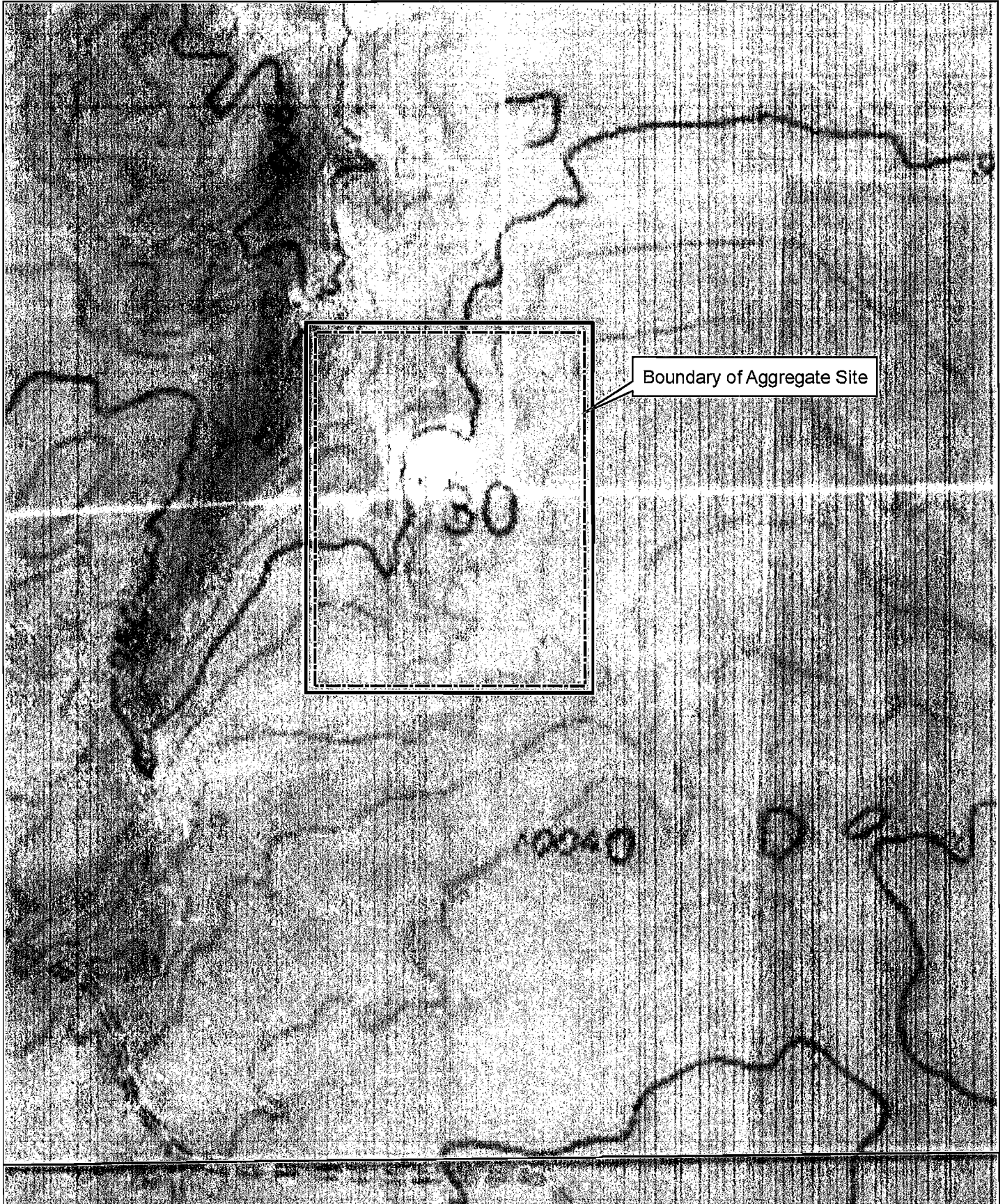
If the County Court or other interested parties have questions, Planning staff can be reached at 541-922-4624 or I can be reached by email at [cmclane@co.morrow.or.us](mailto:cmclane@co.morrow.or.us).



# AC(M)-17-09, AC-18-09 Vicinity



Feb 2010



**Morrow County Planning Commission  
Final Findings of Fact  
AC-018-09, AC(M)-017-09: Comprehensive Plan and Map Amendments  
Aggregate Quarry**

**REQUEST:** Amend the Comprehensive Plan to include a locally significant aggregate site to Morrow County's list of significant aggregate sites. Amend the Comprehensive Plan Map to include the aggregate site location.

---

**APPLICANT:** Madison Farms  
29299 Madison Road  
Echo, OR 97826

**PROPERTY OWNER:** Kent Madison  
29299 Madison Road  
Echo, Or 97826

**PROPERTY DESCRIPTION:** Tax lot 1700 of Assessor's Map 3N 27

**PROPERTY LOCATION:** Approximately 6.5 miles due west of the Echo Junction on Highway 207 and approximately 4.5 miles south of Homestead Lane

**I SUMMARY OF APPLICATION AND PROCESS:**

This application came about because of the applicant's desire to provide aggregate for wind energy facilities, which require aggregate for footings and access roads. The proposed quarry is estimated to produce less than 500,000 tons of aggregate material and the soils at the site are Taunton fine sandy loam, hummocky, 0 to 5 percent slopes, which is Class VI dryland. See the accompanying Soils Map.

Oregon Administrative Rule (OAR) 660-023-0180 sets forth the process and conditions by which aggregate sites are approved. When a proposed aggregate quarry is estimated to produce less than 500,000 tons of material outside the Willamette Valley and when the soils are not more than 35 percent Class I soils, or classified as Class II, or of a combination of Class II and Class I or Unique soil as classified on the NRCS soil maps, the site may be deemed locally significant and approved as a Conditional Use in Morrow County. The applicant has applied to the County for a Conditional Use to mine aggregate along with the application for a Comprehensive Plan amendment to list the site as a Significant Site in the Plan. The Conditional Use approval will be presented to the Planning Commission as CUP-N-271 at the January 19, 2010 hearing. When the mining activity has been approved and when the activity and location have been properly added to the Comprehensive Plan and Map the requirements of OAR will have been met.

As required by the Morrow County Comprehensive Plan two public hearings will be required – one Planning Commission and one County Court – prior to approval of the

requested amendment. The tentative hearing schedule is included at the end of these Findings of Fact. If the Planning Commission approves the Conditional Use Permit for the proposed quarry site, mining will be allowed only after the site has been added to the Comprehensive Plan's list of significant aggregate sites and map.

**II SUMMARY OF APPLICABLE CRITERIA** To approve the requests the Planning Commission will need to make findings to show that the requests meet the necessary criteria in the Comprehensive Plan for review and revision processes. Those criteria are presented below in **bold print** with responses in regular print.

**At a minimum, the review should determine Plan and Implementing Ordinance conformity with changes in:**

**1. The Oregon Revised Statutes;**

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

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

As stated above, The applicant has applied to the County for a Conditional Use to mine aggregate along with the application for a Comprehensive Plan amendment to list the site as a Significant Site in the Plan. The Conditional Use approval will be presented to the Planning Commission as CUP-N-271-09 at the January 19, 2010 hearing. The mining permit will be conditioned so that the mining activity will be valid only after the site has been included in the Comprehensive Plan and Map, which this action is aimed to accomplish.

**2. Oregon Case Law; Oregon Case Law LUBA Beaver State Sand and Gravel v. Douglas County, 43 or LUBA 140 (2002).** The ORS 215.298 provision allows a mining operation on EFU-zoned lands if the site is on an "inventory" in a comprehensive plan. Because under the 1982 Goal 5 rule the term "inventory" referred to an inventory of significant mineral sites, ORS 215.209 allows mining in an EFU zone only if the site is on a comprehensive plan inventory of significant mineral sites, not if the site is on a separate list of non-significant sites. This action takes into account the LUBA Case described above. The aggregate mine will be placed on the Comprehensive Plan list of significant mineral sites.

**3. Oregon Statewide Planning Goals;**

**Oregon Revised Statutes Division 23, Procedures and Requirements for Complying with Goal 5 660-023-0180(4), Mineral and Aggregate Resources: A local government may also determine that an aggregate resource site on farmland is significant if subsections (a) and (b) of this section apply or if subsection (c) of this section applies:**

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

- (b) Not more than 35 percent of the proposed mining area consists of soil**  
**(A) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or**  
**(B) Classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in paragraph (B) of subsection (3)(d) of this rule; or**  
**(c) A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination.**

The proposed quarry meets section 4(a) and (b) of this Rule. The applicant has indicated that they will mine less than 500,000 tons of aggregate material. The soils at the site are Taunton fine sandy loam, hummocky, 0 to 5 percent slopes, which is Class VI dryland and III when irrigated (see the accompanying Soils Map). The soil classification is Class VI as the location is not irrigated. This site shall, therefore, be deemed significant for the purposes of this Rule.

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

- (a) The proposed aggregate mine shall satisfy discretionary conditional use permit approval standards adopted by the local government pursuant to applicable requirements of ORS 215.213(2) or 215.283(2), and the requirements of ORS 215.296 and 215.402 through 215.416;**  
**(b) The local government shall determine the post-mining use in accordance with subsection (5)(f) of this rule;**  
**(c) The local government shall issue a permit for mining aggregate only for a site included on an inventory of significant aggregate sites in the comprehensive plan in accordance with ORS 215.298(2); and**  
**(d) The conditional use permit shall not allow mining of more than the maximum amount of aggregate material specified under subsection (4)(a) of this rule.**

Subsection (a) is met with the Planning Commission approval of CUP-N-271, which has been applied for concurrently with this application.

Subsection (b) is met as a requirement of the Conditional Use Permit criteria and the requirements of the DOGAMI Operating Permit.

Subsection (c) will be met with the approval of this application.

The requirement of subsection (d) has been incorporated into the Conditions of Approval within Conditional Use Permit CUP-N-271.

**4. Requirements of the County and Cities;** This amendment meets the requirement that Morrow County comply with Statute and Rule as specified above. There is no requirement that any city or town within Morrow County be a party to this amendment.

**5. Needs of residents or landowners within the County and Urban growth areas.** The needs of residents or landowners to lawfully develop their property in accordance with an economic need should be encouraged in eastern Oregon where opportunities can be scarce. Aggregate is available in the County to provide for wind energy development and this action will help meet those needs as stated above.

**6. Concerns of the County and other affected governmental units.**

It is a matter of County concern that the County meet its obligations under State Statute and Rule in a timely manner. All affected agencies as listed in Section VI below have been notified.

**Minor or Quasi-Judicial Changes.** Minor changes, i.e., those which do not have significant effect beyond the immediate area of the change, should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. Minor changes should not be made more frequently than once a year, if at all possible. The factual basis and public need and justification supporting the amendment are established above.

- III **DLCD 45 DAY NOTICE:** November 3, 2009
- IV **PROPERTY OWNER NOTICE:** December 31, 2009
- V **LEGAL NOTICE:** Heppner Gazette Times and East-Oregonian  
January 6, 2010
- VI **AGENCIES NOTIFIED:** Amanda Punton, Jon Jinnings, Larry French, and Katherine Daniels, Department of Land Conservation and Development; Ben Mundie, DOGAMI; Greg Sweek, Morrow County Assessor
- VII **HEARING DATES:**
  - Planning Commission  
January 19, 2010  
Port of Morrow Riverfront Center  
Boardman, Oregon
  - County Court (Tentative)  
March 3, 2010  
Heppner, Oregon
- IX **RECOMMENDATION OF THE MORROW COUNTY PLANNING COMMISSION:**  
Recommend to the Morrow County Court approval of the application as presented:

- In conjunction with approval of the Conditional Use Permit CUP-N-271 for the subject aggregate site, amend the Comprehensive Plan to include the subject aggregate quarry site as part of Morrow County's list of significant aggregate sites. Amend the Comprehensive Plan Map to include the aggregate site location.

  
\_\_\_\_\_  
David Sykes, Chair

  
\_\_\_\_\_  
Date

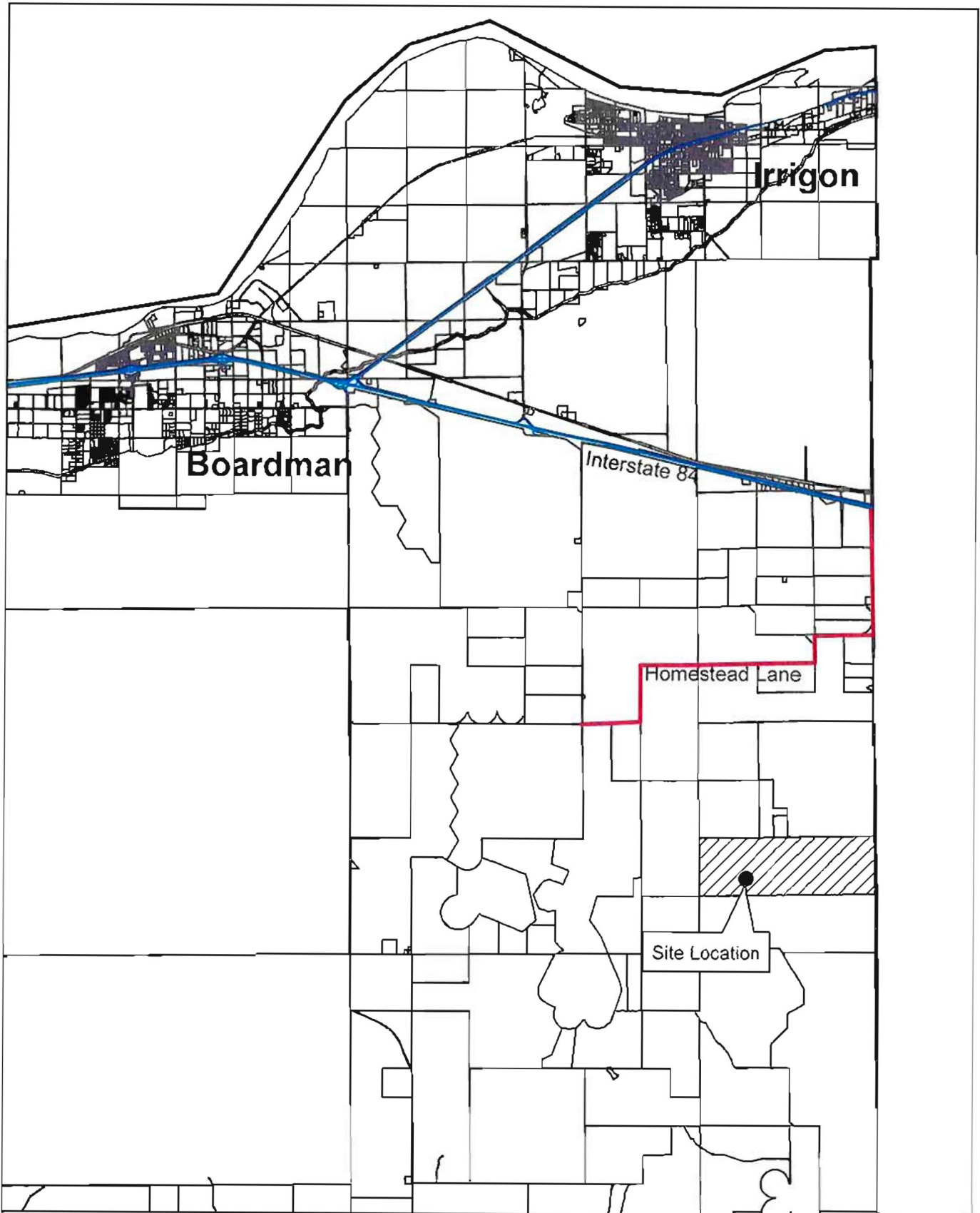
Attachments:  
Vicinity Map  
Soils Map

# AC(M)-17-09, AC-18-09 Vicinity

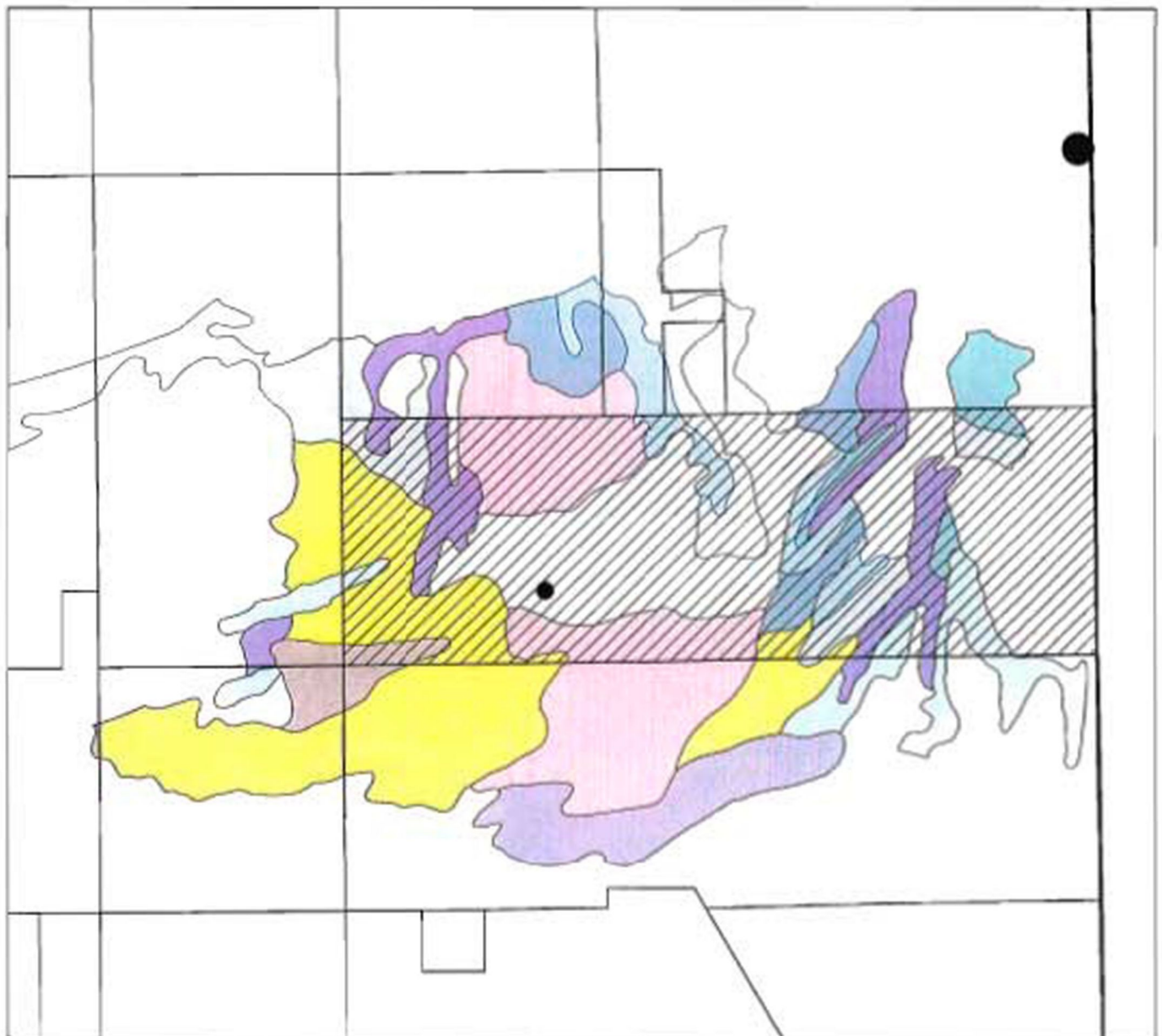


Dec 2009

 Subject Property



# AC(M)-17-09, AC-18-09 Soils



MORROW COUNTY PLANNING DEPT.  
P.O. BOX 40  
IRRIGON, OR 97844

68



Plan Amendment Specialist  
DLCD  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540