



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

9/29/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Tillamook County Plan Amendment
DLCD File Number 002-10

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, October 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: Bradford Sheets, Tillamook County
Jon Jinings, DLCD Community Services Specialist
Amanda Punton, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

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DEPT OF

SEP 22 2010

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

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

Jurisdiction: **Tillamook County**

Local file number: **ZC-09-03**

Date of Adoption: **9/15/2010**

Date Mailed: **9/21/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 3/26/2010

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 mapping and text amendment to apply a Mineral and Aggregate Resources Overlay (MAO) to the subject parcel; applying "Balance" Goal 5 protection and transitioning the "potential" site to a "significant" site in the Tillamook County Comprehensive Plan; and to expand the previously approved excavation area through site plan review.

Does the Adoption differ from proposal? Please select one

Plan Map Changed from:

to:

Zone Map Changed from: **Forest**

to: **MAO**

Location: **3N-10-34-TL900**

Acres Involved: **42.5**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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. _____

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

Local Contact: **Bradford Sheets**

Phone: (503) 842-3408 Extension:

Address: **1510 – B Third Street**

Fax Number: **503-842-1819**

City: **Tillamook**

Zip: **97141**

E-mail Address: **bsheets@co.tillamook.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.

designate the quarry as a significant resource within the Comprehensive Plan with the following conditions 1 – 9:

1. By accepting this approval the property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval.
2. The applicant/property owner shall obtain all local, State and Federal permits prior to expansion and recognition of these requests.
3. The applicant/property owner shall submit a Fire Letter from the Oregon Department of Forestry (ODF) to this Department prior to expansion and operation.
4. Based upon the Road Approach permit from the Tillamook County Public Works Department, an on-site parking/traffic flow pattern shall be developed and submitted to this Department prior to expansion. Shall adhere to the requirements of the Tillamook County Public Works Department.
5. The existing visual barriers at the northern, western and eastern property lines shall be maintained.
6. The applicant/property owner shall provide evidence to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.
7. The applicant/property owner shall submit documentation to the Department of Community Development from ODFW indicating the status of the waterway at the eastern property line in relation to potential riparian setbacks outlined in TCLUO Section 4.080.
8. The applicant/property owner shall provide this Department with a copy of a current operating permit and approved reclamation plan or exemption certificate from DOGAMI, prior to the mining proposed in their request.
9. The Site Plan shall adhere to the Aggregate Overlay Zone requirements.

Planning Commissioner Hoffman seconded. The motion carried 7:0.

- (4) The Board of County Commissioners opened a de novo public hearing on the proposed Zone Change request on September 8, 2010. The hearing was properly noticed according to the requirements of ORS 197 and 215.
- (5) Oral testimony was received at the hearing in favor of the request. After hearing all who wished to present testimony on the matter, the hearing was closed and the Board deliberated on the request.
- (6) After reviewing the Planning Commission's recommendation, the Staff report and issues raised in testimony received before and during the September 8, 2010 hearing, the record and file pertaining to Zone Change, ZC-09-03, the Board made the following motion:
 - (i) I (Tim Josi) move approval of the applicant/property owner of the subject parcel be granted a Zone Change to apply to TCLUO Section 3.094: Mineral and Aggregate Resources Overlay Zone over the base Forest (F) zoning.

As part of this motion, within the Mineral and Aggregate Resources Overlay Zone, the subject parcel will be changed from a "Potential Site" to a "Significant Site." And that the County applies the Mineral and Aggregate Resources Overlay zone to the subject parcel with "Balanced Protection." And the two requests are to be approved with Conditions as outlined within the staff report, the Planning Condition Minutes and a site plan review.

Charles Hurliman seconded. The motion carried unanimously, all three voting in favor, 3:0.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF TILLAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:

The Tillamook County Comprehensive Plan, Zoning Map, and the aggregate extraction area on the subject parcel are hereby amended as outlined above. The record shall identify these changes as described herein by the Tillamook County Department of Community Development through Zone Change, ZC-09-03.

DATED THIS 15~~th~~ DAY OF September, 2010.

BOARD OF COUNTY COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON Aye Nay Abstain/Absent

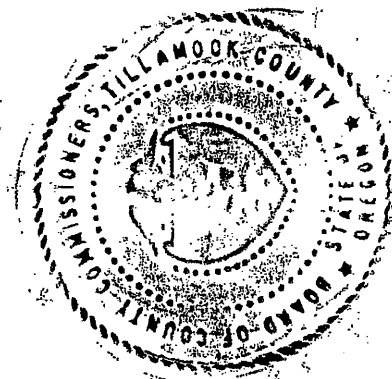
<u>Mark Labhart</u> Mark Labhart, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Charles J. Hurliman</u> Charles J. Hurliman, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Tim Josi</u> Tim Josi, Commissioner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST: Tassi O'Neil,
County Clerk

Susan L. Beecroft
Special Deputy

APPROVED AS TO FORM:

William K. Sargent
William K. Sargent, County Counsel



DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

1510 – B Third Street
Tillamook, Oregon 97141
www.tillamook.or.us

Building (503)842-3407
Planning (503)842-3408
On-Site Sanitation (503)842-3409
FAX (503)842-1819
Toll Free 1 (800)488-8280



Land of Cheese, Trees and Ocean Breeze

ZONE CHANGE AND COMPREHENSIVE PLAN AMENDMENT

for

Zone Change Request ZC-09-03

Planning Commission Hearing Date: July 22, 2010

Board of County Commissioners Hearing Date: to be determined

Recommendation to Planning Commission: Approve with Conditions

Staff Report Date: July 15, 2010

Report Prepared by: Bradford Sheets, Associate Planner

BS

GENERAL INFORMATION:

- Request:**
1. A Zone Change to Tax Lot 900 to add a Mineral and Aggregate Resources Overlay (ZC);
 2. An amendment to the Tillamook County Comprehensive Plan to apply Goal 5 protection to the rock quarry designating the quarry as a significant resource within the Tillamook County Comprehensive Plan (Comp. Plan Amendment); and
 3. A site review to obtain approval to continue operations within the quarry (Exhibit II).

Location: The site is located on the northern side of Foss-Batterson Road, approximately 8 miles east of the town of Nehalem. The subject property is designated as Tax Lot 900 of Section 34, Township 3 North, Range 9 West, W.M., Tillamook County, Oregon (Exhibits I & II).

Zone: Forest (F) Zone (Exhibit I).

Applicant: Mohler Sand and Gravel, c/o Brian Smith or Brett Smith, 36435 Hwy 101 N., Nehalem, Oregon 97131.

Property Owner: Blue Rock Quarry, LLC, a subsidiary of Mohler Sand and Gravel, c/o Brian Smith or Brett Smith, 36435, Hwy 101 N., Nehalem, Oregon 97131.

Extraction Area: Portions of Tax Lot 900 of Section 34, Township 3 North, Range 9 West, W.M., Tillamook County, Oregon (Exhibit II).

Impact Area: Tax Lots 500, 600, 700, 701, 702, 703, 704, 800, 901, 1100, 1200 & 1300 of Section 34, Township 3 North, Range 9 West, W.M., Tax Lot 300 of (Index 3), of Township 2 North, Range 9 West, W.M. (Exhibit II).

Description of Site and Vicinity: The subject parcel is 42.50-acres in size and is located north of the South Fork of the Nehalem River, on the north side of Foss-Batterson County Road (Exhibits I & II). The existing rock quarry on the subject property was Approved with Conditions through Conditional Use, CU-89-15(a) (Exhibit II). A copy of the Tillamook County Assessor's map showing the location of parcel and zoning is attached to this report as "Exhibit A."

I. APPLICABLE ZONING ORDINANCE AND ADMINISTRATIVE RULE PROVISIONS:

- A. Oregon Administrative Rules (OARs) Division 6, Goal 4 Forest Lands, 660-006
- B. Tillamook County Land Use Ordinance Section 3.004: Forest Zone (F)
- C. Tillamook County Land Use Ordinance Section 3.094: Mineral Aggregate Overlay Zone
- D. TCLUO Section 4.030: Off-Street Parking and Off-Street Loading Requirements
- E. TCLUO Section 4.070: Development Requirements for Geologic Hazard Areas
- F. TCLUO Section 4.080: Requirements for Protection of Water Quality and Streambank Stabilization
- G. TCLUO Section 9.020: Map Amendment Procedure and Criteria

II. ANALYSIS:

This request is evaluated for compliance with the applicable Oregon Administrative Rules and Oregon Revised Statutes below, which substitute for the criteria of the Tillamook County Land Use Ordinance. This OAR requires the County to apply the rules listed in this report to requests for uses on forest land effective March 1, 1994.

A. OAR 660-006-0025: Uses Authorized in Forest Zones

(4) *The following uses may be allowed on forest lands subject to the review standards in section (5) of this rule:*

(g) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under subsection (3)(m) of this rule (e.g., compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;

Findings: The existing rock quarry operations on the subject property, in the Forest (F) zone, are permitted through Conditional Use, CU-89-15(a) (Exhibit II).

Conclusion: Staff concludes this use may be allowed in the Forest (F) zone according to the Oregon Administrative Rules for Forest Lands. Staff concludes this criterion is met.

(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.

Findings: Staff finds the existing rock quarry was Approved with Conditions in 1989. The subject parcel abuts the Forest (F) zone to the North, West & East, and the Small Farm and Woodlot 20-Acre (SFW-20) zone to the East and South (Exhibit I). Staff does not anticipate that the expansion of the existing/proposed use will force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands. Staff did not find commercial agriculture activities taking place on the surrounding properties during a June 28, 2010 site visit. The surrounding properties in Forest production are owned by the State of Oregon and Stimson Lumber Company.

Staff does not anticipate that the continuation of aggregate mining on the subject parcel will significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel. Staff finds that a Fire Letter from the Oregon Department of Forestry (ODF) can be required, to assess the expansion area, prior to expansion.

Staff finds that subsection 4(g) is not a subsection in this criterion that requires a Declaratory Statement be recorded with the deed.

Conclusion: Staff concludes that a recommended Conditions of Approval would require that the applicant/property owner obtain an approved Fire Letter from ODF and submit it to this Department, prior to expansion.

B. TCLUO Section 3.004: Forest Zone (F)

The purpose of the F Zone is to retain forest land for forest use, and to encourage the management of forest land for the growing, harvesting, and processing of forest crops consistent with the Oregon Forest Practices Act. It is also to protect other forest uses from the encroachment of conflicting non-forest uses and influences, including watershed and soil protection; the maintenance of clean air and water; the preservation of fish and wildlife habitat; outdoor recreation; scenic preservation; and agricultural activities.

TCLUO Section 3.004 (3) Uses Permitted Conditionally: In the F Zone, the following uses and their accessory uses are permitted subject to the provisions of 3.004 (4) and (5) and all other applicable supplementary regulations contained in this Ordinance. A

Conditional Use shall be reviewed according to the provisions of Article 6, except that the review criteria contained in Section 6.040 shall not apply.

(c) Operations conducted for the exploration, mining and processing of geothermal, aggregate and other mineral or subsurface resources that are not permitted outright.

Findings: Staff finds that Conditional Use, CU-89-15(a), was Approved with Conditions to allow for a rock quarry and rock crushing operation in a Forest (F) Zone (Exhibit II).

Conclusion: Staff concludes that the proper steps were taken in 1989 to establish a rock quarry and crushing operation in the Forest Zone. Staff concludes this criterion is met.

C. TCLUO Section 3.094: Mineral and Aggregate Resources Overlay Zone

The purpose and intent of the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE is: (A) To provide a mechanism to identify and protect significant mineral and aggregate resource sites; (B) To allow the development and use of mineral and aggregate resources subject to uniform operating standards; (C) To balance and resolve conflicts between surface mining activities and activities on surrounding land.

Tillamook County Comprehensive Plan Goal 5 Element

The Tillamook County Comprehensive Plan (TCCP) discusses the importance of upland sites for aggregate mining, includes lists of potential sites and significant sites and defines the quality and quantity needed to be designated a significant site (Exhibit V).

According to TCCP Goal 5 (1.4a.1), "Inventory of significant mineral and aggregate sites is carried out on a case-by-case basis, since it involves substantial data collection and analysis. A significant aggregate resource site is a site that contains aggregate or stone material which meets modified Oregon Department of Transportation specifications for construction grade material, which meets the three materials test of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD) TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance," (Exhibit V).

Other Applicable Statewide Planning Goals

Goal 1: Citizen Involvement

Tillamook County has provided general newspaper notice for hearings on this site according to Section 10.060(3). In addition, the County has provided mailed notice to all property owners within the identified impact area/ resource zone specified in Sections 3.094(3)(B) and 3.094(4)(C) for each site and all property owners within 750 feet of exterior boundaries of the subject property where the mining operation is proposed. By providing notice using these provisions, Tillamook County has satisfied this criterion. At the time of this Staff report, no comments were submitted to this Department regarding this request.

Goal 7: Areas Subject to Natural Disasters & Hazards

This site is mapped as a known geologic hazard area in the Department of Geology and Mineral Industries (DOGAMI) bulletin. The bulletin depicts the subject property in an area of Inactive Landslide Topography (Exhibit VI).

Coastal Goals

The Coastal Goals do not apply to this site. It is considered an upland site which does not have any of the relevant overlay zones (those zones are Estuary zoning, Beach & Dune Overlay Zone (BD) or Shoreland Overlay Zone (SH), applied to it).

(3) OVERLAY ZONE AREAS

The MINERAL AND AGGREGATE OVERLAY ZONE comprises two areas, the Extraction Area and the Impact Area. Neither element of the overlay, the Extraction Area or the Impact Area, shall be applied independently by the County to land within another county, or within a city or its urban growth boundary.

(A) EXTRACTION AREA: The Extraction Area shall be applied to significant sites where mining is permitted. This area may consist of one or more parcels or portions of parcels, and may be applied to contiguous properties under different ownership. The Extraction Area boundary may be modified through the Goal 5 process to reduce conflicts with uses existing when the overlay is applied. The Extraction Area shall be identified on the zoning map.

Findings: Staff finds that the applicant/property owner has indicated the existing and future "Extraction Area" on surveys included with their submittal.

(B) IMPACT AREA: The Impact Area may be applied to parcels or portions of parcels adjacent to and within 750 feet of the Extraction area boundary unless a different sized impact area is identified in the Goal 5 process. The Impact Area shall be identified on the zoning map.

Findings: Staff finds that the applicant has applied an "Impact Area" around the subject "Extraction Area" (subject parcel) and Staff concurs with their assessment and implementation of the Impact Area (Exhibit II).

Conclusion: Staff concludes this criterion is met.

(4) PROCEDURE FOR APPLYING THE OVERLAY ZONE

(A) DETERMINATION OF A SIGNIFICANT SITE: The County shall analyze information about the locations, quality and quantity of mineral and aggregate deposits. Information necessary to demonstrate the significance of a resource shall include:

(1) A survey, map, tax lot map, or other legal description that identifies the location and perimeter of the mineral and aggregate resource with reasonable particularity; and

Findings: According to the applicant, "This application includes a property survey showing the extent of the property (Exhibit 2), and a Tillamook County Assessor tax map of the subject property (Exhibit 4). The legal description of the property is contained in the deed provided in

Appendix B. The site plan (Exhibit 6) indicates the estimated extent of mining for the next 5, 10, and 20 years," (Exhibit II).

Staff finds that the applicant/property owner has supplied surveys, maps, tax lot maps, and other legal descriptions identifying the location and perimeter of the mineral and aggregate resource with reasonable particularity (Exhibits I & II).

Conclusion: Staff concludes this criterion is met.

(2) Information demonstrating that the resource meets or can meet applicable quality specifications for the intended use(s). Information may consist of laboratory test data or the determination of a geologist, engineer, or other qualified person; and

Findings: The applicant states, "According to the Tillamook County Land Use Ordinance (LUO) definitions, 'A significant aggregate resource site is a site that contains aggregate or stone material which meet modified Oregon Department of Transportation specifications for construction grade material, which are the three materials tests of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance'," (Exhibit II).

"The subject site is owned by Blue Rock Quarry, LLC, a subsidiary of Mohler Sand and Gravel. Included in this application are the 2005 test results from Carlson Testing (Appendix C) indicating that the aggregate currently mined from the site demonstrates compliance with the ODOT specifications for construction material as prescribed above for the quality of rock," (Exhibit II).

Staff finds that the standards outlined to determine the significance of an aggregate site are to analyze the quality of the rock for ODOT specifications and to quantify the amount of the aggregate resource on-site. In review of the Carlson Testing, Inc., report (Exhibit II), Staff finds that the percentage loss to abrasion was 14.8%; the percentage lost to Oregon Air Degradation was 13.3%; and the average percentage loss for Sodium Sulfate Soundness (Coarse Aggregate) was 2.2%, while the Sodium Sulfate Soundness (Fine Aggregate) was 9.0% (Exhibit II). Each of these meets and is well below the percentage thresholds for a significant aggregate resource site.

Conclusion: Staff concludes this criterion is met.

(3) Information demonstrating the quantity of the resource as determined by exploratory test data, or other calculations compiled and attested to by a geologist, engineer, or other qualified person.

Findings: The applicant states, "The existing active quarry operation area covers less than 10 percent of the overall property. Based upon rock production for the six year period of 2002-2007, the quarry produced nearly 164,000 cubic yards of rock in that 6 year period (Appendix E). A seismic wave analysis of the rock quarry was conducted by S.D. Schwartz & Associates, Inc. on May 12, 2004. The summary of that analysis is presented in Appendix D and interprets

the quality of rock based upon the apparent densities as measured in the seismic wave analysis. Based upon that seismic wave analysis, the graph shows that the site generally contains 20 to 30 feet of overburden that must be removed prior to the extraction of the quarry rock. Below the overburden layer is a secondary layer of decomposed rock and rock fragments which is between 30 to 50 feet below the ground surface. From 50 feet and deeper below the ground surface lies the dense basalt rock that distinguishes the rock at this quarry. Volume calculations by Ronald G. Larson, PE, with HLB Otak, Inc., based on the topographic data shown in Exhibit 3 indicate that this is over 3,000,000 cubic yards of rock reserves meeting the criteria listed above on this site. Using the average rock production data from 2002-2007, the life expectancy of this quarry could be over 100 years," (Exhibit II).

"Based upon the above criteria and the information presented within the application, it is the applicant's opinion that this rock quarry meets the above criteria as a significant site for location, quality and quantity," (Exhibit II).

Staff finds that the volume calculations provided by Ronald G. Larson, PE, with HLB Otak, Inc., indicate that the quantity of this aggregate resource is over 3,000,000 cubic yards of rock reserves, which is well in excess of 100,000 cubic yards required within an ownership or long-term lease.

Conclusion: Staff concludes this criterion is met

(B) PLACEMENT ON THE INVENTORY: Based on the analysis of information about the location, quality and quantity of the mineral and aggregate resource, the County shall determine the inventory status of the resource site. Each site considered by the County shall be placed on one of three inventories based on the following criteria:

- (1) If the resource site meets the definition of an significant site, the County shall include the site on an inventory of "Significant Sites"; or*
- (2) If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites". Sites shall remain on the "Potential Sites" inventory until information is available to determine whether or not the site is significant; or*
- (3) If the resource site does not meet the definition of a significant site, the County shall include the site on an inventory of "Other Sites".*

Findings: The applicant indicates, "This criteria is a directive to Tillamook County decision makers to list the site as a 'Significant Site,' 'Potential Site,' or 'Other Site' based on location, quality, and quantity of the proposed mineral and aggregate resource. The site is currently listed as a 'Potential Site,' as discussed on page 6 of this report. Consistent with the criteria prescribed in Subsection 4 (A)(1-3) and the information provided with this application, the site should be classified as a 'Significant Site'," (Exhibit II).

Staff finds that based upon the information supplied to the applicant/property owner of the subject parcel by Carlson Testing, Inc., and Ronald G. Larson, PE, with HLB Otak, Inc., the subject site should be reclassified from a "Potential Site" to a "Significant Site."

Conclusion: Staff concludes the subject parcel/site should be reclassified from a "Potential Site" to a "Significant Site."

(C) IDENTIFY THE IMPACT AREA: For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area and all lands within 750 feet of the Extraction Area boundary, unless the Impact Area is modified through the Goal 5 process.

Findings: According to the applicant, "The 'Impact Area,' as prescribed as all lands within 750 feet of the extraction area boundary, is mapped and illustrated on the attached Zoning Map (Exhibit 5). The extraction area includes setbacks from property lines and streams, as described in the Operating and Reclamation Plan (Appendix G)," (Exhibit II).

Staff concurs with the applicant/property owner's map depicting the "Impact Area" as illustrated in their submittal (Exhibit II).

Conclusion: Staff concludes this criterion is met.

(D) IDENTIFY CONFLICTING USES: For each significant site placed on the inventory, conflicting uses shall be identified.

(1) The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).

(2) If no conflicting uses are identified, the Extraction Area portion of the MINERAL AND AGGREGATE OVERLAY ZONE shall be applied to the resource site. The Impact Area overlay shall not be applied.

Findings: The applicant indicates, "The underlying zone is currently F (Forest). According to the Tillamook County website, "...The County's adopted Farm (F-1), Forest (F), and Small Farm & Woodlot-20 (SFW-20) zones do not conform to current state law. Work is underway to align Tillamook County's ordinances with state law. In the meantime the Department is using state law in combination with the Land Use Ordinance in order to guide development on resource lands...." County staff has indicated that the identification of potential conflicting uses with forest zones should be analyzed consistent with the provisions of OAR 660-006-0025, Uses Authorized in Forest Zones," (Exhibit II).

"The surrounding zones within the Impact Area are F to the north, east and west, SFW-20 (ref. OAR 660-006) to the south and southeast, and RR (Rural Residential) to the southwest," (Exhibit II).

"Considering this premise and the criteria listed above, the existing and potential conflicting uses that would be permitted on surrounding lands zoned F or SFW-20 under OAR 660-006-0025 are as follows:

- One existing house located directly east of the existing mining operations. This house is located within the 'Impact Area.'
- Potential dwellings authorized by ORS 215.720 to 215.750.
- A potential 'Farm Use' as defined in ORS 215.203.
- Private hunting and fishing operations without lodging accommodations.
- Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8.
- Private Parks and campgrounds.
- Public Parks.
- Cemeteries.

- Private seasonal accommodation for fee hunting operations.
- Home occupations as defined in ORS 215.448.
- Private accommodations for fishing occupied on a temporary basis," (Exhibit II).

"The existing and potential conflicting uses that would be permitted on surrounding lands zoned RR under Tillamook County Land Use Ordinance Section 3.010 are as follows:

Uses permitted outright:

- One existing house located directly west of the existing mining operations. This house is located within the 'Impact Area.'
- Potential dwellings on Tax Lots 701 and 702.
- Home occupations.
- Farm uses.
- Forest Uses.

Uses permitted conditionally:

- Planned Development subject to Section 3.080.
- Mixed Use Development subject to 4.130.
- Cottage industries.
- Temporary real estate sales office.
- Churches and schools.
- Nonprofit community meeting buildings.
- Cemeteries.
- Fire or ambulance stations.
- Golf Course.
- Animal hospital, kennel or other animal boarding service.
- Foster family home.
- Bed and breakfast enterprise.
- Residential care, training or treatment facility as defined by ORS 443.400.
- Home occupations according to the provisions of Section 4.140," (Exhibit II).

Staff finds that there are two existing dwellings located on adjacent SFW-20 zoned land, 3N-9-34-TL1100 (east) and 3N-9-34-TL700 (southwest). There is one existing dwelling located in the Rural Residential 2-Acre zone, 3N-9-34-TL703 (west). The surrounding resource zoned properties have limitations in relation to residential development as there are specific criteria for this type of development in those zones. The residentially zoned parcels of land located at the western property boundary are more likely to have conflicting uses because of what is allowed in the Rural Residential zoning. This Department currently is considering a Condition Use application for an Accessory Structure without a primary structure on a property designated as 3N-9-34-TL702. The property owner of 3N-9-34-TL702 has communicated to this Department that he intends to place a Single-Family Dwelling on this property in the future.

Given that rules and regulations change over time, it is difficult for Staff to project potential conflicts. There are constraints to development on many of the surrounding parcels given their proximity to the South Fork of the Nehalem River, current zoning restrictions, topography, etc.

Conclusion: Staff concludes there may or may not be conflicting uses on adjacent properties in the future.

(E) ESEE ANALYSIS: For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.

(1) The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.

(2) The ESEE analysis shall be limited to uses and Goal 5 resources identified pursuant to Subsection (D) of this Section.

(3) The ESEE analysis shall consider opportunities to avoid and mitigate conflicts.

The analysis shall examine:

(a) The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining and processing;

(b) The consequences of allowing mining and processing fully, notwithstanding the possible effects on conflicting uses;

(c) The consequences of protecting conflicting Goal 5 resources;

(d) The applicability and requirements of other Statewide Planning Goals, the County Comprehensive Plan or provisions of the County Zoning Ordinance.

Findings: According to the applicant, "All of the existing and potential conflicting uses listed above are uses that are either permitted outright or conditionally in the Forest zoning classification. Because of the remote location of the Yunker Pit, existing ownership patterns and the fact that the quarry has been in operation for at least the last eighteen years, it is unlikely that the proposed expansion of the quarry would create any issues with the protection of existing Goal 5 resources. The negative consequences listed below can be mitigated through the implementation of existing rules and regulations that apply to mining in the Forest zone," (Exhibit II).

"The Tillamook County Comprehensive Plan is implemented by the Tillamook County Land Use Ordinance. The applicable components have been previously discussed in this narrative. The applicable Statewide Planning Goals coincide with specific chapters from the Tillamook County Comprehensive Plan. The applicable requirements of all statewide planning goals are addressed previously in this narrative," (Exhibit II).

Economic Consequences. The economic consequences of converting the additional acreage to quarry use vary with time. The immediate use of the property as forest land is lost. It should be noted, however, that aggregate mining is an accepted use in forest lands. Additionally, quarries have finite resources, so the future reestablishment of forest resources on the property is possible once the quarry resources have been exhausted. Other potential uses that rely on forested land, such as hunting, fishing, campgrounds and parks, could also be reestablished after the closing of the quarry. The rural location, and F and SFW-20 zoning, minimize the potential for use as a cemetery. The steep native slopes and landslide designation also make the use of the native slope unlikely. Mining aggregate produces a commodity that many communities and private companies rely on. The quarry creates local jobs and adds value to the nearby communities through infrastructure improvements. In turn, many of the improvements can lead to economic development," (Exhibit II).

Social Consequences. The social consequences of a quarry are difficult to quantify. Most individuals are not directly affected by the mining activities. For this mine, there is an existing home adjacent to the quarry and a recreation area located on the opposite side of the Nehalem River from the quarry. The majority of the recreational users are not aware of the quarry operations since it typically operates during the weekdays and the majority of hunting, fishing and camping activities occurs on weekends. Nevertheless, the traveling public is occasionally

slowed by loaded dump trucks traveling on Foss-Batterson Road. Impacts to the adjacent home and recreational activities on the Nehalem River are limited by providing buffers and limiting hours of operation on both weekdays and weekends.

“Environmental Consequences. The environmental consequences of allowing the quarry to be expanded and designated as a ‘Significant Resource’ include the degradation of air and water quality within the immediate vicinity of the site. Noise and traffic associated are also with everyday quarry operations. Other consequences of quarry operation are the increased potential for landslides and the destruction of wildlife habitat and disruption to existing wildlife travel corridors as a result of the removal of forest. Of the land uses previously listed, the most affected would be the existing home located directly to the east of the quarry and the outdoor recreation that occurs on the Nehalem River. The quarry is a pre-existing use, operating under the Tillamook County Conditional Use Permit CU-89-15(a) (Appendix A) and DOGAMI Operating Permit 29-0081 (Appendix F). That permit includes requirements for screening and buffering from the adjacent home and any streams on site, monitoring water quality and compliance with Oregon Department of Fish and Wildlife requirements. Air and noise pollution are limited by state, local and federal regulations. Mitigation for the environmental impacts of the quarry include maintaining the buffers from the existing home and streams and compliance with local, state and federal laws as they pertain to vehicle emissions, water quality and hours of operation. The buffers and setbacks mitigate any environmental concerns.

“Energy Consequences. The proposed expansion of the pit is requested in order to expose additional resources as they are needed. An increase in energy usage will occur if additional rock is produced. Current uses of energy include fuel consumption for trucks, loaders, rocks crushers, etc. The aggregate is typically trucked over relatively short distances to project sites (Table 1, page 3). The number of trips is dependent on the amount of aggregate needed for the project. Maintaining the equipment and planning of deliveries is the best way for a quarry to conserve energy. The proximity of the railroad also provides access to a mode transportation that is energy efficient,” (Exhibit II).

Staff finds that there is an existing, permitted and operating quarry on the subject parcel. Through the “Balanced Protection” of a significant site, Staff finds that conflicting uses outlined in this document could be addressed by this Department in relation to Land Use Application request by property owners within the identified 750-foot “Impact Area” without prohibiting development. The consequences of allowing mining and processing fully would prohibit conflicting uses proposed in the “Impact Area.”

Staff reviewed Tillamook County Comprehensive Plan (TCCP), Goal 5, and did not located conflicting Goal 5 resources on the subject parcel. In the notification process, effected agencies were notified of this application and at the time of this staff report conflicts and/or commentary was not submitted to Staff.

As discussed in the report above, other Statewide Planning Goals related to the Coastal Goals are not applicable. TCCP Goal 7: Areas Subject to Natural Disasters and Hazards are addressed later in this report through TCLUO Section 4.070: Development requirements for Geologic Hazard Areas. As outlined in the applicant/property owner’s submittal and this report/process, the Air, Water and Land Resources Quality of TCCP Goal 6 can be addressed through recommended Conditions of Approval. The base Forest (F) zoning associated with the subject parcel will remain and mineral and aggregate mining is a use that may be permitted in the F zone as outlined in OAR 660-006 and TCLUO Section 3.004. Through the notification

process of this request and the Planning Commission Hearing required by the Tillamook County Land Use Ordinance (TCLUO), Goal 1 is satisfied.

The surrounding parcels, whether due to their proximity to the South Fork of the Nehalem River or topography in the region, provide challenges for development. Additionally, the resource zoning (Forest & Small Farm and Woodlot 20-Acre zoning) may be used for natural resources; however, residential development is restrictive in these zones.

(F) DECISION ON PROGRAM TO PROVIDE GOAL 5 PROTECTION: Based on the ESEE analysis, the County shall determine the amount of protection to be given each significant site. Each determination shall be incorporated into the Comprehensive Plan, and reflected on the County zoning maps. The County shall make one of the following determinations:

(1) Protect the site fully and allow mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE. Development of the significant site shall be governed by the standards in Section 3.094 (7). As part of the final decision, the County shall adopt site-specific policies specifying the planned use of the site following reclamation and prohibiting the establishment of conflicting uses within the Impact Area.

(2) Balance protection of the significant site and conflicting uses and allow mineral and aggregate mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Section 3.094 (7) and other site-specific requirements developed through the Goal 5 process shall govern mining at the significant site. Section 3.094 (10) and any other site-specific requirements developed through the Goal 5 process shall govern development of conflicting uses within the Impact Area.

(3) Allow conflicting uses fully, even though this may impair mining and processing. To implement this decision the County shall not apply the MINERAL AND AGGREGATE OVERLAY ZONE, and shall not include the site on the inventory of significant sites. The site will not be protected from conflicting uses.

Findings: According to the applicant, "This criterion is a directive to the County decision makers to apply the appropriate level of Goal 5 protection to significant sites based upon the findings of the ESEE analysis, and to determine which of the three options listed will be applied to significant when they are afforded protection through this process," (Exhibit II).

Staff finds that Subsection #2 of the criterion above, "Balanced Protection," is the most prudent option given the zoning and parcels within the "Impact Area." Upon reclamation, the subject parcel will revert to the base Forest (F) zoning in relation to uses. This option allows for site-specific requirements, developed through this process, to govern development of conflicting uses within the Impact Area instead of prohibiting conflicting uses on adjacent land within the impact area. Conflicting uses within the "Impact Area" will receive more scrutiny in this Department's consideration; however, uses would not be prohibited and proposals could be assessed on a case-by-case basis.

Conclusion: Staff recommends to the Planning Commission that the County apply the Mineral and Aggregate Resources Overlay zone to the subject parcel with "Balanced Protection."

(G) DESIGNATION OF THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS: The MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS may be applied through the initial legislative planning process, the plan update process or through an individual application for a Comprehensive Plan amendment and zone change. The boundary of the Overlay Zone Area shall be all property within the Mineral and Aggregate Resources Extraction and Impact Areas. Individual applications shall be initiated by the petition of the owner, contract purchaser, or option holder of property comprising the Extraction Area.

Findings: The applicant states, "This application represents a request by an individual landowner to amend the zoning ordinance and Tillamook County Comprehensive Plan to re-designate the entirety of Tax Lot 900 in Map 3N 9 34. Consistent with this subsection, the owner of the property is permitted to request the proposed amendments," (Exhibit II).

Conclusion: Staff concludes that the applicant/property owner of the subject parcel making this request has initiated this process. Staff concludes the subject parcel comprises the Extraction Area and the applicant/property owner has requested that Mineral and Aggregate Resources Overlay Zone be applied over the entire parcel. Staff concludes this criterion is met.

(H) SITE PLAN APPROVAL: The operator of a Significant Site may seek approval of a Site Plan as part of the Goal 5 Process. The standards for Site Plan approval are state in Section 3.094 (9). If the operator chooses to delay application for a Site Plan until some later time, the procedure shall be as set forth in Section 3.094 (9).

Findings: According to the applicant, "Pursuant to this subsection, the applicant is requesting a concurrent Site Plan Approval. Subsection 3.094 is discussed later in this narrative," (Exhibit II).

Conclusion: No delay of application for a Site Plan review is being requested. Staff concludes that the applicant is seeking approval of a Site Plan as part of the Goal 5 Process.

(5) EXTRACTION AREA ALLOWED USES

(A) Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:

- (1) Permitted uses shall be reviewed according to the site plan review procedure;*
- (2) Noise sensitive uses as defined in Section 3.094 (2) or those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses;*
- (3) Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Section 3.094 (10).*

(B) The following uses shall be permitted subject to the review standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process:

- (1) Mining;*
- (2) Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;*
- (3) Stockpiling of mineral and aggregate materials extracted and processed onsite;*
- (4) Sale of mineral and aggregate products extracted and processed onsite;*
- (5) Storage of equipment or vehicles used in conduction with onsite mining or processing;*
- (6) Buildings, structures and activities necessary and accessory to development or reclamation of a mineral or aggregate resource.*

Findings: According to the applicant, "This section identifies uses that may be allowed outright or conditionally, within the Extraction Area subject to the review standards listed below. These criteria are already satisfied with the existing operation and are addressed in greater detail in the subsections below," (Exhibit II).

Staff finds that the subject parcel has an existing rock quarry on it as authorized through Conditional Use, CU-89-15(a) (Exhibit II).

Conclusion: Staff concludes that this criterion is met.

(6) EXEMPTIONS

The following mining activities are exempt from the provisions of Section 3.094 (7). Operators or land owners claiming any of these exemptions have the burden of establishing the validity of the exemption.

- (A) Pre-existing or nonconforming activities subject to Article VII of this Ordinance;*
- (B) In exclusive farm use zones, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one acre;*
- (C) In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five or more acres;*
- (D) Mining and processing auxiliary to forest practices.*

Findings: The applicant states, "The applicant is not requesting any of the proposed exemptions above. This subsection is not applicable to the proposed amendment," (Exhibit II).

Conclusion: Staff concludes that the applicant is not requesting any exemptions from the provisions of Section 3.094(7). Staff concludes this criterion is not applicable.

(7) EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.

(A) ACCESS:

(1) Onsite roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:

(a) All access road intersections with public roads shall comply with the road approach regulations of the agency with jurisdiction for the public road;

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

(c) Effective dust control measures shall be applied to all onsite roads within the Extraction Area within 250 feet of a noise or dust sensitive use existing on the effective date that the overlay is applied.

(2) Improvements to public roads outside of the Extraction Area may only be required as necessary to correct safety deficiencies and to provide effective dust control.

Requirements for road improvements shall be specified in the Goal 5 program for the site, and shall be based upon the ESEE analysis.

Findings: The applicant indicates, "The existing public road is 30 feet wide with a 60-foot wide right-of-way. According to CU-89-15(a), there was no requirement at that time for a new road approach because one was already in existence. The existing operation egresses directly onto Foss-Batterson Road. Appendix H contains the current Road Approach Permit and requirements that need to be met with this application. According to the Tillamook County Sheriff's Department, there have been four accidents on Foss-Batterson Road in the past five years. They don't keep track of the exact location of the accidents, so it is unknown if any of the accidents are attributable to truck traffic related to the quarry. Unless specified otherwise by Tillamook County, the access onto Foss-Batterson Road is determined to be adequate one upgraded as specified in Appendix H," (Exhibit II).

Staff finds that the access road intersection with Foss-Batterson County Road shall adhere to the requirements of the Tillamook County Public Works Department. Staff finds that a Road Approach permit from the Tillamook County Public Works Department can be required. The Tillamook County Public Works Department may or may not require improvements to public roads outside of the Extraction Area as necessary to correct safety deficiencies and to provide effective dust control within its Road Approach permit analysis.

Internal or onsite roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control, ambient air quality and water quality are met or can be met by a specified date. Staff finds that these outlined controls can be required to be implemented prior to the expansion of the existing quarry as requested in this application.

The applicant/property owner's submittal states that current methods for effective dust control include the maintenance of on-site water and spraying that water on the internal roads, etc., to mitigate against dust. Noise is addressed by the applicant/property owner through vegetative buffers and potential overburden berms. Staff finds these controls should be implemented on all onsite roads within the Extraction Area within 250 feet of a noise or dust sensitive use existing on the effective date that the overlay is applied.

(B) SCREENING:

(1) The mining activities listed in Subsection (B) (2) of this Section shall be obscured from view of screened uses, unless one of the exceptions in Subsection (B) (4) of this Section applies. Screening shall be accomplished in a manner consistent with Subsection (B) (3) of this Section.

(2) Mining Activities to be Screened.

(a) All excavated areas except:

(1) Those areas where reclamation is being performed,

(2) Internal onsite roads existing on the effective date of this ordinance,

(3) New roads approved as part of the site plan review,

(4) Material excavated to create berms, and

(5) Material excavated to change the level of the mine site to an elevation which provides natural screening;

(b) All processing equipment;

(c) All equipment stored on the site.

(3) Types of Screening.

(a) *Natural Screening.* Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall be preserved and maintained consistent with the development and use of the resource.

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

(4) *Exceptions.* Supplied screening shall not be required when and to the extent that any of the following circumstances exist:

(a) The natural topography of the site provides screening to obscure mining activities from screened uses;

(b) Supplied screening cannot obscure mining activities from screened uses due to local topography;

(c) The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;

(d) Mining activities that are visible from screened used will be completed or removed, and reclaimed within 6 months; or

(e) An alternate program or technique to achieve screening is developed, and determined to be at least as effective as the natural or supplied screening described above.

Findings: The applicant states, "The existing screened uses are the two existing houses within the Impact Area of Yunker Pit, one to the east of the quarry and one to the west. The house to the east is screened from view by existing trees and vegetation in accordance with section (3)(a) above [Exhibit 10]. That screening will be maintained. The house to the west is screened from view by the existing topography of the land in accordance with section (4)(a) above [Exhibit 11]. The backside of the hill will not be mined in order to maintain the required screening for the house. As indicated in the Operating and Reclamation Plan (Appendix G), natural landform or vegetative screening will be maintained for 100 feet on the north, east and west sides of the quarry. Some of the screening is provided by standing timber that is 12 to 14 years old. The other properties within the Impact Area are unimproved properties with a forest zoning. These do not require screening. If, in the Site Review process, it is subsequently found that additional screening is necessary, the applicant would propose to screen the site with berms made of excavated material. It would be difficult to screen additional portions of the quarry with vegetation because the topography climbs very quickly from the road," (Exhibit II).

A site visit on June 28, 2010 found that topography is a major buffer for the properties to the west of the subject parcel. The open-face of the quarry is visible from the east; however, there are vegetative buffers and existing berms screening much of the quarry itself. Staff was unable to physically evaluate the quarry from the north. However, in review of aerial photos and topographical maps, the topography is relatively steep (elevated) in that area and is heavily vegetated. The southern portion of the subject parcel, abutting Foss-Batterson County Road, is open and visible. Staff finds that a vegetative buffer or fencing could be required at the southern portion of the subject parcel, abutting Foss-Batterson County Road to create a visual buffer of all processing equipment and all equipment stored on the site (Exhibit IX).

Given the topography of the subject parcel at the southern property line, the size of the equipment utilized in conjunction with extraction activities, and recognizing that there may be inherent limitations to the required visual buffering, Staff recommends that a Condition of Approval be made that the visual buffer implemented meets the criterion above while adhering to property setback requirements and any requirements set forth by Tillamook County Public Works Department.

(C) AIR QUALITY: The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards.

Findings: According to the applicant, "At all times during operation, it is incumbent on the operator to be cognizant of fugitive dust, and to ensure that there is a water truck or source on site to arrest the dust. There are no known violations of DEQ ambient air quality emissions standards from the proposed quarry. Operation of an expanded quarry will comply with the applicable air quality and emissions standards as prescribed by the Oregon DEQ. This criterion can be satisfied by the proposed amendments," (Exhibit II).

Staff finds that the applicant/property owner can be required to comply with applicable DEQ ambient air quality and emissions standards related to the discharge of contaminants and dust created by mining.

(D) STREAMS AND DRAINAGE: Mining abutting a lake or other perennial body of water, shall be subject to the riparian protection measures contained in Section 4.080 of this ordinance unless mining is allowed within this area as part of the Goal 5 process.

Findings: The applicant states, "The Yunker Pit is on property that is separated from the Nehalem River by a county road (Foss-Batterson Road) with a 60-foot right-of-way, a 100-foot railroad right-of-way on Tax Lot 901. The site does not directly abut the Nehalem River and is well over the required riparian buffer or at least 50 feet for the Nehalem River, as prescribed in Section 4.080 of the Tillamook County Land Use Ordinance," (Exhibit II).

"Two streams run along the northern property line. Both streams are intermittent, going dry in late summer. The area actively being mined is a minimum of 340 feet away from the streams, satisfying the 15-foot minimum setback requirement. The natural buffer provided at the east side of the property will also act as a buffer for the streams. According to the DOGAMI Operating and Reclamation Plan (Appendix G), the streams will be flagged in order to identify and protect them during mining and reclamation. A stormwater system with a sedimentation basin is located on the site and will be maintained and expanded as required to control run-off from the mining. The DOGAMI permit requires on-going monitoring and maintenance and is consistently met. This criterion can be satisfied by the proposed amendment," (Exhibit II).

Staff finds that the proximity of the existing and proposed mining activities is well outside of the 50-foot riparian setback from the South Fork of the Nehalem River. Staff's site visit on June 28, 2010 found an adjacent stream/drainage at the east boundary of the subject property. If that waterway is determined by the Oregon Department of Fish and Wildlife (ODFW) to be a perennial creek or stream, then there could be a 15-foot or 25-foot riparian setback based upon the width of the channel. Staff finds that the applicant/property owner can be required to submit documentation from ODFW indicating the status of that waterway. Activities adjacent to that waterway may be curtailed with a riparian setback.

(E) FLOOD PLAIN: Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of Section 3.060 of this ordinance.

Findings: The applicant indicates, "The Yunker Pit is located in a flood Zone C, or area of minimal flooding, according to National Flood Insurance Program (NFIP) map 410196 0020 A. This section does not apply to the Yunker Pit," (Exhibit II).

Staff finds that the subject parcel is located in a 'Zone C' flood zone. No additional development requirements are applicable.

(F) NOISE: Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of a certified engineer, and compliance methods may include use of existing topography, equipment modifications, equipment siting or use of supplied berms.

Findings: According to the applicant, "There are non known violations of DEQ noise control standards from the proposed quarry. Operation of an expanded quarry will comply with the applicable noise control standards as prescribed by the Oregon DEQ. Processing takes place on the quarry floor, as shown on the topographic survey [Exhibit 3]. The noise is buffered to the north and west by the topography of the land. The Nehalem River, to the south, is separated from the quarry activity by Foss-Batterson Road, the railroad property, Tax Lot 901 and buffered by the intervening vegetation. A vegetative buffer is being maintained to screen Tax Lot 1100, which will protect it from noise as well. This criterion can be satisfied by the proposed amendments," (Exhibit II).

Staff did not locate formal noise complaints in relation to the Yunker Pit that could have been filed in the past. Staff finds that the applicant shall adhere to the Oregon Department of Environmental Quality's noise control standards.

(G) HOURS OF OPERATION:

(1) Mining and processing are restricted to the hours of 7 a.m. to 10 p.m., Monday through Saturday, unless otherwise limited by the Goal 5 process. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.

(2) Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

Findings: The applicant states, "It is feasible for the operation to comply with the hours of operation as prescribed above. This criterion can be satisfied by the proposed comprehensive amendment. The regular hours of operation are Monday through Friday from 7:30 AM to 4:00 PM and Saturday from 8:00 AM to 12:00 PM. The quarry is closed on Sundays. The quarry complies with this provision," (Exhibit II).

Staff finds that the applicant has been and states that it will continue to adhere to the hours of operation outlined in this criterion.

(H) DRILLING AND BLASTING:

(1) Drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal

holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

(2) Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within the impact area at least 48 hours prior to the blasting event. For ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.

Findings: The applicant states, "The quarry has an established relationship with the one neighbor-in-resident who lives east, Michael O'Quinn. Historically, he has been given notice of blasting either in person or by telephone on the day of the blasting. It is feasible for the operation to comply with the limitations for blasting as listed above. This criterion can be satisfied by the proposed comprehensive plan amendment. The quarry complies with this provision," (Exhibit II).

Staff finds that drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

While Staff appreciates the notification efforts of the applicant/property owner previously, Staff finds that property owners and tenants within the impact area shall be notified by the applicant/property owner 48 hours prior to the blasting event. Staff finds that if there are ongoing blasting activities, notice shall be provided by the applicant/property owner once each month for the period of blasting events and these notices shall specify the days and hours when blasting is expected to occur.

(1) SURFACE WATER: Surface water shall be managed in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

Findings: According to the applicant, "Surface water on the site is currently being directed to a settling pond near the southeastern corner of the site. The water is then conveyed to a storm water ditch that runs parallel to Foss-Batterson Road. Water is conveyed from that ditch through a series of culverts beneath Foss-Batterson Road and the Port of Tillamook Bay Rail line and discharged to the Nehalem River. The system is currently permitted by DEQ Permit 1000 [File no. 1054-16], under DOGAMI ID No. 29-0081. There are two other settling ponds on-site. One is located at the southwest base of the exposed rock face at the top of the slope. This pond collects much of the water that comes off of the rock face. The other settling pond is towards the northeast toe of the excavated area. It is located below the cat road that leads up to the top of the portion of the slope being mined. Any overflow from this settling pond will flow down a channel dug at the base of the cat road to the southeast settling pond," (Exhibit II).

Staff finds that Tillamook County does not have a stormwater and drainage Ordinance; therefore, surface water shall be managed in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements. It should be noted that additional or revised permits from those respective agencies may be required.

Prior to operation/expansion the applicant/property owner can be required to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

(J) COMPLIANCE WITH SPECIAL CONDITIONS: The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

Findings: The applicant indicates, "Currently, the Yunker Pit operates under a Conditional Use Permit. To the applicant's knowledge, there are no outstanding violations of the conditions outlined in that permit. If special conditions are required through this process, then applicant will strive to meet them in a timely manner," (Exhibit II).

Staff finds that if the Planning Commission generates "Special Conditions" the applicant/property owner shall demonstrate that those special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

(K) PERFORMANCE AGREEMENTS: The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.

Findings: The applicant states, "All applicable DOGAMI permits are currently effective and attached to this application," (Exhibit II).

Staff finds that the applicant/property owner/mining operator shall keep applicable Oregon Department of Geology and Mineral Industries permits or exemption certificates in effect.

Conclusions: Staff concludes that a recommended Condition of Approval be that the applicant/property owner will have that access to the subject parcel analyzed by the Tillamook County Public Works Department for compliance with its Road Approach Standards.

Staff concludes that existing screening shall be maintained. Based upon the criterion above, Staff concludes that screening is required at the southern portion of the subject parcel (abutting Foss-Batterson County Road) to create a visual buffer of all processing equipment and all equipment stored on the site. This screening shall be consistent with the requirements of the Tillamook County Public Works Department's requirements for access visibility, etc.

Staff concludes that a recommended Condition of Approval of the applicant/property owner would be compliance with applicable DEQ ambient air quality and emissions standards related to the discharge of contaminants and dust created by mining.

Staff concludes that the applicant/property owner will be required to re-review its drainage plans with the Oregon Department of Environmental Quality, the Oregon Department of Geology and Mineral Industries, and potentially the Tillamook County Public Works Department for compliance.

Staff concludes the subject parcel is not in a Flood Plain. It is in a 'Zone C' flood zone, which does not have any additional development requirements.

Staff concludes that a recommended Condition of Approval be the applicant/property owner shall adhere to the Oregon Department of Environmental Quality's noise control standards.

Staff concludes that Mining and processing are restricted to the hours of 7 a.m. to 10 p.m., Monday through Saturday. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met. Staff concludes that mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

Staff concludes that a recommended Condition of Approval be the applicant/property owner is required to submit documentation from ODFW indicating the status of the waterway located at the eastern property line as activities adjacent to that waterway may be curtailed with a riparian setback through TCLUO Section 4.080.

Staff concludes that drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day. Staff concludes that property owners and tenants within the impact area shall be notified 48 hours prior to the blasting event. Staff concludes that if there are ongoing blasting activities notice shall be provided once each month for the period of blasting events and these notices shall specify the days and hours when blasting is expected to occur.

Prior to operation/expansion, a recommended Condition of Approval would be that the applicant/property owner can be required to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

Staff recommends that if the Planning Commission generates "Special Conditions," a Condition of Approval may be made requiring the applicant/property owner shall demonstrate that those special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

Staff concludes that the applicant/property owner/mining operator shall keep applicable Oregon Department of Geology and Mineral Industries permits or exemption certificates in effect.

(8) SITE RECLAMATION

(A) No mining shall begin without the operator providing the County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

Findings: The applicant states, "The quarry is pre-existing and currently in operation. The DOGAMI operating permit is attached as Appendix F to this application and a copy of the approved reclamation plan is attached as Appendix G. If this application is successful, the reclamation plan may have to be revised," (Exhibit II).

Conclusion: Staff concludes that a Condition of Approval can be made that the applicant/property owner shall provide this Department proof of a current operating permit and approved reclamation plan or exemption certificate from DOGAMI prior to the mining proposed in their request.

(B) The jurisdiction of the County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the Comprehensive Plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.

Findings: According to the applicant, "The reclaimed lands will be beneficially used as forest lands. Therefore, the subsequent beneficial use is compatible with current zoning. This subsection explains the jurisdiction of the County in reviewing the site reclamation plan and is not an applicable criterion," (Exhibit II).

Staff finds that there are no mapped wetlands, per the National Wetlands Inventory, on the subject property (Exhibit VII). Staff has not received commentary from any State or Federal agencies notified of this application with any concerns related to Goal 5, Natural Resources.

(C) The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner:

(1) When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.

(a) If site plan approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.

(b) If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.

(2) When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, the County shall review the plan against the following criteria:

(a) The plan will rehabilitate mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 process;

(b) The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Section 3.094 (7);

(c) Measures are included which will ensure that other significant Goal resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.

Findings: The applicant/property owner's submittal states, "The applicant currently has an approved DOGAMI operating permit and approved reclamation plan. This criterion is a directive to County and State officials to coordinate permitting. The DOGAMI Operation Permit issued August 16, 2007 (Appendix F), and the Conditional Use Permit (Appendix A) are attached to this request. It is likely that the reclamation plan will have to be amended if this application is approved," (Exhibit II).

Staff finds that on-going coordination with the Oregon Department of Geology and Mineral Industries is typical for Mineral and Aggregate extraction operations. As the applicant/property owner indicates, they have an approved DOGAMI operating permit and approved reclamation plan. The Oregon Department of Department of Geology and Mineral Industries was notified of this request and at the time of this Staff report had not provided commentary. Staff finds that the applicant/property owner can be required to provide this Department with documentation of an active operating permit from DOGAMI. As the applicant/property owner notes, the reclamation plan will likely have to be amended by DOGAMI if these requests are approved.

The County will work with DOGAMI to review a proposed reclamation plan if this is determined by DOGAMI to be applicable.

Conclusion: Staff concludes this criterion can be met through the recommended Conditions of Approval.

(9) SITE PLAN REVIEW

(A) Site plan review is required prior to commencement of mining. Applications shall be in the form required by the County, and shall demonstrate compliance with the standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process.

Findings: According to the applicant, "There is no evidence of prior site plan review from the State or County; rather, there is the DOGAMI Operation Permit issued August 16, 2007 (Appendix F) and the Conditional Use Permit issued by Tillamook County in 1989 (Appendix A). Compliance with the standards of Section 3.094(7) have been previously addressed in this application," (Exhibit II).

Conclusion: Staff concludes this criterion related to the proposed site plan could be approved through the recommended Conditions of Approval.

(B) Applications for site plan approval of surface mining operations and activities authorized by Section 3.094 (6) shall be reviewed in accordance with the provisions for making a limited land use decision as provided by ORS 215.425.

Findings: The applicant states, "This subsection is not an approval criterion, but a directive to County staff to review the application for site plan approval as a limited land use decision when the exemption provisions of Section 3.094(6) are used. The applicant is not requesting such exemptions; therefore, this Section does not apply," (Exhibit II).

Staff finds that not only is the applicant/property owner not seeking an exemption under TCLUO Section 3.094(6), but ORS 215.425 and subsequently ORS 215.213 (2)(d) or 215.283 (2)(b) refer to mining and aggregate activities on Farm (F-1) land. The subject parcel is zoned Forest (F) (Exhibit I).

Conclusion: Staff concludes that this criterion does not apply to this request and the subject parcel.

(C) The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.094 (7) and any other requirements adopted as part of the Goal 5 process.

Findings: The applicant indicates, "Compliance with the standards of Section 3.094(7) have previously been addressed in this application," (Exhibit II).

Conclusion: Staff concludes that the applicant/property owner's site plan could be approved based upon the recommended Conditions of Approval.

(D) If the County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process, or the applicant may choose to apply for a

Comprehensive Plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

Findings: The applicant states, "Both of the applications are being submitted concurrently, so it would make sense that the site plan comply with the proposal for Goal 5," (Exhibit II).

Staff finds that the applicant/property owner has submitted their request for the Goal 5 process and Zone Change with the site plan concurrently.

Conclusion: Staff concludes that all three requests will be processed concurrently.

(10) IMPACT AREA - USES AND DEVELOPMENT STANDARDS

(A) USES PERMITTED OUTRIGHT: Uses permitted outright in the underlying zone, except noise or dust sensitive uses or conflicting uses, may be permitted subject to the standards and criteria of the underlying zone(s).

(B) USES ALLOWED CONDITIONALLY:

(1) Noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and this Section.

(2) Conditional uses in the underlying zone(s) which are not noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone.

(C) PROHIBITED USES: Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.

(D) APPROVAL CRITERIA: To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:

(1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

(2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;

(3) The applicable criteria of Subsection (E) of this Section are met;

(4) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.

(E) NOISE AND DUST REDUCTION:

(1) The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.

(2) The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.

(3) As a condition of final approval for the establishment of a new noise sensitive use, the applicant may be required to execute a restrictive covenant in favor of the mining operator that incorporates the compliance items specified in Subsection (E) (2) of this Section.

Findings: According to the applicant, "Currently, there is an existing residence adjacent to the property within the Impact Area. According to County staff, there are no pending applications for new uses within the identified Impact Area," (Exhibit II).

Staff finds that there are three existing dwellings within the "Impact Area", Tax Lots 700, 703 and 1100 of Section 34, Township 3 North, Range 34 West, W.M. (Exhibits I & II).

There is currently a Conditional Use application under consideration to place an Accessory Structure without a primary structure (shop) on Tax Lot 702 of Section 34, Township 3 North Range 34 West, W.M. (Exhibit I). This property is located west of the subject parcel and there are substantial topographic buffers for noise and dust.

Conclusion: Staff finds that any future applications for Conditional Uses within the "Impact Area" will be required to be assessed in relation to this criterion.

(11) TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY

When a significant site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

Findings: The applicant states, "The applicant is aware that once the mine operations have ceased and reclamation activities are complete that the Mineral and Aggregate Overlay will be removed from the subject property," (Exhibit II).

Conclusion: Staff concludes that Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder. Staff recommends that a Condition of Approval state that when this site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the Mineral and Aggregate Resources Overlay Zone.

D. TCLUO Section 4.030: Off-Street Parking and Off-Street Loading Requirements

(1) PURPOSE: The purpose of requirements for off-street parking and loading areas is to relieve traffic congestion; to ensure customer convenience and safety; to provide safe access to parked vehicles; and to help ensure safe and timely response of emergency vehicles.

(3) TIMING OF COMPLIANCE: At the time any structure or use is erected or enlarged, or the use of any parcel or structure is changed, all required off-street parking spaces and loading areas provided in conjunction with an existing use shall not be reduced below the minimum requirements of this Ordinance.

(5) USE OF REQUIRED PARKING AREAS: Parking areas required by this Section are designated for the operable vehicles of residents and their guests, and the owner, customer, patrons, and employees of commercial or industrial activities only. Vehicle or material storage, or the parking of vehicles used to conduct an activity, shall require additional parking areas.

(6) DRAINAGE: Areas used for standing and maneuvering of vehicles shall have a surface that is suitable for all-weather use, and shall be drained so as to avoid the flow of water across public sidewalks and streets.

(7) **BUFFERING NON-RESIDENTIAL PARKING AREAS:** Non-residential parking and loading areas adjacent to a residential use shall be enclosed along the residential use by a sight-obscuring fence that is from five to six feet in height, except where vision clearance is required.

(10) **PROXIMITY TO TRAFFIC:** Parking areas for four or more vehicles shall be of sufficient size to allow the backing and maneuvering of vehicles entirely out of the flow of traffic.

(12) **OFF-STREET LOADING AREAS:** Activities that receive or distribute materials or merchandise by truck shall install and utilize loading docks in sufficient numbers and size to accommodate loading requirements without the disruption of nearby traffic. Parking areas required by this Ordinance may only be used for loading operations during periods of the day when not required for patron or customer parking.

(13) **PARKING SPACE REQUIREMENTS:** Requirements for types of building and uses not specifically listed herein shall be determined by the Department, based upon the requirements for comparable uses either listed below or active elsewhere in the county.

Findings: According to the applicant, "Parking is provided for the employees of Mohler Sand and Gravel working at Yunker Pit. Customers coming to Yunker Pit are typically using dump trucks to pick up material produced at the quarry, as described in section (12) below. This same area used by dump trucks provides access to the site for emergency vehicles. Mohler Sand and Gravel will modify the road approach, as necessary, to meet the requirements of this Ordinance (Appendix H). The surface of the areas used for standing and maneuvering of vehicles is constructed out of gravel, a permeable material that allows drainage of the area. There are also settling ponds that help collect any excess water that may result of the activities at the quarry. The rock crushing equipment is set back from Foss-Batterson Road to give ample room for dump trucks to pull into the quarry area, pick up products, turn around and exit. The road approach will be constructed in accordance with the Road Approach Permit (Appendix H). The quarry is a use that is not specifically listed within Section 4.030(13). Customers do not typically come to the Yunker Pit, but business with Mohler Sand and Gravel either over the telephone or at their office location at 20890 Foss Road in Nehalem, 2.2 miles east of Yunker Pit. Dump trucks come to the quarry to pick up the rock products, but are typically not parking. Parking is supplied for the employees working at the quarry," (Exhibit II).

Staff finds that the provisions for analyzing a use such as this are not specifically outlined in the Off-Street Parking Ordinance. The site has been previously developed for aggregate extraction. The applicant/property owner indicates that the employee's parking off-site at Mohler Sand & Gravel's offices. Visual barriers, vegetative or other, are required in the Mineral and Aggregate Resources Overlay Zone, as are the drainage requirements.

Traffic flow (dump trucks, etc.) can be required to be addressed in a parking plan submitted by the applicant/property owner. The Road Approach permit review by the Tillamook County Public Works Department may assist in this process. The applicant/property owner can also be required to obtain an approved Fire Letter from the Oregon Department of Forestry (ODF) and submit it prior to expansion to evaluate/re-evaluate emergency access to the subject parcel.

Conclusion: Staff concludes these criteria can be addressed through a recommended Condition of Approval requiring the development of a Parking Plan in conjunction with the Road Approach Permit standards from Tillamook County Public Works. Staff recommends that a

Condition of Approval be made that a new Fire Letter shall be obtained and submitted by the applicant/property owner addressing emergency access to the subject parcel. Staff concludes this criterion can be met through the recommended Conditions of Approval.

E. TCLUO Section 4.070: Development Requirements for Geologic Hazard Areas

(1) The following are GEOLOGIC HAZARD AREAS to which the standards of this Section apply:

(a) Active landslides identified in Oregon Department of Geology and Mineral Industries (DOGMI) Bulletins 74 and 79;

Findings: The applicant states, "According to the DOGMI Statewide Landslide Information Database of Oregon (SLIDO) map, the Yunker Pit is in a landslide area [Exhibit 14]," (Exhibit II).

According to the DOGAMI bulletins, Staff finds that the subject parcel is located within an area of Inactive Landslide Topography (Exhibit VI).

Conclusion: Staff concludes that the subject parcel is in a mapped area of Geologic Hazard.

(2) All development within GEOLOGIC HAZARD areas shall comply with the following standards:

(a) Vegetation removal shall be the minimum necessary to accommodate the use.

(b) Temporary measures shall be taken to control runoff and erosion of soils during construction. Such measures include temporary stabilization (mulching or sodding) sediment basins or other performance equivalent structures required by the Planning Department.

(c) Exposed areas shall be planted in permanent cover as soon as possible after construction.

(d) Storm water shall be directed into drainages with adequate capacity so as not to flood adjacent or downstream properties. Finished grades should preferably be designed to direct water flows along natural drainage courses.

(e) Additional requirements contained in a Geologic report required by this Section shall be followed.

Findings: The applicant indicates, "Vegetation removal is required in a mining activity. The vegetation removal is at the location of active mining. Replacement of vegetation is discussed in the Operating and Reclamation Plan (Appendix G). The quarry provides settling ponds and culverts to control runoff and storm water. Finished grades will be specified in the Operating and Reclamation Plan," (Exhibit II).

Staff finds that the Mineral and Aggregate Overlay zone requirements address vegetation removal, re-vegetation and visual, dust, and noise buffering in relation to the vegetative buffering. The applicant/property owner's submittal indicates that the existing quarry operation is permitted and monitored for storm water by the Oregon Department of Environmental Quality, Oregon Department of Geology & Mineral Industries. It could be further addressed by the Tillamook County Public Works Department's requirements in relation to access requirements. Staff finds that the applicant/property owner can be required to submit documentation to this Department from the above controlling agencies that the criteria related to re-vegetation and storm water are met.

Conclusion: Staff recommends that a Condition of Approval be made requiring the applicant/property owner to submit documentation to this Department from the above controlling agencies (DEQ, DOGAMI, TCPWD) indicating that the related re-vegetation and storm water standards are met. Staff concludes this criterion can be addressed through the recommended Conditions of Approval.

(3) A GEOLOGIC HAZARD report is required prior to approval of planned developments, coast resorts, subdivisions and partitions governed by the Land Division Ordinance, building permits, mobile home permits, sand mining, occurring in areas identified in (1) with the following exception:

- (a) For building or mobile home or manufactured home permits in areas identified in (1) (b), reports are needed for lots 20,000 square feet or larger only where the proposed structure is to be situated on slopes greater than 29 percent or if (1) (f) applies.

Findings: The applicant states, "Rock mining is not one of the activities listed above requiring a Geologic Hazard Report, so no report is required for the Yunker Pit. As a result, none of the remaining sections (4) through (7) apply to this report," (Exhibit II).

Conclusion: Based upon the criterion above, Staff concludes that Rock Mining is not an activity listed in Tillamook County Land Use Ordinance Section 4.070: Development Requirements for Geologic Hazard Areas, requiring a Geologic Hazard Report.

F. TCLUO Section 4.080: Requirements for Protection of Water Quality and Streambank Stabilization

(1) The following areas of riparian vegetation are defined:

- (a) Fifty (50) feet from lakes and reservoirs of one acre or more, estuaries, and the main stems of the following rivers where the river channel is more than 15 feet in width; Nestucca, Little Nestucca, Three Rivers, Tillamook, Trask, Wilson, Kilchis, Miami, Nehalem and North and South Fork Nehalem River.
- (b) Twenty-five (25) feet from all other rivers and streams where the river or stream channel is greater than 15 feet in width.
- (c) Fifteen (15) feet from all perennial rivers and streams where the river or stream channel is 15 feet in width or less.

For estuaries, all measurements are horizontal and perpendicular from the mean high water line or the line of non-aquatic vegetation, which ever is most landward. Setbacks for rivers, streams, and coastal lakes shall be measured horizontal and perpendicular from the ordinary high water line.

Findings: The applicant indicates, "The Yunker Pit meets all of the requirements of Section 4.080. Foss-Batterson Road (60-foot right-of-way), the Port of Tillamook Bay Railroad (100-foot right-of-way), and Tax Lot 901 are located between the quarry and the South Fork of the Nehalem River, giving well over the minimum 50 feet setback required in Section (1)(a) above. Two annual streams run along the northeastern property line. The area actively being mined is a minimum of 340 feet away from the streams, satisfying the 15-foot requirement. The natural buffer provided at the eastern side of the property will also act to protect the streams," (Exhibit II).

Staff's site visit on June 28, 2010 found that some of the existing internal roads and overburden/berms are in the region of the waterway at the eastern property line. The existing and proposed operation is located well away from the riparian area associated with the South Fork of the Nehalem River (Exhibits I & II). Staff finds that if this is a perennial creek or stream, then there are setbacks from that stream to be observed.

Conclusion: Staff concludes this criterion can be met through the recommended Conditions of Approval.

G. TCLUO Section 9.020: Map Amendment Procedure and Criteria

(1) Notice of proposed AMENDMENT shall be distributed according to the provisions of section 10.060 of this Ordinance

Findings: Notice of this request and the related Planning Commission Hearing was mailed to 29 property owners and agencies on June 9, 2010. In addition to the mailings, the Tillamook Headlight-Herald ran a notice in its Advertising section under "Public Notice."

Staff received no written commentary on this request at the time of this staff report.

Conclusion: Staff concludes the notification requirements of this application have been met.

(2) The Department shall prepare an analysis of the site and the surrounding area in the form of a map and report, considering the following factors:

- (a) Size, shape and orientation of the subject property.*
- (b) Surrounding parcel size*
- (c) Topography, drainage, hazards, and other physical site characteristics.*
- (d) Parcel ownership and current use*
- (e) Economic and population data for the affected area that may be contained in the Comprehensive Plan.*
- (f) Traffic circulation*
- (g) Zoning history of the subject parcel*
- (h) Compatibility of the proposed new zone with the surrounding zoning and land uses.*
- (i) Availability and feasibility for development of nearby properties in the proposed zone.*
- (j) Aesthetics*
- (k) Availability of public facilities and services*
- (l) Land use objectives of both the applicable and the proposed zoning*

Findings: The applicant states, "Items 2(a), (b), (d), (g), Mohler Sand and Gravel has operated the Yunker Pit on Foss-Batterson Road since approximately 1989 when the rock quarry operation was leased from Simpson Lumber Company (Simpson). Prior to that time, Simpson operated the quarry for its use in providing rock for the company's logging roads. Mohler Sand and Gravel, doing business as Blue Rock LLC, purchased the rock quarry and surrounding property from Simpson in 2005. The Yunker Pit has been mined by Mohler Sand and Gravel for over eighteen years. A Conditional Use Permit, CU-89-15(a) (Appendix A), was issued in 1989 by the Tillamook County Department of Community Development and signed by Lynda Willard, Senior Planner. The Conditional Use Permit was issued to allow for a rock quarry and a rock crushing operation in an F (Forest) zone on property located on the northern side of, and adjacent to, Foss-Batterson Road. The property was identified on CU-89-15(a) as being a

portion of what is now Tax Lot 900, Map 3N 9 34 . At that time, Tax Lot 900 was a triangular tract of land being all of that portion of Government Lot 7 of Section 34 which lies north of Foss-Batterson Road, as shown in Exhibit Exhibit 4. Over time, the rock quarry operation has continued to operate and expand as the overburden is excavated and the quarry rock is removed. As the rock quarry operation moved to the north and further into the rock quarry, additional land was added to the operation. Hence, in 2005, Mohler Sand and Gravel purchased the adjoining land to the north of the original rock quarry property. The sale and expansion of the rock quarry was accomplished by deed recorded in Book 2005, Page Page 6505, Deed Records Tillamook County, Oregon (Appendix B). The company has most recently reported that they have mined an average of 27,300 cubic yards of rock per year for public and private construction projects in Tillamook County over the five year period of 2002 through 2007 (Appendix E).

The site is located east of Mohler on the northern side of Foss-Batterson Road, approximately eight miles east of the town of Nehalem, Oregon. The property is described as Tax Lot 900 in Township 3N, Range 9W, Section 34 in Tillamook County, Oregon. The property is approximately 42.50 acres in size. See Exhibit Exhibit 2 for a boundary survey of the property.

Items 2(c)

The site slopes from the northwest to the southeast. The quarry site is at the base of a small mountain, and consists of moderate to steep slopes. See Exhibit Exhibit 3 for a current topographic map of the property.

The South Fork of the Nehalem River is near to, and a stream is adjacent to, the quarry and both are within the Impact Area for the quarry. According to Section 4.080 of the Tillamook County Land Use Ordinance, all development shall be located over 50 feet from the South Fork of the Nehalem River. This setback is definitely met as Foss-Batterson Road, with a right-of-way width of 60 feet, the POTB railroad, with a right-of-way width of 100 feet, and the privately owned property of Tax Lot 901 provide a buffer between the river and the quarry. The riparian setback for the stream is 15 feet. The stream is located at the northern and eastern property boundaries and can be protected in conjunction with the natural screening being provided for the neighbor to the east of the quarry.

Items 2(e)

Please see section IV of this report.

Items 2(f)

Foss-Batterson County Road serves the site along the southern boundary. Its western end terminates at Miami-Foley Road, which in turn intersects Highway 53 just north of Mohler on the northern side of the Highway 53 bridge over the Nehalem River. Highway 53 proceeds northeast to Highway 26 or southwest to Highway 101.

The Yunker Pit also has the unique situation in that it is adjacent to a Port of Tillamook Bay rail line. There is no other rock pit in Tillamook County that is located adjacent to a rail line. There is a railroad siding located alongside the rail line directly across Foss-Batterson County Road from the quarry. Rail cars on the siding can be loaded directly with rock from the quarry.

According to the DOGMI Statewide Landslide Information Database of Oregon (SLIDO) map (Exhibit Exhibit 14), and the map on page page 7-9 of Tillamook County Goal 7, the Yunker Pit is in an inactive landslide area. However, rock mining is not one of the activities listed in

Tillamook County Land Use Ordinance Section 4.070(3) requiring a Geologic Hazard Report . Mining and reclamation will continue as specified in the Operating and Reclamation Plan (Appendix G), which includes shaping the land and benching the high wall of the excavation to ensure stability of the excavated slopes.

Items 2(h), (i)

A single-family residence is located on the property immediately to the east of Tax Lot 900 which is zoned SFW-20 (Small Farm & Woodlot-20). One small property to the south of the railroad and Foss-Batterson Road fronts upon the Nehalem River and is used as a fishing camp. . That property is also zoned SFW-20 (Small Farm & Woodlot-20) and does not currently include any permanent structures. Use of the property is generally made with a motor home or RV. To the west of the property are three tax lots, 701, 703, and 702 from east to west. Lot 701 is zoned RR (Rural Residential), but currently does not currently have a residence on it. . Lot 703 has a residence on the 1 acre portion that is zoned RR and the remaining 2.6 6 acres are zoned F (Forest). Lot 702 is zoned RR, but is Designated Forest Land and has no residence on it. The tax lots properties to the north are undeveloped forest lands, zoned zoned F. See Exhibit Exhibit 5 for the Tillamook County Zoning Map and Exhibit Exhibit 7 for an aerial photo of the general vicinity.

The Port of Tillamook Bay Railroad line runs parallel to Foss-Batterson Road on the southern side of the road. The Nehalem River also runs parallel to the road and is approximately 200 feet (more or less) south of Foss-Batterson Road.

Item 2(j)

The house to the immediate east is screened from view by existing trees and vegetation in accordance with section (3)(a) above (Exhibit 10). That screening will be maintained. The house to the west is screened from view by the existing topography of the land in accordance with section (4)(a) above (Exhibit 11). The backside of the hill will not be mined in order to maintain the required screening for the house. As indicated in the Operating and Reclamation Plan (Appendix G), natural landform or vegetative screening will be maintained for 100 feet on the north, east and west sides of the quarry. Some of the screening is provided by standing timber that is 12 to 14 years old.

Item 2(k)

There are numerous policies and goals with respect to the provision of public facilities for all areas of Tillamook County; However, no specific policies are applicable to the proposed amendments. There are limited public utilities associated with the mining operation. The main public utility associated with the operation of the rock quarry is electric power, provided by the Tillamook PUD and used to operate in operation of the rock crusher," (Exhibit II).

Staff finds the subject parcel is 42.50-acre in size, is irregularly shaped and is located north of Foss-Batterson County Road (Exhibit I).

The sizes of the surrounding parcels, according the Tillamook County Assessment and Taxation Department, are as follows (Exhibit I):

- 3N-9-34-TL500 = 31.35-acres
- 3N-9-34-TL600 = 160-acres
- 3N-9-34-TL700 = 13.20-acres
- 3N-9-34-TL701 = 4.8-acres
- 3N-9-34-TL901 = 6.85-acres

3N-9-34-TL1100 = 6.25-acres
3N-9-34-TL1200 = 120.50-acres

Staff finds that the topography, drainage, hazards and other physical site characteristics have been addressed in-depth in the preceding Sections of this report. The subject parcel is currently owned by Blue Rock Quarry, LLC., and is an active rock quarry.

Staff did not locate economic and population data for the affected area that may be contained in the Comprehensive Plan.

Staff did not locate traffic circulation information for Foss-Batterson County Road. With the Salmonberry Bridge damaged by previous winter storms, Staff speculates that traffic has diminished some. During Staff's site visit, it was observed that there was little to no mid-day traffic in the area. There is an existing rock quarry on the subject parcel and based upon the applicant's submittal, Staff finds that the operating levels will mimic its historic levels and therefore the traffic associated with the aggregate mining will parallel previous levels. Staff finds that the Tillamook County Public Works Department would need to review the Road Approach for the subject parcel and during this analysis the proper modifications could be made.

The subject parcel was zoned A-1: Low Density Residential, Agricultural, Forestry and Recreation Zone prior to December 30, 1981. After December 30, 1981 to the present the subject parcel has been zoned Forest (F). The base Forest (F) zone will remain on the subject property and the proposed Mineral and Aggregate Resources Overlay Zone would be placed over the top of the base zoning.

In relation to the compatibility of the proposed new zone with the surrounding zoning and land uses, Staff believes that this criterion has been fully addressed previously in this report. The Mineral and Aggregate Resources Overlay Zone does not change the base zoning, it implements a zoning layer on top of the existing, base-zone. The feasibility for development of nearby properties in the "Impact Zone" will be altered and conflicting uses identified previously will be required to have additional scrutiny.

Aesthetically, the subject property has been developed as a rock quarry since at least 1989. The applicant/property owner is proposing to continue mining the subject parcel (Exhibit IX).

Staff finds that there is electricity provided for in the area. Staff's site visit found a Port-a-Potty for sanitation purposes.

The objectives of the Forest (F) zoning will remain the same and will revert to this zoning if the Mineral and Aggregate Resources Overlay Zone goes away. The Mineral and Aggregate Resources Overlay Zone provides the applicant/owner for their operation while recognizing this natural resource as a "Significant Site" in Tillamook County.

(3) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. In hearing the request to establish a new zoning designation, the Commission shall consider all of the following criteria. A zone MAP AMENDMENT may be approved only if all four criteria can be met.

(a) The proposed new zone is consistent with applicable Comprehensive Plan policies.

(b) *The proposed new zone shall not result in the conversion of resource lands to nonresource use without an approved exception to applicable state resource protection Goals.*

(c) *The site under consideration is better suited to the purposes of the proposed zone than it is to the purposes of the existing zone.*

(d) *Development anticipated to result from the proposed zone shall not impair the actual or the legally designated uses of surrounding properties.*

Findings: Staff finds that the proposed Mineral Aggregate Overlay Zone for the subject parcel is consistent with the previous and requested use as a rock quarry in the Forest (F) Zone.

This request is not for the conversion of resource lands to nonresource use; therefore, Staff finds that a Statewide Planning Goal Exception is not required.

Applying the Mineral Aggregate Overlay Zone to the subject parcel will not change the underlying Forest (F) zoning and TCLUO Section 3.094(11) requires that at the termination of the Mineral and Aggregate Overlay, when a significant site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the Mineral and Aggregate Resources Overlay Zone.

Staff finds that the existing rock quarry on the subject parcel was allowed through Conditional Use, CU-89-15(a). This request expands the footprint of the existing site and would allow continued aggregate extraction. The current activities on the subject property will generally continue as they are at present. The continuation of these activities under the proposed Mineral Aggregate Overlay Zone should not impair the actual or the legally designated uses of surrounding properties.

Conclusion: Staff concludes these criteria are met.

H. SECTION 9.030: Text Amendment Procedure

(1) This Ordinance may be AMENDED by application of any person. The proponent of an ORDINANCE AMENDMENT shall arrange a pre-application conference with the Department.

Findings: Staff finds that the applicant/property owner's consultant, HLB-Otak, has met with this Department on several occasions regarding this request.

Conclusion: Staff concludes this criterion is met.

(2) An application for an ORDINANCE AMENDMENT shall be submitted to the Department at least 45 days prior to the Commission hearing for its consideration. Such applications shall be accompanied both by fees as set by order of the Board, and by the proponent's justification for the AMENDMENT.

Findings: Staff finds this application request was submitted by the applicant/property owner on October 30, 2009.

Conclusion: Staff concludes this criterion is met.

(3) Notice of a proposed AMENDMENT shall be published according to the provisions of Section 10.060 (3).

Findings: As addressed in the report above, Staff notified this application request and related Public Hearing in relation to TCLUO Section 10.060 (3).

Conclusion: Staff concludes this criterion is met.

(4) The Department shall prepare an analysis of the proposed AMENDMENT, addressing such issue as the intent of the provisions being amended; the affect on land use patterns in the County; the affect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed text.

Findings: This Staff report is a comprehensive analysis in relation to the applicant/property owner's request. The text amendment involved would reclassify the subject parcel from a "Potential Site" to a "Significant Site" in the Tillamook County Comprehensive Plan, Goal 5: Natural Resources.

Conclusion: Staff recommends approval of this text amendment request.

(5) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. It shall consider the intent of applicable policies of the Comprehensive Plan, and recommend that the Board adopt, adopt with modifications, or not adopt the proposed AMENDMENT.

Findings: Given fluctuating staffing levels and workload, Staff scheduled consideration of this Amendment as soon as possible.

Conclusion: Staff concludes this criterion is met.

(6) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT of modify or change the text of the Land Use Ordinance subsequent to receiving the report and recommendation of the Planning Commission. AMENDMENTS to the text of this Ordinance shall be adopted by the Board of County Commissioners by Ordinance.

(7) The Board's decision on an AMENDMENT to the text of this Ordinance shall be final.

Findings: The Community Development Department will continue to manage this land use request through the appropriate processes and steps.

Conclusion: Staff concludes this criterion can be met.

RECOMMENDATION & SUGGESTED CONDITIONS OF APPROVAL

Staff recommends that the request by the applicant/property owner of the subject parcel be granted a Zone Change to apply TCLUO Section 3.094: Mineral and Aggregate Resources Overlay Zone over the base Forest (F) zoning. In applying the Mineral and Aggregate Resources Overlay Zone, Staff recommends that the subject parcel have its Tillamook County Comprehensive Plan Goal 5 categorization as a "Potential Site" be changed to a "Significant Site." Staff recommends to the Planning Commission that the County apply the Mineral and Aggregate Resources Overlay zone to the subject parcel with "Balanced Protection." Staff

recommends that the above two request be Approved with Conditions as outlined below, including site plan review:

1. By accepting this approval the property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval.
2. The applicant/property owner shall obtain all local, State and Federal permits prior to expansion and recognition of these requests.
3. The applicant/property owner shall submit a Fire Letter from the Oregon Department of Forestry (ODF) to this Department prior to expansion and operation.
4. Future applications for Conditional Uses within the "Impact Area" will be required to be assessed in relation to Subsection 10 of TCLUO Section 3.094.
5. A visual buffer shall be implemented at the southern property line, adjacent to Foss-Batterson County Road, in conjunction with the requirements of the Tillamook County Public Works Department, to create a visual buffer of all processing equipment and all equipment stored on the site.
6. Based upon the Road Approach permit from the Tillamook County Public Works Department, an on-site parking/traffic flow pattern shall be developed and submitted to this Department prior to expansion.
7. The existing visual barriers at the northern, western and eastern property lines shall be maintained.
8. The applicant/property owner shall be required to comply with applicable DEQ ambient air quality and emissions standards related to the discharge of contaminants and dust created by mining.
9. The applicant/property owner shall adhere to the Oregon Department of Environmental Quality's noise control standards.
10. The applicant/property owner shall restrict Mining and processing to the hours of 7 a.m. to 10 p.m., Monday through Saturday. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met. Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
11. The applicant/property owner shall restrict drilling and blasting to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
12. The applicant/property owner shall notify property owners and tenants within the impact area 48 hours prior to a blasting event. If there are ongoing blasting activities, notice shall be provided by the applicant/property owner once each month for the period of blasting events and these notices shall specify the days and hours when blasting is expected to occur.
13. The applicant/property owner can be required to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.
14. The applicant/property owner shall submit documentation to the Department of Community Development from ODFW indicating the status of the waterway at the eastern property line in relation to potential riparian setbacks outlined in TCLUO Section 4.080.
15. The applicant/property owner/mining operator shall keep applicable Oregon Department of Geology and Mineral Industries (DOGAMI) permits or exemption certificates in effect.

16. If the Planning Commission generates "Special Conditions" the applicant/property owner shall demonstrate that those special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.
17. The applicant/property owner shall provide this Department proof of a current operating permit and approved reclamation plan or exemption certificate from DOGAMI, prior to the mining proposed in their request.

EXHIBITS

All Exhibits referenced herein are, by this reference, made a part hereof.

- Exhibit I: Vicinity, Assessor's, and Zoning Maps
- Exhibit II: Applicant/Property Owner's submittal
- Exhibit III: TCLUO Section 3.094: Mineral and Aggregate Resources Overlay Zone
- Exhibit IV: TCLUO Article IX: Amendment
- Exhibit V: TCCP Goal 5
- Exhibit VI: DOGAMI Bulletin
- Exhibit VII: US Fish & Wildlife, National Wetlands Inventory
- Exhibit VIII: FEMA Federal Insurance Rate Map
- Exhibit IX: Staff Photos: June 28, 2010 site visit

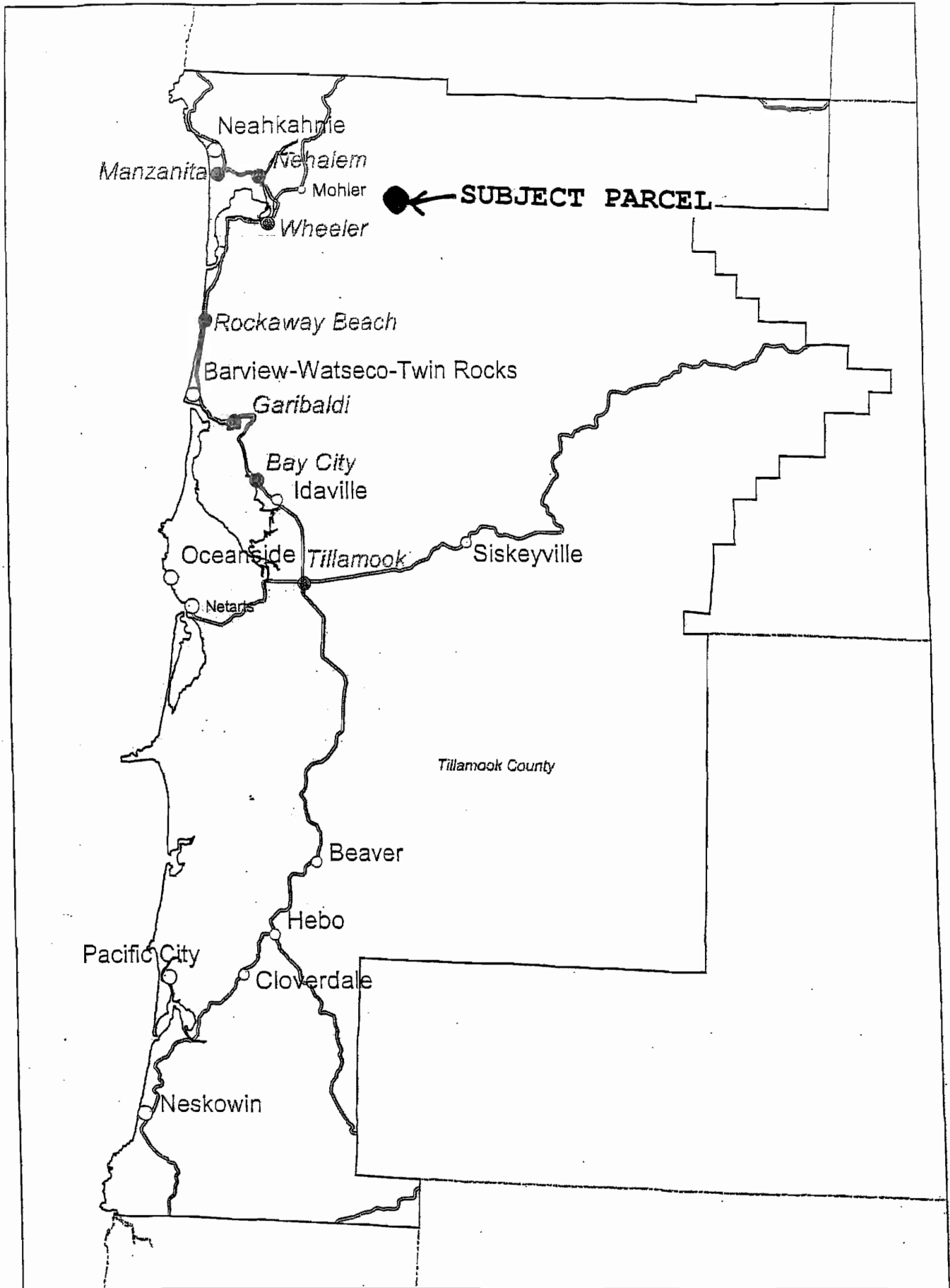
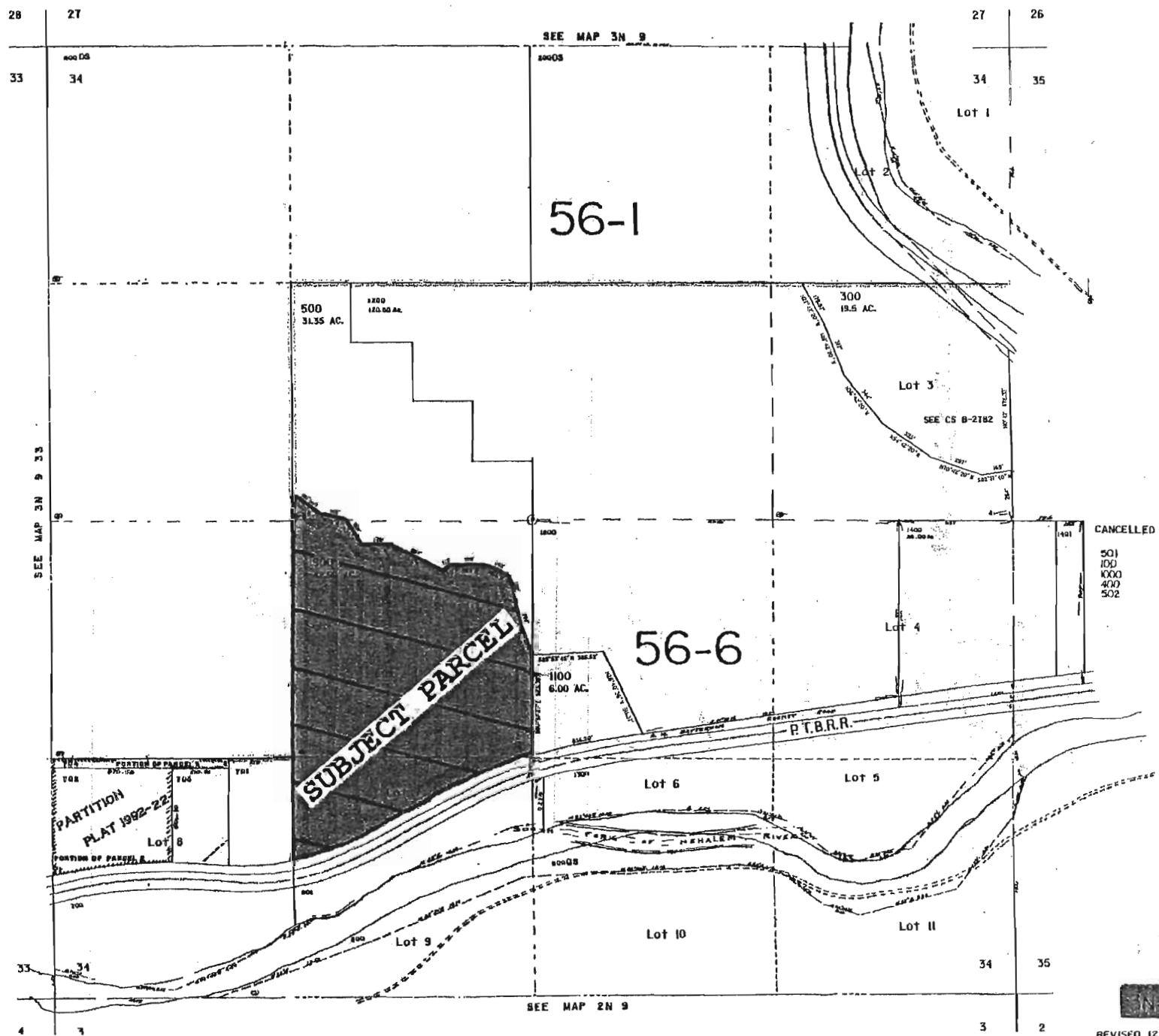


Exhibit I

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 34 TOWNSHIP 12N RANGE 3W
TILLAMOOK COUNTY
1" = 400'



CANCELLED
501
100
XXXX
400
502

N 9 34

27|26
34|35

28|27
33|34

12/8/94

F

SUBJECT PARCEL

SEE MAP 66

SFW-20

RR

F-1

43

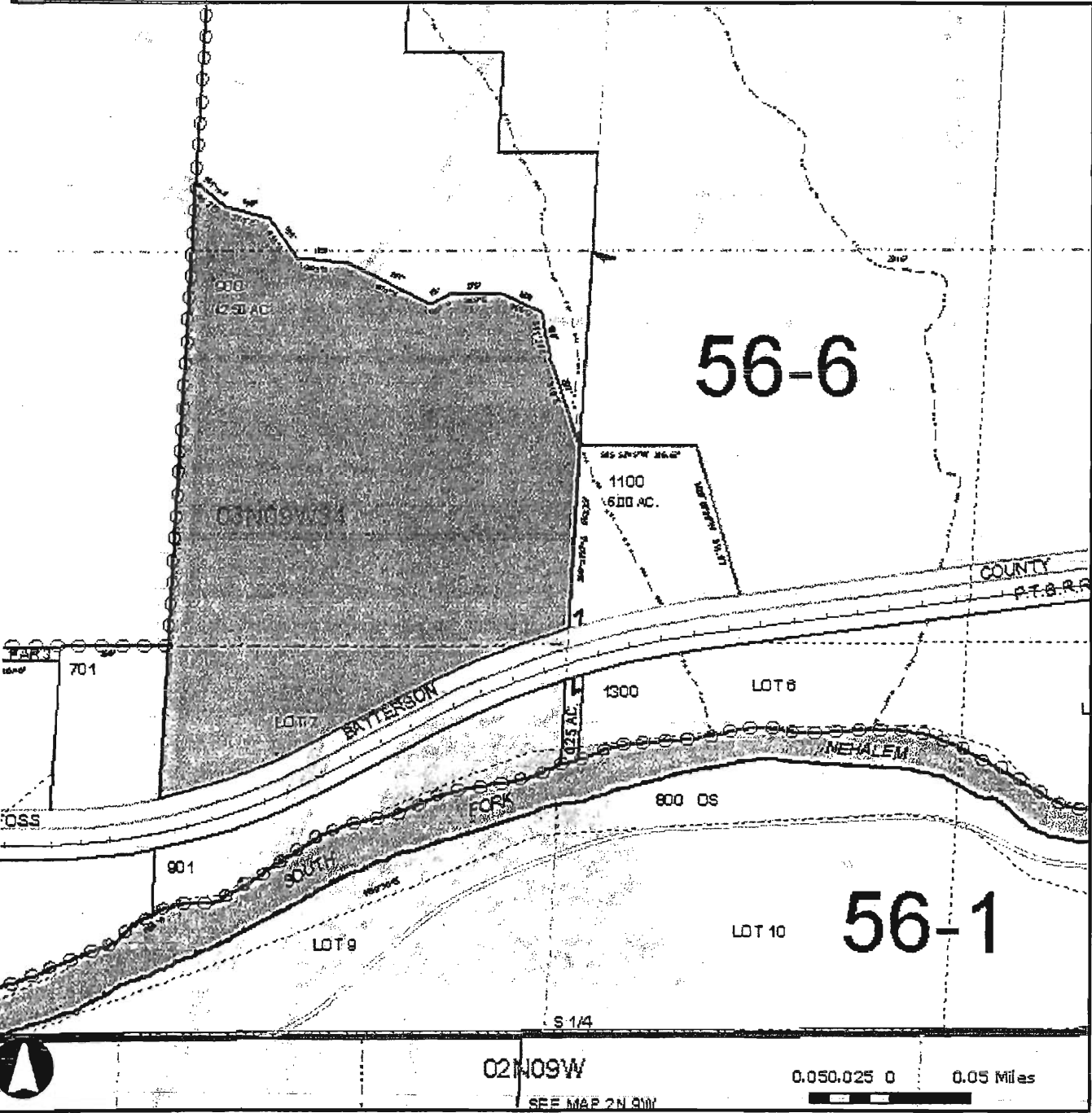
34|35
32

87

SM 9-34

T 2 N R 9 W M

C-09-03



<p>100 (Taxlot)</p> <p>Tax Code Lines</p> <p>Corner</p> <p>Cartographic Lines</p> <p>Pointers</p> <p>Pointers</p> <p>Reference Lines</p>	<p>Reference Lines (continued)</p> <p>12- PRIVATE RD C/L</p> <p>15- RAILROAD C/L</p> <p>17- EASEMENT ROW</p> <p>18- EASEMENT C/L</p> <p>30</p> <p>33- HISTORIC TL LINES</p> <p>40- SUBDIVISION BOUNDARY</p> <p>41- PP BOUNDARY</p>	<p>Taxlot</p> <p>Water Lines</p> <p>Water Bodies</p> <p>PLSS Corners</p> <p>PLSS Lines</p>
--	--	--

63; 55; 52

60 - ROAD TICS

2; 32; 33

56 - ZONE LINE

TaxlotLines

47-DLC LINES

120 - VACATED ROAD

8 ROAD

Map Boundary

9- PUBLIC RD C/L

14 RAIL

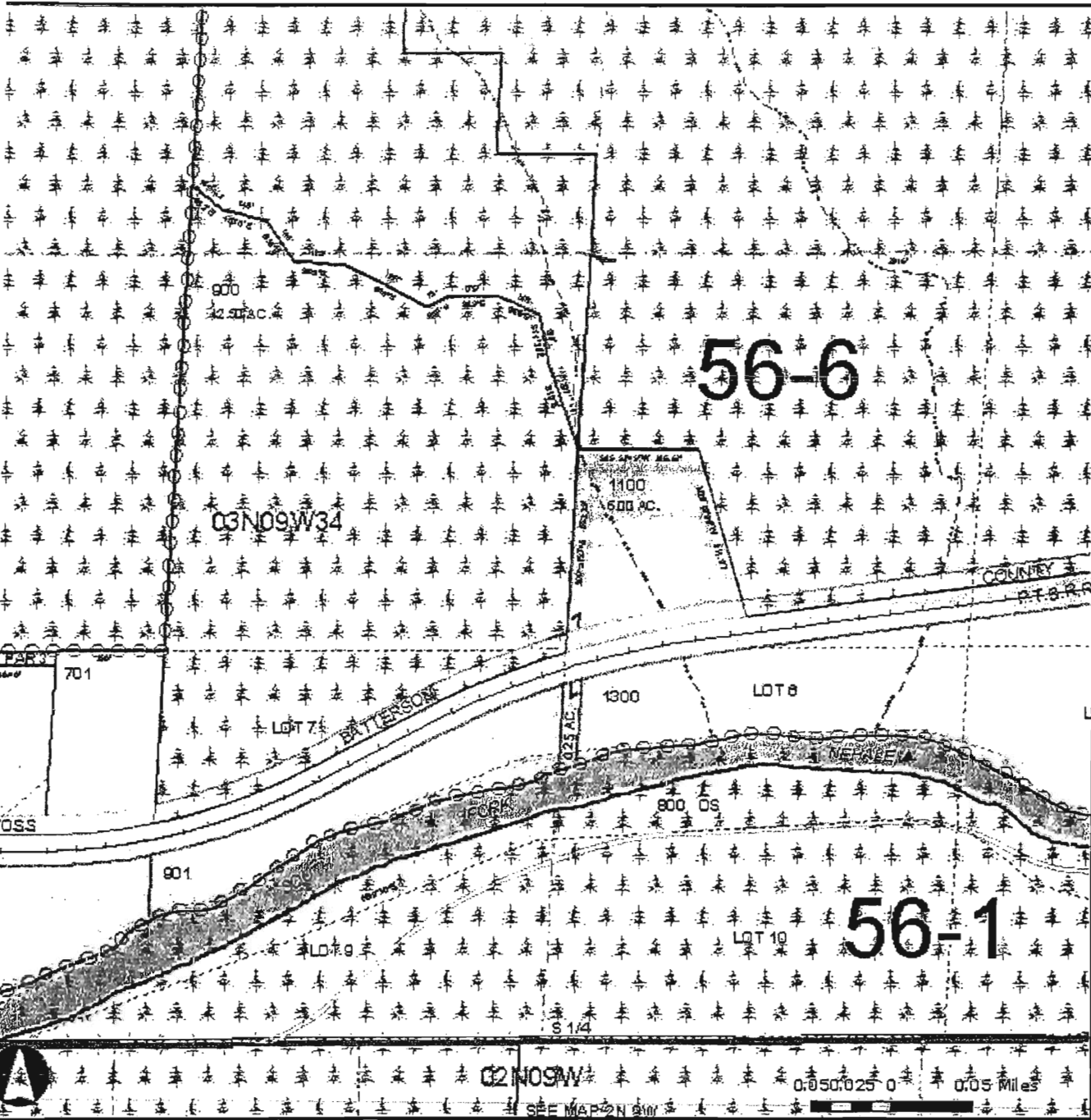


11- PRIVATE RD ROW

32 TAXLOT

51 MAP BOUND

C-09-03



56-6

56-1





















03N09W34









02N09W

0 0.50 0.25 0 0.05 Miles

SEE MAP 2 N 10 W

County Zoning	County Zoning (continued)	Reference Lines (continued)
CC	PCW-P	11- PRIVATE RD ROW
CI	PCW-R1	12- PRIVATE RD C/L
COS	PCW-R2	→ 15- RAILROAD C/L
CP	PCW-R3	17- EASEMENT ROW
CR-1	PCW-RR	18- EASEMENT C/L
CR-2	POS	▶ 30
CR-3	RC	--- 33- HISTORIC TL LINES
	RI	/// 40- SUBDIVISION BOUNDARY

-  CSFR
-  F
-  F-1
-  M-1
-  NKN-15
-  NKN-30
-  NKN-7.5
-  NT-C1
-  NT-PRD
-  NT-R2
-  NT-R3
-  NT-RMD
-  NeskC
-  NeskR-1
-  NeskR-3
-  NeskRM
-  NeskRR
-  PCW-AP
-  PCW-C1
-  PCW-C2

-  RMr
-  RMH
-  RN
-  ROS
-  RR-2
-  SFW-10
-  SFW-20
-  WDD

Tax Code Lines



Corner



CartographicLines

—Pointers

→Pointers

ReferenceLines

---63; 55; 52

---56 - ZONE LINE

---120 - VACATED ROAD

9- PUBLIC RD C/L

—41- PP BOUNDARY

—60 - ROAD TICS

TaxlotLines

---8 ROAD

---14 RAIL

---32 TAXLOT

---51 MAP BOUND

Taxlot



WaterLines



Water Bodies



PLSS Corners



PLSSLines



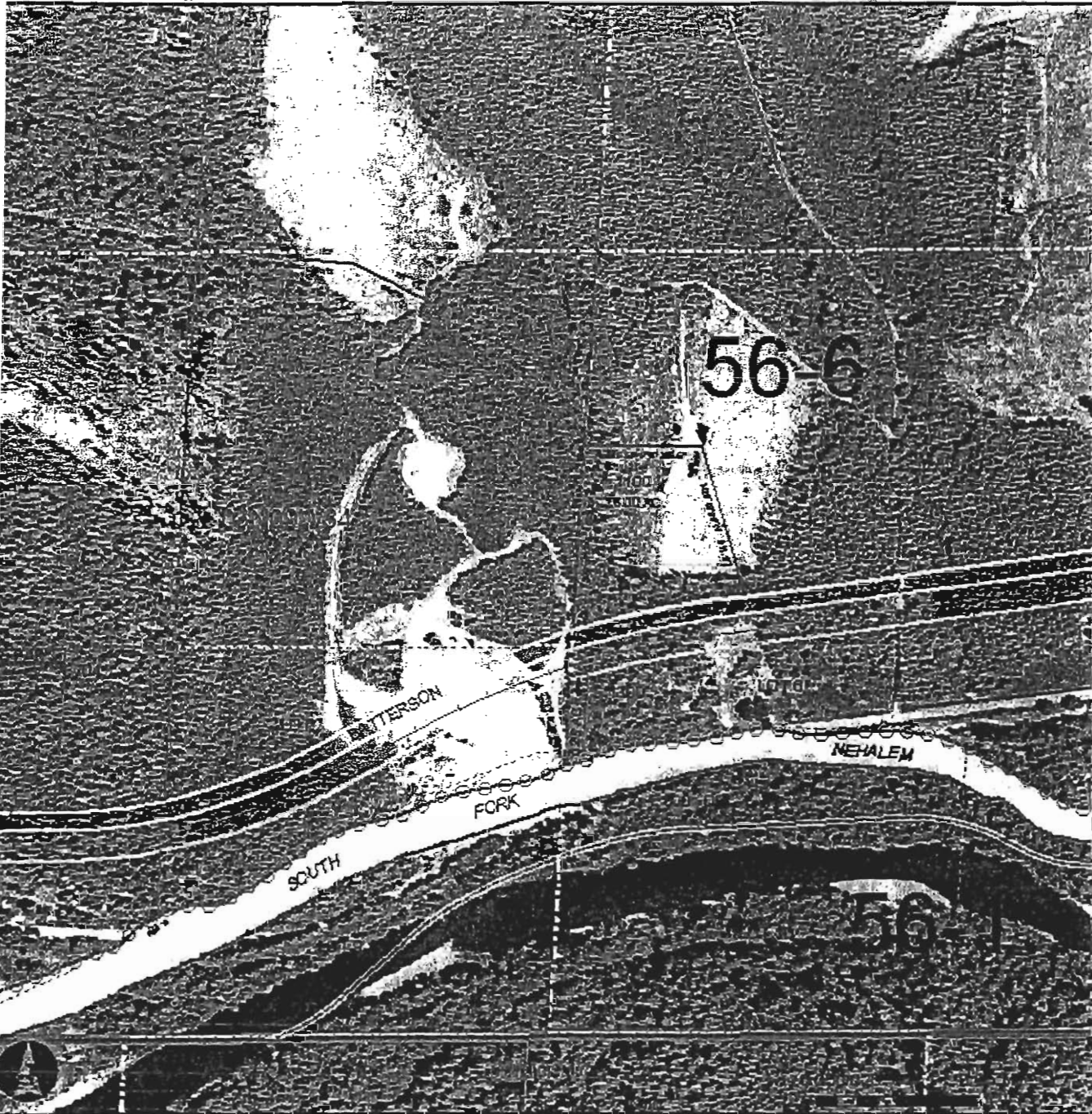
---2; 32; 33

---47-DLC LINES

Map Boundary



2C-09-03



Tax Code Lines

- Corner
- CartographicLines
- Pointers
- Pointers

ReferenceLines

- 63; 55; 52
- 56 - ZONE LINE

ReferenceLines (continued)

- 17- EASEMENT ROW
- 18- EASEMENT C/L
- 30
- 33- HISTORIC TL LINES
- ✓ 40- SUBDIVISION BOUNDARY
- 41- PP BOUNDARY
- 60 - ROAD TICS

TaxlotLines

WaterLines

-
- Water Bodies
- PLSS Corners
- PLSSLines

2; 32; 33

47-DLC LINES

- 120 - VACATED ROAD
- 9- PUBLIC RD C/L
- 11- PRIVATE RD ROW
- 12- PRIVATE RD C/L
- 15- RAILROAD C/L

- 8 ROAD
 - 14 RAIL
 - 32 TAXLOT
 - 51 MAP BOUND
- Taxlot

- Map Boundary
- 2009
- Red: Band_1
 - Green: Band_2
 - Blue: Band_3

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HLBOTAK INC

Tillamook County



DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

201 Laurel Avenue
Tillamook Oregon 97141
www.tillamook.or.us

Building (503) 842-3407
Planning (503) 842-3408
On-Site Sanitation (503) 842-3409
FAX (503) 842-1819
Toll Free 1 (800) 488-8280

Land of Cheese, Trees and Ocean Breeze

PLANNING APPLICATION
DEPARTMENT OF COMMUNITY DEVELOPMENT

Application Number	<input type="checkbox"/> Admin Review	<input type="checkbox"/> LUC Review	<input type="checkbox"/> Variance
	<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Major / Minor Partition	<input checked="" type="checkbox"/> Zone Amendment
	<input type="checkbox"/> Exception	<input type="checkbox"/> Ordinance Amend	<input checked="" type="checkbox"/> Zone Change
	<input type="checkbox"/> Extension	<input type="checkbox"/> Sub - Pre Lim	<input type="checkbox"/> Non Conform Major Rev
	<input type="checkbox"/> GHZ Report	<input type="checkbox"/> Sub - Final Plat	<input type="checkbox"/> Non Conform Minor Rev

REQUEST (Describe request) Zone change to add a Mineral and Aggregate Resource Overlay. An Comprehensive Plan amendment to apply Goals protection to the rock quarry. Site plan review.

APPLICANT:

Name: Mahler Sand and Gravel Phone: 503-368-5157
Address: 36435 Hwy 101 N. City: Nebalem State: OR Zip: 97131

LEGALLY RECORDED OWNER:

Name: Blue Rock Quarry, LLC Phone: 503-368-5157
Address: 36435 Hwy 101 N. City: Nebalem State: OR Zip: 97131

1. LEGAL DESCRIPTION OF THE PROPERTY INVOLVED IN THIS APPLICATION

Township 3N Range 9 Section 34 Tax Lot 900
Subdivision _____ Lot _____ Block _____

2. ZONING Forest

3. IS THE PROPERTY DEED RESTRICTED TO PROHIBIT THE USE AS PROPOSED IN THIS APPLICATION?
 YES NO

4. I HEREBY APPLY FOR THE ABOVE REQUEST:

I agree to abide by the requirements of the Tillamook County Comprehensive Plan, Tillamook County Land Use Ordinance, Tillamook County Land Division Ordinance as they apply to this request.

PROPERTY OWNER'S SIGNATURE [Signature]

Date 7/21/09

5. I AUTHORIZE THIS REQUEST BY THE APPLICANT:

APPLICANT'S SIGNATURE [Signature]

Date 7/21/09

*****FOR OFFICE USE ONLY*****

Date 10-30-09 Received [Signature] Recd. Paid \$1950⁰⁰ Receipt# #10799

C:\ADMIN\FORMS\PLANFORM12009_PlanningApplication.doc

AN EQUAL OPPORTUNITY EMPLOYER

09-2545-7C
and Zone Amendment

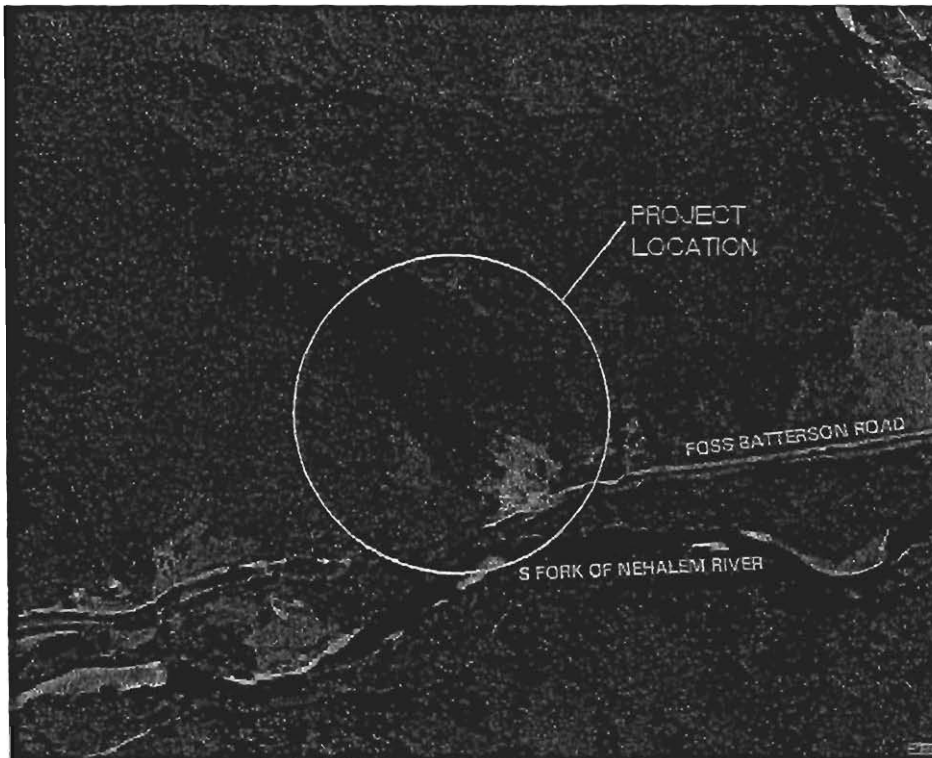
Exhibit II

A Request for:

**Comprehensive Plan Amendment
Zone Change
Site Review Approval**

Prepared for:

Mohler Sand and Gravel, Applicant



Prepared by



JUNE 2009

Yunker Pit Expansion

NEHALEM, OREGON
TILLAMOOK COUNTY

A Request for:

- **Comprehensive Plan Amendment**
 - **Zone Change**
 - **Site Review Approval**

Prepared for:

Mohler Sand and Gravel, Applicant

Prepared by:

Otak, Inc.



June 2009

Project Number: 63898

YUNKER PIT QUARRY EXPANSION

- REQUEST:** This is a request for a zone change and comprehensive plan amendment to expand the Yunker Pit (previously known as the Simpson Pit) by rezoning the property with a mineral and aggregate overlay zone and to designate the site as a significant resource to be protected under the auspices of Oregon Statewide Planning Goal 5. This proposal also requests a site plan review approval to allow the existing operation to continue.
- PROCESS:**
- A. Apply for a zone change with Tillamook County to apply the Mining and Aggregate overlay in accordance with Section 3.094 of the Tillamook County Land Use Ordinance.
 - B. Designate this property as a Goal 5 Significant Resource with a Comprehensive Plan Amendment.
 - C. Provide a site plan review.
- SUBJECT PROPERTY:** The site is located on the northern side of Foss-Batterson Road, approximately 8 miles east of the town of Nehalem. The property is described as Tax Lot 900 of Map 3N 9 34 in Tillamook County, Oregon.
- PROPERTY OWNER:** Blue Rock Quarry, LLC, a subsidiary of Mohler Sand and Gravel
c/o Brian or Brett Smith
36435 Hwy 101 N.
Nehalem, OR 97131
- APPLICANT:** Mohler Sand and Gravel
c/o Brian Smith or Brett Smith
36435 Hwy 101 N.
Nehalem, OR 97131
- PLANNER:** HLB Otak, Inc.
4253-A Hwy 101 N.
Gearhart, OR 97138
Ph: (503) 738-3425
Fax: (503) 738-7455
- ENGINEER/
SURVEYOR:** HLB Otak, Inc.
4253-A Hwy 101 N.
Gearhart, OR 97138
Contact: R. Colin Stelzig, PE
Ph: (503) 738-3425
Fax: (503) 738-7455

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VII. EXHIBITS

- Exhibit 1 Cover Sheet, including Vicinity Map
- Exhibit 2 Property Boundary Survey, Map B-2901, Tillamook County Survey Records
- Exhibit 3 Topographic Survey of property by HLB Otak, Inc., dated March 23, 2005
- Exhibit 4 Assessor's Map (3N 9 34), portion thereof, showing TL 900
- Exhibit 5 Tillamook County Zoning Map (3N 9 34)
- Exhibit 6 Site Plan, including Impact Area and anticipated extent of mining for 5, 10, and 20 years
- Exhibit 7 Aerial Photo of Site and Vicinity, dated August 20, 2000
- Exhibit 8 USGS Contour Map Illustrating Existing Quarry
- Exhibit 9 Map of Alternative Quarries
- Exhibit 10 Screening of House to East of Quarry
- Exhibit 11 Screening of House to West of Quarry
- Exhibit 12 DEQ Stormwater Permit #1000 Map and Information
- Exhibit 13 General Site Photos
- Exhibit 14 Oregon Department of Geology and Mineral Industries Statewide Landslide Information Database of Oregon Map

I. PROPOSED AMENDMENTS

Background of Rock Quarry Operation

Mohler Sand and Gravel has operated the Yunker Pit on Foss-Batterson Road since approximately 1989 when the rock quarry operation was leased from Simpson Lumber Company (Simpson). Prior to that time, Simpson operated the quarry for its use in providing rock for the company's logging roads. Mohler Sand and Gravel, doing business as Blue Rock LLC, purchased the rock quarry and surrounding property from Simpson in 2005. The Yunker Pit has been mined by Mohler Sand and Gravel for over eighteen years. A Conditional Use Permit, CU-89-15(a) (Appendix A), was issued in 1989 by the Tillamook County Department of Community Development and signed by Lynda Willard, Senior Planner. The Conditional Use Permit was issued to allow for a rock quarry and a rock crushing operation in an F (Forest) zone on property located on the northern side of, and adjacent to, Foss-Batterson Road. The property was identified on CU-89-15(a) as being a portion of what is now Tax Lot 900, Map 3N 9 34. At that time, Tax Lot 900 was a triangular tract of land being all of that portion of Government Lot 7 of Section 34 which lies north of Foss-Batterson Road, as shown in Exhibit 4. Over time, the rock quarry operation has continued to operate and expand as the overburden is excavated and the quarry rock is removed. As the rock quarry operation moved to the north and further into the rock quarry, additional land was added to the operation. Hence, in 2005, Mohler Sand and Gravel purchased the adjoining land to the north of the original rock quarry property. The sale and expansion of the rock quarry was accomplished by deed recorded in Book 2005, Page 6505, Deed Records Tillamook County, Oregon (Appendix B). The company reported that they have mined an average of 27,300 cubic yards of rock per year for public and private construction projects in Tillamook County over the five year period of 2002 through 2007 (Appendix E).

Planning and Zoning Requests

The purpose of this application is to request:

1. A zone change to Tax Lot 900 to add a Mineral and Aggregate Resources Overlay (ZC),
2. An amendment to the Tillamook County Comprehensive Plan to apply Goal 5 protection to the rock quarry designating the quarry as a significant resource within the Tillamook County Comprehensive Plan (Comp. Plan Amendment), and
3. A site review to obtain approval to continue operations within the quarry.

II. SITE DESCRIPTION

Location

The site is located east of Mohler on the northern side of Foss-Batterson Road, approximately eight miles east of the town of Nehalem, Oregon. The property is described as Tax Lot 900 in Township 3N, Range 9W, Section 34 in Tillamook County, Oregon. The property is approximately 42.50 acres in size. See Exhibit 2 for a boundary survey of the property.

Zoning

The Tillamook County Zoning Map (Exhibit 5) designates the property as F (Forest) zone. According to the Tillamook County website, "...The County's adopted Farm (F-1), Forest (F), and Small Farm & Woodlot-20 (SFW-20) zones do not conform to current state law. Work is underway to align Tillamook County's ordinances with state law. In the meantime the Department is using state law in combination with the Land Use Ordinance in order to guide development on resource lands..." The Forest zone is a resource zone that is protected under state law.

Surrounding Land Uses

A single-family residence is located on the property immediately to the east of Tax Lot 900 which is zoned SFW-20 (Small Farm & Woodlot-20). One small property to the south of the railroad and Foss-Batterson Road fronts upon the Nehalem River and is used as a fishing camp. That property is also zoned SFW-20 (Small Farm & Woodlot-20) and does not currently include any permanent structures. Use of the property is generally made with a motor home or RV. To the west of the property are three tax lots, 701, 703, and 702 from east to west. Lot 701 is zoned RR (Rural Residential); but currently does not have a residence on it. Lot 703 has a residence on the 1 acre portion that is zoned RR and the remaining 2.6 acres are zoned F (Forest). Lot 702 is zoned RR, but is Designated Forest Land and has no residence on it. The properties to the north are undeveloped forest lands, zoned F. See Exhibit 5 for the Tillamook County Zoning Map and Exhibit 7 for an aerial photo of the general vicinity.

The Port of Tillamook Bay Railroad line runs parallel to Foss-Batterson Road on the southern side of the road. The Nehalem River also runs parallel to the road and is approximately 200 feet south of Foss-Batterson Road.

Topography

The site slopes from the northwest to the southeast. The quarry site is at the base of a small mountain, and consists of moderate to steep slopes. See Exhibit 3 for a current topographic map of the property.

Wetland and Riparian Areas

There are two streams that intersect on the eastern portion of the property, somewhat north of the southeastern corner of the property and drain into 36-inch diameter culverts that runs beneath Foss-Batterson Road and the Port of Tillamook Bay rail line prior to discharging into the Nehalem River. The stream and culvert locations are shown on the topographic map (Exhibit 3).

Existing Structures

A rock crusher and associated equipment and out-buildings are on the site. All are temporary in nature, but are expected to remain at the quarry as long as mining operations are on-going. See Exhibit 13 for general photos of the site and the rock quarry operations.

Access and Circulation

Foss-Batterson County Road serves the site along the southern boundary. Its western end terminates at Miami-Foley Road, which in turn intersects Highway 53 just north of Mohler on the northern side of the Highway 53 bridge over the Nehalem River. Highway 53 proceeds northeast to Highway 26 or southwest to Highway 101.

Table 1 - Distances to Potential Rock Delivery Locations

Location	Distance (mi.)
Highway 53	5
Highway 26	23
Highway 101	6
Cannon Beach	24
Manzanita	10
Nehalem	8
Wheeler	7
Rockaway Beach	15
Garibaldi	17
Bay City	19
Tillamook	25

The Yunker Pit also has the unique situation in that it is adjacent to a Port of Tillamook Bay rail line. There is no other rock pit in Tillamook County that is located adjacent to a rail line. There is a railroad siding located alongside the rail line directly across Foss-Batterson County Road from the quarry. Rail cars on the siding can be loaded directly with rock from the quarry.

III. COMPLIANCE WITH APPLICABLE TILLAMOOK COUNTY COMPREHENSIVE PLAN POLICIES AND STATE PLANNING GOALS

Section 3.094(4)(E)(3)(d) of the Tillamook County Land Use Ordinance requires that the ESEE (Economic, Social, Environmental and Energy) analysis examine, "The applicability and requirements of other Statewide Planning Goals, the County Comprehensive Plan or provisions of the County Zoning Ordinance." The sections below address the applicability of the Tillamook County Comprehensive Plan and Oregon's Statewide Planning Goals. The Statewide Planning Goals are listed in parenthesis () where the title of the goal does not match the title of the Tillamook County goal.

GOAL 1 – The Planning Process (Citizen Involvement)

Response: Oregon's Statewide Planning Goal 1 is, "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process." Tillamook County's Goal 1 accomplishes this by providing opportunities for citizen involvement through the Comprehensive Plan and the Zoning Ordinances. Opportunity for citizen input on the continued use of the Yunker Pit is provided for in Article VI, Conditional Use Procedures and Criteria, Section 6.020 of the Zoning Ordinances. This section describes notice and public input requirements when applying for a conditional use on a property. These notices give members of the public the opportunity to voice their opinions and be involved in the decision making process.

At the end of the Conditional Use Permit (Appendix A, issued in 1989) is a note from Richard Von, adjacent property owner, indicating his approval of the continuing use of the quarry. Von's property is on the southern side of Foss-Batterson Road, directly across the road from the quarry and is the property that would be most impacted by the continued use of the quarry. Von's response is an indication of the involvement of the owners of neighboring properties. Similar to the conditional use process in 1989, the current request will include public notification and public involvement.

GOAL 2 – The Land Use Plan (Land Use Planning)

Response: Tillamook County has complied with the Statewide Goal 2 by “establishing a land use planning process and policy framework...” One of the requirements of the Statewide Goal 2 is to coordinate land use decisions with all affected governmental agencies. The applicant has coordinated with affected governmental agencies, including: Tillamook County Community Development (Appendix A), Tillamook County Roads Department (Appendix H), DOGAMI (Appendix F), and DEQ (Exhibit 12).

Section 3 of Tillamook County’s Goal 2 is titled “Justification Element.” Section 3.6 covers the Rural Economic Enterprise Zone and can be used to support protecting the mineral resources at the Yunker Pit in the following sections, “In addition to the rural residential zones, there are some areas outside of urban growth boundaries which have been zoned to support maintenance and development of the county’s economic base...” and in Section 3.62, Industrial Land Needs, “Resource based industries in this heavily resource oriented County may best be located near the source of those resources....” Finally, rural areas are suitable for small-scale rural industries for which urban services are not required because...land is available for storage and buffering from adjacent uses, and there are few neighbors who will be affected by the use.” The Yunker Pit is an ideal situation. It has long-term benefits for the economic development of the area as there is enough rock in the quarry for an estimated 100 years. It is also in an excellent location for a rural industry as the property provides enough space for storage and crushing of the rock and disposal of the overburden. The topography and vegetation of the land provides ample screening for all but Tax Lot 901, owned by Richard Von who uses his property on a limited basis and who has previously given written support of the quarry (Appendix A).

GOAL 3 – Agricultural Lands

Response: Goal 3 is, “To preserve and maintain agricultural lands.” This property is zoned Forest land. The properties to the north are also zoned Forest land. There are three properties within the Impact Area (750 feet from the extraction area) that are zoned SFW-20, only one of which currently has a residence on it. Properties in an SFW-20 zone have the potential to be used as farm land, but these properties currently are not. Tax Lot 700, with the residence, is screened from the quarry by the topography of the land and the quarry is not expected to have a large impact on the property.

The closest agricultural lands, with an F-1 zoning, are the pastures of a dairy farm approximately 0.25 miles to the west of the quarry and outside of the Impact Area. As defined in the Tillamook County Land Use Ordinance Section 3.094(3)(B), the

Impact Area is defined as “parcels or portions of parcels adjacent to and within 750 feet of the Extraction area boundary...” The agricultural lands are protected from potential adverse impact of the quarry by the pile of rock to the west of the quarry.

The Yunker Pit is in compliance with Goal 3 in that conflicts between the quarry and agricultural uses are not expected.

GOAL 4 – Forest Lands

Response: The State Goal 4 directs local governments “To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.” The Tillamook County Goal 4 states that forest lands are a vital part of Tillamook County's economy. Tillamook County's Goal 4 is written to preserve the forest land and the zoning of much of the County's land is Forest (F) as a means to maintain the forest.

The subject site is zoned for Forest Uses. Aggregate mining is an approved use on forest land subject to the provisions of OAR 660-006-025. There are no clear conflicts with the proposed expansion and other potential uses within the zone that cannot be mitigated. In fact, the use of the subject property as a rock quarry does protect the state's forest economy in that rock is economically produced from this site for use on logging roads that access forest lands throughout the northern portion of Tillamook County. While the forest will not be maintained directly on the land that is being quarried, the quarry does not impede forestry activities on the lands adjacent to it, as is evidenced in the aerial photograph (Exhibit 7).

The Operating and Reclamation Plan (Appendix G) discusses how the land will be returned to forest land. As the rock quarry is mined, the overburden and top soils are placed in an area by the eastern border of the property and reseeded with native vegetation and grasses to stabilize the soil. The forest is then allowed to return naturally.

Section 1.5 of Tillamook County's Goal 4 discusses economic benefits provided by forest land. Similar economic benefits will be provided through the operation of the quarry. Employment and the resulting benefits of employment will be generated through the operation of the business of selling the rock. The quarry directly provides employment opportunities to its staff. Indirectly, the quarry provides rock that compliments other employment opportunities, such as truck drivers to haul the rock and construction work at locations where the rock will be used.

Section 4.1 of the Tillamook County Goal 4 has the following provision, "Most forest uses are allowed outright in the Forest zone, while non-forest uses are limited by a conditional use process that requires review by the County Planning Commission. Non-forest uses are allowed only if they are compatible with forest and farm uses on adjacent and/or nearby land and if they do not constitute a serious fire hazard." This request is consistent with this section as it was initially approved as a conditional use. Once this application is approved, the site will be under Goal 5 protection with a Mineral and Aggregate Resource Overlay.

GOAL 5 –Natural Resources

Response: State Goal 5 directs local governments to "Protect natural resources and conserve scenic and historic areas and open spaces." Aggregate resources are included in the list of natural resources that can be afforded protection under Goal 5. The South Fork of the Nehalem River is near to, and a stream is adjacent to, the quarry and both are within the Impact Area for the quarry. According to Section 4.080 of the Tillamook County Land Use Ordinance, all development shall be located over 50 feet from the South Fork of the Nehalem River. This setback is definitely met as Foss-Batterson Road, with a right-of-way width of 60 feet, the POTB railroad, with a right-of-way width of 100 feet, and the privately owned property of Tax Lot 901 provide a buffer between the river and the quarry. The riparian setback for the stream is 15 feet. The stream is located at the northern and eastern property boundaries and can be protected in conjunction with the natural screening being provided for the neighbor to the east of the quarry.

Section 4 of the Tillamook County Goal 5 requires the Inventory of Economic Resources, with the Mineral and Aggregate Resources in Section 4.1.4a. Section 4.1.4a states the importance of aggregate resources to Tillamook County as follows:

"Quarry rock figures significantly in the use of aggregate resources in Tillamook County for two purposes. First is the use of quarry rock for riprap in riverbank protection. Tillamook County farmers have been using an average of 30,000 tons of quarry rock per year for riprap. Second, both the County Road Department and State Highway Department use large amounts of crushed rock for road construction, especially in areas where stream gravel is unavailable. The quantity ranges from 100,000 to 300,000 tons of quarry rock annually, depending on construction projects."

Quarry rock is also used for city and private roads as well as private development.

The Yunker Pit is listed in Section 4.1.4a.2 as a Potential Aggregate and Mineral Site, indicating that, when Goal 5 was written, there was insufficient information to determine the significance of this mine. The property is listed under its former name, the Batterson Pit, and is shown to have 2 acres associated with Tax Lot R3N 9 34 00900. With the combination of Tax Lot R3N 9 34 00900 and land from Tax Lot R3N 9 34 00500, the Yunker Pit has increased in size and significance to 42.5 acres. This document is a request to change the status of the Yunker Pit to a "significant site" and provides the justification to do so.

SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODIT PRESENT
Cook Creek Jetty Pit	R3N 8 05800	3	F			Stone
Batterson Pit	R3N 9 34 00900	2	F			Stone

Table from Tillamook County Comprehensive Plan Goal 5, Section 1.4a.2 "Potential Aggregate and Mineral Sites".

GOAL 6 – Air, Water and Land

Response: State Goal 6 directs local governments, "To maintain and improve the quality of the air, water and land resources of the state." Tillamook County Goal 6 provides an overview of the state and federal regulations protecting air, water and land resources quality. In this instance, the proposed amendment complies with both state and Tillamook County provisions for Goal 6 by meeting the applicable state and federal permits required for the quarry operation. It is feasible for the proposed operation to comply with the standards and it is within the County's jurisdiction to halt operations within the quarry should it fail to comply with the prescribed environmental regulations.

The Operating and Reclamation Plan for the quarry contains descriptions for how the mine will maintain water and land quality (Appendix G). The Yunker Pit has established means for protecting air, water and land quality. Buffers are provided between the quarry and adjacent properties to protect adjacent property owners from noise and dust from the mine and settling ponds are provided to protect water quality.

GOAL 7 – Hazards (Areas Subject to Natural Hazards)

Response: According to the DOGMI Statewide Landslide Information Database of Oregon (SLIDO) map (Exhibit 14), and the map on page 7-9 of Tillamook County Goal 7, the Yunker Pit is in an inactive landslide area. However, rock mining is not one of the activities listed in Tillamook County Land Use Ordinance Section 4.070(3) requiring a Geologic Hazard Report. Mining and reclamation will continue as specified in the Operating and Reclamation Plan (Appendix G), which

includes shaping the land and benching the high wall of the excavation to ensure stability of the excavated slopes.

GOAL 8 – Recreation (Recreational Needs)

Response: State Goal 8 is, “To satisfy the recreational needs of the citizens of the state and visitors...” Recreation on the South Fork of the Nehalem River includes fishing, boating, and camping. The South Fork of the Nehalem River is buffered from the rock quarry by Foss-Batterson Road, the Port of Tillamook Bay rail line, private property and trees. There is no apparent adverse impact by the quarry on the ability to enjoy recreation activities on the South Fork of the Nehalem River.

GOAL 9 – Population & Economy (Economic Development)

Response: State Goal 9 is, “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon’s citizens.” Rock products are an integral part of construction and maintenance of roads. It is an essential raw material used in the construction of businesses, homes, and infrastructure. Rock quarries are needed for continuing the road maintenance to support economic development in Tillamook County. Operation of the quarry provides employment opportunities that also contribute to the economic growth of the county.

GOAL 10 – Housing

Response: This goal does not apply to this application. The project does not include housing and does not prevent housing on adjacent properties. Nearby properties zoned for residential use are screen from the quarry.

GOAL 11 – Public Facilities Policies

Response: Goal 11 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.” There are numerous policies and goals with respect to the provision of public facilities for all areas of Tillamook County. However, no specific policies are applicable to the proposed amendments. There are limited public utilities associated with the mining operation, but no reason to believe that the quarry could not comply with Goal 11 as adopted. The main public utility associated with the operation of the rock quarry is electric power, provided by the Tillamook PUD and used in operation of the rock crusher.

GOAL 12 – Transportation

Response: State Goal 12 directs counties “To provide and encourage a safe, convenient and economic transportation system.” The primary means of transportation to and from the Yunker Pit is vehicular access to the site by use of the Foss-Batterson County Road. The railroad facilities operated by the Port of Tillamook Bay Railroad also provides access to the quarry. The railway is located immediately south of Foss-Batterson Road, across the road from the quarry.

The county road provides public vehicular access to the property and allows for truck transport of rock from the site to its points of use. The quarry has an impact on the Tillamook County road system used by the trucks hauling rock from the quarry in the form of wear on the roads. However, this quarry also provides rock and gravel for the repair and construction of roads in Tillamook County.

Mohler Sand and Gravel will need to improve the road approaches on the north and south sides of Foss-Batterson Road. The northern approach accesses the quarry and the southern approach provides access to the railroad. Documentation regarding the road approach and the Road Approach Application and Construction Permit are included in Appendix H.

The railroad facilities are an asset unique to this rock quarry since rock can be loaded directly onto rail cars at the site and economically transported to any location along the railroad. The railroad is a major user of crushed rock products from this rock quarry for use in maintaining the roadbed of the railroad. In December of 2007, a storm hit the Oregon coast, causing major damage to the railroad up the Salmonberry River canyon. This rail line connects the Tillamook County rail system to Portland, Oregon. From Portland, cars can be transferred for shipment across Oregon or across the country. The damaged portions of the railroad are east of the Yunker Pit on the same rail line. Once repairs for this rail line are approved, the Yunker Pit is in an excellent location to be able to provide rock for the railway repairs, using railcars to transport the rock to the repair sites.

GOAL 13 – Energy Conservation

Response: Goal 13 is “to conserve energy.” Energy consumption is an unavoidable necessity for operating the rock crusher at the quarry. The electricity is supplied by Tillamook PUD, the only power utility in Tillamook County.

Energy consumption is also required for transporting the finished product of the quarry to the location where it will be used. A mileage chart is provided in Table 1, page 3 of this document.

The quarry has the potential for conserving energy through the use of the railroad line for distribution some areas. The proximity of the railroad and siding on the southern side of Foss-Batterson Road allows the loading of rock directly into rail cars. The Port of Tillamook Bay (POTB) Railroad Newsletter posted on the POTB website (www.potb.org/newsletter3.pdf) reports that "The closing of the Port of Tillamook Bay Railroad is adding nearly 300 truck trips into and out of Tillamook County each week, or approximately 15,500 trips annually, to carry freight formerly carried by the train...It is estimated that trains are from 4 to 9 times more fuel efficient than trucks at distances of less than 100 miles." The Yunker Pit is in the position to be able to provide rock for the rebuilding of the rail line, helping to conserve energy in the long-term with the renewed use of the railroad for hauling goods out of Tillamook County.

GOAL 14 – Urbanization

Response: The Yunker Pit is not adjacent to or part of an urban area, so this goal does not apply to this application. The nearest incorporated cities, consisting of Nehalem, Wheeler, Rockaway, and Garibaldi are all more than 12 miles away.

GOAL 15 – Willamette River Greenway

Response: This goal does not apply to this application. The property is located outside of the Willamette River valley.

GOAL 16 – Estuarine Resources

Response: This goal does not apply to this application. The property is located outside of estuarine areas.

GOAL 17 – Coastal Shorelands

Response: This goal does not apply to this application. The property is located several miles to the east of Highway 101.

GOAL 18 – Beaches and Dunes

Response: This goal does not apply to this application. The subject property is not located near coastal beaches or sand dunes.

GOAL 19 – Ocean Resources

Response: This goal does not apply to this application. The subject property is located several miles from the Pacific Ocean.

IV. COMPLIANCE WITH APPLICABLE TILLAMOOK COUNTY LAND USE ORDINANCE PROVISIONS

The Tillamook County Land Use Ordinance sets forth the approval standards for Conditional Uses and Land Uses. The provisions of the following sections are applicable to the proposed development:

Tillamook County Land Use Ordinance

Article 3- Zone Regulations

Section 3.094 Mineral and Aggregate Resources Overlay Zone

Article 4 – Supplementary Regulations

Section 4.030 Off-Street Parking & Off-Street Loading Requirements

Section 4.070 Development Requirements for Geologic Hazard Areas

Section 4.080 Requirements for Protection of Water Quality and Streambank Stabilization

ARTICLE 3 – ZONE REGULATIONS

Section 3.094 Mineral and Aggregate Resources Overlay Zone

(1) PURPOSE

The purpose and intent of the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE is:

- (A) To provide a mechanism to identify and protect significant mineral and aggregate resource sites;*
- (B) To allow the development and use of mineral and aggregate resources subject to uniform operating standards;*
- (C) To balance and resolve conflicts between surface mining activities and activities on surrounding land;*

Response: The subject site is an existing quarry where rock products are currently being extracted for the purposes of both public and private construction projects. This is an application to identify and protect an existing quarry under the provisions of these regulations and Statewide Planning Goal 5.

(4) PROCEDURE FOR APPLYING THE OVERLAY ZONE

- (A) DETERMINATION OF A SIGNIFICANT SITE: *The County shall analyze information about the location, quality, and quantity of mineral and aggregate deposits. Information necessary to demonstrate the significance of a resource shall include:*
- (1) *(Location) A survey, map, tax lot map, or other legal description that identifies the location and perimeter of the mineral and aggregate resource with reasonable particularity; and*
 - (2) *(Quality) Information demonstrating that the resource meets or can meet applicable quality specifications for the intended use(s). Information may consist of laboratory test data or the determination of a geologist, engineer, or other qualified person; and*
 - (3) *(Quantity) Information demonstrating the quantity of the resource as determined by exploratory test data or other calculations compiled and attested to by a geologist, engineer, or other qualified person.*

Response: Location: This application includes a property survey showing the extent of the property (Exhibit 2), and a Tillamook County Assessor tax map of the subject property (Exhibit 4). The legal description of the property is contained in the deed provided in Appendix B. The site plan (Exhibit 6) indicates the estimated extent of mining for the next 5, 10, and 20 years.

Quality: According to the Tillamook County Land Use Ordinance (LUO) definitions, "A significant aggregate resource site is a site that contains aggregate or stone material which meet modified Oregon Department of Transportation specifications for construction grade material, which are the three materials tests of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance."

The subject site is owned by Blue Rock Quarry, LLC, a subsidiary of Mohler Sand and Gravel. Included in this application are the 2005 test results from Carlson Testing (Appendix C) indicating that the aggregate currently mined from the site demonstrates compliance with the ODOT specifications for construction material as prescribed above for the quality of rock.

Quantity: The existing active quarry operating area covers less than 10 percent of the overall property. Based upon rock production records for the six year period of 2002-2007, the quarry produced nearly 164,000 cubic yards of rock in that 6 year period (Appendix E). A seismic wave analysis of the rock quarry was conducted by

S.D. Schwarz & Associates, Inc. on May 12, 2004. The summary of that analysis is presented in Appendix D and interprets the quality of rock based upon the apparent densities as measured in the seismic wave analysis. Based upon that seismic wave analysis, the graph shows that the site generally contains 20 to 30 feet of overburden that must be removed prior to the extraction of the quarry rock. Below the overburden layer is a secondary layer of decomposed rock and rock fragments which is between 30 to 50 feet below the ground surface. From 50 feet and deeper below the ground surface lies the dense basalt rock that distinguishes the rock at this quarry. Volume calculations by Ronald G. Larson, PE, with HLB Otak, Inc., based on the topographic data shown in Exhibit 3 indicate that there is over 3,000,000 cubic yards of rock reserves meeting the criteria listed above on this site. Using the average rock production data from 2002-2007, the life expectancy of this quarry could be over 100 years.

Based upon the above criteria and the information presented within this application, it is the applicant's opinion that this rock quarry meets the above criteria as a significant site for location, quality and quantity.

(B) PLACEMENT ON THE INVENTORY: Based on the analysis of information about the location, quality and quantity of the mineral and aggregate resource, the County shall determine the inventory status of the resource site. Each site considered by the County shall be placed on one of three inventories based on the following criteria:

- (1) If the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Significant Sites"; or*
- (2) If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites". Sites shall remain on the "Potential Sites" inventory until information is available to determine whether or not the site is significant; or*
- (3) If the resource site does not meet the definition of a significant site, the County shall include the site on an inventory of "Other Sites".*

Response: This criteria is a directive to Tillamook County decision makers to list the site as a "Significant Site," "Potential Site," or "Other Site" based on location, quality and quantity of the proposed mineral and aggregate resource. The site is currently listed as a "Potential Site," as discussed on page 6 of this report. Consistent with the criteria prescribed in Subsection 4(A)(1-3) and the information provided with this application, the site should be classified as a "Significant Site."

(C) IDENTIFY THE IMPACT AREA: For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area and all lands within 750 feet of the Extraction Area boundary, unless the Impact Area is modified through the Goal 5 process.

Response: The "Impact Area," as prescribed as all lands within 750 feet of the extraction area boundary, is mapped and illustrated on the attached Zoning Map (Exhibit 5). The extraction area includes setbacks from property lines and streams, as described in the Operating and Reclamation Plan (Appendix G).

(D) IDENTIFY CONFLICTING USES: For each significant site placed on the inventory, conflicting uses shall be identified.

(1) The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).

(2) If no conflicting uses are identified, the Extraction Area portion of the MINERAL AND AGGREGATE OVERLAY ZONE shall be applied to the resource site. The Impact Area overlay shall not be applied.

Response: The underlying zone is currently F (Forest). According to the Tillamook County website, "...The County's adopted Farm (F-1), Forest (F), and Small Farm & Woodlot-20 (SFW-20) zones do not conform to current state law. Work is underway to align Tillamook County's ordinances with state law. In the meantime the Department is using state law in combination with the Land Use Ordinance in order to guide development on resource lands..." County staff has indicated that the identification of potential conflicting uses with forest zones should be analyzed consistent with the provisions of OAR 660-006-025, Uses Authorized in Forest Zones.

The surrounding zones within the Impact Area are F to the north, east and west, SFW-20 (ref. OAR 660-006) to the south and southeast, and RR (Rural Residential) to the southwest.

Considering this premise and the criteria listed above, the existing and potential conflicting uses that would be permitted on surrounding lands zoned F or SFW-20 under OAR 660-006-025 are as follows:

- One existing house located directly east of the existing mining operations. This house is located within the "Impact Area."
- Potential dwellings authorized by ORS 215.720 to 215.750.
- A potential "Farm use" as defined in ORS 215.203.
- Private hunting and fishing operations without lodging accommodations.
- Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8.
- Private parks and campgrounds.
- Public parks.
- Cemeteries.
- Private seasonal accommodations for fee hunting operations.

- Home occupations as defined in ORS 215.448.
- Private accommodations for fishing occupied on a temporary basis.

The existing and potential conflicting uses that would be permitted on surrounding lands zoned RR under Tillamook County Land Use Ordinance Section 3.010 are as follows:

Uses permitted outright:

- One existing house located directly west of the existing mining operations. This house is located within the "Impact Area."
- Potential dwellings on Tax Lots 701 and 702.
- Home occupations.
- Farm uses.
- Forest Uses.

Uses permitted conditionally:

- Planned Development subject to Section 3.080.
- Mixed Use Development subject to Section 4.130.
- Cottage industries.
- Temporary real estate sales office.
- Churches and schools.
- Nonprofit community meeting buildings.
- Cemeteries.
- Fire or ambulance stations.
- Golf Course.
- Animal hospital, kennel or other animal boarding service.
- Foster family home.
- Bed and breakfast enterprise.
- Residential care, training or treatment facility as defined by ORS 443.400.
- Home occupations according to the provisions of Section 4.140.

(E) ESEE (Economic, Social, Environmental and Energy) ANALYSIS: For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.

- (1) The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.*
- (2) The ESEE analysis shall be limited to uses and Goal 5 resources identified pursuant to Subsection (D) of this Section.*
- (3) The ESEE analysis shall consider opportunities to avoid and mitigate conflicts. The analysis shall examine:*
 - (a) The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining and processing;*
 - (b) The consequences of allowing mining and processing fully, notwithstanding the possible effects on conflicting uses;*
 - (c) The consequences of protecting conflicting Goal 5 resources;*

(d) The applicability and requirements of other Statewide Planning Goals, the County Comprehensive Plan, or provisions of the County Zoning Ordinance.

Response: All of the existing and potential conflicting uses listed above are uses that are either permitted outright or conditionally in the Forest zoning classification. Because of the remote location of the Yunker Pit, existing ownership patterns and the fact that the quarry has been in operation for at least the last eighteen years, it is unlikely that new property owners would be unaware of the quarry. Further, it is unlikely that the proposed expansion of the quarry would create any issues with the protection of existing Goal 5 resources. The negative consequences listed below can be mitigated through the implementation of existing rules and regulations that apply to mining in the Forest zone.

The Tillamook County Comprehensive Plan is implemented by the Tillamook County Land Use Ordinance. The applicable components have been previously discussed in this narrative. The applicable Statewide Planning Goals coincide with specific chapters from the Tillamook County Comprehensive Plan. The applicable requirements of all statewide planning goals are addressed previously in this narrative.

Economic Consequences

The economic consequences of converting the additional acreage to quarry use vary with time. The immediate use of the property as forest land is lost. It should be noted, however, that aggregate mining is an accepted use in forest lands. Additionally, quarries have finite resources, so the future reestablishment of forest resources on the property is possible once the quarry resources have been exhausted.

Other potential uses that rely on forested land, such as hunting, fishing, campgrounds and parks, could also be reestablished after the closing of the quarry. The rural location, and F and SW-20 zoning, minimize the potential for use as a cemetery. The steep native slopes and landslide designation also make the use of the native slope unlikely.

Mining aggregate produces a commodity that many communities and private companies rely on. The quarry creates local jobs and adds value to the nearby communities through infrastructure improvements. In turn, many of the improvements can lead to new economic development.

Social Consequences

The social consequences of a quarry are difficult to quantify. Most individuals are not directly affected by the mining activities. For this mine, there is an existing home adjacent to the quarry and a recreation area located on the opposite side of the Nehalem River from the quarry. The majority of the recreational users are not aware

of the quarry operations since it typically operates during the weekdays and the majority of hunting, fishing and camping activities occurs on weekends. Nevertheless, the traveling public is occasionally slowed by loaded dump trucks traveling on Foss-Batterson Road. Impacts to the adjacent home and recreational activities on the Nehalem River are limited by providing buffers and limiting hours of operation on both weekdays and weekends.

Environmental Consequences

The environmental consequences of allowing the quarry to be expanded and designated as a "Significant Resource" include the degradation of air and water quality within the immediate vicinity of the site. Noise and traffic associated are also with everyday quarry operations. Other consequences of quarry operation are the increased potential for landslides and the destruction of wildlife habitat and disruption to existing wildlife travel corridors as a result of the removal of forest.

Of the land uses previously listed, the most affected would be the existing home located directly to the east of the quarry and the outdoor recreation that occurs on the Nehalem River.

The quarry is a pre-existing use, operating under the Tillamook County Conditional Use Permit CU-80-15(a) (Appendix A) and DOGAMI Operating Permit 29-0081 (Appendix F). That permit includes requirements for screening and buffering from the adjacent home and any streams on site, monitoring water quality and compliance with Oregon Department of Fish and Wildlife requirements. Air and noise pollution are limited by state, local and federal regulations. Mitigation for the environmental impacts of the quarry include maintaining the buffers from the existing home and streams and compliance with local, state and federal laws as they pertain to vehicle emissions, water quality and hours of operation. The buffers and setbacks mitigate any environmental concerns.

Energy Consequences

The proposed expansion of the pit is requested in order to expose additional resources as they are needed. An increase in energy usage will occur if additional rock is produced. Current uses of energy include fuel consumption for trucks, loaders, rock crushers, etc. The aggregate is typically trucked over relatively short distances to project sites (Table 1, page 3). The number of trips is dependent on the amount of aggregate needed for the project. Maintaining the equipment and planning of deliveries is the best way for a quarry to conserve energy. The proximity of the railroad also provides access to a mode of transportation that is energy efficient.

(F) DECISION ON PROGRAM TO PROVIDE GOAL 5 PROTECTION: Based on the ESEE analysis, the County shall determine the amount of protection to be given each

significant site. Each determination shall be incorporated into the Comprehensive Plan, and reflected on the County zoning maps. The County shall make one of the following determinations:

- (1) Protect the site fully and allow mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE. Development of the significant site shall be governed by the standards in Section 3.094 (7). As part of the final decision, the County shall adopt site-specific policies specifying the planned use of the site following reclamation and prohibiting the establishment of conflicting uses within the Impact Area.
- (2) Balance protection of the significant site and conflicting uses and allow mineral and aggregate mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Section 3.094 (7) and other site-specific requirements developed through the Goal 5 process shall govern mining at the significant site. Section 3.094 (10) and any other site-specific requirements developed through the Goal 5 process shall govern development of conflicting uses within the Impact Area.
- (3) Allow conflicting uses fully, even though this may impair mining and processing. To implement this decision the County shall not apply the MINERAL AND AGGREGATE OVERLAY ZONE, and shall not include the site on the inventory of significant sites. The site will not be protected from conflicting uses.

Response: This criterion is a directive to the County decision makers to apply the appropriate level of Goal 5 protection to significant sites based upon the findings of the ESEE analysis, and to determine which of the three options listed will be applied to significant sites when they are afforded protection through this process.

(G) DESIGNATION OF THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS: THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS may be applied through the initial legislative planning process, the plan update process or through an individual application for a Comprehensive Plan amendment and zone change. The boundary of the Overlay Zone Area shall be all property within the Mineral and Aggregate Resources Extraction and Impact Areas. Individual applications shall be initiated by the petition of the owner, contract purchaser, or option holder of property comprising the Extraction Area.

Response: This application represents a request by an individual landowner to amend the zoning ordinance and Tillamook County Comprehensive Plan to re-designate the entirety of Tax Lot 900 in Map 3N 9 34. Consistent with this subsection, the owner of the property is permitted to request the proposed amendments.

(H) SITE PLAN APPROVAL: The operator of a Significant Site may seek approval of a Site Plan as part of the Goal 5 Process. The standards for Site Plan approval are stated in

Section 3.094 (9). If the operator chooses to delay application for a Site Plan until some later time, the procedure shall be as set forth in Section 3.094 (9).

Response: Pursuant to this subsection, the applicant is requesting a concurrent Site Plan Approval. Subsection 3.094 is discussed later in this narrative.

(5) EXTRACTION AREA ALLOWED USES

(A) Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:

- (1) Permitted uses shall be reviewed according to the site plan review procedure;
- (2) Noise sensitive uses as defined in Section 3.094 (2) include those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses;
- (3) Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Section 3.094 (10).

(B) The following uses shall be permitted subject to the review standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process:

- (1) Mining;
- (2) Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
- (3) Stockpiling of mineral and aggregate materials extracted and processed onsite;
- (4) Sale of mineral and aggregate products extracted and processed onsite;
- (5) Storage of equipment or vehicles used in conduction with onsite mining or processing;
- (6) Buildings, structures and activities necessary and accessory to development or reclamation of a mineral or aggregate resource.

Response: This section identifies uses that may be allowed outright or conditionally, within the Extraction Area subject to the review standards listed below. These criteria are already satisfied with the existing operation and are addressed in greater detail in the subsections below.

(6) EXEMPTIONS

The following mining activities are exempt from the provisions of Section 3.094 (7). Operators or land owners claiming any of these exemptions have the burden of establishing the validity of the exemption.

- (A) Pre-existing or nonconforming activities subject to Article VII of this Ordinance;
- (B) In exclusive farm use zones, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one acre;
- (C) In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five or more acres;

(D) Mining and processing auxiliary to forest practices.

Response: The applicant is not requesting any of the proposed exemptions above. This subsection is not applicable to the proposed amendments.

(7) EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.

(A) ACCESS:

- (1) *Onsite roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:*
 - (a) *All access road intersections with public roads shall comply with the road approach regulations of the agency with jurisdiction for the public road;*
 - (b) *All onsite roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control, ambient air quality and water quality are met or can be met by a specified date;*
 - (c) *Effective dust control measures shall be applied to all onsite roads within the Extraction Area within 250 feet of a noise or dust sensitive use existing on the effective date that the overlay is applied.*
- (2) *Improvements to public roads outside of the Extraction Area may only be required as necessary to correct safety deficiencies and to provide effective dust control. Requirements for road improvements shall be specified in the Goal 5 program for the site, and shall be based upon the ESEE analysis.*

Response: The existing public road is 30 feet wide with a 60-foot wide right-of-way.

According to CU-89-15(A), there was no requirement at that time for a new road approach because one was already in existence. The existing operation egresses directly onto Foss-Batterson Road. Appendix H contains the current Road Approach Permit and requirements that need to be met with this application.

According to the Tillamook County Sheriff's Department, there have been four accidents on Foss-Batterson Road in the past five years. They don't keep track of the exact location of the accidents, so it is unknown if any of the accidents are attributable to truck traffic related to the quarry. Unless specified otherwise by Tillamook County, the access onto Foss-Batterson Road is determined to be adequate once upgraded as specified in Appendix H.

(B) SCREENING:

- (1) *The mining activities listed in Subsection (B)(2) of this Section shall be obscured from view of screened uses, unless one of the exceptions in Subsection (B)(4) of this Section applies. Screening shall be accomplished in a manner consistent with Subsection (B)(3) of this Section.*
- (2) *Mining Activities to be Screened.*
 - (a) *All excavated areas except:*
 - (1) *Those areas where reclamation is being performed,*
 - (2) *Internal onsite roads existing on the effective date of this ordinance,*
 - (3) *New roads approved as part of the site plan review,*
 - (4) *Material excavated to create berms, and*
 - (5) *Material excavated to change the level of the mine site to an elevation which provides natural screening;*
 - (b) *All processing equipment;*
 - (c) *All equipment stored on the site.*
- (3) *Types of Screening.*
 - (a) *Natural Screening. Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall be preserved and maintained consistent with the development and use of the resource.*
 - (b) *Supplied Screening. Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees and shall not be required to exceed a height of 6 feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.*
- (4) *Exceptions. Supplied screening shall not be required when and to the extent that any of the following circumstances exist:*
 - (a) *The natural topography of the site provides screening to obscure mining activities from screened uses;*
 - (b) *Supplied screening cannot obscure mining activities from screened uses due to local topography;*
 - (c) *The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;*
 - (d) *Mining activities that are visible from screened used will be completed or removed, and reclaimed within 6 months; or*
 - (e) *An alternate program or technique to achieve screening is developed, and determined to be at least as effective as the natural or supplied screening described above.*

Response: The existing screened uses are the two existing houses within the Impact Area of the Yunker Pit, one to the east of the quarry and one to the west. The house to the east is screened from view by existing trees and vegetation in accordance with section (3)(a) above (Exhibit 10). That screening will be maintained. The house to the west is screened from view by the existing topography of the land in accordance with section (4)(a) above (Exhibit 11). The backside of the hill will not be mined in

order to maintain the required screening for the house. As indicated in the Operating and Reclamation Plan (Appendix G), natural landform or vegetative screening will be maintained for 100 feet on the north, east and west sides of the quarry. Some of the screening is provided by standing timber that is 12 to 14 years old.

The other properties within the Impact Area are unimproved properties with a forest zoning. These do not require screening.

If, in the Site Review process, it is subsequently found that additional screening is necessary, the applicant would propose to screen the site with berms made of excavated material. It would be difficult to screen additional portions of the quarry with vegetation because the topography climbs very quickly from the road.

(C) AIR QUALITY: The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards.

Response: At all times during operation, it is incumbent on the operator to be cognizant of fugitive dust, and to ensure that there is a water truck or source on site to arrest the dust. There are no known violations of DEQ ambient air quality emissions standards from the proposed quarry. Operation of an expanded quarry will comply with the applicable air quality and emissions standards as prescribed by the Oregon DEQ. This criterion can be satisfied by the proposed amendments.

(D) STREAMS AND DRAINAGE: Mining abutting a lake or other perennial body of water, shall be subject to the riparian protection measures contained in Section 4.080 of this ordinance unless mining is allowed within this area as part of the Goal 5 process.

Response: The Yunker Pit is on property that is separated from the Nehalem River by a county road (Foss-Batterson Road) with a 60-foot right-of-way, a 100-foot railroad right-of-way and Tax Lot 901. The site does not directly abut the Nehalem River and is well over the required riparian buffer of at least 50 feet for the Nehalem River, as prescribed in Section 4.080 of the Tillamook County Land Use Ordinance.

Two streams run along the northeastern property line. Both streams are intermittent, going dry in late summer. The area actively being mined is a minimum of 340 feet away from the streams, satisfying the 15-foot minimum setback requirement. The natural buffer provided at the east side of the property will also act as a buffer for the streams. According to the DOGAMI Operating and Reclamation Plan (Appendix G), the streams will be flagged in order to identify and protect them during mining and reclamation. A stormwater system with a sedimentation basin is located on the site and will be maintained and expanded as required to control

run-off from the mining. The DOGAMI permit requires on-going monitoring and maintenance and is consistently met.

This criterion can be satisfied by the proposed amendments.

(E) FLOOD PLAIN: Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of Section 3.06 of this ordinance.

Response: The Yunker Pit is located in a flood Zone C, or area of minimal flooding, according to the National Flood Insurance Program (NFIP) map 410196 0020 A. This section does not apply to the Yunker Pit.

(F) NOISE: Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of a certified engineer, and compliance methods may include use of existing topography, equipment modifications, equipment siting or use of supplied berms.

Response: There are no known violations of DEQ noise control standards from the proposed quarry. Operation of an expanded quarry will comply with the applicable noise control standards as prescribed by the Oregon DEQ.

Processing takes place on the quarry floor, as shown on the topographic survey (Exhibit 3). The noise is buffered to the north and west by the topography of the land. The Nehalem River, to the south, is separated from the quarry activity by Foss-Batterson Road, the railroad property, Tax Lot 901 and buffered by the intervening vegetation. A vegetative buffer is being maintained to screen Tax Lot 1100, which will protect it from noise as well. This criterion can be satisfied by the proposed amendments.

(G) HOURS OF OPERATION:

- (1) Mining and processing are restricted to the hours of 7 a.m. to 10 p.m., Monday through Saturday, unless otherwise limited by the Goal 5 process. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.*
- (2) Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.*

Response: It is feasible for the operation to comply with the hours of operation as prescribed above. This criterion can be satisfied by the proposed comprehensive amendment. The regular hours of operation are Monday through Friday from 7:30 AM to 4:00 PM and Saturday from 8:00 AM to 12:00 PM. The quarry is closed on Sundays. The quarry complies with this provision.

(H) DRILLING AND BLASTING:

- (1) *Drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.*
- (2) *Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within the impact area at least 48 hours prior to the blasting event. For ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.*

Response: The quarry has an established relationship with the one neighbor-in-resident who lives to the east, Michael O'Quinn. Historically, he has been given notice of blasting either in person or by telephone on the day of blasting.

It is feasible for the operation to comply with the limitations for blasting as listed above. This criterion can be satisfied by the proposed comprehensive plan amendment. The quarry complies with this provision.

- (I) *SURFACE WATER: Surface water shall be managed in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.*

Response: Surface water on the site is currently being directed to a settling pond near the southeastern corner of the site. The water is then conveyed to a stormwater ditch that runs parallel to Foss-Batterson Road. Water is conveyed from that ditch through a series of culverts beneath Foss-Batterson Road and the Port of Tillamook Bay Rail line and discharged to the Nehalem River. The system is currently permitted by DEQ Permit 1000 (File no. 1054-16), under DOGAMI ID No. 29-0081.

There are two other settling ponds on-site. One is located at the southwest base of the exposed rock face at the toe of the slope. This pond collects much of the water that comes off of the rock face. The other settling pond is towards the northeast toe of the excavated area. It is located below the cat road that leads up to the top of the portion of the slope being mined. Any overflow from this settling pond will flow down a channel dug at the base of the cat road to the southeast settling pond.

- (J) *COMPLIANCE WITH SPECIAL CONDITIONS: The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.*

Response: Currently, the Yunker Pit operates under a Conditional Use Permit. To the applicant's knowledge, there are no outstanding violations of the conditions

outlined in that permit. If special conditions are required through this process, the applicant will strive to meet them in a timely manner.

(K) PERFORMANCE AGREEMENTS: The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.

Response: All applicable DOGAMI permits are currently effective and attached to this application (Appendix F).

(8) SITE RECLAMATION

(A) No mining shall begin without the operator providing the County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted there under.

Response: The quarry is pre-existing and currently in operation. The DOGAMI operating permit is attached as Appendix F to this application and a copy of the approved reclamation plan is attached as Appendix G. If this application is successful, the reclamation plan may have to be revised.

(B) The jurisdiction of the County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the Comprehensive Plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.

Response: The reclaimed lands will be beneficially used as forest lands. Therefore, the subsequent beneficial use is compatible with current zoning. This subsection explains the jurisdiction of the County in reviewing the site reclamation plan and is not an applicable criterion.

(C) The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner:

(1) When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.

(a) If site plan approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.

(b) If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.

(2) When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, the County shall review the plan against the following criteria:

(a) The plan will rehabilitate mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 process;

- (b) *The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Section 3.094 (7);*
- (c) *Measures are included which will ensure that other significant Goal resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.*

Response: The applicant currently has an approved DOGAMI operating permit and approved reclamation plan. This criterion is a directive to County and State officials to coordinate permitting. The DOGAMI Operation Permit issued August 16, 2007 (Appendix F), and the Conditional Use Permit (Appendix A) are attached to this request. It is likely that the reclamation plan will have to be amended if this application is approved.

(9) SITE PLAN REVIEW

- (A) *Site plan review is required prior to commencement of mining. Applications shall be in the form required by the County, and shall demonstrate compliance with the standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process.*

Response: There is no evidence of prior site plan review from the State or County; rather, there is the DOGAMI Operation Permit issued August 16, 2007 (Appendix F) and the Conditional Use Permit issued by Tillamook County in 1989 (Appendix A). Compliance with the standards of Section 3.094(7) has been previously addressed in this application.

- (B) *Applications for site plan approval of surface mining operations and activities authorized by Section 3.094 (6) shall be reviewed in accordance with the provisions for making a limited land use decision as provided by ORS 215.425.*

Response: This subsection is not an approval criterion, but a directive to County staff to review the application for site plan approval as a limited land use decision when the exemption provisions of Section 3.094(6) are used. The applicant is not requesting any such exemptions, therefore, this section does not apply.

- (C) *The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.094 (7) and any other requirements adopted as part of the Goal 5 process.*

Response: Compliance with the standards of Section 3.094(7) have previously been addressed in this application.

- (D) *If the County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.*

Response: Both of the applications are being submitted concurrently, so it would make sense that the site plan comply with the proposal for Goal 5.

(10) IMPACT AREA - USES AND DEVELOPMENT STANDARDS

(A) USES PERMITTED OUTRIGHT: Uses permitted outright in the underlying zone, except noise or dust sensitive uses or conflicting uses, may be permitted subject to the standards and criteria of the underlying zone(s).

(B) USES ALLOWED CONDITIONALLY:

(1) Noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and this Section.

(2) Conditional uses in the underlying zone(s) which are not noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone.

(C) PROHIBITED USES: Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.

(D) APPROVAL CRITERIA: To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:

(1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

(2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;

(3) The applicable criteria of Subsection (E) of this Section are met;

(4) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.

(E) NOISE AND DUST REDUCTION:

(1) The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.

(2) The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.

(3) As a condition of final approval for the establishment of a new noise sensitive use, the applicant may be required to execute a restrictive covenant in favor of the mining operator that incorporates the compliance items specified in Subsection (E) (2) of this Section.

Response: Currently, there is an existing residence adjacent to the property within the Impact Area. According to County staff, there are no pending applications for new uses within the identified Impact Area.

(11) TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY

When a significant site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted there under.

Response: The applicant is aware that once the mine operations have ceased and reclamation activities are complete that the Mineral and Aggregate Overlay will be removed from the subject property.

Section 4.030 Off-Street Parking & Off-Street Loading Requirements

(1) PURPOSE

The purpose of requirements for off-street parking and loading areas is to relieve traffic congestion; to ensure customer convenience and safety; to provide safe access to parked vehicles; and to help ensure safe and timely response of emergency vehicles.

Response: Parking is provided for the employees of Mohler Sand and Gravel working at Yunker Pit. Customers coming to the Yunker Pit are typically using dump trucks to pick up material produced at the quarry, as described in section (12) below. This same area used by the dump trucks provides access to the site for emergency vehicles.

(3) TIMING OF COMPLIANCE

At the time any structure or use is erected or enlarged, or the use of any parcel or structure is changed, all required off-street parking spaces and loading areas provided in conjunction with an existing use shall not be reduced below the minimum requirements of this Ordinance.

Response: Mohler Sand and Gravel will modify the road approach, as necessary, to meet the requirements of this Ordinance (Appendix H).

(6) DRAINAGE

Areas used for standing and maneuvering of vehicles shall have a surface that is suitable for all-weather use, and shall be drained so as to avoid the flow of water across public sidewalks and streets.

Response: The surface of the areas used for standing and maneuvering of vehicles is constructed out of gravel, a permeable material that allows drainage of the area. There are also settling ponds that help collect any excess water that may result as a result of the activities at the quarry.

(12) OFF-STREET LOADING AREAS

Activities that receive or distribute materials or merchandise by truck shall install and utilize loading docks in sufficient numbers and size to accommodate loading requirements without the disruption of nearby traffic. Parking areas required by this Ordinance may only be used for loading operations during periods of the day when not required for patron or customer parking.

Response: The rock crushing equipment is set back from Foss-Batterson Road to give ample room for dump trucks to pull into the quarry area, pick up products, turn around and exit. The road approach will be constructed in accordance with the Road Approach Permit (Appendix H).

(13) PARKING SPACE REQUIREMENTS

Requirements for types of building and uses not specifically listed herein shall be determined by the Department, based upon the requirements for comparable uses either listed below or active elsewhere in the county.

Response: The quarry is a use that is not specifically listed within Section 4.030(13). Customers do not typically come to the Yunker Pit, but conduct business with Mohler Sand and Gravel either over the telephone or at their office location at 20890 Foss Road in Nehalem, 2.2 miles east of Yunker Pit. Dump trucks come to the quarry to pick up the rock products, but are typically not parking. Parking is supplied for the employees working at the quarry.

Section 4.070 Development Requirements for Geologic Hazard Areas

(1) GEOLOGIC HAZARD AREAS

The following are GEOLOGIC HAZARD AREAS to which the standards of this Section apply:

- (a) Active landslides identified in Oregon Department of Geology and Mineral Industries (DOGAMI) Bulletins 74 and 79.*

Response: According to the DOGMI Statewide Landslide Information Database of Oregon (SLIDO) map, the Yunker Pit is in a landslide area (Exhibit 14).

(2) DEVELOPMENT WITHIN GEOLOGIC HAZARD AREAS

All development within GEOLOGIC HAZARD areas shall comply with the following standards:

- (a) Vegetation removal shall be the minimum necessary to accommodate the use.*
- (b) Temporary measures shall be taken to control runoff and erosion of soils during construction. Such measures include temporary stabilization (mulching or sodding) sediment basins or other performance equivalent structures required by the Planning Department.*
- (c) Exposed areas shall be planted in permanent cover as soon as possible after construction.*
- (d) Storm water shall be directed into drainages with adequate capacity so as not to flood adjacent or downstream properties. Finished grades should preferably be designed to direct water flows along natural drainage courses.*

- (e) *Additional requirements contained in a Geologic report required by this Section shall be followed.*

Response: Vegetation removal is required in a mining activity. The vegetation removal is at the location of active mining. Replacement of vegetation is discussed in the Operating and Reclamation Plan (Appendix G).

The quarry provides settling ponds and culverts to control runoff and stormwater. Finished grades will be as specified in the Operating and Reclamation Plan.

(3) GEOLOGIC HAZARD REPORT

A GEOLOGIC HAZARD report is required prior to approval of planned developments, coast resorts, subdivisions and partitions governed by the Land Division Ordinance, building permits, mobile home permits, sand mining, occurring in areas identified in (1) with the following exception:

- (a) *For building or mobile home or manufactured home permits in areas identified in (1) (b), reports are needed for lots 20,000 square feet or larger only where the proposed structure is to be situated on slopes greater than 29 percent or if (1)(f) applies.*

Response: Rock mining is not one of the activities listed above requiring a Geologic Hazard Report, so no report is required for the Yunker Pit. As a result, none of the remaining sections (4) through (7) apply to this report.

Section 4.080 Requirements for Protection for Water Quality and Stream bank Stabilization

- (1) *The following areas of riparian vegetation are defined:*

- (a) *Fifty (50) feet from lakes and reservoirs of one acre or more, estuaries, and the main stems of the following rivers where the river channel is more than 15 feet in width; Nestucca, Little Nestucca, Three Rivers, Tillamook, Trask, Wilson, Kilchis, Miami, Nehalem and North and South Fork Nehalem River.*
- (b) *Twenty-five (25) feet from all other rivers and streams where the river or stream channel is greater than 15 feet in width.*
- (c) *Fifteen (15) feet from all perennial rivers and streams where the river or stream channel is 15 feet in width or less.*

For estuaries, all measurements are horizontal and perpendicular from the mean high water line or the line of non-aquatic vegetation, whichever is most landward. Setbacks for rivers, streams, and coastal lakes shall be measured horizontal and perpendicular from the ordinary high water line.

- (2) *All development shall be located outside of areas listed in (1) above....*

Response: The Yunker Pit meets all of the requirements of Section 4.080.

Foss-Batterson Road (60-foot right-of-way), the Port of Tillamook Bay Railroad (100-foot right-of-way), and Tax Lot 901 are located between the quarry and the South Fork of the Nehalem River, giving well over the minimum 50 feet setback required in Section (1)(a) above. Two annual streams run along the northeastern

property line. The area actively being mined is a minimum of 340 feet away from the streams, satisfying the 15-foot requirement. The natural buffer provided at the eastern side of the property will also act to protect the streams.

V. CONCLUSION

The preceding narrative and supporting plans demonstrate that the proposed amendments can feasibly comply with the applicable criteria. The applicant respectfully requests that Tillamook County approve the amendments as proposed and the associated site plan.

Bradford Sheets

From: Collin Stelzig [richard.stelzig@otak.com]
Sent: Sunday, August 23, 2009 6:02 PM
To: Bradford Sheets
Subject: RE:

rad:

looks like the staff report says that the items received through the ESEE analysis were sufficient to meet Article 9 criteria. If required, I've included a response below. Also, section 9.030 (4) ask for a stament adressing "adminstration and enforcement; and the benefits or cost to Departmental resources..". Would you give me some input on these two items?

Section 9.020 Map Amendment Procedure and Criteria

- (1) *Notice of proposed AMENDMENT shall be distributed according to the provisions of section 10.60 of this Ordinance*
 (2) *The Department shall prepare an analysis of the site and the surrounding area in the form of a map and report, considering the following factors:*
- (a) *Size, shape and orientation of the subject property.*
 - (b) *Surrounding parcel size*
 - (c) *Topography, drainage, hazards, and other physical site characteristics.*
 - (d) *Parcel ownership and current use*
 - (e) *Economic and population data for the affected area that may be contained in the Comprehensive Plan.*
 - (f) *Traffic circulation*
 - (g) *Zoning history of the subject parcel*
 - (h) *Compatibility of the proposed new zone with the surrounding zoning and land uses.*
 - (i) *Availability and feasibility for development of nearby properties in the proposed zone.*
 - (j) *Aesthetics*
 - (k) *Availability of public facilities and services*
 - (l) *Land use objectives of both the applicable and the proposed zoning*

Response:**Items 2(a), (b), (d), (g)**

Mohler Sand and Gravel has operated the Yunker Pit on Foss-Batterson Road since approximately 1989 when the rock quarry operation was leased from Simpson Lumber Company (Simpson). Prior to that time, Simpson operated the quarry for its use in providing rock for the company's logging roads . Mohler Sand and Gravel, doing business as Blue Rock LLC, purchased the rock quarry and surrounding property from Simpson in 2005. The Yunker Pit has been mined by Mohler Sand and Gravel for over eighteen years. A Conditional Use Permit, CU-89-15(a) (Appendix A), was issued in 1989 by the Tillamook County Department of Community Development and signed by Lynda Willard, Senior Planner . The Conditional Use Permit was issued to allow for a rock quarry and a rock crushing operation in an F (Forest) zone on property located on the northnorthern side of, and adjacent to, Foss-Batterson Road . The property was identified on CU-89-15(a) as being a portion of what is now Tax Lot 900, Map 3N 9 34 . At that time, Tax Lot 900 was a triangular tract of land being all of that portion of Government Lot 7 of Section 34 which lies north of Foss-Batterson Road, as shown in Exhibit Exhibit 4 . Over time, the rock quarry operation has continued to operate and expand as the overburden is excavated and the quarry rock is removed. As the rock quarry operation moved to the north and further into the rock quarry, additional land was added to the operation. Hence, in 2005, Mohler Sand and Gravel purchased the adjoining land to the north of the original rock quarry property . The sale and expansion of the rock quarry was accomplished by deed recorded in Book 2005, Page Page 6505, Deed Records Tillamook County, Oregon (Appendix B). The company has most recently reported that they have mined an average of 27,300 cubic yards of rock per year for public and private

construction projects in Tillamook County over the five year period of 2002 through 2007 (Appendix E).

The site is located east of Mohler on the northern side of Foss-Batterson Road, approximately eight miles east of the town of Nehalem, Oregon . The property is described as Tax Lot 900 in Township 3N, Range 9W, Section 34 in Tillamook County, Oregon . The property is approximately 42.50 acres in size . See Exhibit Exhibit 2 for a boundary survey of the property.

Items 2(c)

The site slopes from the northwest to the southeast.. The quarry site is at the base of a small mountain, and consists of moderate to steep slopes. . See Exhibit Exhibit 3 for a current topographic map of the property.

The South Fork of the Nehalem River is near to, and a stream is adjacent to, the quarry and both are within the Impact Area for the quarry.. According to Section 4.080 of the Tillamook County Land Use Ordinance, all development shall be located over 50 feet from the South Fork of the Nehalem River.. This setback is definitely met as Foss-Batterson Road, with a right-of-way width of 60 feet, the POTB railroad, with a right-of-way width of 100 feet, and the privately owned property of Tax Lot 901 provide a buffer between the river and the quarry . The riparian setback for the stream is 15 feet.. The stream is located at the northern and eastern property boundaries and can be protected in conjunction with the natural screening being provided for the neighbor to the east of the quarry.

Items 2(e)

Please see section IV of this report.

Items 2(f)

Foss-Batterson County Road serves the site along the southern boundary. . Its western end terminates at Miami-Foley Road, which in turn intersects Highway 53 just north of Mohler on the northnorthern side of the Highway 53 bridge over the Nehalem River. . Highway 53 proceeds northeast to Highway 26 or southwest to Highway 101.

The Yunker Pit also has the unique situation in that it is adjacent to a Port of Tillamook Bay rail line.. There is no other rock pit in Tillamook County that is located adjacent to a rail line . There is a railroad siding located alongside the rail line directly across Foss-Batterson County Road from the quarry . Rail cars on the siding can be loaded directly with rock from the quarry.

According to the DOGMI Statewide Landslide Information Database of Oregon (SLIDO) map (Exhibit Exhibit 14), and the map on page page 7-9 of Tillamook County Goal 7, the Yunker Pit is in an inactive landslide area.. However, rock mining is not one of the activities listed in Tillamook County Land Use Ordinance Section 4.070(3) requiring a Geologic Hazard Report . Mining and reclamation will continue as specified in the Operating and Reclamation Plan (Appendix G), which includes shaping the land and benching the high wall of the excavation to ensure stability of the excavated slopes.

Items 2(h), (i)

A single-family residence is located on the property immediately to the east of Tax Lot 900 which is zoned SFW-20 (Small Farm & Woodlot-20). One small property to the south of the railroad and Foss-Batterson Road fronts upon the Nehalem River and is used as a fishing camp. . That property is also zoned SFW-20 (Small Farm & Woodlot-20) and does not currently include any permanent structures . Use of the property is generally made with a motor home or RV . To the west of the property are three tax lots, 701, 703, and 702 from east to west.. Lot 701 is zoned RR (Rural Residential), but currently does not currently have a residence on it. . Lot 703 has a residence on the 1 1 acre portion that is zoned zoned RR and the remaining 2.6 6 acres are zoned F (Forest) . Lot 702 is zoned RR, but is Designated Forest Land and has no residence on it . The tax lots properties to the

north are undeveloped forest lands, zoned F. See Exhibit 5 for the Tillamook County Zoning Map and Exhibit 7 for an aerial photo of the general vicinity.

The Port of Tillamook Bay Railroad line runs parallel to Foss-Batterson Road on the southern side of the road. The Nehalem River also runs parallel to the road and is approximately 200 feet (more or less) south of Foss-Batterson Road.

Item 2(j)

The house to the immediate east is screened from view by existing trees and vegetation in accordance with section (3)(a) above (Exhibit 10). That screening will be maintained. The house to the west is screened from view by the existing topography of the land in accordance with section (4)(a) above (Exhibit 11). The backside of the hill will not be mined in order to maintain the required screening for the house. As indicated in the Operating and Reclamation Plan (Appendix G), natural landform or vegetative screening will be maintained for 100 feet on the north, east and west sides of the quarry. Some of the screening is provided by standing timber that is 12 to 14 years old.

Item 2(k)

There are numerous policies and goals with respect to the provision of public facilities for all areas of Tillamook County; However, no specific policies are applicable to the proposed amendments. There are limited public utilities associated with the mining operation. The main public utility associated with the operation of the rock quarry is electric power, provided by the Tillamook PUD and used to operate in operation of the rock crusher.

B Otak, Inc.
Richard "Collin" Stelzig, PE | Engineer
360.738.3425 | f: 503.738.7455

www.hlb-otak.com

At B Otak, we consider the environment before printing emails.

From: Bradford Sheets [mailto:bsheets@co.tillamook.or.us]
Sent: Thursday, July 30, 2009 12:57 PM
To: Collin Stelzig
Subject: RE:

Collin,

Under sub-section 'D' of the Staff report for ZC-05-02, Article (9) was addressed.

Sincerely,
Richard

Bradford Sheets
Associate Planner
Tillamook County Department of Community Development
360) 842-3408

From: Collin Stelzig [mailto:richard.stelzig@otak.com]
Sent: Thursday, July 30, 2009 11:19 AM
To: Bradford Sheets
Subject: RE:

Thank you for looking into this for me.

reviewing the file for this project and noticed that Ron Larson used the Ekroth Quarry as an example for his work. The order number is ZC-05-02. Do you know if Article 9 Amendment Criteria was submitted for this application? If so, I would like to use it as an example for the Yonker Pit project. I apologize for not being very savvy on planning issues, I'm trying to complete this project as quickly as possible to keep Mohler up and running. Thank you for your time.

sincerely,

Richard Otak, Inc.
 Richard "Collin" Stelzig, PE | Engineer
 t: 503.368.5394 | f: 503.368.5847
www.hlb-otak.com

At HLB Otak, we consider the environment before printing emails.

From: Bradford Sheets [mailto:bsheets@co.tillamook.or.us]
Date: Wednesday, July 29, 2009 12:06 PM
To: Collin Stelzig
 Gerald Parker
Subject: RE:

Good Afternoon Collin,

The way I read the Ordinance in relation to your questions:

The existing zone (base zone), Forest (F), lists an aggregate mining use as a Conditional Use in the zone. There was a previous approval of a conditional use on the subject property for aggregate mining. The request would be to apply an overlying Mineral and Aggregate Overlay, the underlying zoning would continue as the base zoning. The expansion of a Conditional Use requires another Conditional Use approval.

When discussing this with Butch, applying the Mineral Aggregate Overlay is a Map Amendment and the change from a "potential aggregate site" to a "Significant Aggregate site" is a Text Amendment. These are a vital component to this entire application and need to be included in the application to be submitted to start this process.

Sincerely,
 Richard

Bradford Sheets
 Associate Planner
 Tillamook County Department of Community Development
 Phone: (503) 842-3408

From: Collin Stelzig [mailto:richard.stelzig@otak.com]
Date: Wednesday, July 29, 2009 11:46 AM
To: Bradford Sheets
Subject: RE:

Richard,


Thanks for the call back. I'm heading out the door right now, but I will call back later today.

I have two questions:

- Is a Conditional use still required after the zone change and map amendment?
- Can the process begin even if Article 9 was not addressed in our submittal?

Thanks for your time.

LB Otak, Inc.
Richard "Collin" Stelzig, PE | Engineer
503.368.5394 | f: 503.368.5847
www.hlb-otak.com

 at HLB Otak, we consider the environment before printing emails.


From: Collin Stelzig
Sent: Tuesday, July 28, 2009 4:57 PM
To: Bradford Sheets
Subject: RE:

Rad:

I tried calling this morning to discuss these issues, but could only leave a message. Is there a good time to give you a call tomorrow?

Sincerely,

LB Otak, Inc.
Richard "Collin" Stelzig, PE | Engineer
503.368.5394 | f: 503.368.5847
www.hlb-otak.com

 at HLB Otak, we consider the environment before printing emails.

From: Bradford Sheets [mailto:bsheets@co.tillamook.or.us]
Sent: Monday, July 27, 2009 10:25 AM
To: Collin Stelzig
Cc: Valerie Soilihi
Subject: RE:

Collin,

Match the Geological Hazard Report review as the Ordinance speaks to Sand Mining, not Aggregate mining.

If you have questions regarding the Amendment Criteria, please let us know.

Brad

From: Bradford Sheets
Sent: Friday, July 24, 2009 9:56 AM
To: 'Collin Stelzig'
Cc: Gerald Parker
Subject: RE:

Collin,

Because the site is listed in Goal 5 as a "Potential Site" and the request is to make it a "Significant Site", a Goal Exception is not required; therefore, the fee is \$1,856.00 + \$100.00 for Public Works = 1,956.00 Total for the Zone Change with Map and Text Amendments.

What we did not find in the Draft application submitted that we the TCLUO Article 9 Amendment Criteria addressed for Map (9.020) and Text Amendments (9.030): <http://www.co.tillamook.or.us/gov/comdev/docs/luo/Article09.pdf>

Butch and I were discussing this process and a Conditional Use approval would also be required of the Forest (F) zone,

ending off of CU-89-15(a), if there is expansion of the disturbed area.

Geological Hazard Report review is another application. It costs \$743.00. I will discuss this component with our Coastal Resource Planner, Valerie Soilihi, when she returns to the office on Monday.

Sincerely,
Richard

Bradford Sheets
Associate Planner
Tillamook County Department of Community Development
Phone: 503-842-3408

From: Collin Stelzig [mailto:richard.stelzig@otak.com]
Date: Wednesday, July 22, 2009 8:46 AM
Subject: RE:

Thanks for keeping me updated.

Richard Stelzig
Collin Stelzig, PE | Engineer
360.336.5394 | f: 503.368.5847
www.hlb-otak.com

At HLB Otak, we consider the environment before printing emails.

From: Bradford Sheets [mailto:bsheets@co.tillamook.or.us]
Date: Wednesday, July 22, 2009 8:45 AM
Subject: RE:

Hi,

Richard and I were discussing whether it needed a Goal Exception or not. I'm reviewing our comprehensive plan. It adjusts the standards and criteria for the application. I'll try and get that info to you this afternoon as we are in meetings this morning and late this afternoon.

Sincerely,
Richard

From: Collin Stelzig [mailto:richard.stelzig@otak.com]
Date: Tuesday, July 21, 2009 11:09 AM
Subject: RE:

Hi,

Thank you. Attached is the completed application. Please let me know as soon as possible what the cost will be.

Sincerely,

Richard Stelzig
Collin Stelzig, PE | Engineer
360.336.5394 | f: 503.368.5847
www.hlb-otak.com

At HLB Otak, we consider the environment before printing emails.

From: Bradford Sheets [mailto:bsheets@co.tillamook.or.us]
Sent: Monday, July 20, 2009 4:34 PM
To: Collin Stelzig
Subject: RE:

Collin,

Here is a link to the land use application form:
http://www.co.tillamook.or.us/gov/ComDev/docs/planning/2009_PlanningApplication.pdf

Try to look up the cost and get back to you.

Sincerely,
Brad

Bradford Sheets
Associate Planner
Tillamook County Department of Community Development
(503) 842-3408

From: Collin Stelzig [mailto:richard.stelzig@otak.com]
Sent: Thursday, July 09, 2009 1:28 PM
To: Bradford Sheets
Subject:

Brad:

Your name is Collin Stelzig and I am helping Mohler Sand and Gravel with their Yunker Pit Expansion. Butch Parker said that you are looking over the document I sent him a couple weeks ago. Can you tell me what the time schedule could be for this expansion. I know that Mohler sand and gravel is hoping to start operations soon and I really don't know the timelines. The report as originally prepared by a individual that no longer works for this company. I just want to make certain you have what you need and if not what more do you need?

Thankfully,

Richard "Collin" Stelzig, PE | Engineer
153- A Hwy 101 North | Seaside, OR 97138
503.738.3425 | f: 503.738.7455

www.hlb-otak.com

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APPENDIX A

NOTICE OF ADMINISTRATIVE DECISION
CU-89-15(a)

- I. DECISION: Notice is hereby given that the Tillamook County Department of Community Development APPROVED WITH CONDITIONS Conditional Use Request CU-89-15(a) on June 8, 1989 subject to the conditions in Section VI below. This approval shall be void 24 months from this date unless start of construction has occurred or an extension has been requested from, and approved by, this department.

Failure to comply with the conditions of this approval could result in its nullification. This decision may be appealed by parties to the decision. In such case, forms and fees must be filed in the office of this department before 5:00 p.m. on June 26 1989.

- II. NATURE AND LOCATION OF THE REQUEST: The applicant, Mohler Sand and Gravel, is requesting Conditional Use CU-89-15(a) to allow a rock quarry and rock crushing operation in an F (Forest) zone on property located on the north side of and adjacent to Foss-Batterson Road, southwest of Mohler. The subject parcel is designated as a portion of Tax Lot 900 of Section 34, Township 3 North, Range 9 West of the Willamette Meridian; Tillamook County, Oregon.

III. APPLICABLE ORDINANCE PROVISIONS:

1. Section 3.004 FOREST ZONE (F), Subsection (3) Uses Permitted Conditionally, Item (c) list a rock quarry and crushing operation.
2. Section 3.004, Subsection (4), Items (a) through (f) lists requirements that all conditional uses must meet if approved.
3. Section 4.080 REQUIREMENTS FOR PROTECTION OF WATER QUALITY AND STREAMBANK STABILIZATION applies to this request.
4. Article VI CONDITIONAL USE PROCEDURES AND CRITERIA governs this request.

IV. FINDINGS OF FACT:

1. The property owner is Simpson Lumber, 2310 First Street, Suite 3, Tillamook, Oregon 97141.
2. The applicant is Mohler Sand and Gravel, 36435 Highway 101 North, Nehalem, Oregon 97131.
3. The applicant is proposing to lease 7-10 acres from the property owner to use the property as described in Section II of this report.

3. The subject parcel is designated as Tax Lot 900 of Section 34, Township 3 North, Range 9 West of the Willamette Meridian; Tillamook County, Oregon.
4. The subject parcel is currently zoned F a Forest zone which lists the proposed use as a use permitted conditionally. The Comprehensive Plan designation is also Forest.
5. There were no existing solar energy systems, wind energy systems, or wind mills noted in the immediate vicinity.
6. The subject parcel is in excess of 100 acres in size, and is well forested with the exception of the subject area which appears to have been use for rock extraction in the past possibly by the property owner for construction or maintenance of logging roads.
7. Immediately surrounding the subject area is forest lands. The land uses in the immediate area surrounding the subject parcel are forest to the north, and farm /rural residential mix to the south, east and west.
8. The applicant is proposing to utilize the existing roadway access from Foss-Batterson Road onto the subject site.
17. Notices were mailed to 14 individuals and agencies at least ten days prior to rendering this decision. Two written responses were received in a timely manner. Those responses are attached to this report and are made a part hereof.

V CONCLUSIONS: The conditional use criteria contained in Section 6.040 of the Tillamook County Land Use Ordinance apply to this request and the findings above support the following conclusions, drawn with respect to those criteria:

"1. The use is listed as a conditional use in the underlying zone."

The use of a rock quarry and crusher is a use listed as a conditional use in the F (Forest) zone.

"2. The use is consistent with the applicable goals and policies of the comprehensive plan."

The Comprehensive Plan is concerned predominantly with both the protection of resource land for resource use and the separation of incompatible land uses. The forest land to the north will not be adversely affected because the proposed use is approved by the timber company involved. The nearby farms and residential uses are located from 200'+

away from the proposed operation and the proposed use is buffered by timber and the Foss-Batterson Road.

The Comprehensive Plan has designated this area as Forest which allows a the proposed use conditionally.

"3. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features."

The size of the parcel, the existing buffering and the location of the existing site all indicate that the proposed site is suitable for the proposed use if all conditions of approval are met.

"4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone."

It does not appear that the proposed use will alter the character of the area as stipulated above in that the subject parcel is virtually isolated from other uses by the forest, the roadway, and the topography of the parcel. Based upon the findings of fact it does not appear that the location of the quarry/crushing operation on the proposed site will not impair, limit, or prevent the surrounding property owners from using their individual property for uses permitted in their respective zones.

"5. The proposed use will not have a detrimental effect on existing solar energy systems wind energy conversion systems, or wind mills."

This criteria does not apply.

"6. The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use."

The proposed use appears to be timely if all conditions of approval are met.

VI CONDITIONS:

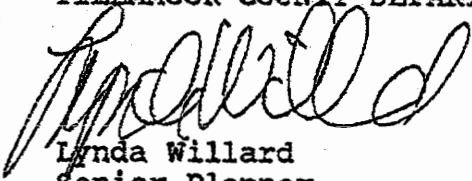
1. All required permits shall be obtained prior to the proposed use being utilized.
2. A 50' natural vegetative buffer shall be maintained from all creeks.
3. An engineered drainage plan and settling pond plan shall be submitted to the Department of Fish & Wildlife and

this department for approval prior to start of the operation.

4. It is expected that the operation will run with 0 tolerance to both the nearby creeks and the river to the south, If turbidity should develop the operation shall be discontinued until the Department of Fish & Wildlife determines that it is safe to continue.
5. The applicant shall obtain necessary water rights for the operation.
6. If any water courses or wetland areas are to be moved, diverted, or filled in any manner the applicant shall first obtain permit approval from the appropriate federal, state, and county agencies.
7. The Public Works Department memo conditions shall be met.

Sincerely,

TILLAMOOK COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT



Lynda Willard
Senior Planner

CC: Parties to decision

REQUEST
AREA

NE 1/4
SW 1/4

C 1/4

1200

56-6

1100
6 00 44

701

900

Lot 6

901

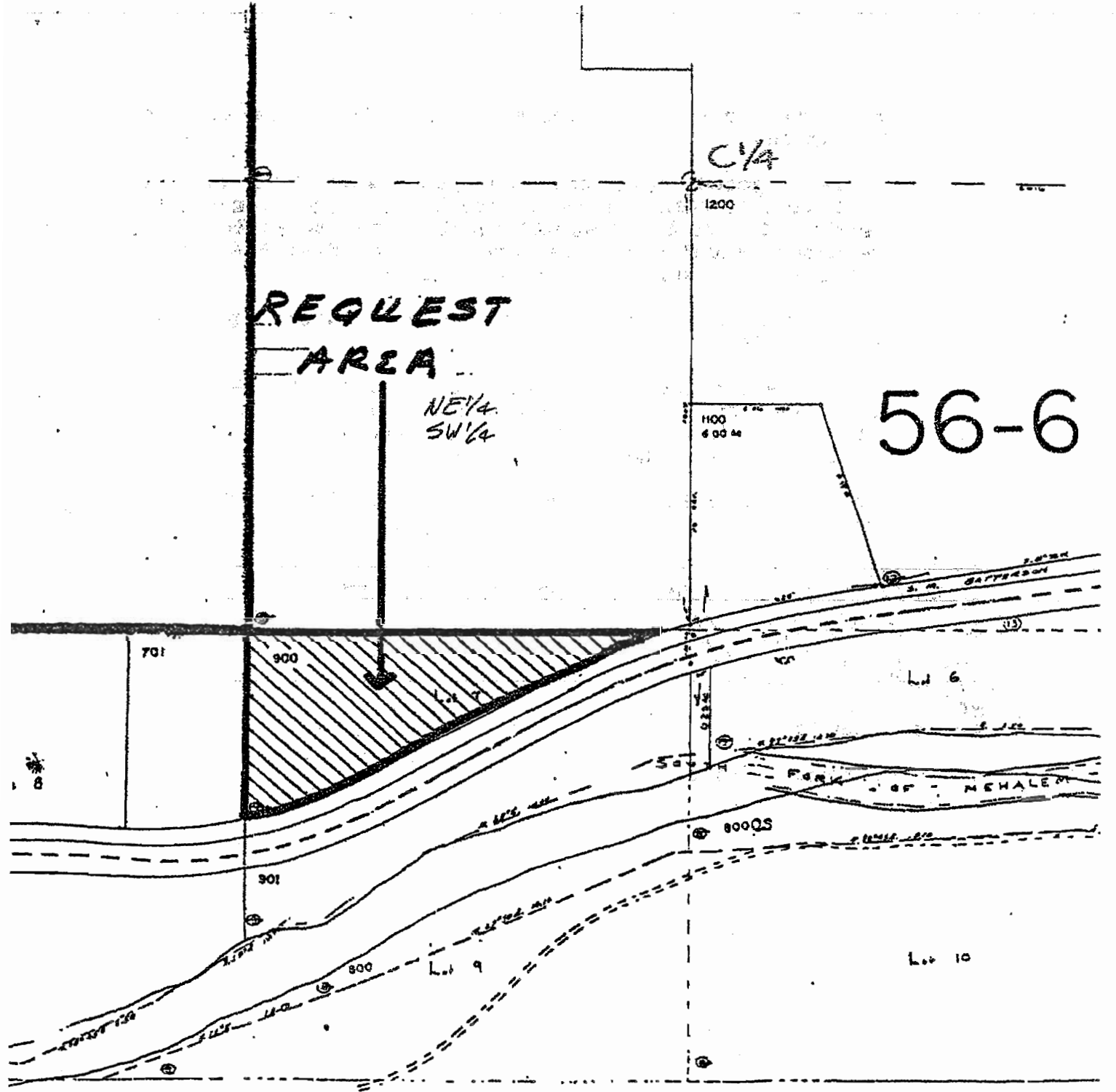
800 QS

800

Lot 9

Lot 10

SEE MAP 2N 9



CU-89-15

Von Logging Company, Inc.



17401 N.W. PANTHER CREEK ROAD
CARLTON, OREGON 97111

CONDITIONAL USE REVIEW CRITERIA

A conditional use shall be granted if the applicant demonstrates that all of the following applicable criteria are satisfied:

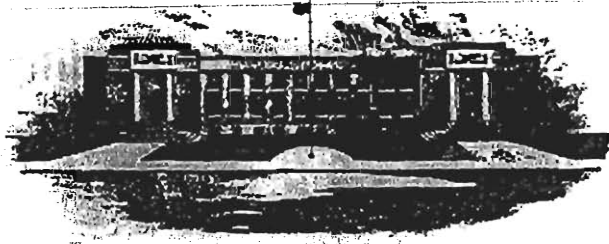
- (1) The use is listed as a conditional use in the underlying zone;
- (2) The use is consistent with the applicable goals and policies of the comprehensive plan;
- (3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
- (4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone;
- (5) The proposed use will not have a detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills; and
- (6) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

Department of
Community Dev.

Wesley

I have no objections to this
rock quarry and rock crushing
being done next to my property

Thank you
Richard Von



Tillamook County
Land of Cheese, Trees and Ocean Breeze



503 Marolf Loop
Tillamook OR 97141
1-503-842-3419

Jon A. Oshel, P.E.
Director of Public
Works

PUBLIC WORKS DEPARTMENT

DATE: May 26, 1989

Lynda Willard, Senior Planner
Dept. of Community Development
201 Laural Avenue
Tillamook, Oregon 97141

Subject: C.U.-89-15a . Rock Quarry--Mohler Sand & Gravel
Foss Rd#507(mp 4.1) t/l# 900 34 3N9

I have looked at the site. If the existing road approach is to be used to access the quarry, I would not require an application for a road approach.

I would require a road approach permit, if a new access is proposed or if the present access is to be modified.

Sincerely,


George W. Urry

APPENDIX B

Legal Description:

Beginning at a 5/8" rebar (see map B-813) on the North right-of-way line of Batterson County Road, being South 60° 39' 41" West 3006.34 feet from the quarter corner on the East line of Section 34, Township 3 North, Range 9 West, W.M.; thence North 0° 51' 27" West 623.39 feet to a 5/8" rebar (see map B-813) in the center of a small creek; thence along the centerline of the creek, North 19° West 300 feet to the intersection of a smaller creek flowing from the northwest; thence along the centerline of said smaller creek the following nine courses: North 11° 30' West 160 feet; North 68° West 145 feet; North 89° West 175 feet; South 65° West 73 feet; North 63° West 297 feet; North 85° West 175 feet; North 35° West 160 feet; North 75° West 148 feet; and North 52° West 161 feet, more or less, to the West line of the Southeast Quarter of the Northwest Quarter of Section 34; thence along the West line of the Southeast Quarter of the Northwest Quarter and the West line of the East Half of the Southwest Quarter of Section 34, South 2115 feet, more or less, to the North right-of-way line of the Batterson County Road; thence along the North right-of-way line of said Batterson County Road, East 1450 feet, more or less, to the Point of Beginning.

The assessment roll and tax roll discloses that the premises herein described were specially assessed as Forest Land. If the land becomes disqualified for the special assessment under the statute, an additional tax may be levied for previous years in which the land was subject to the special land use assessment.

The rights of the public in and to that portion of the premises herein described lying within the limits of public roads, streets and highways.

An Easement created by instrument, including the terms and provisions thereof,
In favor of: Pacific Railway and Navigation Company
For: Railroad right of way
Recorded: September 4, 1909
Book: 12 Page: 163
in Tillamook County, Oregon.

An Easement created by instrument, including the terms and provisions thereof,
In favor of: Tillamook County
For: Roadway
Recorded: June 12, 1933
Book: 68 Page: 260
in Tillamook County, Oregon.

State of California

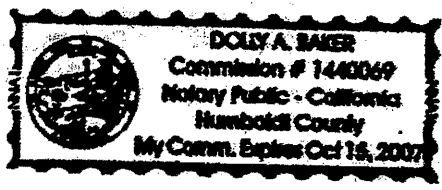
County of HUMBOLDT } ss.

On JULY 11, 2005 before me, DOLLY A. BAKER, NOTARY PUBLIC

personally appeared JAMES T. BROWN, PRESIDENT

personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) acted, executed the instrument.



WITNESS my hand and official seal.
Dolly A. Baker
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: BARSAIN AND SALE DEED

Document Date: NO DATE Number of Pages: 2

Signer(s) Other Than Named Above: NO OTHER SIGNER

Capacity(ies) Claimed by Signer

Signer's Name: JAMES T. BROWN

- Individual
- Corporate Officer — Title(s): PRESIDENT
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: GREEN DIAMOND RESOURCE COMPANY



Fidelity National Title Company

This instrument was received for recording and recorded in the County of Tillamook, State of Oregon.
Tassi O'Neil, Tillamook County Clerk



After Recording Return To:
Fidelity National Title Company
2310 First Street, Suite 2
PO Box 780
Tillamook OR 97141-0760

Send Tax Statements To:
Blue Rock Quarry LLC
36435 Hwy 101 North
Nehalem OR 97131

Title Order No. 13-26583
Escrow No. 13-26583
Tax Account No. 3N0934 00 00500
A#84740, 3N0934 00 00900
A#84777, 3N0934 00 00900S1
A#409546

BARGAIN AND SALE DEED (ORS 93.860)

Green Diamond Resource Company, a Washington corporation, as an estate in fee simple, Grantor, conveys to Blue Rock Quarry LLC, an Oregon Limited Liability Company, as an estate in fee simple, Grantee, the following described real property:

See Exhibit 'A' attached hereto and by reference made a part hereof.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is 155,000.00 which is paid by and to an accommodator pursuant to an IRC section 1031 exchange.

Dated this 11th day of July, 2005.

GREEN DIAMOND RESOURCE COMPANY

James T. Brown
By: James T. Brown, President

State of _____, County of Tillamook)ss.

This instrument was acknowledged before me on _____, 2005
by James T. Brown, as President, of Green Diamond Resource Company.

My commission expires: _____
Notary Public

SEE ATTACHED
CALIFORNIA ALL-PURPOSE
ACKNOWLEDGMENT

COMPANY OF OREGON

APPENDIX C

Carlson Testing, Inc.

Main Office
P.O. Box 23814
Tigard, Oregon 97281
Phone (503) 684-3480
FAX (503) 684-0954

Salem Office
4080 Hudson Ave., NE
Salem, OR 97301
Phone (503) 589-1252
FAX (503) 589-1309

Band Office
P.O. Box 7818
Band, OR 97708
Phone (541) 330-9155
FAX (541) 330-9183

March 16, 2005
T0507694CT1

Mohler Sand & Gravel – Brian Smith
36435 Hwy. 101 N
Nehalem, OR 97131

Re: Mohler Sand & Gravel – 2005 Miscellaneous
Aggregate Qualification Testing.

Gentlemen:

As requested, Carlson Testing, Inc. (CTI) has completed aggregate qualification testing on a sample of pit run material, produced by Mohler Sand & Gravel. The sample was obtained by your representative from the pit and received in our laboratory on February 24, 2005. Project specifications were applied at your request. Testing was completed on March 16, 2006. Following is the test data:

Sodium Sulfate Soundness (Coarse Aggregate) – OSHD TM 206:

SIEVE FRACTIONS	WEIGHT BEFORE TEST	WEIGHT AFTER TEST	WEIGHT LOSS @ 5 CYCLES	% LOSS @ 5 CYCLES
2 1/2" (63.0mm) to 1 1/2" (37.5mm)	5221.6 gms	5146.6 gms	76 gms	1.5%
1 1/2" (37.5mm) to 3/4" (19mm)	1507.5 gms	1428.7 gms	80.8 gms	5.4%
3/4" (19mm) to 3/8" (9.5mm)	1002.4 gms	990.1 gms	12.3 gms	1.2%
3/8" (9.5mm) to #4 (4.75mm)	300.2 gms	295.2 gms	5.0 gms	1.7%

*Average percent loss @ 5 cycles = 2.2%
Project Specifications = 18% maximum

Sodium Sulfate Soundness (Fine Aggregate) – OSHD TM 206:

SIEVE FRACTIONS	WEIGHT BEFORE TEST	WEIGHT AFTER TEST	WEIGHT LOSS @ 5 CYCLES	% LOSS @ 5 CYCLES
3/8" (9.5mm) to #4 (4.75mm)				1.7%
#4 (4.75mm) to #8 (2.36mm)	100 gms	94.4 gms	5.6 gms	5.6%
#8 (2.36mm) to #16 (1.18mm)	100 gms	87.9 gms	12.4 gms	12.4%
#16 (1.18mm) to #30 (600µm)	100 gms	86.5 gms	13.4 gms	13.4%
#30 (600µm) to #50 (300µm)	100 gms	88.3 gms	11.4 gms	11.7%

*Average percent loss @ 5 cycles = 9.0%
Project Specifications = 18% Maximum

LA Abrasion - AASHTO T96:

Percent loss (b abrasion @ 500 revs. = *14.8%
*Grading "A" used in the loss determination.
Project Specifications: 35.0% Maximum

Oregon Air Degradation - OSHD TM208:

Sediment Height = 38.1mm (1.5 in.)

Project Specifications:

% Passing the 850µm (#20) sieve = 13.3%

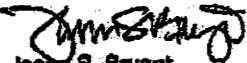
2002 ODOT SECTION 2830 SPECIFICATIONS: 35% Maximum

March 16, 2006
T0507664.CTI
Page 2 of 2

Test results pertain to the specific material tested/inspected only and may not be representative of other locations or elevations. Information contained herein is not to be reproduced, except in full, without prior authorization from Carlson Testing Inc

If there are any further questions regarding this matter, please do not hesitate to contact this office.

Respectfully submitted,
CARLSON TESTING, INC.

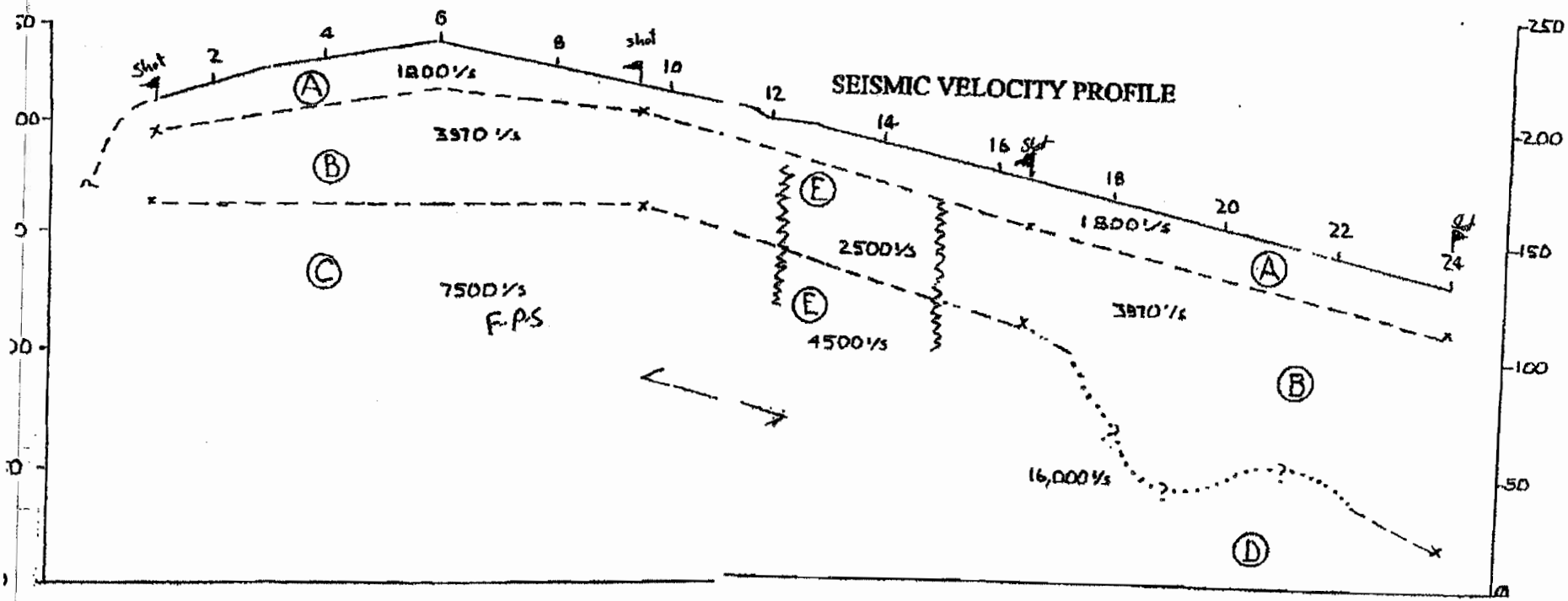


Jason S. Bryant
Laboratory Manager

tt

**The remaining sample material will be discarded in three weeks from the date the test was completed.*

APPENDIX D



LEGEND

Symbol	Seismic Velocity Ft. /Sec.	Probable description
A	1,800	Unconsolidated overburden
B	3,970	Highly weathered Bedrock
C	7,500	Unweathered sedimentary bedrock (sandstone and sh)
D	16,000	Very dense igneous and/or metamorphic bedrock
E	2,500 and 4,500	Shear (fault) zones in B, C and D units

Seismic Refraction Survey
Mohler Quarry

S. D. Schwarz & Associates, Inc.
Astoria, OR.
503/338 4884
May 12, 2004



APPENDIX E

Nehalem Bay Ready Mix
Mohler Sand Gravel, LLC
36435 Hwy 101 N.
Nehalem, OR 97131
503-368-5157 Office
503-368-5158 Fax

Yunker Pit Rock Removal
Cubic Yards of Rock

Year	3/4" minus	1 1/2" minus	3" minus	6" minus	Total Rock	Overburden
2002	43,304.96	9,807.27	3,436.17	2,245.21	58,793.61	1,000.00
2003	16,963.76	1,466.73	2,892.08	694.56	22,017.13	1,000.00
2004	15,669.02	1,813.00	2,007.03	658.00	20,147.05	1,500.00
2005	13,353.61	3,160.39	1,790.69	147.00	18,451.69	3,000.00
2006	16,191.76	3,372.95	980.72	-	20,545.43	6,000.00
2007					23,916.80	
Totals	105,483.11	19,620.34	11,106.69	3,744.77	163,871.71	12,500.00

APPENDIX F

Oregon Dept. of Geology & Mineral Industries
Mineral Land Regulation & Reclamation Program
229 Broadalbin St. SW
Albany OR 97321-2246
(541) 967-2839

OPERATING PERMIT -- Pre-Amendment Renewal -- Revised
ISSUED SUBJECT TO ANY LISTED CONDITIONS

|||||
Mohler Sand & Gravel LLC
36435 Highway 101 N
Nehalem OR 97131

ID No.: 29-0081
County: Tillamook
Section: 34
Twp: 3N
Range: 9W
Tax Lot: 500, 900
Site Name: Simpson Quarry

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.750 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit.


NOTE: Reclamation plans may be modified per ORS 517.830(4) and OAR 632-(30) and (35)-035.

CONDITIONS: *(Conditions may be appealed per OAR 632-30-030. If an appeal is made, this permit is invalid until the condition(s) appealed is/are resolved and the permit reissued.)*

The Permittee must:

1. maintain the existing screen of vegetation along the Class II stream, for riparian zone protection and for a partial visual and noise screen for the adjacent residence.
2. maintain turbid water onsite. The permittee must monitor the site during periods of inactivity and take any corrective action necessary to protect water quality in the adjacent stream.

Issued 8-16, 2007


Gary W. Lynch
Assistant Director

RENEWAL IS REQUIRED BY JULY 31, 2008

c: Tillamook County Planning Department
DEQ NW Region
Green Diamond Resource Co. Tillamook
ODFW Astoria

APPENDIX G

Operating and Reclamation Plan

For sites in sensitive locations, additional information may be required.
If more space is needed, attach additional sheets or use the blank sheet provided at the end of this form.

Oregon Department of Geology and Mineral Industries
Mined Land Reclamation Program
229 Broadalbin Street SW
Albany, OR 97321-2246
(541) 967-2039
Fax (541) 967-2075

CH OF THE INFORMATION REQUESTED CAN BE EXPLAINED ON THE MINE PLAN MAP. See enclosure Map or Aerial Photo Requirements.

PRE-MINE CONDITIONS

- a) Current land use and zoning Forest
- b) Average depth of topsoil 4 to 6 Feet
- c) Type and density of vegetation 12 year old Clear cut
- d) Are there any springs, seeps, intermittent or perennial streams on or near the site? yes no
If yes, list here and locate on mine plan map.
Nehalem River
- e) Has a wetland delineation been completed? yes no
If yes, attach report.
- f) Has a landslide investigation been completed on this property? yes no
If yes, attach report.

POST-MINING LAND USE

- a) What is the planned post-mining beneficial use of the permit area?
 - Agriculture
 - Range/Open Space
 - Forestry
 - Housing/Construction
 - Wildlife/Wetland
 - Recreation
 - Other

The post-mining use must be compatible with the local comprehensive plan or have specific land-use approval. For significant aggregate sites, which are zoned for mining, local government must determine the post-mining land use.

RECLAMATION TIMING

Oregon law requires reclamation to be completed within 3 years after completion of mining on any segment of the mine area.

- a) How many days after mining is completed will reclamation begin? 160
- OR
- b) If reclamation will be concurrent with mining, explain the procedure for concurrent reclamation.

4. OPERATING PLAN

- a) Mining method(s) to be employed (mark all that apply):
 - single bench multiple bench pond excavation
 - placer mine side hill cut hill top removal
 - other: _____
- b) Equipment to be used for mining:
Excavator, wheel Loader, Crusher
- c) Will there be on-site processing? yes no
If yes, check type of processing:
 - wash water contained in a closed system source of water: _____
 - wash water discharged off site
 - dry processing
 - other: _____
- d) Will blasting be employed? yes no
- e) Distance to closest structure not owned by permittee.
1/2 mile plus
- f) Disposition of removed vegetation.
Burn on site
- g) Soil types which will be disturbed by mining, processing, or reclamation.
Nehalem Silt Loam
- h) Average soil salvage depth 4 to 6 Feet
- i) Overburden removal depth 3 to 4 Feet
- j) Will soil, overburden, rock waste or crusher reject dumps or stockpiles be created during mining? yes no
If yes, list the estimated volume of each at the end of this form and locate on a mine plan map.

Additional information may be required for large dumps or those located on steep terrain.

- k) Will this plan require excavating across any property lines? yes no
- l) How and where will soil or subsoils be stored for reclamation? Locate storage areas on mine plan map.
Soil will be placed North of removal site, close to Reclamation site. Look at map #2
- m) What measures will be taken to reduce compaction and prevent water and wind erosion of the topsoil stockpiles and when will they be implemented?
Top Soil Hydro seeded at end of Summer.

ID No. 29-0081
Simpson Quarry

What will be the minimum property line setback:

for the excavation

100 Feet

for processing or storage

100 Feet

WATER RESOURCE PROTECTION

Will mining occur below groundwater level?..... yes no

Will mine site dewatering be necessary?..... yes no

If yes, explain procedure and estimated depth to which water will be drawn down inside of the mine and where water will be discharged.

Water table will be lower
25 to 30 Feet. Water will
discharge into settling pond.

WRD

A permit may be required from the Water Resources Department for dewatering activity.

a) Will process water be contained on site?..... yes no

b) Will storm water be contained on site?..... yes no

c) Will a pond(s) be used to contain water?..... yes no

Explain containment procedures.

Settling ponds will continue
to comply with existing
1200-A. See map #10

If the answer to c) or d) is no, please explain discharge procedures.

After passing through settling ponds,
storm water discharges into
drainage. Complies with 1200-A

DEQ

A permit from the Department of Environmental Quality may be required for off-site discharges and is required for any discharge into public waters, wetlands, streams or lakes. Contact DOGAMI for these permits.

f) Will any drainages/streams be relocated?..... yes no
If yes, complete Section 11.

g) What will be the minimum undisturbed setback(s) of the operation from all stream(s) or drainage(s)? NONE

List the name of stream(s) or drainage(s) and setback from each at the end of this form and locate on a mine plan map.

h) How will the buffer(s) be identified and protected during mining and reclamation?

Flagged

i) Describe methods employed to control erosion in the permit area. Be specific, i.e., seeding and mulching, sediment basins or ponds, contour ditching, waterbars, etc.

Over burden stock piles will be
seeded/mulched. Existing storm
water system with settling ponds
will be maintained.

j) Will settling ponds/dams be constructed?..... yes no
State the number and size of the impoundment(s) and how they will be built. Will the pond be excavated or will berms be constructed? *Locate on a mine plan map.*

Settling ponds will be maintained
and expanded as required

k) If dams will be constructed, how high will they be and what is the maximum amount of water (in acre feet) to be impounded behind each dam?

N/A

WRD

If a dam is higher than 10 feet, and stores more than 9.2 acre feet of water, approval from the Water Resources Dept. is required prior to construction.

l) If berms or a dam will be constructed, describe construction details and attach a sketch showing construction methods.

N/A

m) How deep will impoundment(s) be? N/A

n) If the impoundment(s) are to be removed upon completion of mining, how will they be drained and/or filled?

N/A

o) Will settling ponds, wetlands, or a water impoundment be left upon final reclamation?..... yes no

6. GROUNDWATER INFORMATION

a) Proposed mine depth Existing side Hill cut,
Floor lowered to 20 Feet below

b) Groundwater depth 8-10 Feet
(Under static (pre-mine) conditions)

c) What is groundwater depth estimate based on?

d) Flow direction of groundwater, if known.

e) Distance to closest well outside the permit boundary.

Wells within permit area must be shown on mine plan map. Attach a copy of the well log(s).

VISUAL AND NOISE SCREENING

Screening can be very effectively employed to isolate sites from public notice and to minimize noise from operations.

- a) Does a natural landform or vegetative screen currently exist along the permit boundary? yes no
If yes, what screen width will be maintained during mining?
100 Feet on North, East + West sides
- b) Will a berm and/or vegetation be established to develop a visual screen for the operation? yes no
If yes, describe the height and width of the berms and/or the type and density of vegetation; show location on mine map.

(Crushed rock stockpiles, although not permanent, can also be used to reduce noise from the operation.)

Standing Timber + 12 to 14 year old Timber

EQUIPMENT AND STRUCTURES REMOVED

- a) Upon final reclamation, will all structures, visual berms, equipment, and refuse be removed? yes no
If no, explain what will be left.

RECLAMATION TECHNIQUES

- a) What will be done with oversized rock not used during mining?

- b) What will be the average depth of soil replaced on the area to be reclaimed? 16"

If less than 12" of topsoil is available, a substitute material may be required.

- c) Will additional material be utilized as a soil substitute to complete the revegetation? yes no
If yes, specify type(s), amount(s), and source(s).

Rejects

- d) Will any waste products, such as tailings, crusher rejects, etc., be generated during mining? yes no
If yes, what will be done with them?

Sell or use in Reclamation

- e) How will processing and stockpile sites be reclaimed? if they are to be revegetated, explain procedures which will be employed to decompact areas prior to topsoiling/seeding.

Ripped, Soil placement and Seeded

10. REVEGETATION TECHNIQUES

- a) Species to be seeded/planted by type and amount.

Native Vegetation and grasses

- b) Describe method and time of year for planned planting.

Seed will be broadcast in March and April.

- c) List fertilizers and lime to be used (include amount).

10-20-20 at 30 pounds per acre.

- d) List type and amount of mulch or other erosion control techniques such as erosion netting.

Stabilizing mulch at 190 pounds per acre.

Vegetative survival comparable to the density of original ground cover will normally be considered acceptable.

11. RECLAMATION PROCEDURES - POST-MINE DRAINAGE CONTROL AND RECONSTRUCTION

- a) During reclamation, will stream channel and/or bank stabilization and rehabilitation be necessary? yes no
If yes, attach plans. n/a

DSL *A Division of State Lands' permit is required for relocation of all perennial and some intermittent water courses.*

- b) How will surface water runoff and erosion be controlled upon completion of mining? Describe and list structures that will be used.

Conveyance ditches, Check Dams, Retention basins + revegetation

12. RECLAMATION PROCEDURES - IMPOUNDMENTS & POND DECOMMISSIONING

- a) Will dewatering be required? yes no

- b) Will it be necessary to backfill a water filled excavation pit or pond? yes no

- c) How will settling ponds be stabilized and revegetated?

Graded and Seeded

- d) How will quality of imported backfill be monitored to protect groundwater quality?

On site fill only

Monitoring may be required to ensure groundwater protection.

**CLAMATION PROCEDURES -
SLOPE SHAPING**

Long continuous slopes should be avoided or broken up with surface contours, ditches, or complex slope shape.

What will be the:

- i) -steepest above-water *excavated* slopes left after mining? (1½:1 is generally maximum) 1.5 to 1
- ii) -steepest above-water *fill* slopes left after mining? (2:1 is generally maximum) 2 to 1

What will be done to ensure the stability of excavated slopes?

Benching in High wall

What will be done to ensure the stability of fill slopes?

Oversized Rock will be placed at the toe of Slope.

- f) Will this site be shaped or backfilled to blend in with surrounding topography? yes no

POST-MINING WATER IMPOUNDMENT(S)

- a) Number of impoundment(s) N/A
- b) Use of impoundment(s) _____
- c) Total surface area in acres _____
- d) Average depth _____

- e) How much is the water level expected to fluctuate annually? _____
- f) What will be the steepest and flattest in-water slopes left after mining? _____

Generally 3:1 in-water slopes are the steepest allowable, except off islands. To increase potential for wetland habitat establishment, 5:1 to 20:1 slopes are needed.

- g) Will shallow ponds, shorelines, or other areas conducive to wetland plant development be left? yes no
- h) What will be the impoundment water source? _____

WRD A water right for the water source may be needed from the Water Resources Department.

- i) What will be done for wildlife & fish enhancement, e.g. fish structures, islands, peninsulas, and irregular shorelines? _____
- j) If wetlands are to be constructed, explain the methods and final configuration. _____

OTHER PERMITS

In order to assist other agencies in the review of this plan and their ability to ascertain compliance with their laws, list all permits by type and number that are held (or applications filed) for this mine site or processing equipment (such as fill/removal permits, water rights, air quality and stormwater or waste water permits).

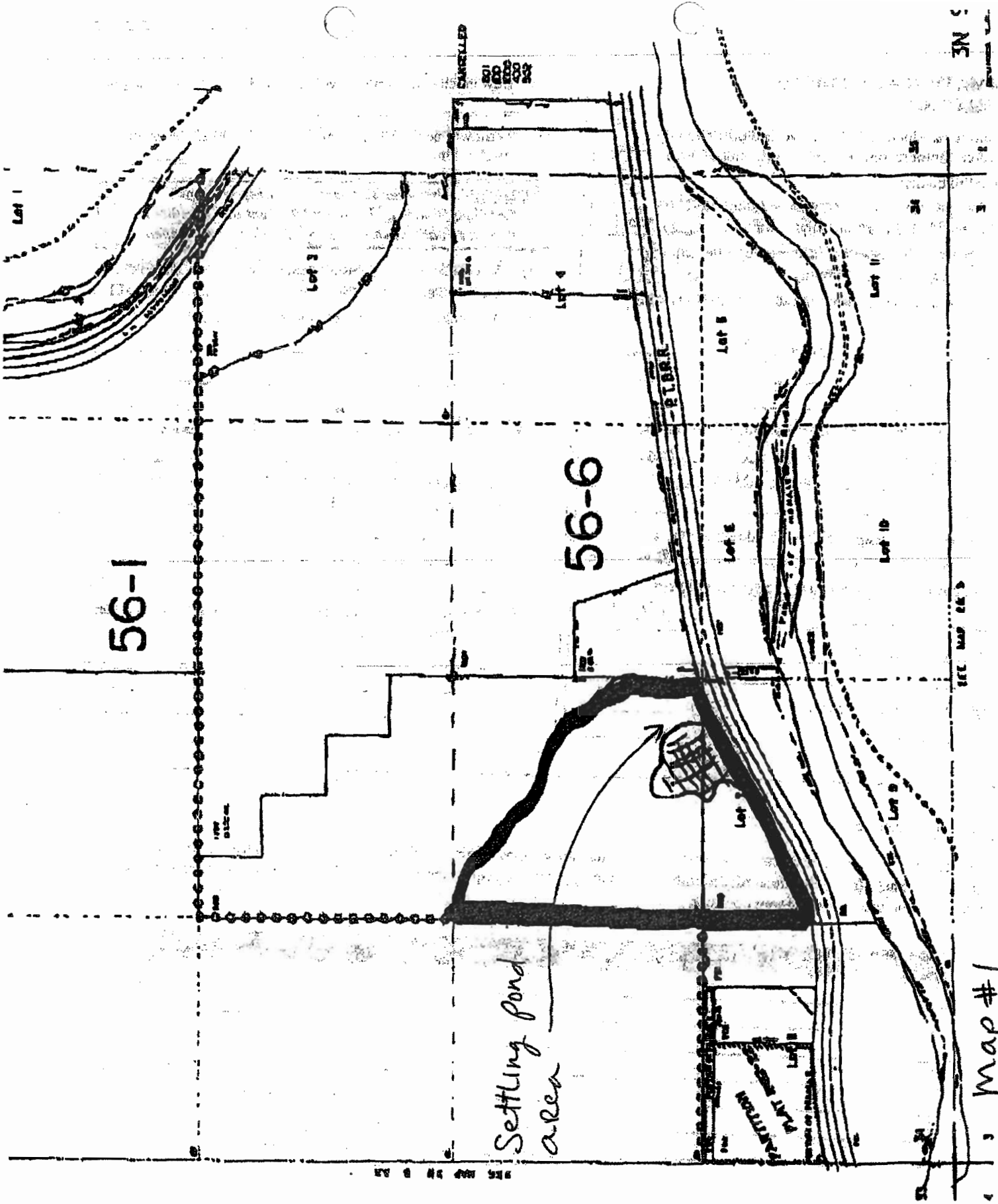
Agency/Regulation	Permit Number

56-1

56-6

Settling pond
area

Map #1



3N 5

CANCELED
501 020 020 020

SEE MAP #2

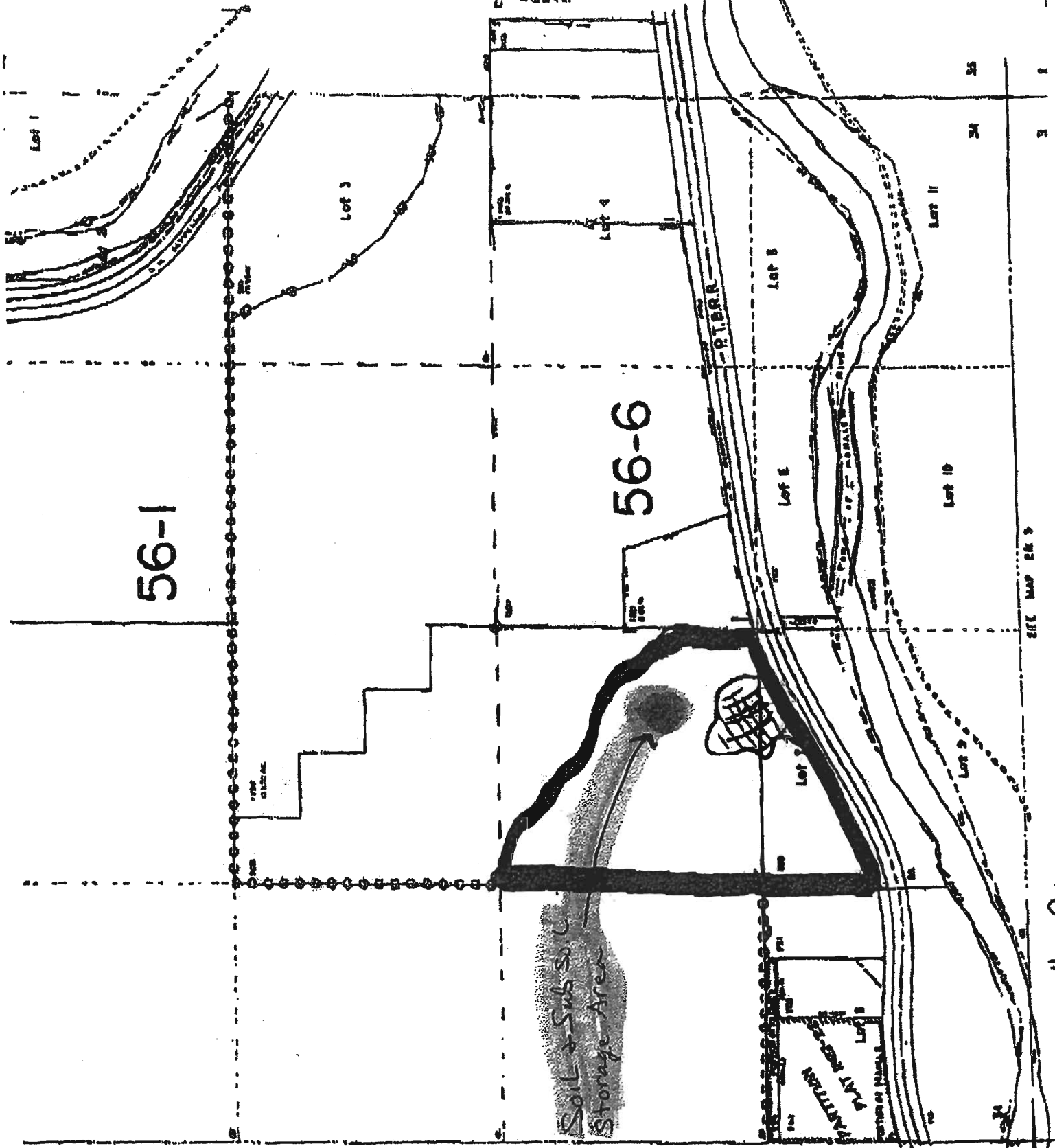
PLANT

56-1

56-6

CANCELLED
501
500
499
498

NE



SEE MAP BK 9

Map # 2

SEE MAP BK 9

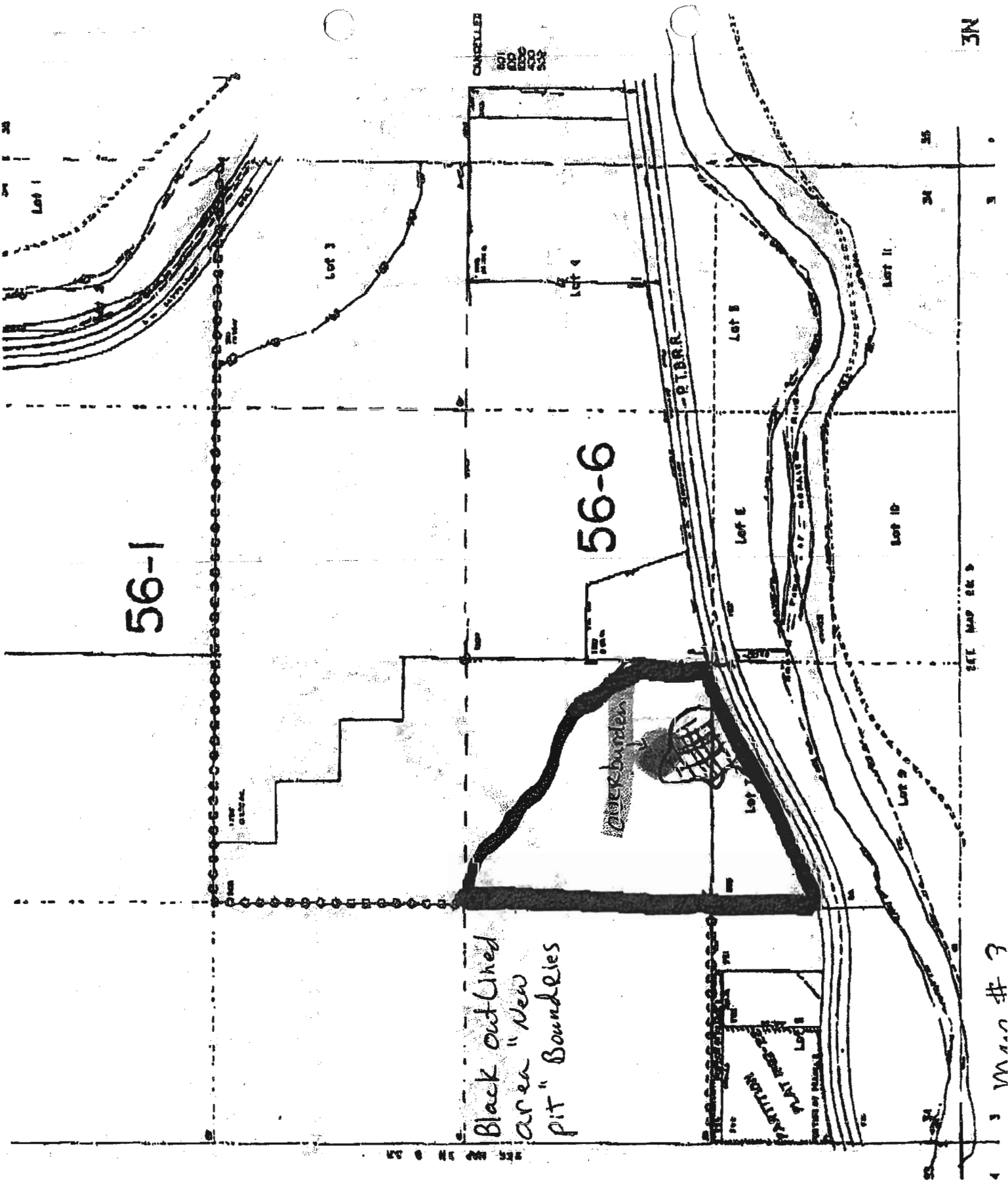
56-1

56-6

Black outlined
Area "New
Pit" Boundaries

OVERBUND

P.T.B.R.R.



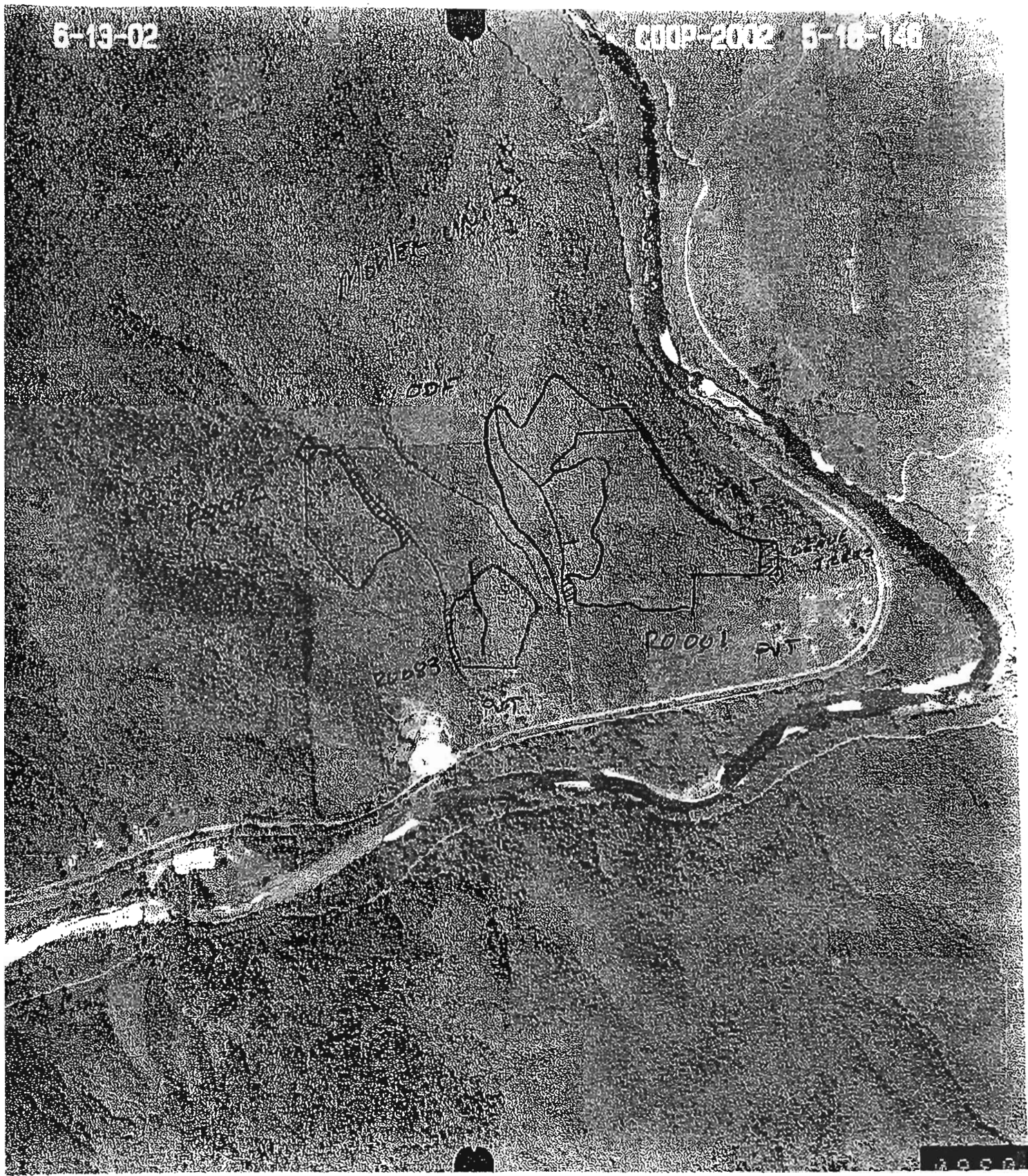
NE

SEE MAP 56-5

MAN # 3

6-19-02

000P-2002 5-18-146



000P



Oregon

John A. Kitzhaber, M.D., Governor

Department of Geology & Mineral Industries

Mined Land Reclamation

1536 Queen Avenue SE

Albany, OR 97321-6687

(541) 967-2039

FAX (541) 967-2075

June 10, 1998

TO: Mohler Sand & Gravel Company
36435 Highway 101, North
Nehalem OR 97131

FROM: E. Frank Schnitzer
Reclamationist *ETS*

RE: DOGAMI ID No. 29-0081, Simpson Quarry
DEQ File No. 105416/A

A recent aerial photo is enclosed showing the above-referenced site. The photo was obtained by DOGAMI as part of field implementation of the 1200A and 1000 water quality permit program that DOGAMI recently took over from DEQ. We have retained a copy for our files.

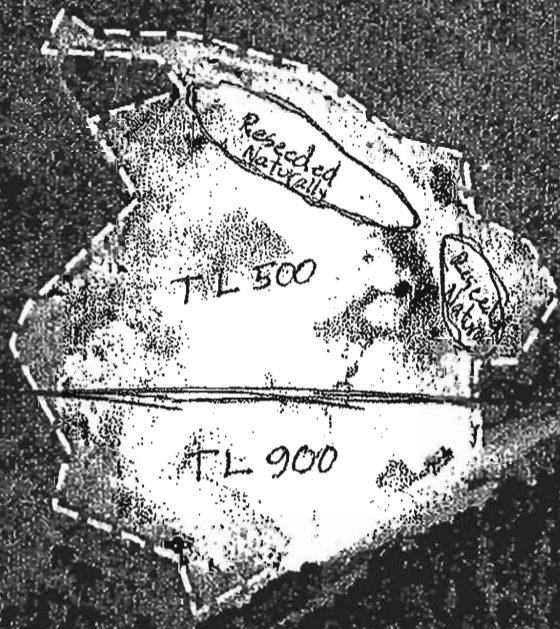
You are welcome to use the photo as you please. If a 1200A storm water permit covers the site, the map can be used as part of your storm water pollution control plan.

The size of the disturbance is noted and may be used for a future bond evaluation.

If you find any errors in the map, please contact me.

See X-0455

Approx. 8 acres
disturbed by mining



DOGAMI ID#: 29-0081

Permittee: Mohler Sand & Gravel Co.

Site Name: Simpson Quarry

Photo Source / Date: WAC 6/10/97

Prepared By / Date: N. Collins 6/9/98

Tax Lots 500+900

3N9 E4

39,000[#] + 4375[#] = 39375[#] 0.9 AC.
300'x100' + 125'x75'

File Name: flatmaps/bl2graph/290081 687 CVS


0 260 520 ft



Approx. scale 1 in = 260 ft +/- 10 ft
Oregon Dept. of Geology and Mineral Industries
Mined Land Reclamation Program



Permittee and mailing address:


 Mohler Sand & Gravel Company
 36435 Highway 101, North
 Nehalem OR 97131

Phone: 503 368-5157 Fax: (503) 368-5166 E-Mail Address: N/A

Contact Person: Don Smith Contact Phone: (503) 368-5157

Permit Type: OPA Original Application Date: 07/07/90

Site Name: Simpson Quarry Site Address (if different than permittee address above):

Mile Post 4 on Foss Road, Nehalem

Site Location: Tax Lot(s) 500 & 900; Section(s) 34; Township(s) 3; Range(s) 9W

Landowner: Simpson Timber Company

Landowner's Address: 2310 1st, Tillamook, OR 97141

In order to standardize our database, we have developed a list of commodities to be used in describing the primary commodity for each site. We currently have Rock listed as the primary commodity for this site. If this is not the primary commodity or if it does not appear on the list below, please circle the one that best describes the primary commodity for this site.

agate	Mercury	Lead	Quartz or Silica	Sunstone
andesite	Clay	Limestone/Marble	Rhyolite	Thunder Eggs
granite	Coal	Lode Gold	Rip-rap	Topsoil
gypsum	Cobalt	Nickel	Sand	Tuff
kaolinite	Copper	Obsidian	Sandstone	Uranium
quartzite	Diatomaceous Earth	Opal	Serpentine	Zeolite-Collectable
slate	Dredge Tailings	Peat	Shale	Zeolite-Industrial
shale	Emery	Perlite	Silica Sand	Zinc
siltstone	Fill	Picture Jasper	Siltstone	
stibnite	Granite	Placer Gold	Silver	
zirconium	Gravel	Platinum	Soapstone	
zirconium	Jasper	Pumice	Sulfides	

Comments:

Reclamation activities are located on the overburden disposal site, which is naturally re-establishing vegetation.

Please return the original forms to us - thank you!!!

VERY IMPORTANT: When entering excavation totals, indicate tons (T) or cubic yards (CY).
If reporting in cubic yards, enter a conversion factor for your material here: 1.3

Enter excavation figures below.

	ACTUAL Amounts for 7/1/97 thru 6/30/98	ESTIMATED Amounts for 7/1/98 thru 6/30/99
Excavation totals (Confidential per ORS 517.900)		
Minerals	40,000 <input checked="" type="checkbox"/> CY	40,000 <input checked="" type="checkbox"/> CY
Overburden	3,000 <input checked="" type="checkbox"/> CY	4,000 <input checked="" type="checkbox"/> CY
Reclamation activities		
Acres of final grading completed	+0.9 Acres	+0.5 Acres
Acres of topsoil replaced and seeded	0.0 Acres	0.0 Acres
Land disturbed by mining		
Total number of acres covered by this permit	16 Acres	16 Acres
Total number of acres affected by mining	+8 Acres	+8 Acres
Number of acres of expansion	8 Acres	8 Acres

Using the table below, calculate the fee due based on the ACTUAL amount of Minerals produced (shaded area above).

TONS Excavated During Permit Year From Column 1	Amount Due by July 31, 1998
0 to 99,999	\$635
100,000 to 199,999	\$835
200,000 to 299,999	\$1,035
300,000 to 399,999	\$1,235
400,000 to 499,999	\$1,435
500,000 or more.....	\$1,635
Permittees with sites that have been permitted as of October 1992 and have produced no more than 5,000 cubic yards per year at any site since October 1992.....	\$525

I certify that the information in this report is true and correct to the best of my knowledge.

Signature: _____ Date: _____

Print/Type Name and Title: Donald L. Smith, Operator/Permittee

Return the original completed form and renewal fee by July 31, 1998, to:

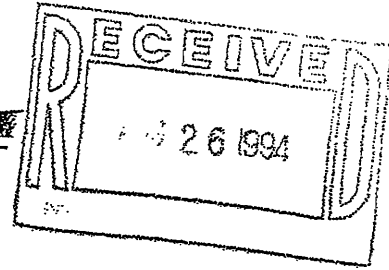
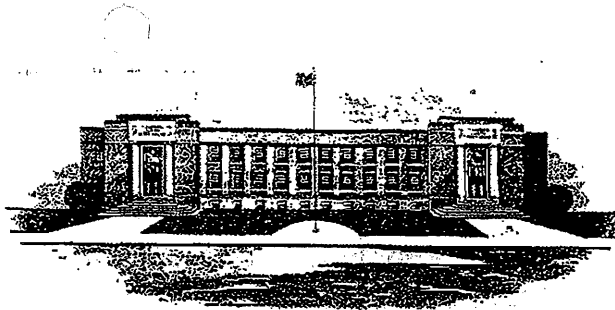
Oregon Department of Geology
1536 Queen Avenue SE
Albany OR 97321-6687

If you have questions, please call us at (541) 967-2039, or E-mail at permits.mlr@state.or.us

Please return the original forms to us - thank you!!!

APPENDIX H

504 39
534



Tillamook County
Land of Cheese, Trees and Ocean Breeze

Jon A. Oshel
Director of Public Works

(503) 842-3419
FAX: 842-6473
TDD-NONVOICE
Oregon Relay Service

PUBLIC WORKS DEPARTMENT
503 Marolf Loop, Tillamook, OR, 97141

August 23, 1994

Don Smith
Mohler Sand and Gravel
36435 Highway 101N
Nehalem, OR 97131

RE: T3NR9W Sec 34 Tax Lot 900
Road Approach Permit #1775A and 1775B
Foss Road

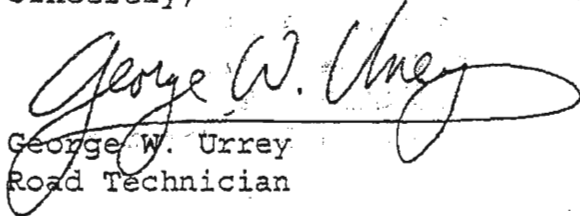
Dear Don Smith,

On August 15, 1994 I received your letter dated July 21, 1994. Your letter indicated you would be sending a copy of the agreement regarding completion of the paving of your road approach. I have no objections to extending your permit approval as requested, but cannot authorize approval without the paving agreement.

The original permit approval was September 24, 1990 and the notice informing you of your permit violation was issued on June 27, 1994. I must caution you on allowing this permit to remain in violation of Tillamook County Ordinance #44. As I previously indicated this may also place you in violation of your conditional use approval.

You will need to submit the contract agreement no later than September 9, 1994 to avoid further enforcement action.

Sincerely,



George W. Urry

George W. Urry
Road Technician

RAE

cc: Department of Community Development
Rick Kjemperud, District #1 Foreman
Ron Larson, HLB Inc.
File

MOHLER SAND & GRAVEL
36435 Highway 101 N
Nehalem, OR 97131

July 21, 1994

George Urrey, Road Technician
Tillamook County Road Department
503 Marolf Loop
Tillamook, OR 97141

RE: Road Approach permit # 1775A & #1775B
Foss Road, TL 900, 3N 9 34

Dear George:

I am in receipt of your letter dated June 27, 1994 regarding a violation of the conditions of the above referenced road approach permits. This letter is to advise you that both of the road approaches will be paved with asphalt paving which will be completed not later than October 15, 1994.

I hereby request an extension of time until October 15, 1994 in order to complete the asphalt work described above. I am now in the process of obtaining a contract for the asphalt paving work. As soon as I have completed a contract, I will submit a copy to you.

Sincerely,

Don Smith
Mohler Sand & Gravel

cc: Ron Larson, HLB, Inc.

HLB, INC.
Handforth Larson & Barrett, Inc.
Civil Engineering & Surveying

FAX Transmission Sheet

Date: SEPT 5, 1994

From: MARK TELLHED

To: PALMBERG PAVING

Company: SAME

FAX #: 738 5123

Subject: CONTRACT FOR PAVING ROAD APPROACHES FOR
MOHLER SAND & GRAVEL

You should receive 4 page(s) including this cover sheet.

COMMENTS:

HERE ARE THE TILLAMOOK CO. REQUIREMENTS
FOR THE ROAD APPROACH FOR MOHLER SAND &
GRAVEL. A SIGNED CONTRACT IS NEEDED
BY SEPT. 9 TO MAINTAIN THE EXISTING PERMIT.
PLEASE FAX A CONTRACT TO THIS OFFICE FOR
SIGNING.

SENT BY: MHT

FOLLOW-UP COPY SENT BY:

TIME: 10:55

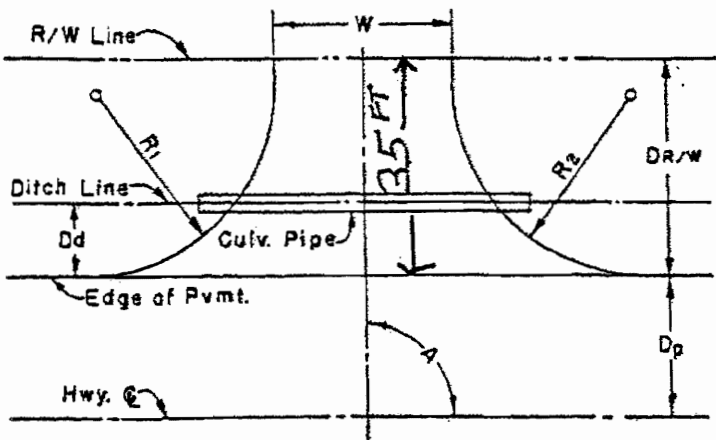
Mail

Courier

None

HLB, Inc., P.O. Box 219, 160 Laneda Avenue, Manzanita, Oregon 97130
Telephone: (503) 368-5394 Fax: (503) 368-5347

*Pages were out of order - Sending
entire lot again. Thanks 12:35 pm



The approach covered by this permit shall be constructed in accordance with the following dimensions and specifications.

W = 30 R₁ = 10 R₂ = 10 A = 90

D_p = 10 D_d = 10 DR/W = 20

Culvert Pipe Required Not Required

If required: Type CMP

Diameter 12 inches

Length 50 feet

Stone base: Size & Type Pit Run

Comp. Thkn. 9 inches

Stone levelling Course: Size & Type 3/4"-0"

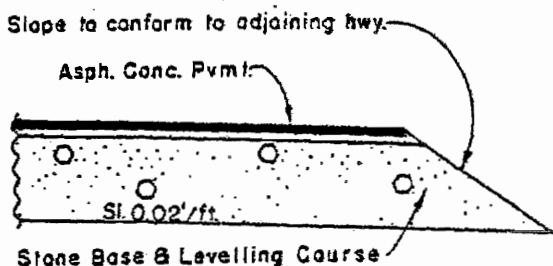
Comp. Thkn. 2 inches

A.C. Pvmt.: Class BC C

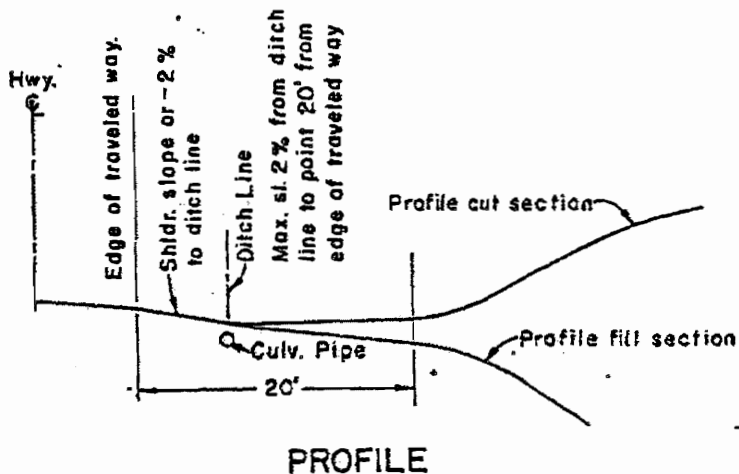
Comp. Thkn. 2 1/2 inches

Sight Distance: LEFT 400+ FT.

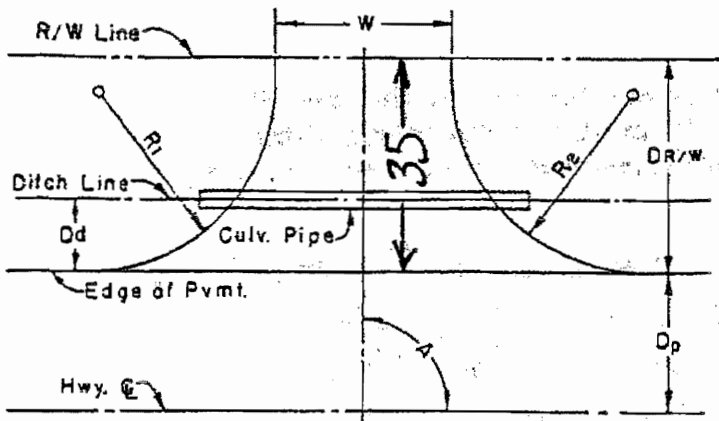
RIGHT 400+ FT.



APPROACH TYPICAL SECTION



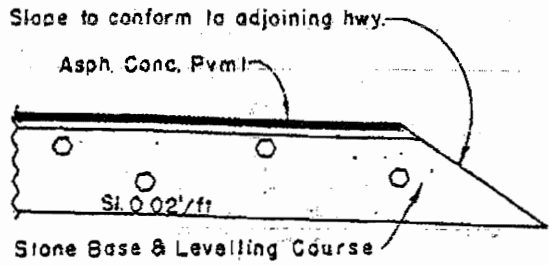
TYPE 2 ROAD APPROACH PAVED	
APPLICANT <u>Mohler Sand/Gravel</u>	
HWY. <u>Foss Road No. 507</u>	
SIDE OF HWY. <u>North</u>	
MILE POST <u>4.14</u> ENGRS. STA.	
ROAD APPROACH PERMIT NO. <u>1775A</u>	



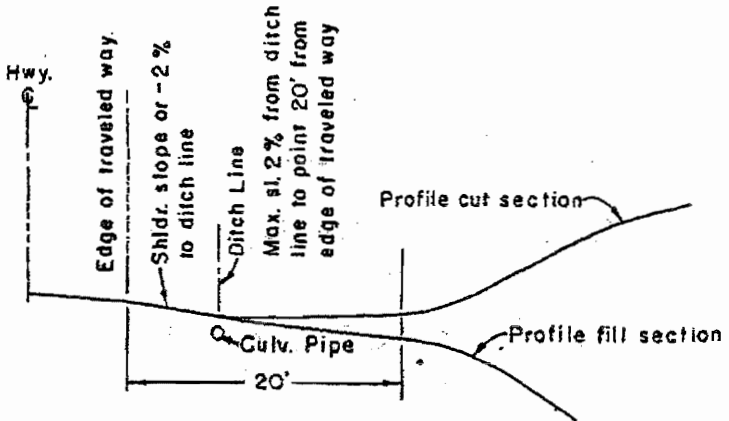
The approach covered by this permit shall be constructed in accordance with the following dimensions and specifications.

W = 30 R₁ = 10 R₂ = 10 A = 90
 D_p = 10 D_d = 10 DR/W = 20
 Culvert Pipe Required Not Required
 If required: Type CMP

Diameter 12 inches
 Length 50 feet
 Stone base: Size & Type PIT RUN
 Comp. Thkn. _____ inches
 Stone levelling Course: Size & Type 3/4" - 0"
 Comp. Thkn. 2 inches
 A.C. Pmnt.: Class B or C MIX
 Comp. Thkn. 2 1/2 inches

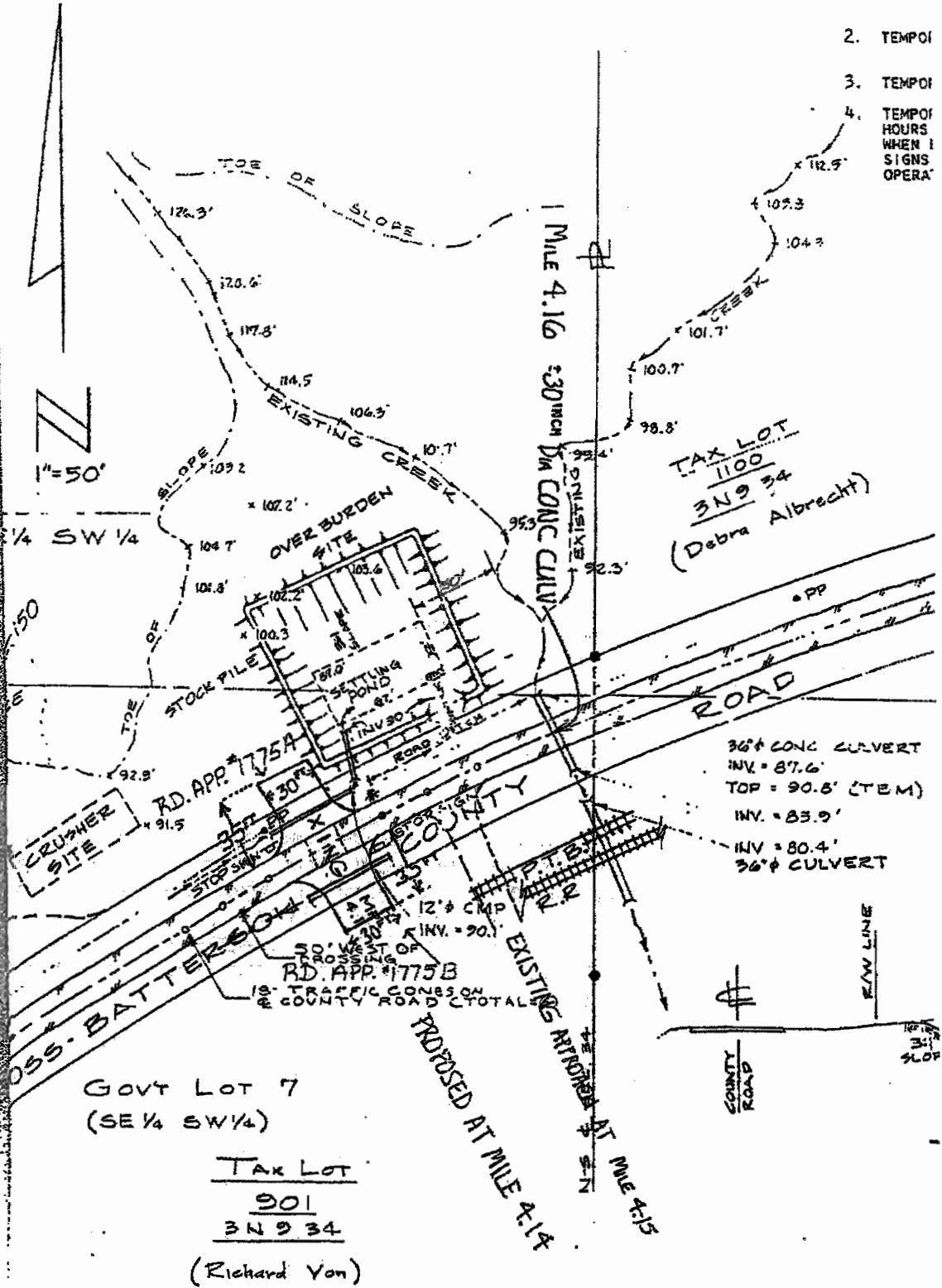


Sight Distance: LEFT 400+ FT.
 RIGHT 400+ FT.



TYPE 2 ROAD APPROACH
 PAVED
 APPLICANT MOHLER SAND & GRAVEL
HANDFORTH & LARSON & BARRETT, INC.
 HWY. FOSS CO. RD. NO. 507
 SIDE OF HWY. SOUTH
 MILE POST 4.14 ENGRS. STA. _____
 ROAD APPROACH PERMIT NO. 1775 # B

- CROSSING /
1. PERMANENT
 2. TEMPORARY
 3. TEMPORARY
 4. TEMPORARY HOURS WHEN SIGNS OPERATE

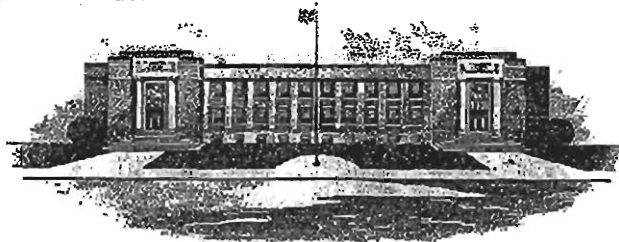


GOVT LOT 7
(SE 1/4 SW 1/4)

TAX LOT
901
3 N 9 34
(Richard Von)



ROCK QUARRY
FOR
MOHLER SAND & GRAVEL
SW 1/4 SECTION 34, T.3N, R.9W, W.M.



Jon A. Oshel
Director of Public Works

Tillamook County
Land of Cheese, Trees and Ocean Breeze

(503) 842-3419
FAX: 842-6473
TDD-NONVOICE
Oregon Relay Service

PUBLIC WORKS DEPARTMENT
503 Marolf Loop, Tillamook, OR, 97141

June 27, 1994

Mohler Sand and Gravel
36435 Highway 101 N
Nehalem, OR 97131

RE: Road approach permit #1775A, #1775B
T3NR9W Sec 34 Tax Lot 900
Foss Road #507

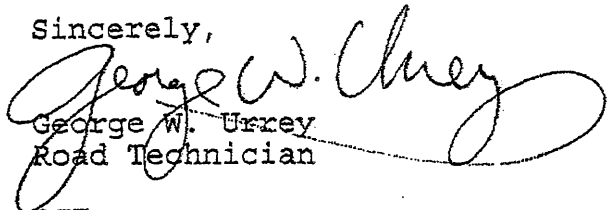
Dear Mohler Sand and Gravel,

In reviewing our files, I found that your road approach permits #1775A and #1775B are in violation with your conditional use permit, CU-89-15. The conditional use permit specified that you shall meet the Public Works Department conditions. The condition stated that asphalt paving is required for both approach permits #1775A and #1775B. To rectify this violation you will need to complete one of the following:

1. Comply with the conditions of approach permits #1775A and #1775B. (copy enclosed)
 - A. Submit a written request for an extension of time. This request must indicate your proposed date of completion.
 - B. Submit a copy of a paving contract between you and your paving company. This also must have a proposed completion date.
2. Request new approach locations by submitting new permit applications with fees. (application and ordinance enclosed)

Your attention to this matter is appreciated. The additional information needs to be submitted to this department by July 18, 1994. If you plan on paving approaches completion needs to be by October 15, 1994. Should you have any questions please contact me.

Sincerely,

A handwritten signature in cursive script that reads "George W. Urrey". The signature is written in black ink and is positioned above the typed name and title.

George W. Urrey
Road Technician

BEF

cc: Department of Community Development
File

Application Permit No. 1775 A&B Road No. 507

ROAD APPROACH APPLICATION AND CONSTRUCTION PERMIT
NOTICE

Applicant must be the person, firm or corporation having the legal right to apply for a Road Approach Permit. Such legal right is vested only in the owner or lessee of the property abutting the highway or the holder of an easement or similar right to construct and use an approach road upon the abutting property.

SECTION 34 TOWNSHIP T3N RANGE R9W WEST, W.M. TAX LOT NO. 900

MOHLER SAND AND GRAVEL
(NAME OF APPLICANT)

36435 Highway 101N Nehalem, OR 97131
(MAILING ADDRESS AND TELEPHONE NO. OF APPLICANT)

FOSS ROAD #507
(NAME OF STREET OR ROAD TO WHICH PROPOSED APPROACH IS BEING MADE)

NO CONSTRUCTION SHALL BE COMMENCED ON THE APPROACH ROAD UNTIL THIS APPLICATION HAS BEEN APPROVED AND SIGNED BY THE DEPARTMENT OF PUBLIC WORKS AND THE BOARD OF COUNTY COMMISSIONERS.

This application is made pursuant to O.R.S. Chapter 374.

The APPLICANT SHALL PROVIDE A MAP accompanying this application showing the proposed approach road and distance from centerline of the approach to the property corners, and the location of the county or public road abutting the property.

THE PROPOSED APPROACH ROAD LOCATION MUST BE STAKED AND FLAGGED ON THE SITE. If additional inspection trips are required because the site is not staked and flagged a fee of \$25.00 for each trip will be assessed.

PRIOR TO ISSUING THE PERMIT THE PUBLIC WORKS DEPARTMENT OF THE COUNTY WILL INSPECT THE SITE for proper drainage, traffic hazards and general acceptability.

THE APPROACH ROAD SHALL BE CONSTRUCTED BY THE APPLICANT AS DIRECTED BY THE COUNTY AND SHALL BE CONSTRUCTED AT THE APPLICANT'S EXPENSE.

After the approach road is built, applicant shall notify the County and a FINAL INSPECTION FOR APPROVAL of the approach shall be made by the County.

RECEIVED
SEP 21 1990

TILLAMOOK COUNTY ROAD DEPT.

In consideration of the applicant's agreement to comply in all respects with the regulations of Tillamook County, permission is hereby granted for construction described in the above application and in the instructions attached hereto and by this reference made a part hereof to same extent as if set forth in full. The applicant shall make all corrections as directed. Applicant agrees to save and hold harmless the County from any and all liability of whatever kind or nature arising or to arise by reason of issuance of this construction permit, the issuance thereof being for the sole benefit of applicant.

It is further understood that this construction permit is issued subject to the approval of local, city or town authorities having joint supervision over said road or street.

The entire expense of maintaining said approach road shall be borne by applicant if in the event of the reconstruction or widening of any highway, it becomes necessary to remove, alter or reconstruct the approach road constructed under authority of this permit, the cost of such removal or replacement to a like width and condition will be borne by the County. Any widening or other improvement of the approach road at the applicant's request shall be done only under authority of a new permit and at the expense of the applicant.

Donald J. Smith 9-15-90
Applicant's Signature Date

Approved:

Paul Ellubroek 9-24-90
Public Works Department

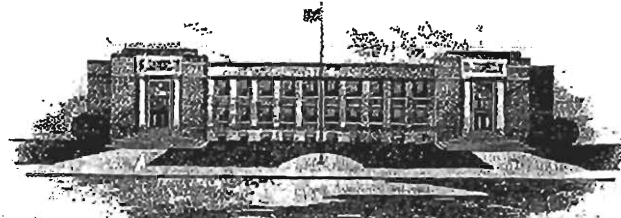
BOARD OF COUNTY COMMISSIONERS

By: _____
Chairman Kenneth M. Bruck Commissioner J. B. Miller Commissioner

Date of Approval on Issuance of Construction Permit _____

Date of Final Acceptance _____

Approved By: _____



Jon A. Oshel
Director of Public Works

Tillamook County
Land of Cheese, Trees and Ocean Breeze (503) 842-3419
FAX: 842-6473
TDD-NONVOICE
Oregon Relay Service

PUBLIC WORKS DEPARTMENT
503 Marolf Loop, Tillamook, OR, 97141

January 19, 1995

Don Smith
Mohler Sand and Gravel
36435 Highway 101N
Nehalem, OR 97131

RE: Road Approach Permit #1775a/b
T3NR10W Sec 34 Tax Lot 900
Foss Road #507

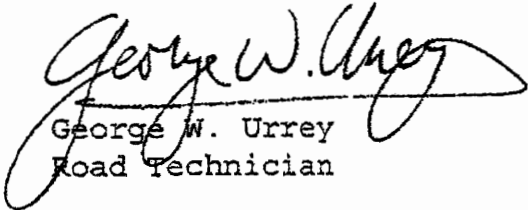
Dear Don Smith,

Another inspection was performed on completion of your road approach permit #1775a/b on December 30, 1994. This inspection revealed that your approach remains in violation. A review of the file showed that no inspection request was made.

Further extensions to your permit approval are not available. You will need to reapply for a new road approach approval for each road approach involved (2 applications at \$75.00 each) by February 1, 1995. Failure to apply for the new approach permit and complete the construction requirements, then this department will have no alternative, but to forward this file to the Tillamook County Code Enforcement Officer for further enforcement action.

Should you have any questions, please let me know. I am sure that a resolution to this violation can be reached.

Sincerely,



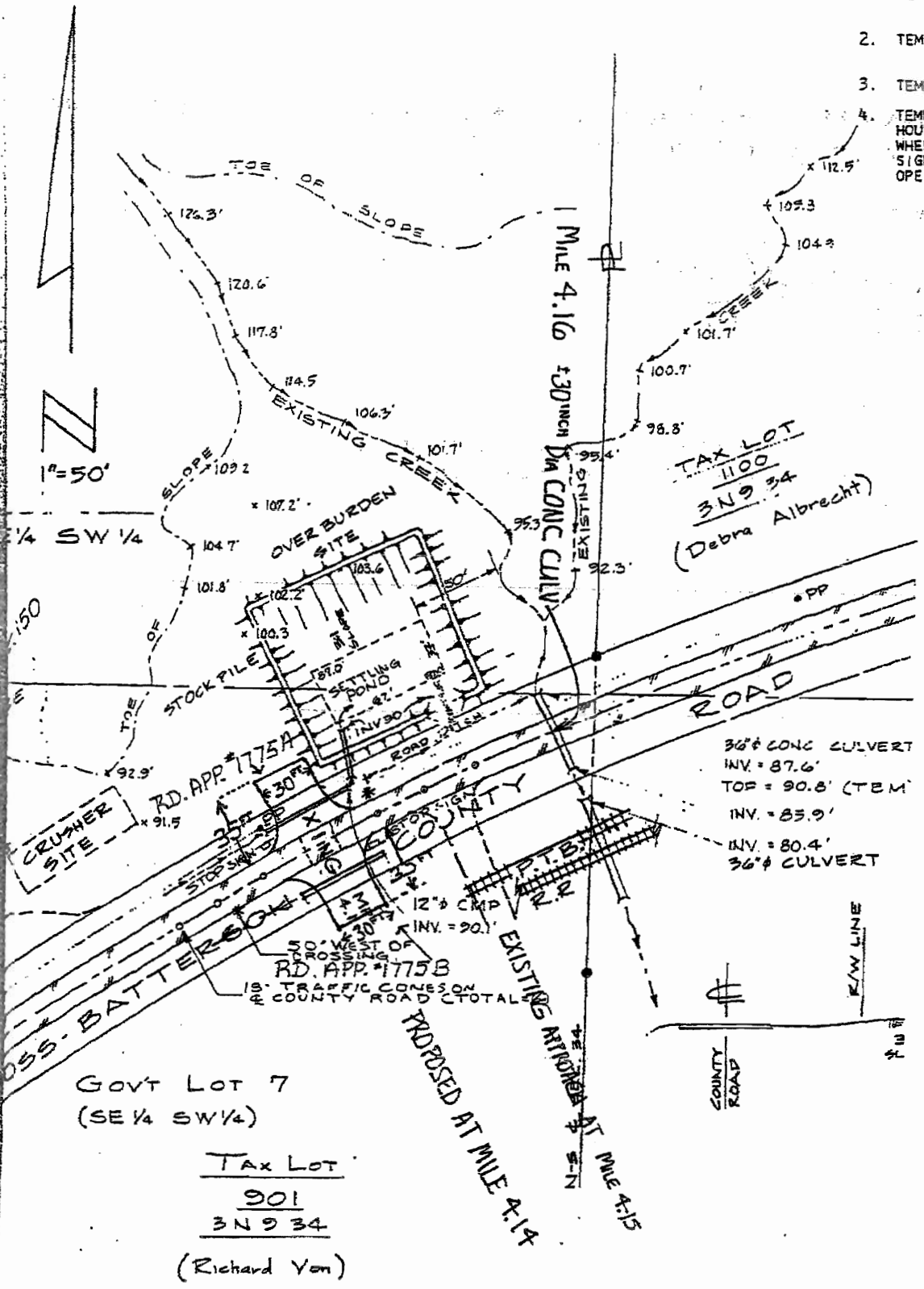
George W. Urrey
Road Technician

RAE

cc: Department of Community Development
Rick Kjemperud, District #1 Foreman
File

CROSSLINE

- 1. PERM
- 2. TEMP
- 3. TEMP
- 4. TEMP
HOUR
WHEEL
SIGN
OPEN



GOVT LOT 7
(SE 1/4 SW 1/4)

Tax Lot
901
3N934
(Richard Von)



ROCK QUARRY
FOR
MOHLER SAND & GRAVEL
SW 1/4 SECTION 34, T.3N, R.9W, W.M.

BAYSIDE SURVEYING

11765 HWY 101 South
Tillamook, Oregon 97141

Terry L. Jones
503-842-5551
Fax 503-842-5552

September 13, 2004

LEGAL DESCRIPTION FOR GREEN DIAMOND RESOURCE CO. BOUNDARY LINE ADJUSTMENT FOR ROCK PIT

Beginning at a 5/8" rebar(see map B-813) on the North right-of-way line of Batterson County Road, being South 60° 39' 41" West 3006.34 feet from the $\frac{1}{4}$ corner on the East line of Section 34, Township 3 North, Range 9 West, W.M.;

Thence North 0° 51' 27" West 623.39 feet to a 5/8" rebar(see map B-813) in the center of a small creek;

Thence along the centerline of the creek, North 19° West 297 feet to the intersection of a smaller creek flowing from the Northwest;

Thence along the centerline of said smaller creek the following nine (9) courses:

North 11° 30' West 159 feet,

North 66° West 143 feet,

North 89° West 175 feet,

South 65° West 73 feet,

North 63° West 297 feet,

North 85° West 175 feet,

North 35° West 160 feet,

North 75° West 148 feet,

North 52° West 161 feet, more or less, to the West line of
the SE ¼ of the NW ¼ of Section 34;

Thence along the West line of the SE ¼ of the NW ¼ and the West
line of the East half of the SW 1/4 of Section 34, South 2113.88
feet, more or less, to the North right-of-way line of the
Batterson County Road;

Thence along the North right-of-way line of said Batterson
County Road, East 1450 feet, more or less, to the Point of
Beginning.

Bearings and distances are based upon map by Bayside Surveying
dated August 30, 2004 and recorded in the Tillamook County
Survey office.

The purpose of this description is to adjust tax lot 900 and not
to create a distinct and separate parcel.

BASIS OF BEARINGS

THE LINE BETWEEN FOUND MONUMENTS (65) AND (67) AS SHOWN HEREON BEARS NORTH 73° 30' 12" EAST, THE CALCULATED VALUE FROM MAP B-1541, TILLAMOOK COUNTY SURVEY RECORDS.

NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO MONUMENT A BOUNDARY LINE AGREEMENT ALONG THE WEST LINE OF THE GRELCK TRACT AS SHOWN HEREON. I HELD DEED BEARINGS AND DISTANCES BACKED IN FROM THE EAST 1/4 CORNER, ROTATING THE BEARINGS 0° 42' 20" COUNTER-CLOCKWISE TO MATCH THE BEARING ON THE EAST LINE OF SECTION 34.

IT IS ALSO THE PURPOSE OF THIS SURVEY TO MONUMENT A BOUNDARY LINE AGREEMENT ALONG THE NORTH AND WEST LINES OF THE FUJIMOTO TRACT AS SHOWN HEREON. I HELD THE RECORD PLAT ANGLES SHOWN ON MAP C-20, FROM THE EAST LINE OF SECTION 34.

I HELD THE MONUMENTS FROM MAP B-813 FOR THE NORTH, EAST AND WEST LINES OF THE QUINN TRACT.

IT IS ALSO THE PURPOSE OF THIS SURVEY TO MONUMENT A BOUNDARY LINE ADJUSTMENT ON THE NORTH LINE OF THE "ROCK PIT" TRACT AS SHOWN HEREON. THE WEST LINE IS THE WEST LINE OF THE EAST 1/2 OF THE SW 1/4 OF SECTION 34 AND THE WEST LINE OF THE SE 1/4 OF THE NW 1/4 OF SECTION 34. THE EAST LINE IS THE WEST LINE OF THE QUINN TRACT. THE SOUTH LINE IS THE NORTH LINE OF THE PORT OF TILLAMOOK BAY RAILROAD. THE NORTH LINE IS THE CENTERLINE OF A SMALL CREEK.

MONUMENT NOTES

- (65) FOUND 3/4" IRON PIPE IN CONCRETE WALL IN BARN, HELD, FROM WHICH TILLAMOOK COUNTY BRASS CAP IN CONCRETE STAMPED "MAY 14 49 S 14°06'4" E R 287 1978" BEARS N 1°00'30" W 49.40 FEET AND TILLAMOOK COUNTY BRASS CAP IN CONCRETE STAMPED "MAY 2 578 30 DO W 68.41° R 287 1978" BEARS N 79°30' 14" E 68.41 FEET. SEE REMITNESS CARD NUMBER 87.
- (67) FOUND 5/8" REBAR WITH PLASTIC CAP MARKED "A. DUNCAN LS 793", TOP FLUSH WITH GROUND, SEE MAP B-1541, HELD FOR WEST LINE OF SIMPSON OWNERSHIP.
- (68) FOUND TILLAMOOK COUNTY BRASS CAP IN CONCRETE IN TILE ON STEEP SOUTH SLOPE, ABOVE A PRIVATE WATER SYSTEM, STAMPED "1/4 S 34 S 35 R 287 1974", WITH HAT SECTION 1.8 FEET NORTH AND FOUR BEARING TREES IN GOOD SHAPE, SEE REMITNESS CARD #100, HELD.
- (69) FOUND 3" ALUMINUM CAP IN CONCRETE ON THE NORTH BANK OF THE NEHALEM RIVER, STAMPED "MC SOUTH 30.00 LS 793 1891", WITH HAT SECTION 1.8 FEET NORTH AND 2 BEARING TREES IN GOOD SHAPE, SEE MAP B-1541, HELD.
- (70) SET A 2 1/2" BRASS CAP (ROCK CAP) IN SOLID BEDROCK ON THE WEST BANK OF THE NEHALEM RIVER, STAMPED "MC 327 S 34 LS 2507 2004 NEH RV", FROM WHICH 11" ALDER TREE BANK SCRIBED "MC S 34 81" WITH BRASS NAIL AND WASHER "LS 2507" BETWEEN THE B AND T BEARS SOUTH-WHEST 30.32 FEET, 17" ALDER TREE BANK SCRIBED "MC 827 81" WITH BRASS NAIL AND WASHER "LS 2507" BETWEEN THE B AND T BEARS NORTH 22° WEST 37.80 FEET. I SET THE CORNER AT RECORD POSITION AS INDICATED ON PACIFIC RAILWAY AND HANGATION CO. RAILROAD MAP #8 ON RECORD AT THE TILLAMOOK COUNTY SURVEY OFFICE. I LOCATED THE CENTERLINE OF THE EXISTING TRACTS, INTERSECTED FOR THE PI OF THE CURVE, MEASURED ALONG THE TANGENT NORTHERLY 846.084 FEET TO THE PC STATION 30474.72. THEN I CONTINUED ALONG THE CENTERLINE OF THE TRACTS AN ADDITIONAL 187 FEET TO STATION 30464.85, TURNED AN ANGLE OF 93°20' AND MEASURED OUT 141 FEET TO THE TOP OF A SOLID ROCK BANK ON THE WEST SIDE OF THE NEHALEM RIVER.

LEGEND

- INDICATES FOUND MONUMENT AS NOTED HEREON, USED FOR CONTROL
- INDICATES SET 5/8" REBAR WITH PLASTIC CAP MARKED "TERRY JONES LS 2507" WITH STEEL POST 1 FOOT NORTH
- INDICATES FOUND MONUMENT AS NOTED HEREON
- ⚡ INDICATES FOUND 5/8" REBAR WITH PLASTIC CAP "C. WAYNE COOK PLS 1040", SEE MAP B-2782
- ⚡ INDICATES FOUND 5/8" REBAR WITH PLASTIC CAP "PLS 1208", SEE MAP B-813, HELD
- () INDICATES RECORD VALUE FROM MAP B-1541
- () INDICATES RECORD VALUE FROM MAP C-20
- () INDICATES RECORD VALUE FROM MAP B-813
- () INDICATES RECORD DEED VALUE BOOK 441, PAGE 328
- () INDICATES RECORD VALUE FROM RR MAP #8

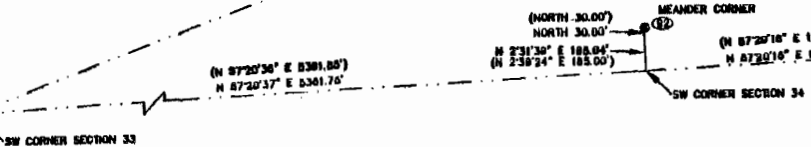
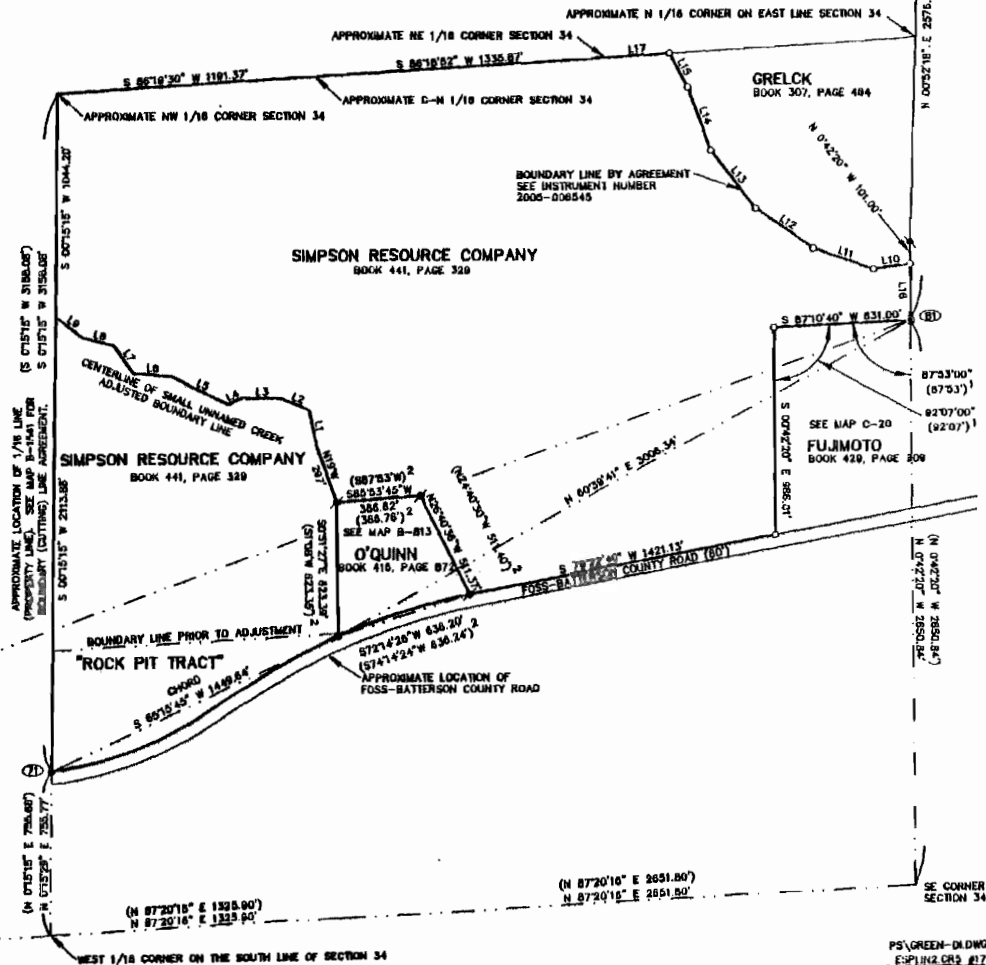
LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
L1	158'	N11°30'W			
L2	143'	N88°W			
L3	173'	N89°W			
L4	73'	S83°W			
L5	287'	N83°W			
L6	173'	N83°W			
L7	160'	N33°W			
L8	148'	N78°W			
L9	1181'	N63°W			
L10	168.00'	S87°40'W	(110) 3	(189)	(S83°W)
L11	287.00'	N70°42'20"W	(111) 3	(287)	(N70°W)
L12	323.00'	N84°42'20"W	(112) 3	(323)	(N84°W)
L13	344.00'	N38°42'20"W	(113) 3	(344)	(N38°W)
L14	317.00'	N18°42'20"W	(114) 3	(317)	(N18°W)
L15	179.67'	N67°34'20"W	(115) 3	(224)	(N27°W)
L16	284.00'	S00°42'20"W	(116) 3	(284)	(S00°W)
L17	281.22'	S88°18'57"W	L17	281.22'	S88°18'57"W

MEANDER CORNER ON THE NORTH LINE SECTION 34, ON THE WEST BANK OF NEHALEM RIVER

S 86°07'42" E 1031.58'

OREGON STATE BOARD OF FORESTRY

OREGON STATE BOARD OF FORESTRY



REGISTERED PROFESSIONAL LAND SURVEYOR <i>Terry L. Jones</i> TERRY L. JONES 2007 RENEWAL DATE: JUNE 30, 2009	SURVEY BY: BAYSIDE SURVEYING 11785 HWY 101 SOUTH TILLAMOOK, OR. 97141 (503) 842-5551	BOUNDARY SURVEY FOR: GREEN DIAMOND RESOURCE THAT PORTION OF SIMPSON TRACT DESCRIBED IN BOOK 441, PAGE 328 IN SECTION 34 SECTION 34, T3N, R9W, W.M. TILLAMOOK COUNTY	TILLAMOOK COUNTY SURVEYORS OFFICE DATE SEP 7 2005
	DATE: 08-30-04 EQUIPMENT: TOPCON GPT-1002 TDS 480 FIELD: T.L./D.W./G.A.C. DRAWN: J.V. CHECKED: T.L.J. JOB NO.:		

BASIS OF BEARINGS
THE BASIS OF BEARINGS IS THE MERIDIAN OF GREENWICH, 1880, AS SHOWN ON THE SURVEY MAPS OF TOWN 34 S., RANGE 10 W., COUNTY OF TILBROOK, MISSOURI.

NOTES

THIS SURVEY WAS MADE BY THE MISSOURI SURVEYING BOARD, UNDER THE DIRECTION OF THE COMMISSIONER OF LANDS AND MINES, AND THE SURVEYING BOARD HAS APPROVED THE SAME AS A CORRECT SURVEY. THE SURVEYING BOARD HAS ALSO APPROVED THE PLAN OF THIS SURVEY AS A CORRECT PLAN.

SCALE: 1" = 40'

CONTOUR INTERVALS = 5'

SEE BOOK 116, PAGE 206
FOR THE PLAN OF THIS SURVEY.

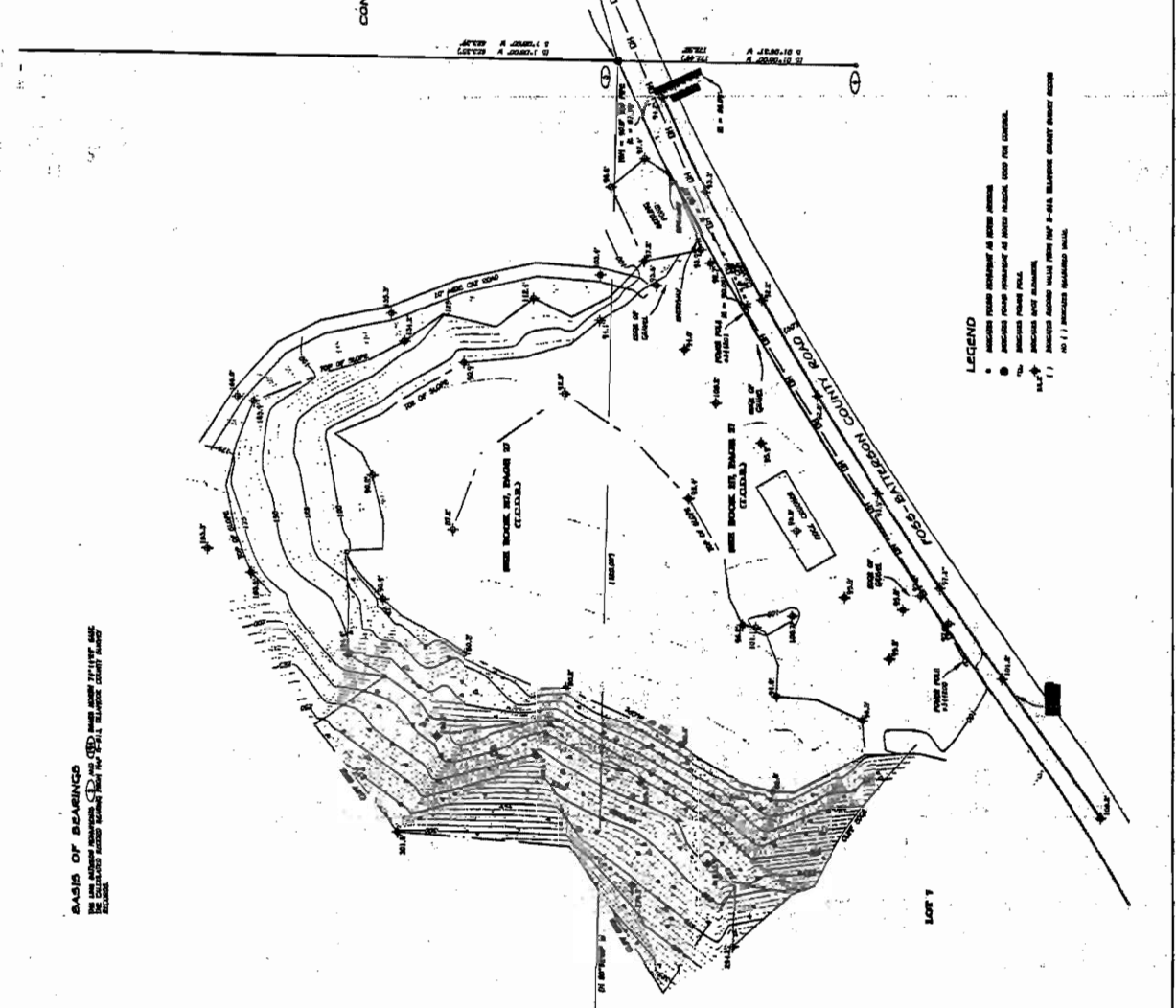
BASIS OF BEARINGS
IN TOWNSHIP 34 S. - RANGE 10 W.
OF THE 6TH PRINCIPAL MERIDIAN

MONUMENT NOTES

- (1) FOUND BY THIS SURVEY AT THE CORNER OF LOT 6, S1, RANGE 10 W., T34 S., R10 W., COUNTY OF TILBROOK, MISSOURI.
- (2) FOUND BY THIS SURVEY AT THE CORNER OF LOT 6, S1, RANGE 10 W., T34 S., R10 W., COUNTY OF TILBROOK, MISSOURI.
- (3) FOUND BY THIS SURVEY AT THE CORNER OF LOT 6, S1, RANGE 10 W., T34 S., R10 W., COUNTY OF TILBROOK, MISSOURI.

ELEVATION DATUM

THE ELEVATIONS ON THIS SURVEY ARE BASED UPON THE MEAN SEA LEVEL DATUM, AS SHOWN ON THE SURVEY MAPS OF TOWN 34 S., RANGE 10 W., COUNTY OF TILBROOK, MISSOURI.



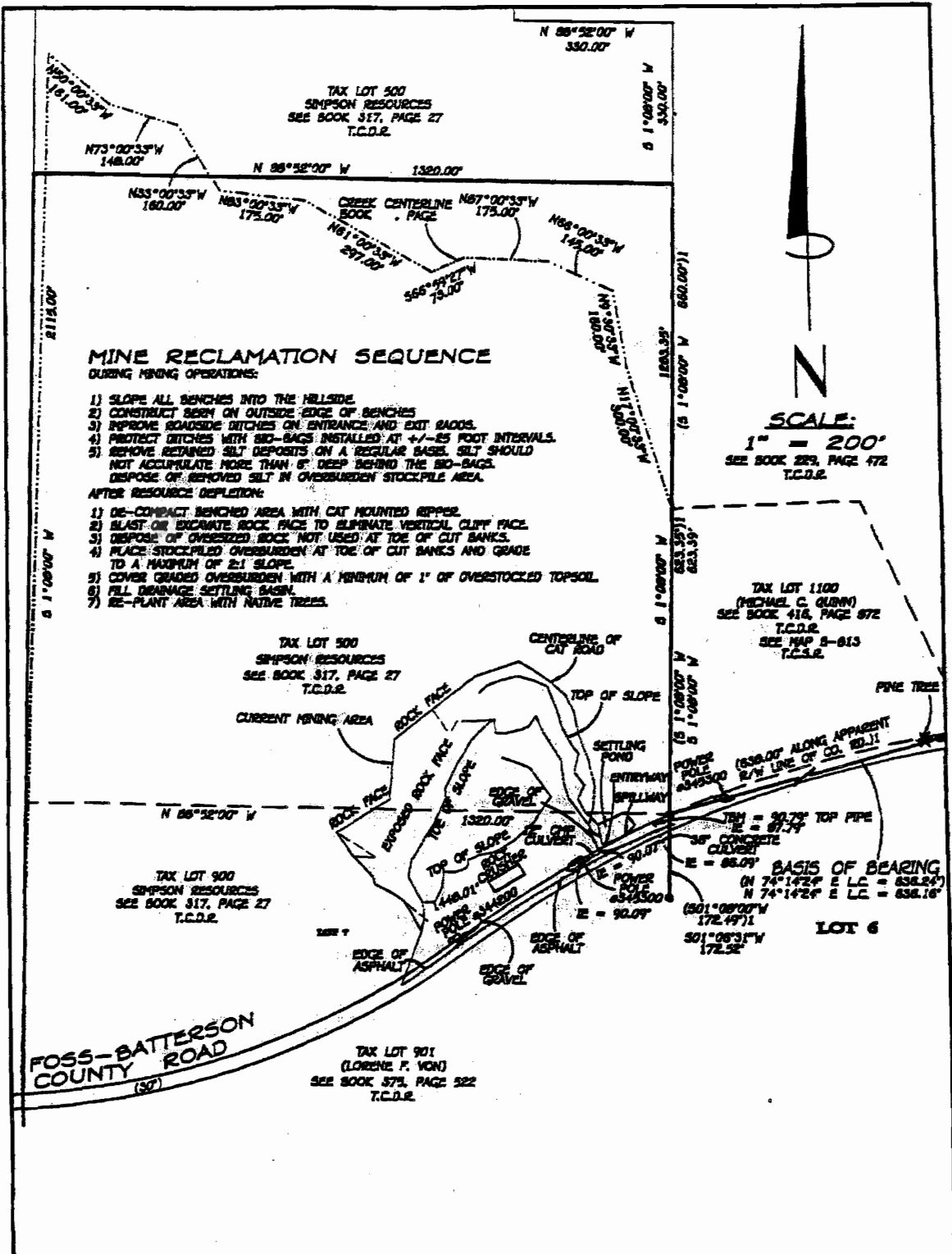
LEGEND

- (1) MONUMENT FOUND BY THIS SURVEY AT THE CORNER OF LOT 6, S1, RANGE 10 W., T34 S., R10 W., COUNTY OF TILBROOK, MISSOURI.
- (2) MONUMENT FOUND BY THIS SURVEY AT THE CORNER OF LOT 6, S1, RANGE 10 W., T34 S., R10 W., COUNTY OF TILBROOK, MISSOURI.
- (3) MONUMENT FOUND BY THIS SURVEY AT THE CORNER OF LOT 6, S1, RANGE 10 W., T34 S., R10 W., COUNTY OF TILBROOK, MISSOURI.

MOELLER SAND AND GRAVEL
THIS PARCEL, DESCRIBED IN
TILBROCK COUNTY DEED RECORDS
SW 1/4, SEC. 34, T34 S., R10 W.,
TILBROCK COUNTY, MISSOURI.

HLB
LAND SURVEYING
INCORPORATED
2010 S. W. 12th St., Suite 100
Tulsa, Oklahoma 74106
Tel: 918.438.1111
Fax: 918.438.1112
www.hlb-surveying.com

MISSOURI SURVEYING BOARD
1901 N. WEST ST., SUITE 100
ST. LOUIS, MISSOURI 63103
Tel: 314.534.4400
Fax: 314.534.4401
www.msb.state.mo.us



SHEET 2 OF 2

SURVEY FOR:
MOHLER SAND & GRAVEL
THAT PARCEL DESCRIBED IN
BOOK 317, PAGE 27
TILLAMOOK COUNTY DEED RECORDS
SW 1/4, SECTION 34, T3N, R9W, W.M.
TILLAMOOK COUNTY, OREGON

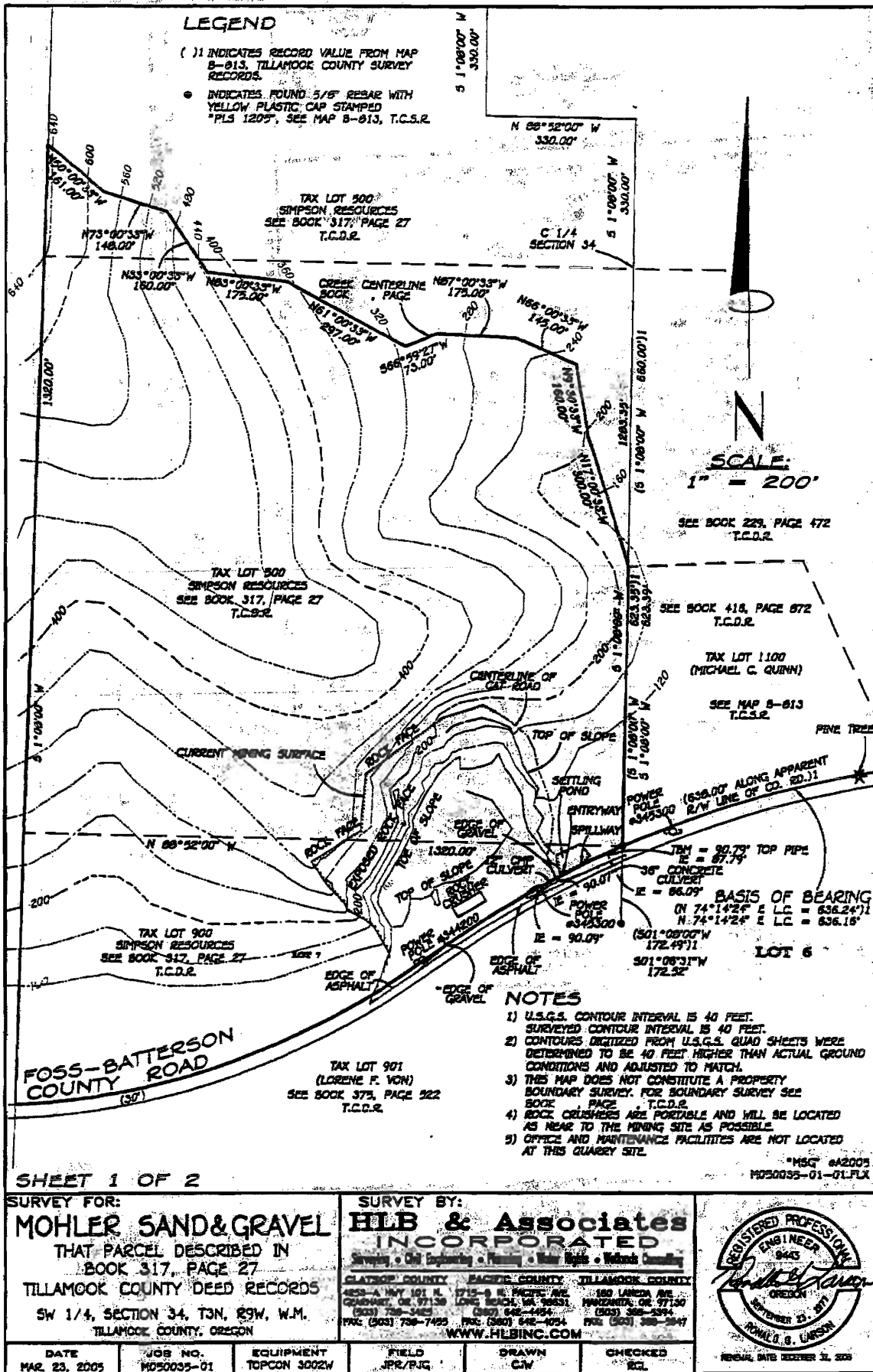
SURVEY BY:
HLB & Associates
INCORPORATED
Surveying • Civil Engineering • Planning • Water Rights • Wetlands Consulting

GLADSPOR COUNTY PACIFIC COUNTY TILLAMOOK COUNTY
4823-S 14th 101 E. 1715-B E. PACIFIC AVE 287 CENTER AVE
GRESHAM, OR 97130 LONG BEACH, WA 98401 HASTINGS, OR 97120
(503) 738-3425 (503) 648-4494 (503) 318-2854
FAX: (503) 738-7495 FAX: (503) 648-4934 FAX: (503) 318-2847
WWW.HLBINC.COM



DATE MAR. 23, 2005	JOB NO. M050035-01	EQUIPMENT TOPCON 3020W	FIELD JP2/PJG	DRAWN CW	CHECKED RCZ
-----------------------	-----------------------	---------------------------	------------------	-------------	----------------

MX-018030



LEGEND

- () INDICATES RECORD VALUE FROM MAP 8-813, TILLAMOOK COUNTY SURVEY RECORDS.
- INDICATES FOUND 5/8" RESBAR WITH YELLOW PLASTIC CAP STAMPED "PLS 1205", SEE MAP 8-813, T.C.S.R.

SCALE:
1" = 200'
SEE BOOK 229, PAGE 472
T.C.D.R.

NOTES

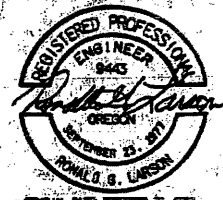
- 1) U.S.G.S. CONTOUR INTERVAL IS 40 FEET. SURVEYED CONTOUR INTERVAL IS 40 FEET.
- 2) CONTOURS DIGITIZED FROM U.S.G.S. QUAD SHEETS WERE DETERMINED TO BE 40 FEET HIGHER THAN ACTUAL GROUND CONDITIONS AND ADJUSTED TO MATCH.
- 3) THIS MAP DOES NOT CONSTITUTE A PROPERTY BOUNDARY SURVEY. FOR BOUNDARY SURVEY SEE BOOK PAGE T.C.D.R.
- 4) ROCK CULVERTS ARE POSSIBLE AND WILL BE LOCATED AS NEAR TO THE MINING SITE AS POSSIBLE.
- 5) OFFICE AND MAINTENANCE FACILITIES ARE NOT LOCATED AT THIS QUARRY SITE.

SHEET 1 OF 2

SURVEY FOR:
MOHLER SAND & GRAVEL
THAT PARCEL DESCRIBED IN
BOOK 317, PAGE 27
TILLAMOOK COUNTY DEED RECORDS
SW 1/4, SECTION 34, T3N, R3W, W.M.
TILLAMOOK COUNTY, OREGON

SURVEY BY:
HLB & Associates
INCORPORATED
Surveying • Civil Engineering • Planning • Water Rights • Wetland Consulting

CLATSOP COUNTY PACIFIC COUNTY TILLAMOOK COUNTY
4553-A HWY 101 N. 1713-S N. PACIFIC AVE. 160 LANEDA AVE.
GROUNDED, OR 97138 LONG BEACH, WA 98631 HANZABATA, OR 97130
(503) 739-3423 (503) 642-4454 (503) 388-2394
FAX: (503) 739-7422 FAX: (503) 642-4094 FAX: (503) 388-2447



DATE MAR 23, 2005	JOB NO. M050035-01	EQUIPMENT TOPCON 3002W	FIELD JRR/PJG	DRAWN CJW	CHECKED ECL
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REG. DATE EXPIRES 12.31.2011

24370 Foss Rd.

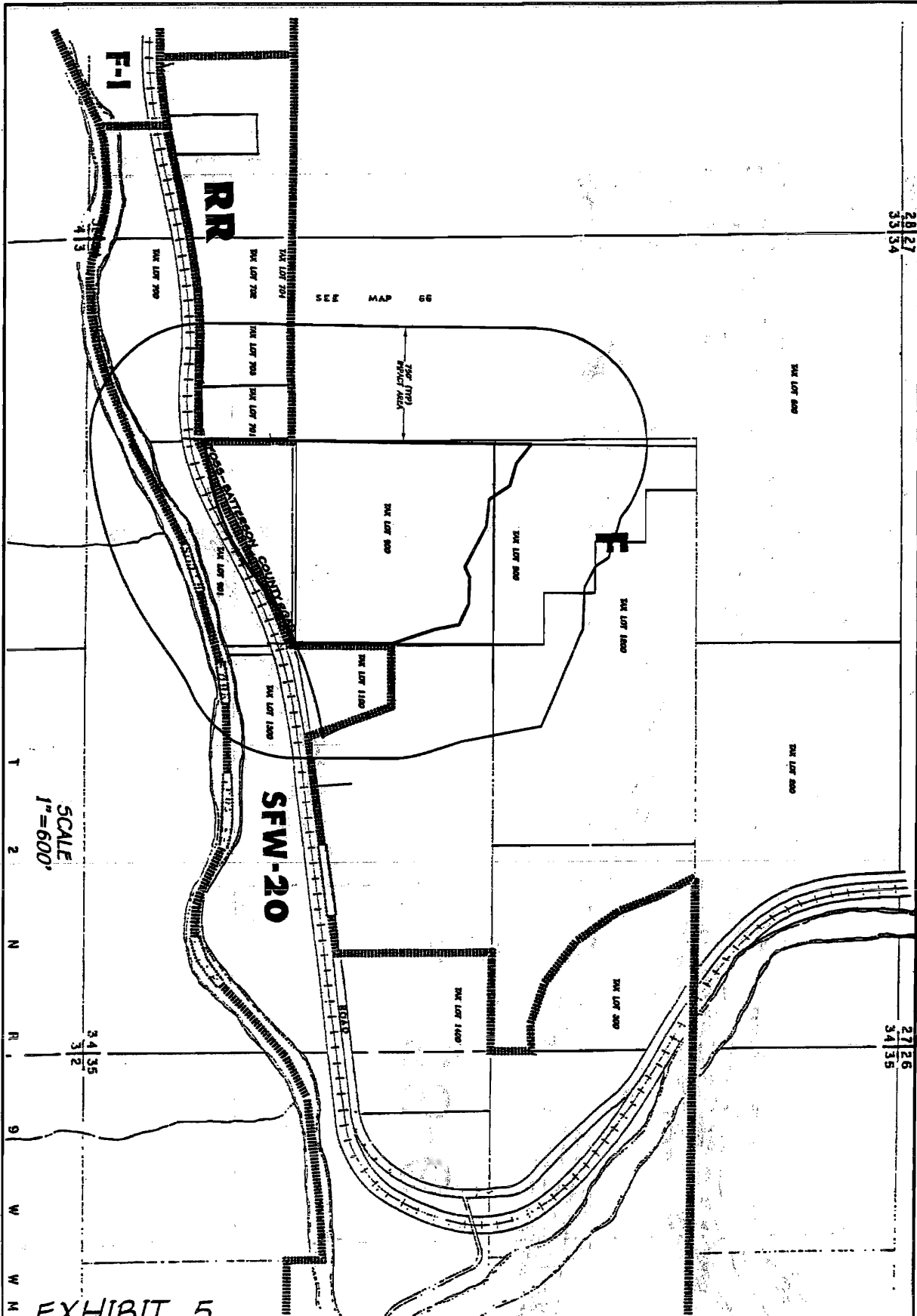
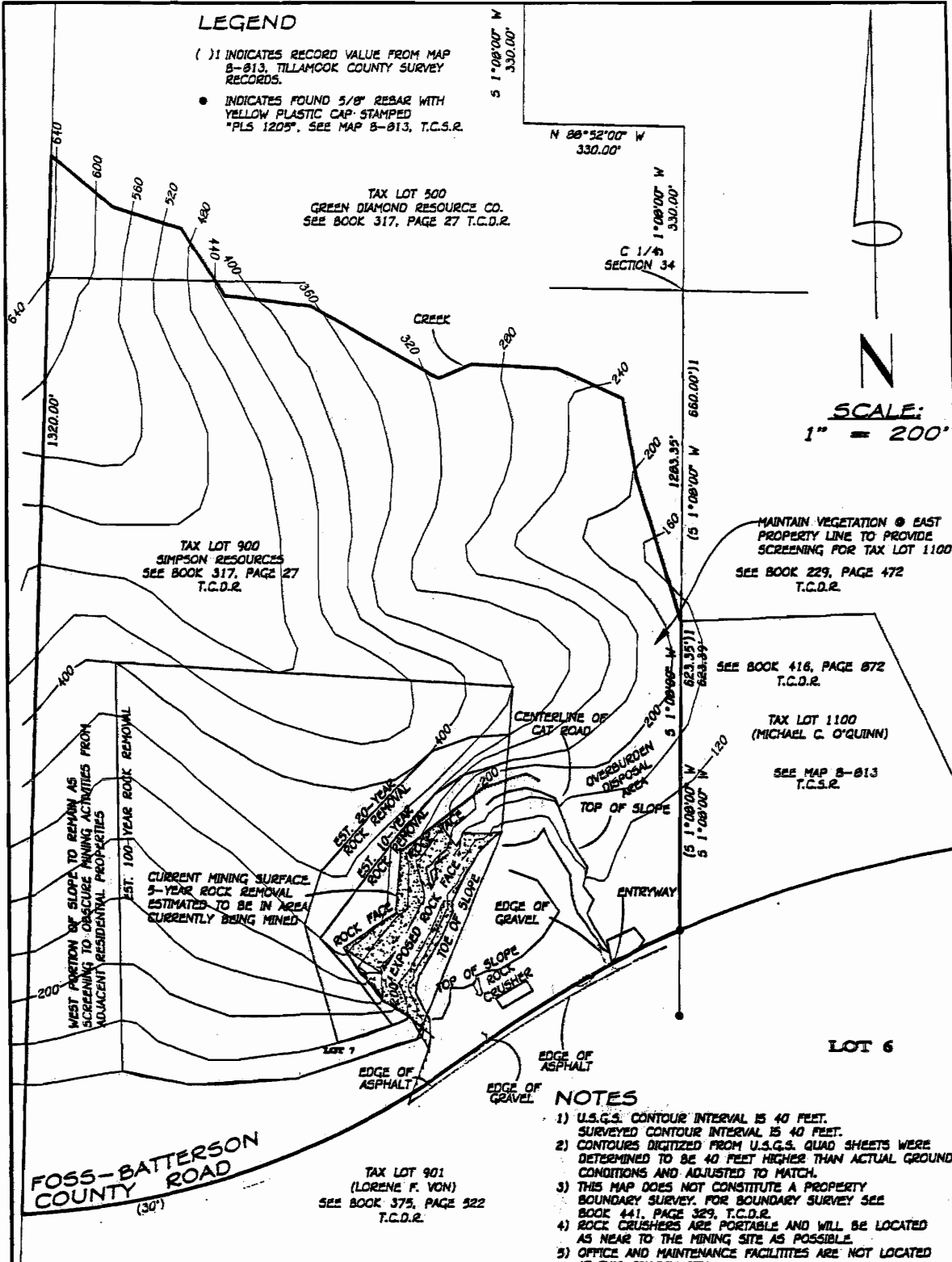


EXHIBIT 5

SHEET 1 OF 1	MOHLER SAND & GRAVEL YONKER PIT ZONING MAP 3N 9 34 NEHALEM OREGON		DESIGNED ACZ JOB NO. 63998	DRAWN ACZ DATE JUNE 30, 2008		SURVEYING CIVIL ENGINEERING PLANNING WATER RIGHTS WETLAND CONSULTING	PACIFIC COUNTY 1715-B N. PACIFIC AVE. LONG BEACH, WA 98651 (360) 642-4434 FAX: (360) 642-4054
	CHECKED RCL	DWG NAME C63898T300.DWG	CLATSOP COUNTY 4255-A HWY 101 N. GARBANI, OR 97130 (503) 736-3425 FAX: (503) 736-7455	TILLAMOOK COUNTY 10445 NEAR-KAH-NE CRL. RD. MANZANITA, OR 97130 (503) 366-3394 FAX: (503) 366-3847			
			WWW.HLB-OTAK.COM				

LEGEND

- () INDICATES RECORD VALUE FROM MAP 8-813, TILLAMOOK COUNTY SURVEY RECORDS.
- INDICATES FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "PLS 1205", SEE MAP 8-813, T.C.S.R.



SCALE:
1" = 200'

MAINTAIN VEGETATION @ EAST PROPERTY LINE TO PROVIDE SCREENING FOR TAX LOT 1100
SEE BOOK 229, PAGE 472 T.C.D.R.

SEE BOOK 416, PAGE 872 T.C.D.R.

TAX LOT 1100 (MICHAEL C. O'QUINN)
SEE MAP 8-813 T.C.S.R.

NOTES

- 1) U.S.G.S. CONTOUR INTERVAL IS 40 FEET. SURVEYED CONTOUR INTERVAL IS 40 FEET.
- 2) CONTOURS DIGITIZED FROM U.S.G.S. QUAD SHEETS WERE DETERMINED TO BE 40 FEET HIGHER THAN ACTUAL GROUND CONDITIONS AND ADJUSTED TO MATCH.
- 3) THIS MAP DOES NOT CONSTITUTE A PROPERTY BOUNDARY SURVEY. FOR BOUNDARY SURVEY SEE BOOK 441, PAGE 329, T.C.D.R.
- 4) ROCK CRUSHERS ARE PORTABLE AND WILL BE LOCATED AS NEAR TO THE MINING SITE AS POSSIBLE.
- 5) OFFICE AND MAINTENANCE FACILITIES ARE NOT LOCATED AT THIS QUARRY SITE.

EXHIBIT 6

SITE PLAN FOR:
MOHLER SAND & GRAVEL
THAT PARCEL DESCRIBED IN
BOOK 317, PAGE 27
TILLAMOOK COUNTY DEED RECORDS
SW 1/4, SECTION 34, T3N, R9W, W.M.
TILLAMOOK COUNTY



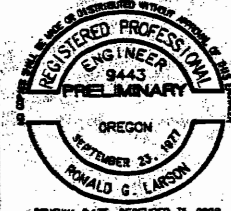
• SURVEYING
• CIVIL ENGINEERING
• PLANNING
• WATER RIGHTS
• WETLAND CONSULTING

GLATSON COUNTY
4255-A HWY 101 N.
GEARHART, OR 97136
(503) 738-3425
FAX: (503) 738-7455

PACIFIC COUNTY
1715-B N. PACIFIC AVE.
LONG BEACH, WA 98831
(360) 642-4454
FAX: (360) 642-4054

TILLAMOOK COUNTY
10445 NEAN-KAN-NE OR. RD.
MANZANITA, OR 97130
(503) 368-5394
FAX: (503) 368-5847

WWW.HLB-OTAK.COM



DATE JUNE 30, 2008	JOB NO. 63898	EQUIPMENT ---	FIELD ---	DRAWN ACZ	CHECKED RCL
-----------------------	------------------	------------------	--------------	--------------	----------------

M:\P\1\MSGravelly\unker Rock Pit 63898\drawing\C63898T300.dwg, SITE, 2/4/2009 1:41:06 PM, jrm

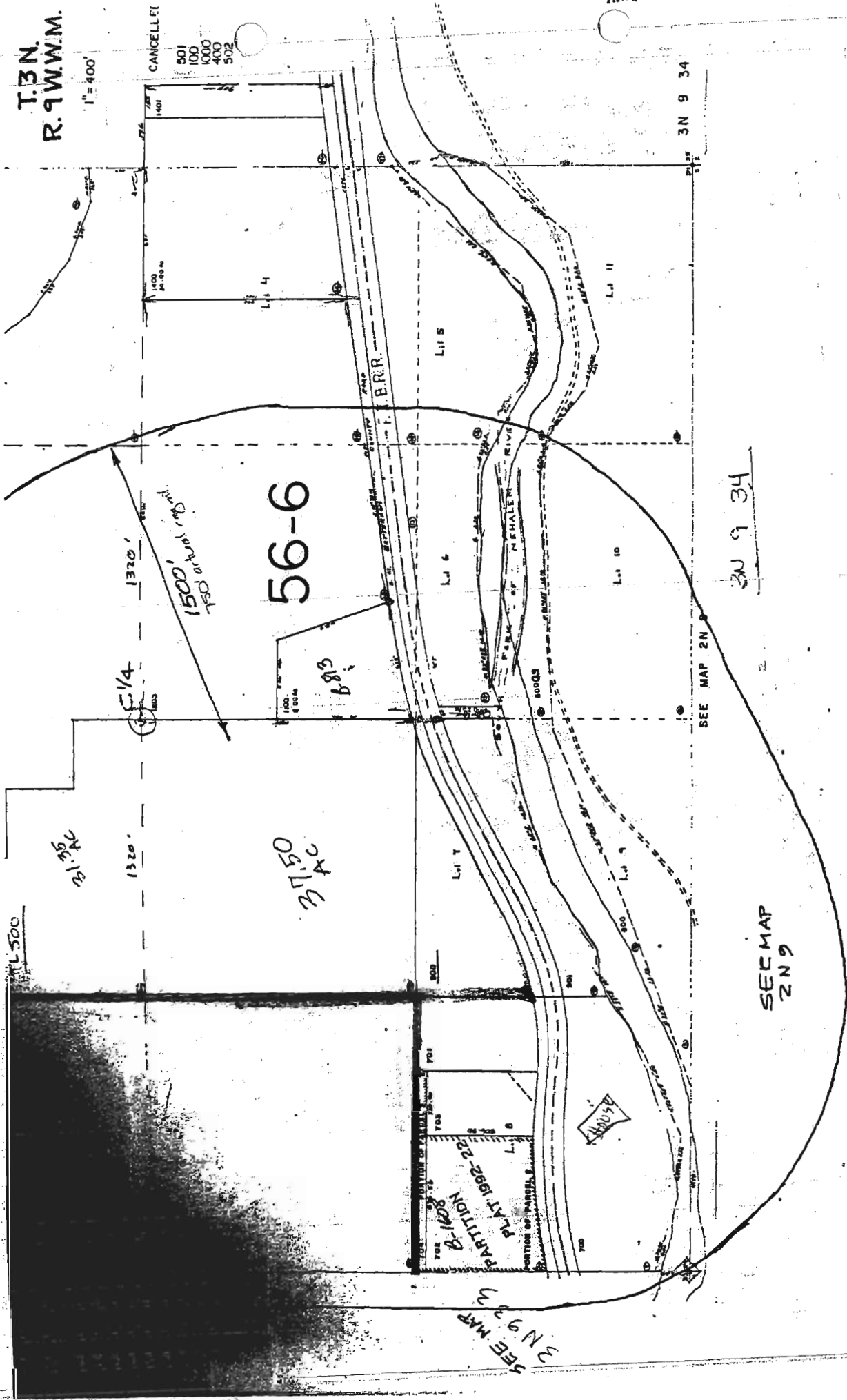
T.3N.
R.9W.W.M.

1" = 400'

CANCELLED

501
100
1000
400
502

3N 9 34



1/4

1320'

1500'

56-6

38.1

37.50

1320'

38.1

L 500

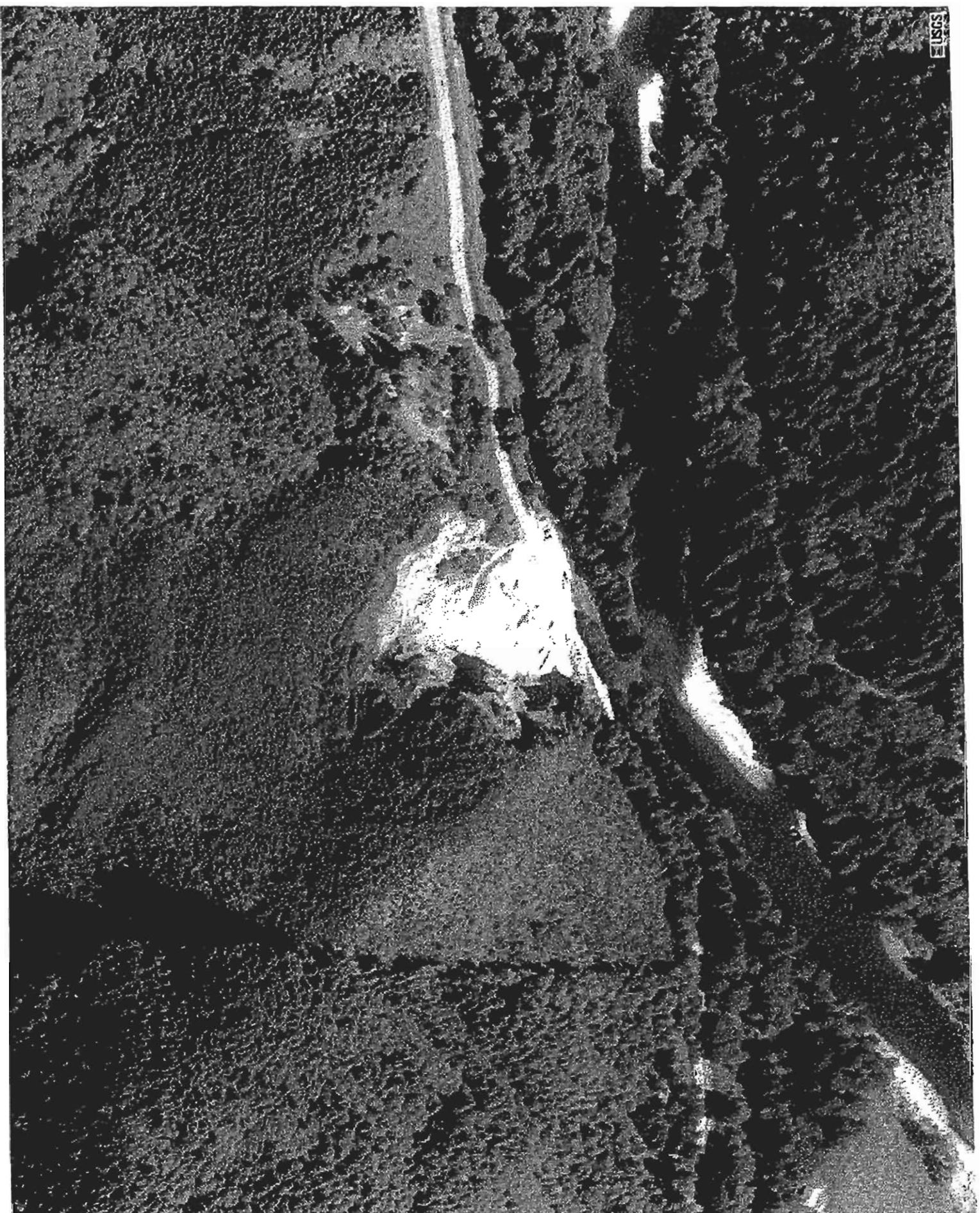
PARTITION
PLAT 1892-22
PORTION OF PARCEL B

3-10-1897

SEE MAP
2N 9

3N 9 34

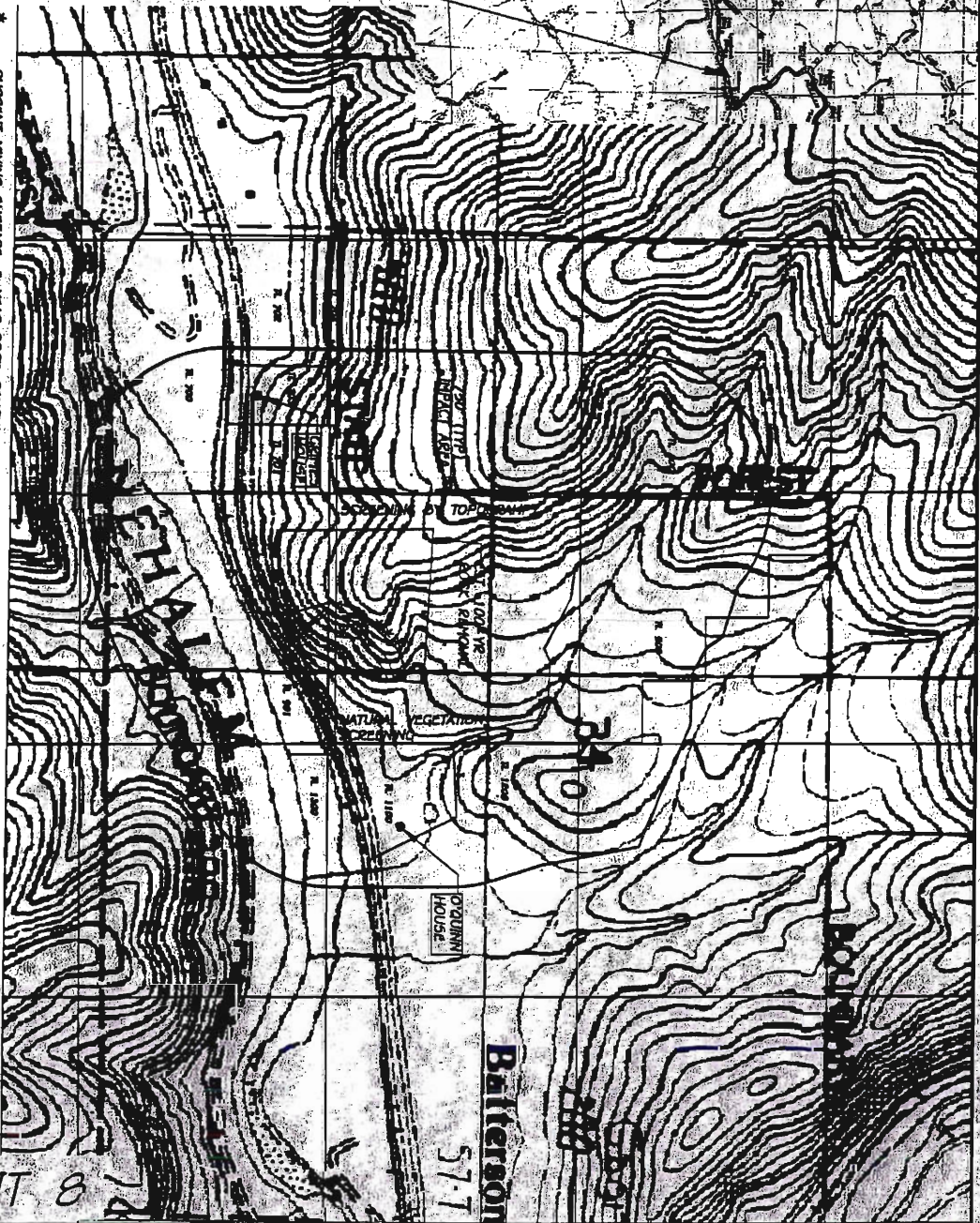
SEE MAP
3N 9 34



PROJECT
LOCATION
VICINITY MAP
NO SCALE



- * CURRENT MINING SURFACE. 5-YEAR ROCK REMOVAL ESTIMATED TO BE IN AREA CURRENTLY BEING MINED.
- ** EST. 10-YR ROCK REMOVAL.
- *** EST. 20-YR ROCK REMOVAL.

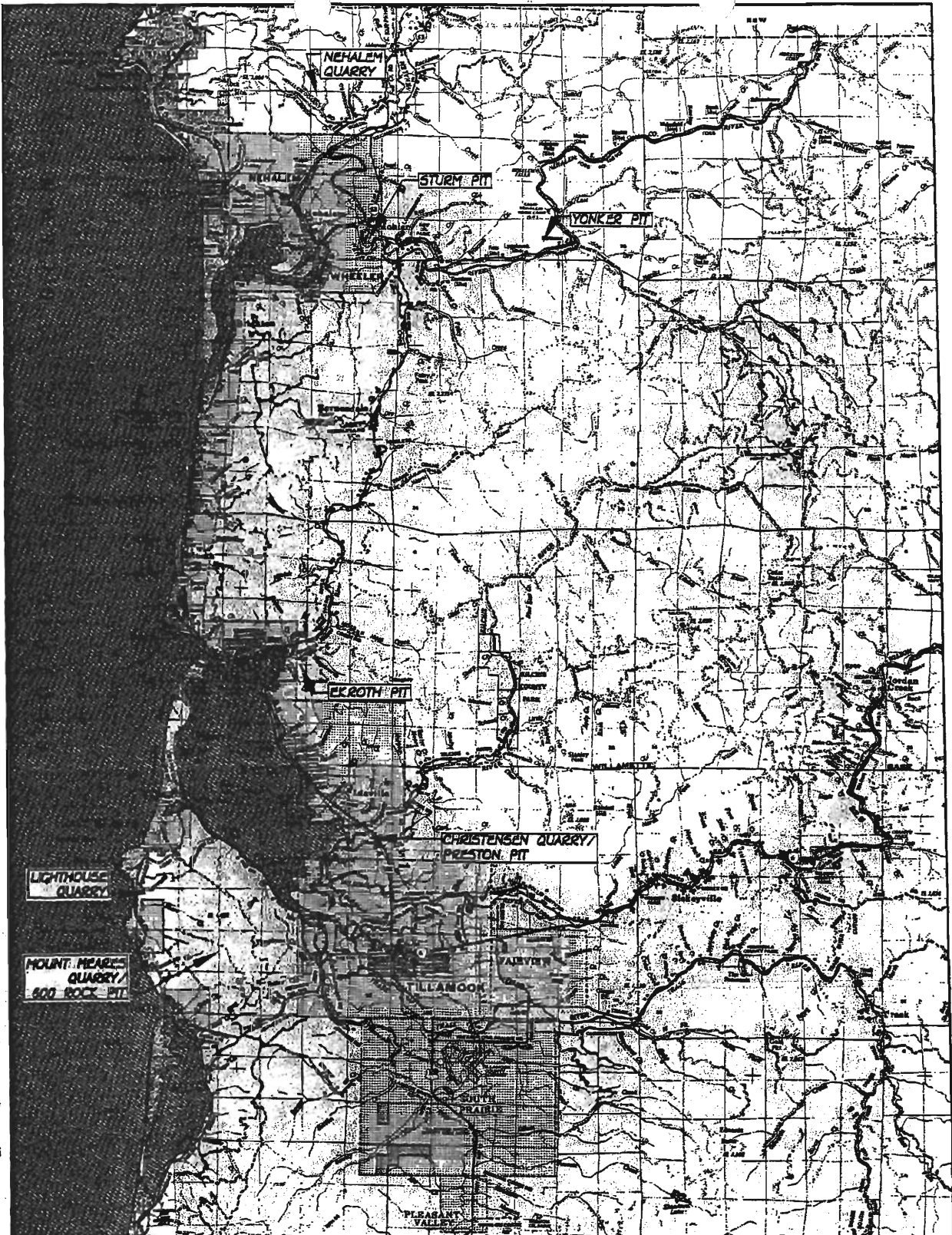


USGS MAP
SCALE: 1"=600'

EXHIBIT 8

1 of 1 SHEET	MOHLER SAND & GRAVEL YONKER PIT USGS MAP NEHALE REGION		DESIGNED MLK	JOB NO. 62838	• SURVEYING • CIVIL ENGINEERING • PLANNING • WATER RIGHTS • WETLAND CONSULTING PACIFIC COUNTY 1715 S. N. PATZL AVE. LONG BEACH, WA 98631 (360) 642-4454 FAX: (360) 642-4054 CLATSOP COUNTY 4253-A HWY 101 N. GRACIACT, OR 97136 (503) 735-3423 FAX: (503) 735-7435 WWW.HLB-OTAK.COM
	DRAWN ACE	DATE JUNE 30, 2008	CHECKED SL	DWG NAME C63898T300.DWG	
	TILLAMOOK COUNTY 10443 NEAH-KAH-NE CCK. RD. HAZLENTA, OR 97130 (503) 866-3394 FAX: (503) 256-5647				

M:\PrtMSGravel\Yunker Rock Pit 63898\drawing\C63898T090.dwg, ALT QUARRIES, 1/19/2009 11:32:19 AM, jrm



ALTERNATE QUARRIES EXHIBIT 9

SHEET 1 OF 1	MOHLER SAND & GRAVEL		DESIGNED ACZ	JOB NO. 63998		PACIFIC COUNTY 1715-S N. PACIFIC AVE. LONG BEACH, WA 98631 (360) 842-4454 FAX: (360) 842-4054	
	YONKER PIT ALTERNATE QUARRIES		DRAWN ACZ	DATE JUNE 30, 2008		GLATSOP COUNTY 4253-A HWY 101 N. GEARHART, OR 97136 (503) 736-3425 FAX: (503) 736-7455	TILLAMOOK COUNTY 10445 NEAN-EAN-NE CEX. RD. MARZANITA, OR 97130 (503) 366-4394 FAX: (503) 366-5847
	NEHALEM, OR		CHECKED RCL	DWG NAME C63898T090		WWW.HLB-OTAK.COM	

Yonker Pit Expansion

Exhibit 10

Screening of House to East of Quarry



Figure 1-Existing house to the east of the quarry.



Figure 2-Standing in the driveway of the house to the east of the quarry, looking west towards the quarry. Vegetation provides natural screening.

Yonker Pit Expansion

Exhibit 11

Screening of House to West of Quarry



Figure 1-Looking west at quarry. House to west of quarry is not visible due to topography of land.



Figure 2-Standing at quarry entrance looking west. House to west of quarry is not visible due to topography of land.

DEQ Permit 1000

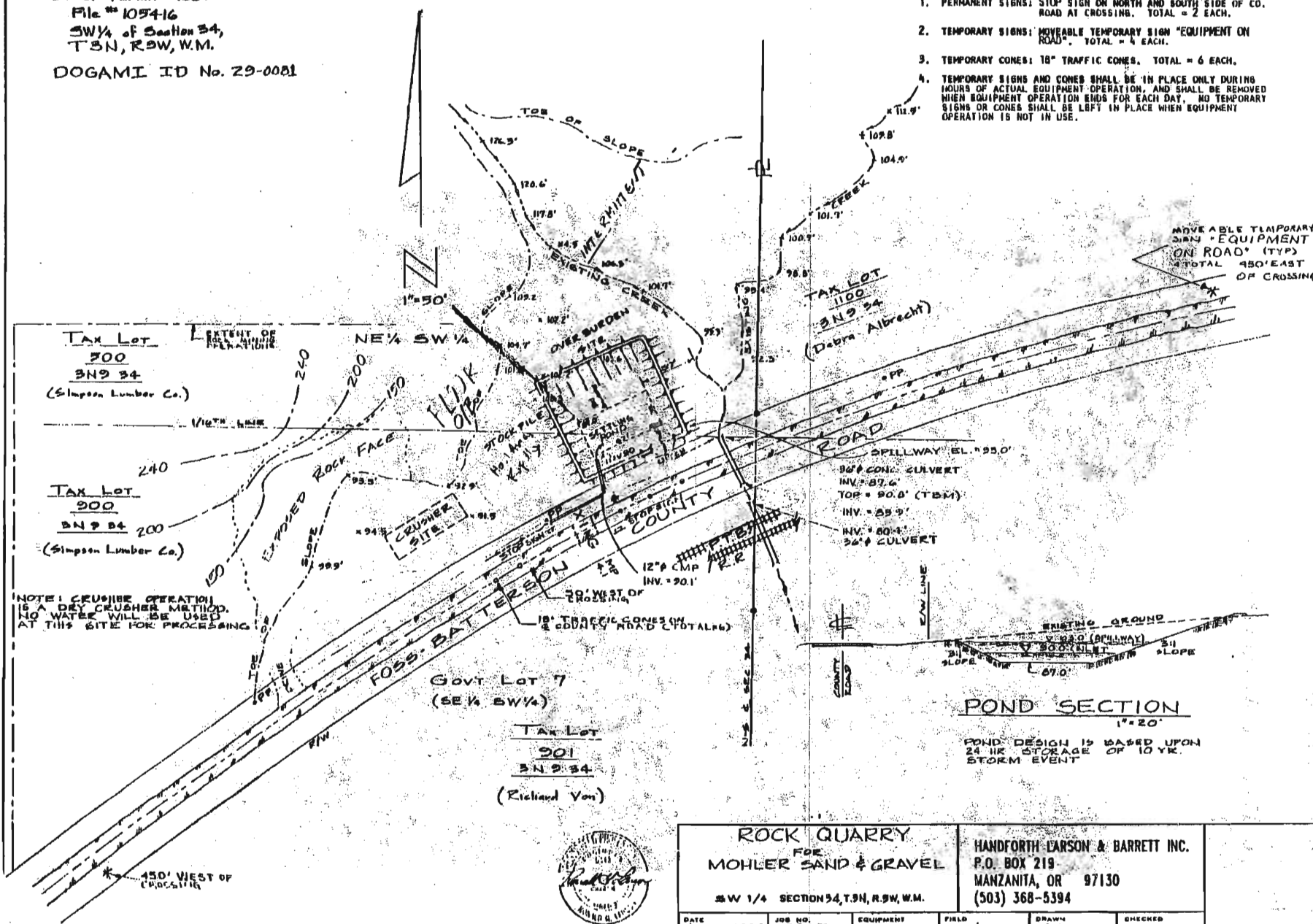
File # 105416

SW 1/4 of Section 34,
T3N, R9W, W.M.

DOGAMI ID No. 29-0081

CROSSING AND EQUIPMENT STORAGE

1. PERMANENT SIGNS: STOP SIGN ON NORTH AND SOUTH SIDE OF CO. ROAD AT CROSSING. TOTAL = 2 EACH.
2. TEMPORARY SIGNS: MOVEABLE TEMPORARY SIGN "EQUIPMENT ON ROAD". TOTAL = 4 EACH.
3. TEMPORARY CONES: 18" TRAFFIC CONES. TOTAL = 6 EACH.
4. TEMPORARY SIGNS AND CONES SHALL BE IN PLACE ONLY DURING HOURS OF ACTUAL EQUIPMENT OPERATION, AND SHALL BE REMOVED WHEN EQUIPMENT OPERATION ENDS FOR EACH DAY. NO TEMPORARY SIGNS OR CONES SHALL BE LEFT IN PLACE WHEN EQUIPMENT OPERATION IS NOT IN USE.



MOVEABLE TEMPORARY SIGN "EQUIPMENT ON ROAD" (TYP)
TOTAL 450' EAST OF CROSSING

NOTE: CRUSHER OPERATION IS A DRY CRUSHER METHOD. NO WATER WILL BE USED AT THIS SITE FOR PROCESSING.

POND SECTION
1" = 20'

POND DESIGN IS BASED UPON 24 HR STORAGE OF 10 YR. STORM EVENT



ROCK QUARRY FOR MOHLER SAND & GRAVEL		HANDFORTH-LARSON & BARRETT INC. P.O. BOX 219 MANZANITA, OR 97130 (503) 368-5394	
SW 1/4 SECTION 34, T3N, R9W, W.M.			
DATE	JOB NO.	EQUIPMENT	FIELD
JULY 23, 1990	2897	Topcon GT59	BNE/JPR
DRAWN		CHECKED	
RGL		RGL	

V. 100

Yunker Pit Expansion

Exhibit 13

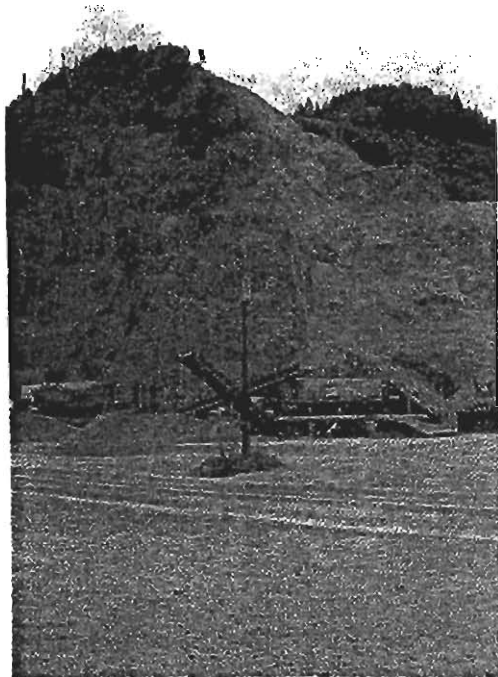
General Photos of the Site and Rock Quarry Operations



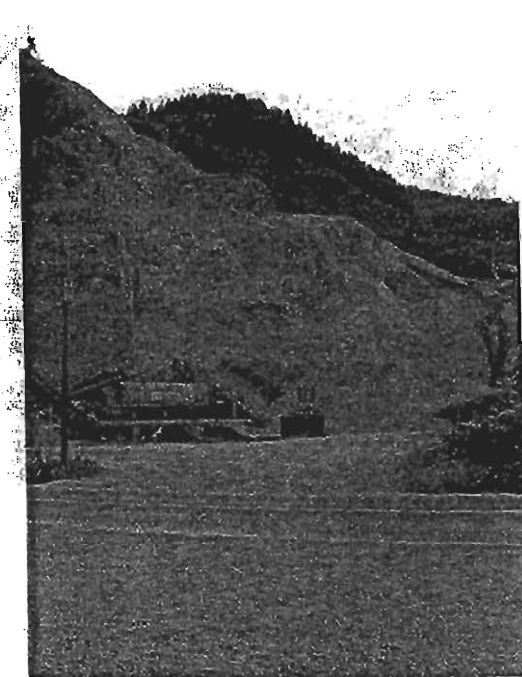
West end of rock quarry.



Exposed rock face and crushing equipment



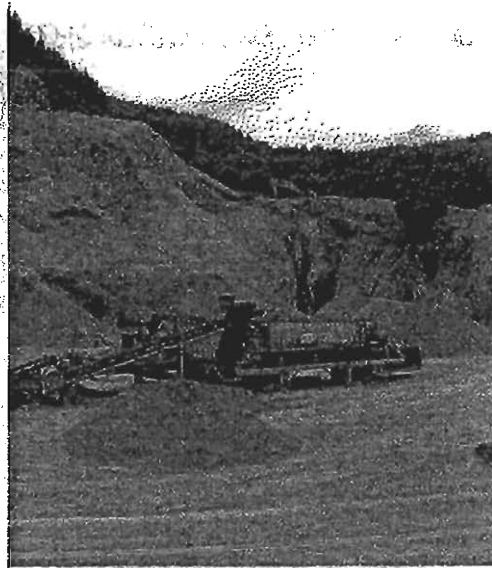
Active mining at east face of exposed rock and crushing equipment.



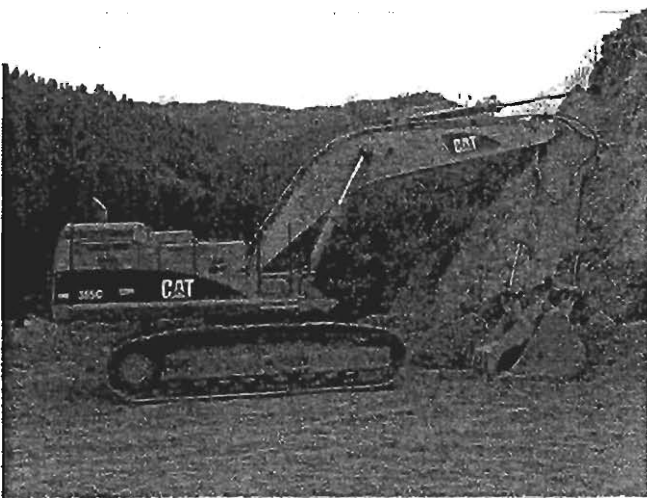
Active mining (rear of picture) and current road approach (front of picture).



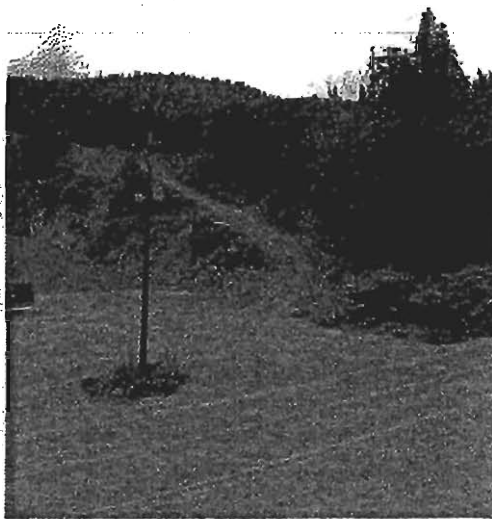
East end of quarry with natural buffer.



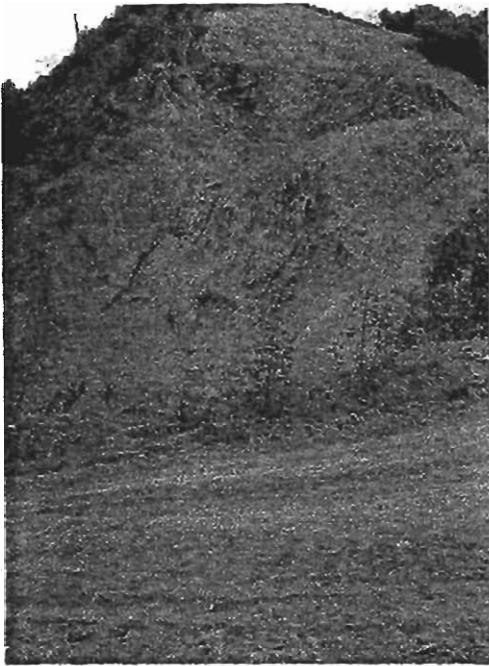
Rock crushing equipment.



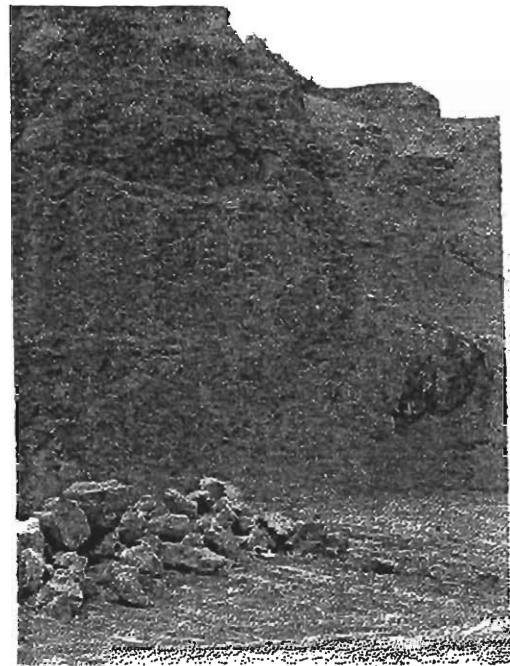
Excavator used for rock removal.



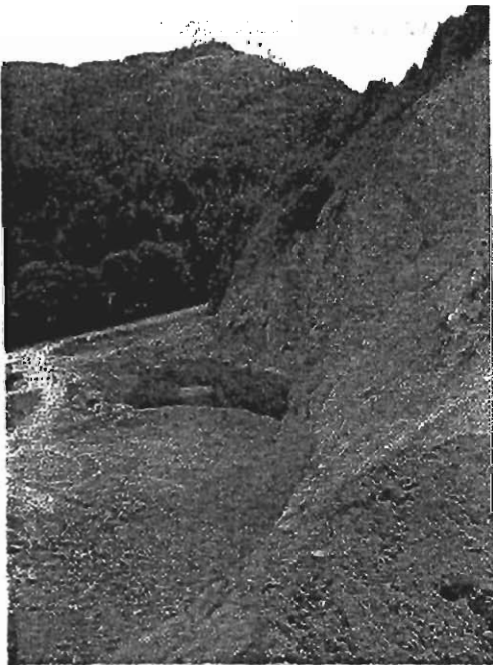
Road up to upper excavation site.



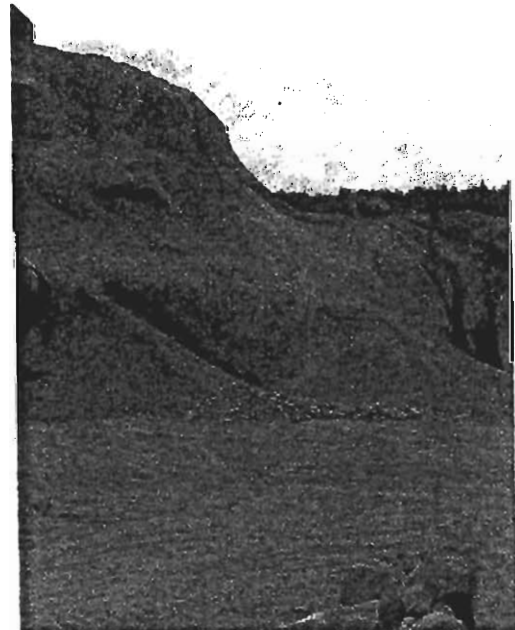
Rock face at active mining location.



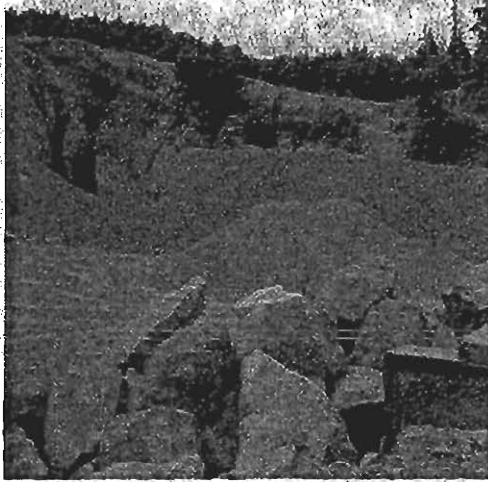
This quarry is well-known for its bluish rock.



Rock face as viewed from road above with settling pond below.



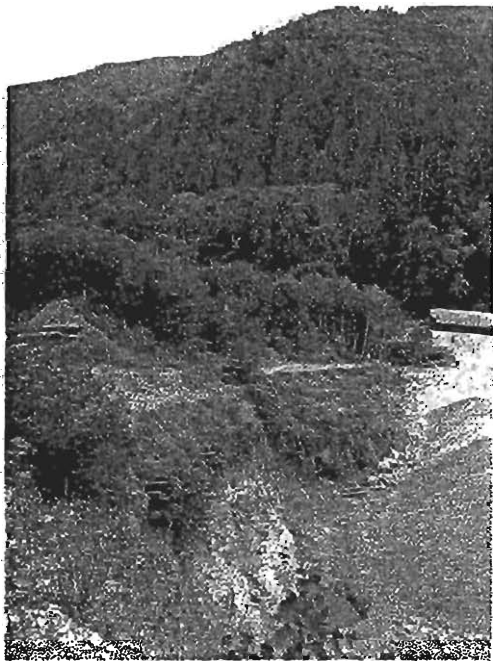
Excavation site.



Piles of rock and gravel ready for delivery.



Overview of the distribution area with rock crushing equipment and piles of finished product ready for transport.



Overview of road leading to active quarry location with additional settling pond (front center of picture).



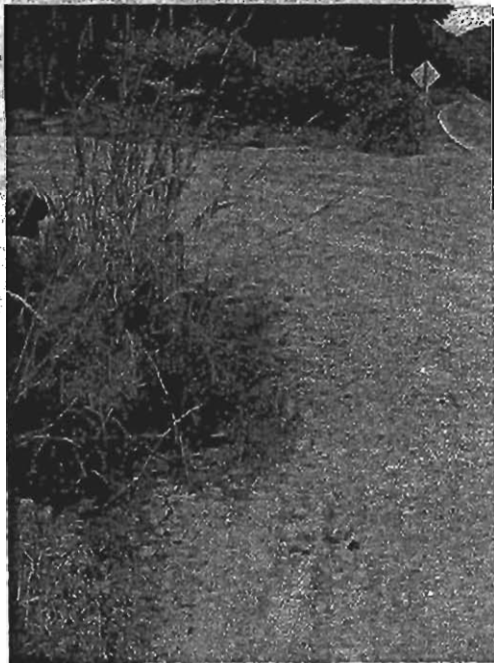
Settling pond.



East end of road approach with culvert.



West end of road approach.



West end of road approach with culvert.



Overburden at east side of property. After overburden is placed, the area is allowed to go back to its natural state.



Overburden material placement.



Road to active mining location on overburden material.



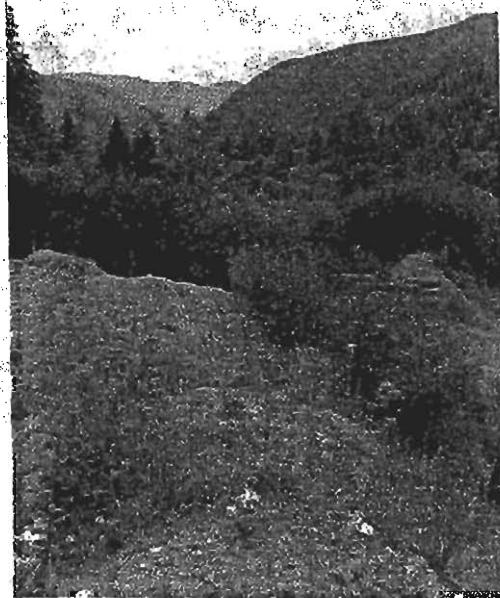
Overburden material placement.



Overburden material placement.



Overburden material placement.



Overburden material placement.



Port of Tillamook Bay Railroad track and siding.



Location of Port of Tillamook Bay rail line and siding to quarry entrance.



Culvert inlet under roadway at SE corner of property.



Natural buffer to east.



Culvert inlet under roadway at SE property corner.



Culvert inlet under railroad at SE property corner.



SECTION 3.094: MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE

- (1) Purpose
- (2) Definitions
- (3) Overlay Zone Areas
- (4) Procedure for Applying the Overlay Zone
- (5) Extraction Area - Allowed Uses
- (6) Exemptions
- (7) Extraction Area - Development Standards
- (8) Site Reclamation
- (9) Site Plan Review
- (10) Impact Area - Uses and Development Standards
- (11) Termination of the Mineral and Aggregate Overlay

(1) PURPOSE

The purpose and intent of the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE is:

- (A) To provide a mechanism to identify and protect significant mineral and aggregate resource sites;
- (B) To allow the development and use of mineral and aggregate resources subject to uniform operating standards;
- (C) To balance and resolve conflicts between surface mining activities and activities on surrounding land;

(2) DEFINITIONS

AGGREGATE RESOURCES: The rock, gravel, sand and other similar resources that are used for the construction of roads, parking areas, walkways and structures.

CONFLICTING USE: A use authorized in the underlying zone and located within the impact area which, if allowed, could adversely affect operations at a significant mineral and aggregate resource site. For the purposes of this chapter, another Goal 5 resource located within the impact area may be considered a conflicting use if that resource could be adversely affected by mining or processing activities, or force a change in mining or processing at the site.

ESEE ANALYSIS: The analysis of Economic, Social, Environmental and Energy consequences of;

- (a) Allowing mining on a significant site, and

- (b) Allowing conflicting uses to displace mining on a significant site. Based on the results of the ESEE analysis, the County shall determine a level of protection for the resource, and implement a program to achieve the designated level of protection.

EXTRACTION AREA: The area of identified significant mineral and aggregate reserves in which mining and processing are permitted.

GOAL 5 PROCESS: The planning process required by Oregon Administrative Rules (OAR) Chapter 660, Division to implement the requirements of Statewide Planning Goal 5. This process includes the identification of conflicting uses, the analysis of economic, social, environmental and energy consequences of conflicting uses, the determination on the level of protection to be afforded a resource site, and the selection of a program to protect significant sites.

IMPACT AREA: The area surrounding the extraction area in which conflicting uses occur and in which ESEE consequences are analyzed, and the establishment of new conflicting uses is regulated.

MINERAL RESOURCES: The metallic, industrial and energy resources such as silver, copper, lead, zinc, clay, coal and natural gas.

MINING: All or any part of the process of extracting mineral or aggregate products. Mining does not include:

- (a) Excavations conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of constructing or maintaining roads to a mine site;
- (b) Excavation or grading conducted in the process of farm or cemetery operations;
- (c) Excavation or grading conducted within a road right-of-way or other easement for the primary purpose of road construction, reconstruction or maintenance; or
- (d) Removal, for compensation, of materials resulting from on-site construction for which a development permit and a construction time schedule have been approved by the County.

NOISE OR DUST SENSITIVE USE: A conflicting use which is primarily used for habitation. Residential structures, churches, hospitals, schools, public libraries, and campgrounds are considered noise or dust sensitive uses during their period of use. Forest uses and farm uses are not noise or dust sensitive uses unless so determined through the Goal 5 process to the effect that they satisfy this definition in more than an incidental manner.

PROCESSING: The washing, crushing, milling, sorting, handling, and conveying of mineral

and aggregate resources, including the batching and blending of such resources into asphalt or portland cement concrete.

RESTRICTIVE COVENANT: An enforceable promise, given by the owner of a parcel whose use and enjoyment of that parcel may be restricted in some fashion by mining occurring on another parcel, not to object to the terms of a permit used by a local government, state agency or federal agency. The restrictive covenant shall be recorded in the real property records of the County and shall run with the land, and is binding upon the heirs and successors of the parties. The covenant shall state that obligations imposed by the covenant shall be released when the site has been mined and reclamation has been completed.

SCREENED USES:

- (a) Conflicting uses identified through the Goal 5 process, and
- (b) Scenic viewpoints or other areas designated as significant Goal 5 resources.

SIGNIFICANT SITE: A site containing either significant aggregate resources or significant mineral resources.

- (A) A SIGNIFICANT AGGREGATE RESOURCE site is a site that contains aggregate or stone material which meet modified Oregon Department of Transportation specifications for construction grade material, which are the three materials tests of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance.
- (B) A SIGNIFICANT MINERAL RESOURCE site is a site that contains non-aggregate minerals that have been determined to be significant based upon an analysis and findings concerning the commercial or industrial use of the resource and the relative quality and abundance of the resource in Tillamook County.

SITE PLAN: A County permit either;

- (a) To begin mining in the extraction area, or
- (b) To begin a use in the impact area.

The SITE PLAN shall include such surveys, maps, diagrams, narratives and other materials as may be necessary to describe the placement of and use of all improvements, equipment,

fixtures, mitigation measures, landscaping, and vehicles on site.

(3) OVERLAY ZONE AREAS

The MINERAL AND AGGREGATE OVERLAY ZONE comprises two areas, the Extraction Area and the Impact Area. Neither element of the overlay, the Extraction Area or the Impact Area, shall be applied independently by the County to land within another county, or within a city or its urban growth boundary.

- (A) **EXTRACTION AREA:** The Extraction Area shall be applied to significant sites where mining is permitted. This area may consist of one or more parcels or portions of parcels, and may be applied to contiguous properties under different ownership. The Extraction Area boundary may be modified through the Goal 5 process to reduce conflicts with uses existing when the overlay is applied. The Extraction Area shall be identified on the zoning map.
- (B) **IMPACT AREA:** The Impact Area may be applied to parcels or portions of parcels adjacent to and within 750 feet of the Extraction area boundary unless a different sized impact area is identified in the Goal 5 process. The Impact Area shall be identified on the zoning map.

(4) PROCEDURE FOR APPLYING THE OVERLAY ZONE

- (A) **DETERMINATION OF A SIGNIFICANT SITE:** The County shall analyze information about the locations, quality and quantity of mineral and aggregate deposits. Information necessary to demonstrate the significance of a resource shall include:
 - (1) A survey, map, tax lot map, or other legal description that identifies the location and perimeter of the mineral and aggregate resource with reasonable particularity; and
 - (2) Information demonstrating that the resource meets or can meet applicable quality specifications for the intended use(s). Information may consist of laboratory test data or the determination of a geologist, engineer, or other qualified person; and
 - (3) Information demonstrating the quantity of the resource as determined by exploratory test data, or other calculations compiled and attested to by a geologist, engineer, or other qualified person.
- (B) **PLACEMENT ON THE INVENTORY:** Based on the analysis of information about the location, quality and quantity of the mineral and aggregate resource, the County

shall determine the inventory status of the resource site. Each site considered by the County shall be placed on one of three inventories based on the following criteria:

- (1) If the resource site meets the definition of an significant site, the County shall include the site on an inventory of "Significant Sites"; or
 - (2) If information is not available to determine whether or not the resource site meets the definition of a significant site, the County shall include the site on an inventory of "Potential Sites". Sites shall remain on the "Potential Sites" inventory until information is available to determine whether or not the site is significant; or
 - (3) If the resource site does not meet the definition of a significant site, the County shall include the site on an inventory of "Other Sites".
- (C) **IDENTIFY THE IMPACT AREA:** For each significant site, the Impact Area shall be identified and mapped. The Impact Area shall include the Extraction Area and all lands within 750 feet of the Extraction Area boundary, unless the Impact Area is modified through the Goal 5 process.
- (D) **IDENTIFY CONFLICTING USES:** For each significant site placed on the inventory, conflicting uses shall be identified.
- (1) The identification of conflicting uses shall include uses in existence at the time of review, as well as the potential conflicting uses. Identification of potential conflicting uses shall be accomplished by analyzing the uses allowed in the underlying zone(s).
 - (2) If no conflicting uses are identified, the Extraction Area portion of the MINERAL AND AGGREGATE OVERLAY ZONE shall be applied to the resource site. The Impact Area overlay shall not be applied.
- (E) **ESEE ANALYSIS:** For each significant site where conflicting uses have been identified, an ESEE analysis shall be performed.
- (1) The ESEE analysis shall determine the relative value of use of the mineral or aggregate resource site as compared to existing or potential conflicting uses.
 - (2) The ESEE analysis shall be limited to uses and Goal 5 resources identified pursuant to Subsection (D) of this Section.
 - (3) The ESEE analysis shall consider opportunities to avoid and mitigate conflicts.

The analysis shall examine:

- (a) The consequences of allowing conflicting uses fully, notwithstanding the possible effects on mining and processing;
 - (b) The consequences of allowing mining and processing fully, notwithstanding the possible effects on conflicting uses;
 - (c) The consequences of protecting conflicting Goal 5 resources;
 - (d) The applicability and requirements of other Statewide Planning Goals, the County Comprehensive Plan or provisions of the County Zoning Ordinance.
- (F) **DECISION ON PROGRAM TO PROVIDE GOAL 5 PROTECTION:** Based on the ESEE analysis, the County shall determine the amount of protection to be given each significant site. Each determination shall be incorporated into the Comprehensive Plan, and reflected on the County zoning maps. The County shall make one of the following determinations:
- (1) Protect the site fully and allow mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE. Development of the significant site shall be governed by the standards in Section 3.094 (7). As part of the final decision, the County shall adopt site-specific policies specifying the planned use of the site following reclamation and prohibiting the establishment of conflicting uses within the Impact Area.
 - (2) Balance protection of the significant site and conflicting uses and allow mineral and aggregate mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Section 3.094 (7) and other site-specific requirements developed through the Goal 5 process shall govern mining at the significant site. Section 3.094 (10) and any other site-specific requirements developed through the Goal 5 process shall govern development of conflicting uses within the Impact Area.
 - (3) Allow conflicting uses fully, even though this may impair mining and processing. To implement this decision the County shall not apply the MINERAL AND AGGREGATE OVERLAY ZONE, and shall not include the site on the inventory of significant sites. The site will not be protected

from conflicting uses.

- (G) **DESIGNATION OF THE MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS:** The MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE AREAS may be applied through the initial legislative planning process, the plan update process or through an individual application for a Comprehensive Plan amendment and zone change. The boundary of the Overlay Zone Area shall be all property within the Mineral and Aggregate Resources Extraction and Impact Areas.

Individual applications shall be initiated by the petition of the owner, contract purchaser, or option holder of property comprising the Extraction Area.

- (H) **SITE PLAN APPROVAL:** The operator of a Significant Site may seek approval of a Site Plan as part of the Goal 5 Process. The standards for Site Plan approval are state in Section 3.094 (9). If the operator chooses to delay application for a Site Plan until some later time, the procedure shall be as set forth in Section 3.094 (9).

(5) EXTRACTION AREA ALLOWED USES

- (A) Uses permitted either outright or conditionally in the underlying zone may be allowed subject to the underlying zone criteria, any requirements adopted as part of the Goal 5 process, and the following criteria:

- (1) Permitted uses shall be reviewed according to the site plan review procedure;
- (2) Noise sensitive uses as defined in Section 3.094 (2) or those uses determined through the Goal 5 process to be conflicting uses may be permitted as conditional uses;
- (3) Applications for conditional uses within the Extraction Area shall be reviewed against the approval criteria of Section 3.094 (10).

- (B) The following uses shall be permitted subject to the review standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process:

- (1) Mining;
- (2) Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;
- (3) Stockpiling of mineral and aggregate materials extracted and processed onsite;

- (4) Sale of mineral and aggregate products extracted and processed onsite;
- (5) Storage of equipment or vehicles used in conduction with onsite mining or processing;
- (6) Buildings, structures and activities necessary and accessory to development or reclamation of a mineral or aggregate resource.

(6) EXEMPTIONS

The following mining activities are exempt from the provisions of Section 3.094 (7). Operators or land owners claiming any of these exemptions have the burden of establishing the validity of the exemption.

- (A) Pre-existing or nonconforming activities subject to Article VII of this Ordinance;
- (B) In exclusive farm use zones, mining less than 1,000 cubic yards of material or excavation preparatory to mining of an area of less than one acre;
- (C) In all other zones, mining less than 5,000 cubic yards of material or disturbing less than one acre of land within a period of 12 consecutive months until such time that mining affects five or more acres;
- (D) Mining and processing auxiliary to forest practices.

(7) EXTRACTION AREA DEVELOPMENT STANDARDS

The following standards apply to mining and processing unless other standards are adopted in the Goal 5 process. Prior to the commencement of mining, the applicant shall demonstrate that the following standards or replacement standards adopted in the Goal 5 process are met or can be met by a specified date.

(A) ACCESS:

- (1) Onsite roads used in mining, and access roads from the extraction site to a public road shall be designed and constructed to accommodate mining vehicles and equipment, and shall meet the following standards:
 - (a) All access road intersections with public roads shall comply with the road approach regulations of the agency with jurisdiction for the public road;
 - (b) All onsite roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for

vehicular noise control, ambient air quality and water quality are met or can be met by a specified date;

- (c) Effective dust control measures shall be applied to all onsite roads within the Extraction Area within 250 feet of a noise or dust sensitive use existing on the effective date that the overlay is applied.
- (2) Improvements to public roads outside of the Extraction Area may only be required as necessary to correct safety deficiencies and to provide effective dust control. Requirements for road improvements shall be specified in the Goal 5 program for the site, and shall be based upon the ESEE analysis.

(B) SCREENING:

- (1) The mining activities listed in Subsection (B) (2) of this Section shall be obscured from view of screened uses, unless one of the exceptions in Subsection (B) (4) of this Section applies. Screening shall be accomplished in a manner consistent with Subsection (B) (3) of this Section.
- (2) Mining Activities to be Screened.
 - (a) All excavated areas except:
 - (1) Those areas where reclamation is being performed,
 - (2) Internal onsite roads existing on the effective date of this ordinance,
 - (3) New roads approved as part of the site plan review,
 - (4) Material excavated to create berms, and
 - (5) Material excavated to change the level of the mine site to an elevation which provides natural screening;
 - (b) All processing equipment;
 - (c) All equipment stored on the site.
- (3) Types of Screening.
 - (a) Natural Screening. Existing vegetation or other landscape features which are located within the boundaries of the Extraction Area, and which obscure the view of mining activities from screened uses, shall

be preserved and maintained consistent with the development and use of the resource.

- (b) **Supplied Screening.** Supplied vegetative screening is screening that does not exist at the time of the site plan review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees and shall not be required to exceed a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.
- (4) **Exceptions.** Supplied screening shall not be required when and to the extent that any of the following circumstances exist:
- (a) The natural topography of the site provides screening to obscure mining activities from screened uses;
 - (b) Supplied screening cannot obscure mining activities from screened uses due to local topography;
 - (c) The applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions;
 - (d) Mining activities that are visible from screened used will be completed or removed, and reclaimed within 6 months; or
 - (e) An alternate program or technique to achieve screening is developed, and determined to be at least as effective as the natural or supplied screening described above.
- (C) **AIR QUALITY:** The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards.
- (D) **STREAMS AND DRAINAGE:** Mining abutting a lake or other perennial body of water, shall be subject to the riparian protection measures contained in Section 4.080 of this ordinance unless mining is allowed within this area as part of the Goal 5 process.
- (E) **FLOOD PLAIN:** Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of Section 3.06 of this ordinance.
- (F) **NOISE:** Noise created by mining shall not exceed applicable DEQ noise control standards. Compliance with this standard can be demonstrated by the report of a certified engineer, and compliance methods may include use of existing topography,

equipment modifications, equipment siting or use of supplied berms.

(G) HOURS OF OPERATION:

- (1) Mining and processing are restricted to the hours of 7 a.m. to 10 p.m., Monday through Saturday, unless otherwise limited by the Goal 5 process. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.
- (2) Mining shall not take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

(H) DRILLING AND BLASTING:

- (1) Drilling and blasting are restricted to the hours of 9 a.m. to 6 p.m., Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.
- (2) Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within the impact area at least 48 hours prior to the blasting event. For ongoing blasting activities, notice shall be provided once each month for the period of blasting events, and specify the days and hours when blasting is expected to occur.

(I) SURFACE WATER: Surface water shall be managed in a manner which meets all applicable DEQ water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

(J) COMPLIANCE WITH SPECIAL CONDITIONS: The applicant shall demonstrate that all special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date.

(K) PERFORMANCE AGREEMENTS: The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.

(8) SITE RECLAMATION

(A) No mining shall begin without the operator providing the County a copy of a DOGAMI operating permit and approved reclamation plan or exemption certificate issued in accordance with ORS 517.750 through 517.900 and the rules adopted

thereunder.

- (B) The jurisdiction of the County with respect to mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with applicable provisions of the Comprehensive Plan, and ensuring that mine operations are consistent with adopted programs to protect other Goal 5 resources.
- (C) The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner:
 - (1) When notified by DOGAMI that an operator has applied for approval of a reclamation plan and issuance of an operating permit, the County shall, in turn, notify DOGAMI if local site plan approval is required.
 - (a) If site plan approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the operating permit until after site plan approval has been granted.
 - (b) If site plan approval is not required, the County shall notify DOGAMI that no land use approval is required, and the County will review the proposed reclamation plan during DOGAMI's notice and comment period.
 - (2) When reviewing a proposed reclamation plan and operating permit application circulated by DOGAMI, the County shall review the plan against the following criteria:
 - (a) The plan will rehabilitate mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 process;
 - (b) The reclamation plan, and surface mining and reclamation techniques employed to carry out the plan complies with the standards of Section 3.094 (7);
 - (c) Measures are included which will ensure that other significant Goal resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.

(9) SITE PLAN REVIEW

- (A) Site plan review is required prior to commencement of mining. Applications shall be in the form required by the County, and shall demonstrate compliance with the standards of Section 3.094 (7) and any requirements adopted as part of the Goal 5 process.
- (B) Applications for site plan approval of surface mining operations and activities authorized by Section 3.094 (6) shall be reviewed in accordance with the provisions for making a limited land use decision as provided by ORS 215.425.
- (C) The County shall approve, conditionally approve, or deny a site plan based on the ability of the site plan to conform to the standards of Section 3.094 (7) and any other requirements adopted as part of the Goal 5 process.
- (D) If the County determines that the site plan is substantially different from the proposal approved in the Goal 5 process, the application shall be denied or conditioned to comply with the decision adopted as part of the Goal 5 process, or the applicant may choose to apply for a Comprehensive Plan amendment whereby the original decision reached through the Goal 5 process will be reexamined based on the revised site plan.

(10) IMPACT AREA - USES AND DEVELOPMENT STANDARDS

- (A) **USES PERMITTED OUTRIGHT:** Uses permitted outright in the underlying zone, except noise or dust sensitive uses or conflicting uses, may be permitted subject to the standards and criteria of the underlying zone(s).
- (B) **USES ALLOWED CONDITIONALLY:**
 - (1) Noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone and this Section.
 - (2) Conditional uses in the underlying zone(s) which are not noise or dust sensitive uses or conflicting uses shall be reviewed as conditional uses subject to the standards and criteria of the underlying zone.
- (C) **PROHIBITED USES:** Uses identified through the Goal 5 process as incompatible with mining in all instances shall not be permitted within the Impact Area.
- (D) **APPROVAL CRITERIA:** To approve uses allowed conditionally in the Impact Area, the applicant must demonstrate compliance with the following criteria:
 - (1) The proposed use will not interfere with or cause an adverse impact on lawfully established and lawfully operating mining operations;

- (2) The proposed use will not cause or threaten to cause the mining operation to violate any applicable standards of this chapter;
- (3) The applicable criteria of Subsection (E) of this Section are met;
- (4) Any setbacks or other requirements imposed through the Goal 5 process have been met, or can be met by a specified date through the imposition of conditions on the conflicting use.

(E) NOISE AND DUST REDUCTION:

- (1) The applicant for a new noise or dust sensitive use shall demonstrate that the mining operation in the adjacent Extraction Area will maintain compliance with DEQ noise control standards and ambient air quality and emission standards as measured at the new noise or dust sensitive use.
- (2) The applicant for a new noise sensitive use shall submit an analysis prepared by an engineer or other qualified person, demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the adjoining mining operation. If noise mitigation measures are necessary to ensure continued compliance on the part of the mining operation, such measures shall be a condition of approval. If noise mitigation measures are inadequate to ensure compliance with DEQ noise control standards, the noise sensitive use shall not be approved within the Impact Area.
- (3) As a condition of final approval for the establishment of a new noise sensitive use, the applicant may be required to execute a restrictive covenant in favor of the mining operator that incorporates the compliance items specified in Subsection (E) (2) of this Section.

(11) TERMINATION OF THE MINERAL AND AGGREGATE OVERLAY

When a significant site has been fully mined and reclamation has been complete, the property shall be rezoned to remove the MINERAL AND AGGREGATE RESOURCES OVERLAY ZONE. Rezoning shall not relieve requirements on the part of the owner or operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.

ARTICLE IX
AMENDMENT

SECTION 9.010: AUTHORIZATION TO INITIATE AMENDMENTS

An AMENDMENT to a zoning map maybe initiated by the Board, the Commission, the Department, or by application of a property owner. Anyone may initiate proceedings to AMEND the text of this Ordinance.

SECTION 9.020: MAP AMENDMENT PROCEDURE AND CRITERIA

The following provisions shall govern the consideration of a MAP AMENDMENT request:

- (1) Notice of a proposed AMENDMENT shall be distributed according to the provisions of Section 10.060 of this Ordinance.
- (2) The Department shall prepare an analysis of the site and the surrounding area in the form of a map and report, considering the following factors:
 - (a) Size, shape and orientation of the subject parcel.
 - (b) Surrounding parcel sizes.
 - (c) Topography, drainage, hazards, and other physical site characteristics.
 - (d) Parcel ownership and current use.
 - (e) Economic and population data for the affected area that may be contained in the Comprehensive Plan.
 - (f) Traffic circulation.
 - (g) Zoning history of the subject parcel.
 - (h) Compatibility of the proposed new zone with the surrounding zoning and land uses.
 - (i) Availability and feasibility for development of nearby properties in the proposed zone.
 - (j) Aesthetics.
 - (k) Availability of public facilities and services.

- (1) Land use objectives of both the applicable and the proposed zoning.
- (3) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. In hearing the request to establish a new zoning designation, the Commission shall consider all of the following criteria. A zone MAP AMENDMENT may be approved only if all four criteria can be met.
 - (a) The proposed new zone is consistent with applicable Comprehensive Plan policies.
 - (b) The proposed new zone shall not result in the conversion of resource lands to non-resource use without an approved exception to applicable state resource protection Goals.
 - (c) The site under consideration is better suited to the purposes of the proposed zone than it is to the purposes of the existing zone.
 - (d) Development anticipated to result from the proposed zone shall not impair the actual or the legally designated uses of surrounding properties.
- (4) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT to modify or change an existing zone on a zoning map subsequent to receiving the report and recommendation of the Planning Commission. Zone MAP AMENDMENTS shall be adopted by the Board of County Commissioners by Ordinance.
- (5) The Board's decision on a zone MAP AMENDMENT shall be final.
- (6) A copy of all zone MAP AMENDMENTS shall be forwarded to the County Assessor's office.

SECTION 9.030: TEXT AMENDMENT PROCEDURE

- (1) This Ordinance may be AMENDED by application of any person. The proponent of an ORDINANCE AMENDMENT shall arrange a pre-application conference with the Department.
- (2) An application for an ORDINANCE AMENDMENT shall be submitted to the Department at least 45 days prior to the Commission hearing for its consideration. Such applications shall be accompanied both by fees as set by order of the Board, and by the proponent's justification for the AMENDMENT.
- (3) Notice of a proposed AMENDMENT shall be published according to the provisions of Section 10.060 (3).

- (4) The Department shall prepare an analysis of the proposed AMENDMENT, addressing such issue as the intent of the provisions being amended; the affect on land use patterns in the County; the affect on the productivity of resource lands in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed text.
- (5) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. It shall consider the intent of applicable policies of the Comprehensive Plan, and recommend that the Board adopt, adopt with modifications, or not adopt the proposed AMENDMENT.
- (6) The Director shall report the Commission's recommendation to the Board. The Board shall conduct a public hearing on an AMENDMENT of modify or change the text of the Land Use Ordinance subsequent to receiving the report and recommendation of the Planning Commission. AMENDMENTS to the text of this Ordinance shall be adopted by the Board of County Commissioners by Ordinance.
- (7) The Board's decision on an AMENDMENT to the text of this Ordinance shall be final.

restricted in certain areas, thus decreasing the timber supply available for processing. Given the potential acreage covered, this could have a significant effect on a County that relies heavily on the forest products industry for jobs and income. There may also be restrictions on the type of future residential, commercial, or industrial uses that would be allowed in areas where the County has found the area is already committed to rural residential development. Gravel extraction, a prime source of aggregate in Tillamook County, may also be limited.

The resolution of these conflicts and any further action on the proposed designation of the Nehalem River, Nestucca River, Little Nestucca River, Salmonberry River, and Trask River as a scenic waterway is the responsibility of the Department of Transportation or Department of Interior. The County will cooperate in any such process and make its views known.

* 1.4 INVENTORY OF ECONOMIC RESOURCES

1.4a Mineral and Aggregate Resources

Sand, gravel and crushed rock are essential factors in any community. These aggregates are used in making Portland cement concrete, asphaltic concrete, foundation for roads, and select fill.

In 1970, 143,500 tons of sand and gravel were produced in Tillamook County for projects other than highway and County construction projects. The volume use of sand and gravel in the County has averaged, and is projected at, about 8 tons per person per year. Based on projected population increases, it is anticipated therefore, that the annual production of 143,500 tons in 1970 should increase to about 170,000 tons in 1980 and to about 230,000 tons in the year 2000.* By comparison, the volume use of quarry rock could, in 1985, conceivably range from 100,000 to 400,000 tons annually, based on Department of Geology statistics.

Quarry rock figures significantly in use of aggregate resources in Tillamook County for two purposes. First is use of quarry rock for riprap in riverbank protection. Tillamook County farmers have been using an average of 30,000 tons of quarry rock per year for riprap. Second, both the County Road Department and State Highway Department use large amounts of crushed rock for road construction, especially in areas where stream gravel is unavailable. The quantity ranges from 100,000 to 300,000 tons of quarry rock annually, depending on construction projects. In the past, most of the potential quarries have been too far from population centers to be of economic use by the private sector, particularly given the abundance of material in local streams.

Good supplies of sand and gravel have been obtained from local streams, and for the private sector sand and gravel production is the major source of material resources. In 1970, more than 145,00 tons were produced locally. Sources of sand and gravel for the private sector include the Nehalem River in the north County and the Miami, Kilchis, Wilson, Trask and Tillamook Rivers in the Tillamook area. However, sand and gravel mining from streams has some deleterious environmental effects. As a result of concerns about impacts to declining salmonid stocks, an agreement was mediated in 1992 which leads to the cessation of commercial in-stream aggregate operations after the 1997 removal season. This, coupled with increasing demand for aggregate resources, necessitated the county undertaking an inventory of potential aggregate sites and the protection of several sites as significant aggregate resources.

Detailed information on potential rock and aggregate sites is not available for Tillamook County. The County will cooperate with the Department of Geology and Mineral

Industries in investigating the feasibility of undertaking a study to identify sites, should funding become available.

Tillamook County is using a list of removal permits compiled by the Department of Geology and Mineral Industries (DOGMI) as its inventory of rock and aggregate material sites (the list is current as of June 1982). The following is a summary of those sites.

LOCATION	NAME	ZONE
1. 3N10-(10)-700	CROWN ZELLERBACH	F
2. 3N10-(17)-2300	ORE STATE HIGHWAY DIVISION	RM
3. 3N10-(10 & 15)-3100	TILLAMOOK COUNTY	F
4. 3N10-(14 & 15)-3100	TILLAMOOK COUNTY	F
5. 3N10-6BB-5500	JAMES MC-FARLAND	RR
6. 2N9-(4)-800	ORE DEPARTMENT OF FORESTRY	F
7. 2N10-4-400	LARRY KESTERSON	RR
8. 1N7-(19)-2400	ORE STATE HIGHWAY DIVISION	F
9. 1N9-(9)-100	TILLAMOOK COUNTY	F
10. 1N9-32-300	KEN CHRISTENSEN	SFW-20
11. 1N10-8-100	E.W. ELDRIDGE	F
12. 1N10-14-300	E.R. FILOSI	F-1
13. 1N10-14-400	DENNIS HIXON	F
14. 1N10-22A-100	GLEN MERRIT	F
15. 1N10-35-1700	ORE STATE HIGHWAY DIVISION	F
17. 1S9-6-200, 1801, 2900	COASTWIDE READY MIX	F-1
18. 1S9-7-800	LA FOND CONSTRUCTION	F-1
19. 1S9-22-1000, 1200, 1300	TILLAMOOK COUNTY	F-1
20. 1S9-34-2300	TRASK RIVER GRAVEL	F-1
21. 1S9-35-1702	TRASK RIVER GRAVEL	F-1
22. 1S9-36-500	CROWN ZELLERBACH	F
23. 1S10-(17)-500	CROWN ZELLERBACH	F
24. 1S10-(21)-1200	CROWN ZELLERBACH	F
25. 1S10-(29)-2200	CROWN ZELLERBACH	F
26. 1S10-18-800	CROWN ZELLERBACH	F
27. 1S10-30-500	CROWN ZELLERBACH	F
28. 2S9-2-600	TRASK RIVER GRAVEL	F-1
29. 2S9-17-800	LARRY ZWEIFEL	F-1
30. 2S10-(19)-4100	CROWN ZELLERBACH	F
31. 2S10-(20)-4500	CROWN ZELLERBACH	F
32. 2S10-(32)-6400	CROWN ZELLERBACH	F
33. 4S8-(3)-900	S.S. HERR	SFW-20
34. 4S10-(9)-300	DAN REDDEKOPP	F
35. 4S10-18-1100	FEDERAL HIGHWAY ADMIN.	F
36. 5S10-15-502	NESKO ROCK	F
37. 5S11-12-200	WALTER OTZEN	F-1
38. 5S11-36-1201	LESTER FULTZ	SFW-20

The following list is a summary of rock and aggregate material located on Bureau of Land Management and U.S. Forest service land (those sites are included for inventory purposes only).

BUREAU OF LAND MANAGEMENT	LOCATION
1. DOVRE PEAK ROCK PIT #2	3S7-15

2.	CLEAR CREEK #1	1S9-10
3.	CLEAR CREEK #2 UNDEVELOPED	1S9-11
4.	BSM #1 QUARRY	2S8-27
5.	BOUNDARY ROAD #1	3S7-5
6.	TUCCA CREEK #1	3S7-10
7.	BEAR CREEK #4	3S7-8
8.	JOE CREEK #1	3S7-33
9.	COAST RANGE #1	3S8-1
10.	CLARENCE CREEK #1	3S8-13
11.	EAST LINE ROCK QUARRY	4S7-1

U.S. FOREST SERVICE - SIUSLAW NATIONAL FOREST

	PIT NAME	LOCATION
1.	JEWEL PT.	3S10-33
2.	ANDY CREEK	3S10-22
3.	HORN CREEK	4S10-4
4.	NEW BUZZARD	4S10-3
5.	NIAGARA WEST	4S8-24
6.	NIAGARA DIVIDE	4S8-28
7.	BIBLE CREEK	4S7-7
8.	CLEAR CREEK	4S9-34
9.	BALD HEBO	4S9-18
10.	GAULDY #1	4S10-36
11.	LITTLE HEBO	4S9-18
12.	YONCALLA-33	4S8-28
13.	GAULDY #2	5S10-12
14.	GAULDY #3	5S9-19
15.	STILLWELL	5S9-32
16.	JIM CREEK	5S10-4
17.	UPPER CASCADE HEAD	6S10-12

The following is a list of all the removal permits issued by the Division of State Lands (DSL) since 1974 for the extraction of gravel from the County's rivers:

	LOCATION	DSL	ZONE
1.	2N9-5-1100	RP448	SFW-10
2.	2N9-6-201	RP448	M-1
3.	1N9-32-600	RP577	F-1
4.	1N9-32-600	RP1154	RR
5.	1N9-32-901	RP717	F/F-1
6.	1N10-11-200	RP3302	F-1
7.	1N10-11-400	RP3302	F-1
8.	1S9-6-200	RP718	F-1
9.	1S9-7-1200	RP3595	F-1
10.	1S9-20-600	RP255	F-1
11.	1S9-20A-200	RP255	F-1
12.	1S9-21-200	RP3274	F-1
13.	1S9-22-1300	RP2637	F-1
14.	1S9-23-600	RP3259	F-1
15.	1S9-23-1100	RP3094	F-1

16.	1S9-33-1100	RP2631	F-1
17.	1S9-34-2300	RP3059	F-1
18.	1S9-34-2400	RP3621	F-1
19.	1S9-35-1702	RP2107	F-1
20.	2S9-2B-900	RP2017	F-1
21.	2S9-5-800	RP3275	F-1
22.	2S9-17-900	RP3280	F-1
23.	4S10-22-2800	RP1453	F-1/EC-1
24.	4S10-22-2801	RP1453	F-1/EC-1

All of the above mentioned sites are included on the final plan inventory.

The County's gravel and quarry stone sites are located in the following zoning categories: Farm (F-1), Forest (F), Small Farm Woodlot-20 (SFW-20), ~~Basic~~ Residential (RR), and Low Density Urban Residential (R-1). The following are the uses allowed (either permitted outright or permitted conditionally) in these zones that may conflict with the utilization of the aggregate site:

ZONE	PERMITTED	CONDITIONAL USES	
F-1	1. Farm dwelling	1. Commercial activities in conjunction with farm use	
	2. Farm buildings	2. School	
F	1. Structures accessory to commercial forest management and fish and game management	3. Church or community center	
		4. Golf course	
		5. Utility	
	2. Forest products processing	6. Airport	
		7. Forest product processing	
	3. Farm use dwellings and buildings	8. Boarding of horses	
		9. Non-farm dwelling	
	SFW-20	1. One family dwelling in conjunction with farm or forest use	1. Forest products processing, other than primary
			2. Park, campground, hunting and fishing
3. Sanitary landfill			
4. Utility			
5. Dams and power plants			
6. Transmitters and towers			
7. Airplane land strip			
8. One family dwelling			
	1. One family dwelling in conjunction with farm or forest use	1. Commercial activities in conjunction with farm or forest use	
		2. Parks, campgrounds and hunting & fishing preserves	
		3. Golf courses	
		4. Utilities	
		5. Airport	
		6. Forest products processing	
		7. Boarding horses	
		8. Agriculture	
		9. One family dwelling not in conjunction with farm or forest use	
		10. School	

- | | | | | |
|----|----|--------------------------|--------------------|---|
| RR | 1. | One family dwelling | 11. | Church |
| | 2. | Utility service lines | 1. | Two family dwelling |
| | 3. | Park and recreation area | 2. | Cottage industry |
| | | | 3. | Church |
| | | | 4. | Recreation vehicle |
| | | | 5. | School |
| | | | 6. | Community meeting hall |
| | | | 7. | Cemetery |
| | | | 8. | Fire or ambulance station |
| | | | 9. | Recreation facilities |
| | | | 10. | Golf course |
| | | | 11. | Animal hospital kennel or animal boarding |
| | | | 12. | Communication facility |
| | | 13. | Utility substation | |

Generally conflicting uses consist of structural improvements that if established would make it difficult or substantially more expensive to recover the aggregate material. The use of land for farm or forest use in not considered a conflicting use. The portions of rivers below the head of tide, from which gravel may be removed are zoned Estuary Conservation 1 (EC1), Estuary Conservation 2 (EC2) and Estuary Development (ED). The following are uses allowed (either permitted outright or conditionally) in these zones that may conflict with the utilization of the river or stream as a source of gravel.

ZONE	PERMITTED USE	CONDITIONAL USE
EC1	1. Boat dock	1. Aquaculture facility
	2. Water, sewer and gas line	2. Water-dependent recreation
		3. Storm water and treated sewage outfall
EC2	1. Boat dock	1. Water-dependent recreation facilities
	2. Water-dependent portion of aquaculture facilities	2. Water-dependent commercial facilities
	3. Water, sewer and gas line	3. Water-dependent industrial facilities not requiring fill
		4. Other water-dependent uses not requiring fill
		5. Storm water & treated sewage outfall
ED	1. Water dependent commercial, industrial or recreational uses	1. Water-related uses not requiring fill
	2. Water-dependent portions of aquaculture facilities	2. Non-water dependent, non-water related uses not requiring fill
	3. Other water-dependent uses	3. In-water sorting, storage and handling of logs
	4. Water, sewer and gas lines	4. Storm water and sewer outfalls
	5. Electrical distribution lines	

Generally, conflicting uses consist of structural improvements that if established, would make it difficult or substantially more expensive to recover the aggregate material. Conflicting uses have been identified for only four of the inventoried aggregate sites. These include sites 5, 7 and 15 on the DOGMI list and site 4 on the DSL list. For these sites, residential development is a use conflicting with aggregate removal.

The primary economic consequence of allowing these conflicting uses will be reducing the potential supply and increasing the price of aggregate available in the County. The magnitude of this impact depends on the relationship between total gravel supply, the proportion of the total present in these sites, and the projected demand. There are no significant negative social, environmental or energy consequences that would result from allowing the conflicting uses.

The primary economic impact of not allowing the conflicting use will be a loss to the owners in being able to use portions of their properties for residential use. Aggregate extraction may also impede the development of the remaining portions of their properties.

There will be a social impact on surrounding residences if these sites are protected for aggregate use. All but DSL site 4 are part of larger residentially zoned areas that are committed to development. There are no significant negative environmental or energy consequences that would result from allowing the conflicting uses.

The impact of the loss of these four sites will not be significant. They represent only a small portion of the total number of sites. None of them are particularly large producers. In addition, other aggregate sites are bound to be discovered or rediscovered in the vast area that is in the Forest zone in the County. The impact of protecting these sites for aggregate use will be significant to the property owners and their present and future neighbors. For these reasons, these four sites will not be protected. The remainder of the sites will be protected.

1.4a.1 SIGNIFICANT AGGREGATE AND MINERAL SITES

Inventory of significant mineral and aggregate sites is carried out on a case-by-case basis, since it involves substantial data collection and analysis. A significant aggregate resource site is a site that contains aggregate or stone material which meets modified Oregon Department of Transportation specifications for construction grade material, which meets the three materials tests of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating aggregate or stone materials for road construction and maintenance.

A significant mineral resource site is a site that contains ~~non~~ aggregate minerals that have been determined to be significant based upon an analysis and findings concerning the commercial or industrial use of the resource and the relative quality and abundance of the resource in Tillamook County.

As of March 3, 1997, six sites have been designated as significant Goal 5 resources. The Goal 5 Analyses, including the ESEE analysis and plan amendment for each site, are included in Appendix B of this element.

Site 1: Ogle Quarry, 5S10-15 Tax Lots 400 and 1800. This site is located off the Little Nestucca River Road. The designated impact area for this site comprises the following tax lots, all in 5S10-15: 400; 402; 403; 1800; 1801; 1900.

Site 2: Alder Creek Quarry, 5S9 Tax Lot 300. This is located on the east side of Highway 22, along Alder Creek. The designated impact area includes the following tax lots, all in 5S9: 100; 200.

Site 3: Lower Nehalem Quarry, 3N10 Tax Lot 3100. This site is located in the forest zone, north of Nehalem. The designated impact area includes the following tax lots, all in 3N10: 700; 3101; 3200; 3900.

Site 4: Clear Creek Quarry, 4S10-34 Tax Lot 1300. This site is located east of Highway 101, off of Jenck Road. The designated impact area includes the following tax lots, all in 4S10-34: 100; 500; 1200; 1400.

Site 5: 190 Pit, 2S10, Tax Lot 6400. This site is located on Bewley Creek Road, two miles east of Cape Lookout. The designated impact area comprises tax lot 6500 in 2S10.

Site 6: Whiskey Creek Pit, 2S10, Tax Lot 4500. This site is located near Netarts Bay, east of Whiskey Creek Road. The designated impact area comprises the following tax lots, in 2S10: 4100; 6000.

1.4a.2 POTENTIAL AGGREGATE AND MINERAL SITES

In 1996, an inventory of potential mineral and aggregate sites was completed. These are sites for which there is currently insufficient information to determine significance. The information in this inventory is from DOGAMI databases, existing inventory information, and any new information available.

SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Cook Creek Jetty Pit	R3N 8 05800	3	F			Stone
Batterson Pit	R3N 9 34 00900	2	F			Stone
Falcon Cove Site	R3N10 6BB 5500	1.25	RR			Stone
Short Sand Rock Pit	R3N10 03200	3	F			Stone
Nehalem Quarry	R3N10 03100	5	F			Stone
Quarry	R3N10 13 00701	2.5	F-1		EST	Stone
SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Old Nehalem Quarry	R3N10 03101	>2	F			Stone
Neahkahnie Mtn Quarry	R3N10 2300	1.5	RM			Stone(basalt)
Mohler Pit & Plant						Stone
Pit 443						Stone
Pit 442						Stone
Sturm Pit	R3N10 36 01900	2	F-1			Stone(basalt)
Browns Camp Quarry	R2N 6 02600	4	F			Stone(basalt)
Quarry	R2N 9 00800	1	F			Stone
Gravel Pit	R2N 9 5 01100	12	M-1			Sand & Gravel
Fishery Point Quarry	R2N10 4C 00500	2	SFW-20		SH	Stone(basalt)
Lake Lytle Pit	R2N10 05600	2	F			Stone(basalt)
Gravel Pit	R2N10 35 00200	>1	F-1	SFW-20		Sand & Gravel
Vandecoevering Pit	R2N10 36 00900	2	RR			Sand & Gravel
Gravel Bar	R1N 7 00300	>1	F			Sand & Gravel
Wilson River Quarry	R1N 7 02400	3	F			Stone
Quarry	R1N 9 00100		F			Stone
Darby Bar	R1N 9 32 00600	>1	F-1			Sand & Gravel

Christensen Quarry	R1N 9 32 00300	1	SFW-20			Stone(riprap)
SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Gravel bar	R1N10 2 00100	>1	RR			Sand & Gravel
Quarry	R1N10 8 00100	5	F			Stone
Minich Creek Site	R1N10 11 00300	3	F			Stone(basalt)
Gravel Bar	R1N10 11 00200	>1	F-1			Sand & Gravel
Quarry	R1N10 14 00300	>2	F-1			Stone
Miami Pit	R1N10 14 00400	9	F			Stone
Waggerly						Stone
Watseco Quarry						Stone
Benny	R1N10 22A 00700	3	F			Stone(basalt)
4-M Wood Products	R1N10 22A 00100	2	RR			Stone
Quarry	R1N10 35 01700	2	RR			Stone
Basalt Quarry	R1S 8 8DC 01400	>1	RR			Stone(basalt)
Smith Creek Rock Pit	R1S 8 8 00100	>1	F			Stone
Quarry	R1S 8 11 00100	2	F			Stone
N. Fork Trask	R1S 8 25 00300	2	F-1			Stone
Lorens Drift Pond	R2S 9 01400	2	F			Sand & Gravel
Landdolt	R1S 9 6 00204	>1	F-1			Sand & Gravel
Kilchis River Plant	R1S 9 6 00200	>1	F-1			Sand & Gravel
SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Clear Creek #1	R1S 9 00200		F			Stone & pit run
Gravel Bar	R1S 9 20 00500	>1	F-1			Sand & Gravel
Barker Bar	R1S 9 20A 00100	>1	F-1			Sand & Gravel

Tannler Bar	R1S 9 20A 00200	>1	F-1			Sand & Gravel
Gravel Pit	R1S 9 21 00800	>1	F-1			Sand & Gravel
Donaldsons Bar	R1S 9 22 01301	25	F-1			Sand & Gravel
Widmer Bar	R1S 9 23 00600	>1	F-1			Sand & Gravel
Jacob Quarry	R1S 9 23 01200	4	F-1			Stone
Mills Bridge	R1S 9 24B 00100		F	RM		Sand & Gravel
Gypo Jersey Farms	R1S 9 34 02300	5.0	F-1			Sand & Gravel
Goeres Site	R1S 9 34 01400	10	F-1			Stone
Clarks Bar	R1S 9 35 01702	6.5	F-1			Sand & Gravel
Burdick Pit	R1S 9 35 01200	4	F-1			Stone
Balcony Quarry	R1S10 00500	10	F			pit run rock
Lighthouse Quarry	R1S10 00800	20	F			Stone (basalt)
Tower Quarry	R1S10 01200	2	F			pit run rock
Sand Bar	R1S10 26 02300	5	F-1	EST	SH	Sand
SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Cape Meares Quarry	R1S10 02100	20	F			Stone(basalt)
600 Quarry	R1S10 02200	15	F			Stone (basalt)
Oceanside Quarry	R1S10 30 00500	1.5	F		SH	pit run rock
Quarry	R2S 7 03600		F			Stone
BSM #1 Quarry	R2S 8 03900		F			Stone & pit run
Hanekrat's Bar	R2S 9 01402	>1	F-1			Sand & Gravel
Gravel Pit	R2S 9 2B 00400	6	F-1			Sand & Gravel
Gravel Pit	R2S 9 2B 00900		F-1			Sand & Gravel
Werner Pit	R2S 9 4 00502		F-1			Rock
Gravel Bar	R2S 9 5 00800	>1	F-1			Sand & Gravel
Tillamook River	R2S 9 17 00800	>1	F-1			Sand & Gravel

Gravel						
Quarry	R2S 9:22 00301	1	F			Stone
Vogt Pit	R2S 9 01400	6-7	F-1			Sand & Gravel
Netarts Bay Rock Pit	R2S10 04100	2	F			Stone (basalt)
Whiskey Creek Pit	R2S10 04500	9	F			Stone
Whiskey Creek Pit	R2S10 04500	9	F			Stone(basalt)
190 Rock Pit	R2S10 06400	14	F			Stone
SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Tucca Creek #1	R3S 7 01400		F			Stone & marine basalt
Dovre Peak Rock Pit #2	R3S 7 01900		F			Stone & marine basalt
Joe Creek #1	R3S 7 05300		F			Stone & marine basalt
CoastRange #1	R3S 8 00200		F			Stone & marine basalt
Quarry	R3S 8 02600		F			Stone
Clarence Creek #1	R3S 8 02700		F			Stone & marine basalt
Quarry	R3S 8 06400		F			Stone
Davidson						Stone
Doure						Stone
Kostic Quarry	R3S 8 08200	3	F-1	F		Stone(pit run)
Paraguay Pit						Stone
Borba Quarry	R3S 9 27 00200	>.5	F			stone
Andy Creek	R3S10 03600	3	F			Stone
Kimber Pit	R3S10 21 01201	4	F			Stone(basalt)
Stuwe Site	R3S10 05600	20	F			Stone
Jewel Pit	R3S10 05500		F			Stone?

Eastline Quarry	R4S 7 00400	>1	F			Stone(basalt)
SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Quarry	R4S 8 3 00200	>1	SFW-20	F		Stone
Bald Hebo	R4S 9 01200		F			Stone?
New Buzzard Creek	R4S10 00300		F			Stone?
Horn Creek	R4S10 00300		F			Stone?
Borrow Pit	R4S10 12B 00501	2	F-1			Sand & Gravel
Clear Creek Quarry 41034						Stone
Baily Drift	R4S10 14 01200	>1	F-1			Sand & Gravel
Sand Pit	R4S10 18 00700	.5	F			Sand & Gravel (sand)
Sand Pit	R4S10 18 00500	6	F			Sand & Gravel (sand)
Hurliman	R4S10 19 00100	5	F-1	F		Stone(basalt)
Molly Fox Pit	R4S10 23 00503	1	F			Stone (basalt)
Cloverdale Pit	R4S10 27 03000		F			Stone
Johnson Wirth Pit	R4S10 28 01600	2	F-1			Stone(basalt)
Basalt Quarry	R4S10 28 01500	?	F-1		?	Stone(basalt)
Clear Creek Quarry	R4S10 34 01300	10	F			Stone(basalt)
Gauldy #1	R4S10 02800		F			Stone?
Gauldy #2	R5S 9 00100	3	F			Stone
Alder Creek Quarry	R5S 9 00300		F			Stone
Palanuk Pit		2				Stone
SITE NAME	TAX LOT	ACRES	ZONE 1	ZONE 2	OVERLAY	COMMODITY PRESENT
Gauldy #3	R5S 9 01600	3	F			Stone
Stillwell	R5S 9 03400		F			Stone?



Jim Creek			F			Stone?
Ogle Quarry	R5S10 15 00400	30	F			Stone(basal
Bodyfelt Quarry	R5S10 16 00200	5	F-1			Stone(basal
Bodyfelt Quarry	R5S10 16 00200	?	F-1			Stone
East Pit	R5S11 12 00200	1	F-1			Stone
West Pit	R5S11 12 00200	1.5	F-1			Stone
Neskowin Quarry	R5S11 36 01201	5	SFW-20	R-1	SH	Stone
Quarry	R6S10 00800		F			Stone
Upper Cascade Head	R6S10 00300		F			Stone?

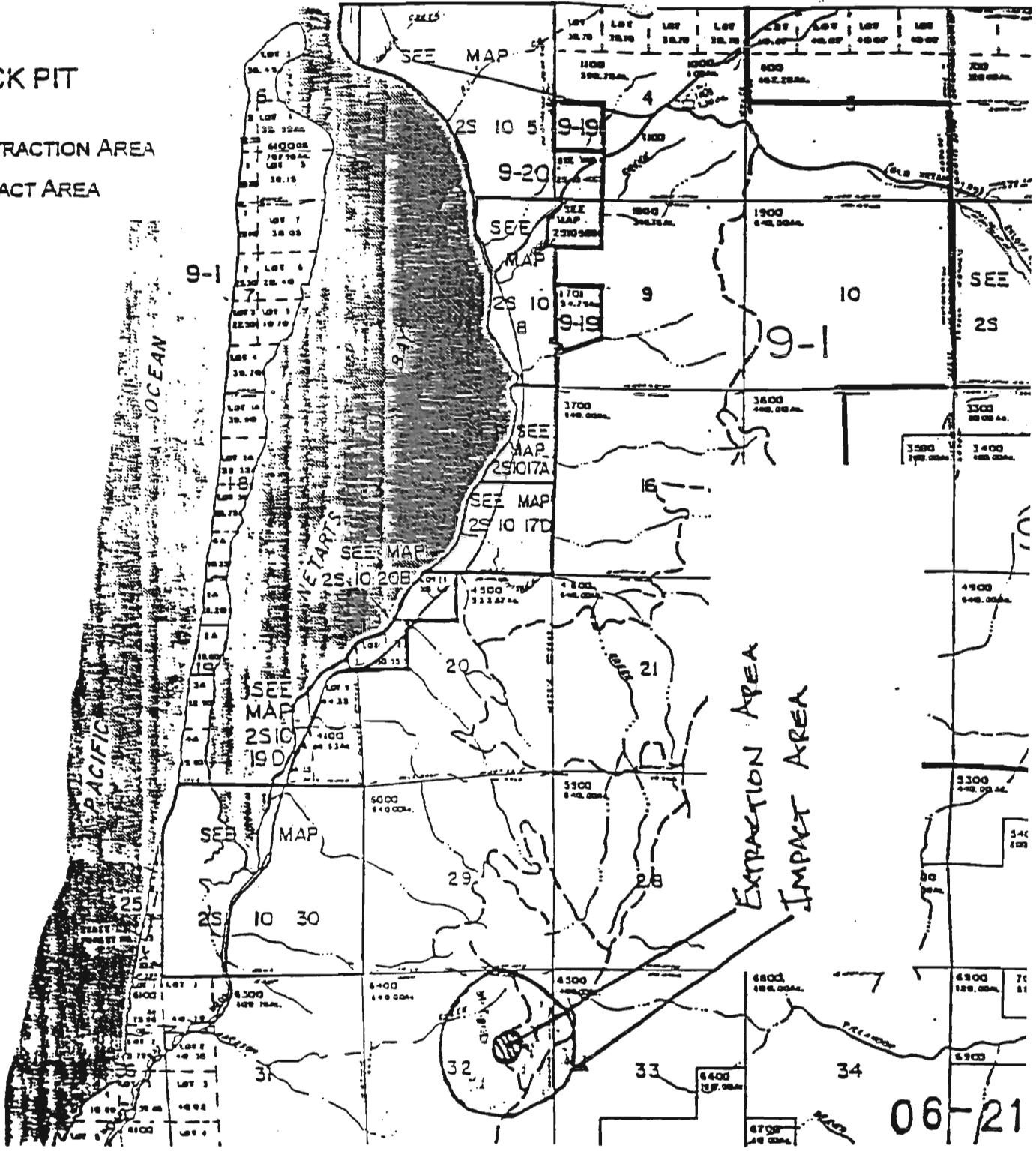
EXHIBIT B

SIGNIFICANT AGGREGATE SITES

190 Pit -- 2S10-6400 --	see map I
Alder Creek Quarry -- 5S9-300 --	see map II
Clear Creek Quarry -- 4S10-34-1300 --	see map III.
Ogle Quarry -- 5S10-15-400 & -1800 --	see map IV
Lower Nehalem Quarry -- 3N10-3100 --	see map V
Whiskey Creek Pit -- 2S10-4500 --	see map VI

190 ROCK PIT

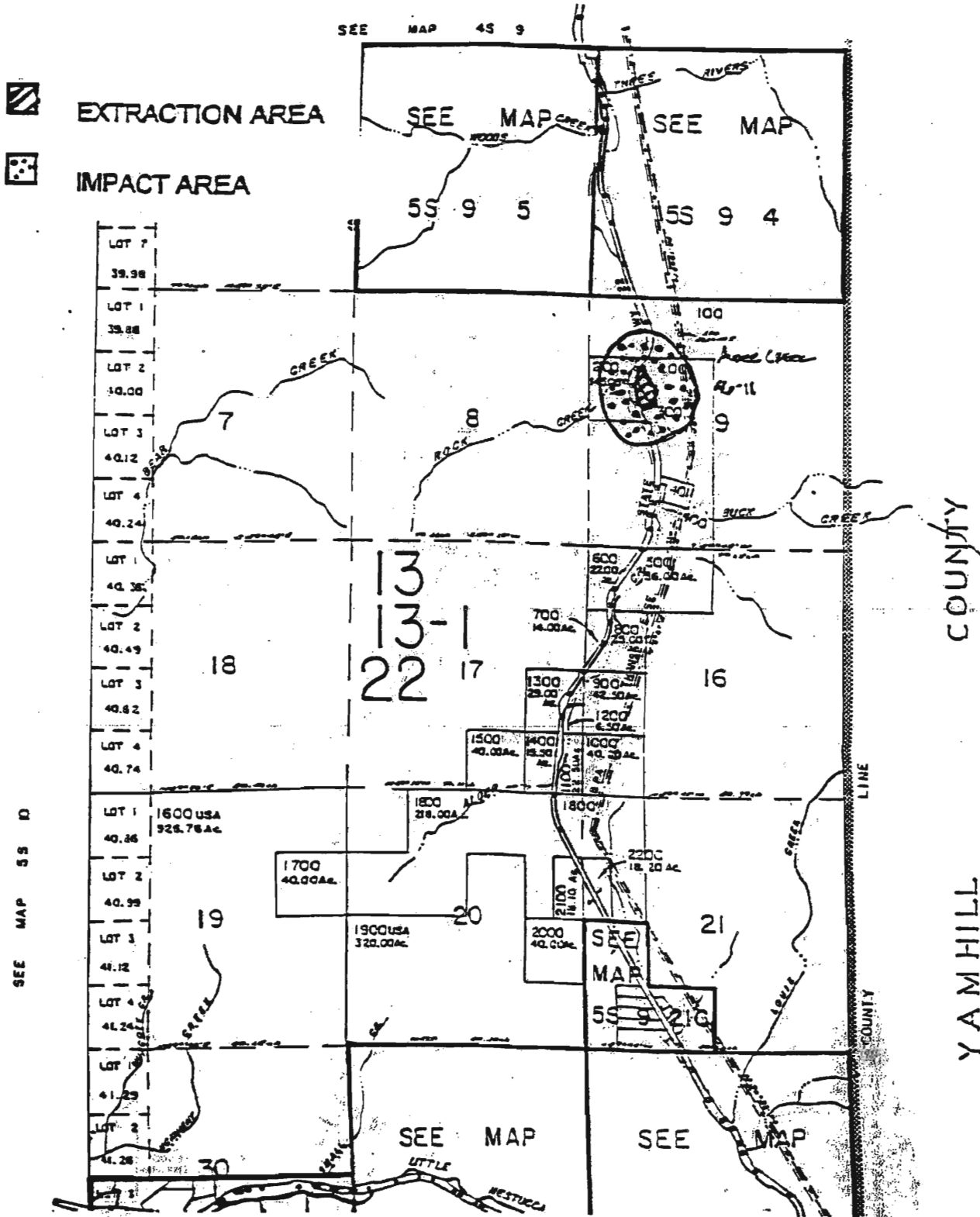
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-  IMPACT AREA



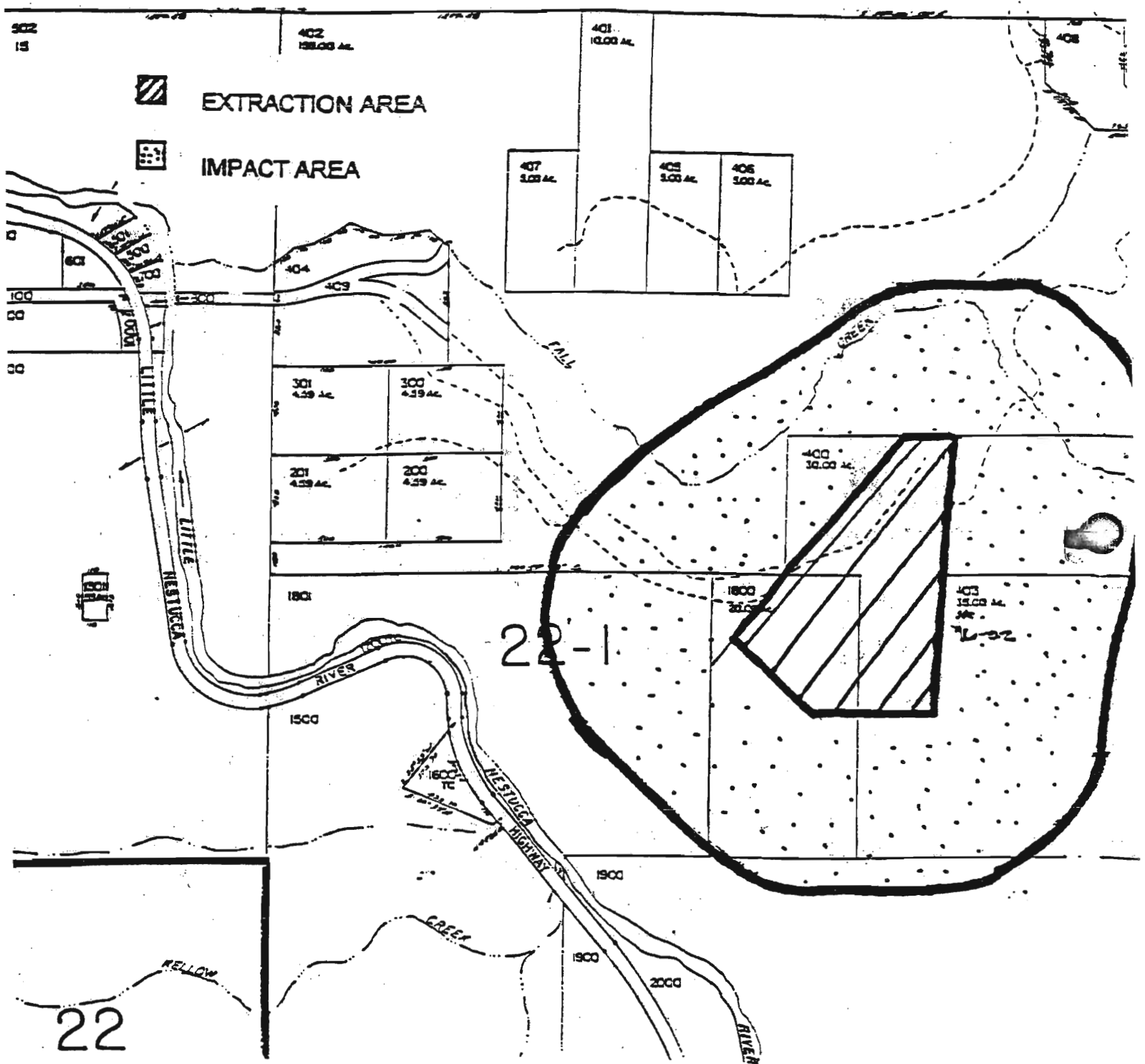
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IMPACT AREA

06-21

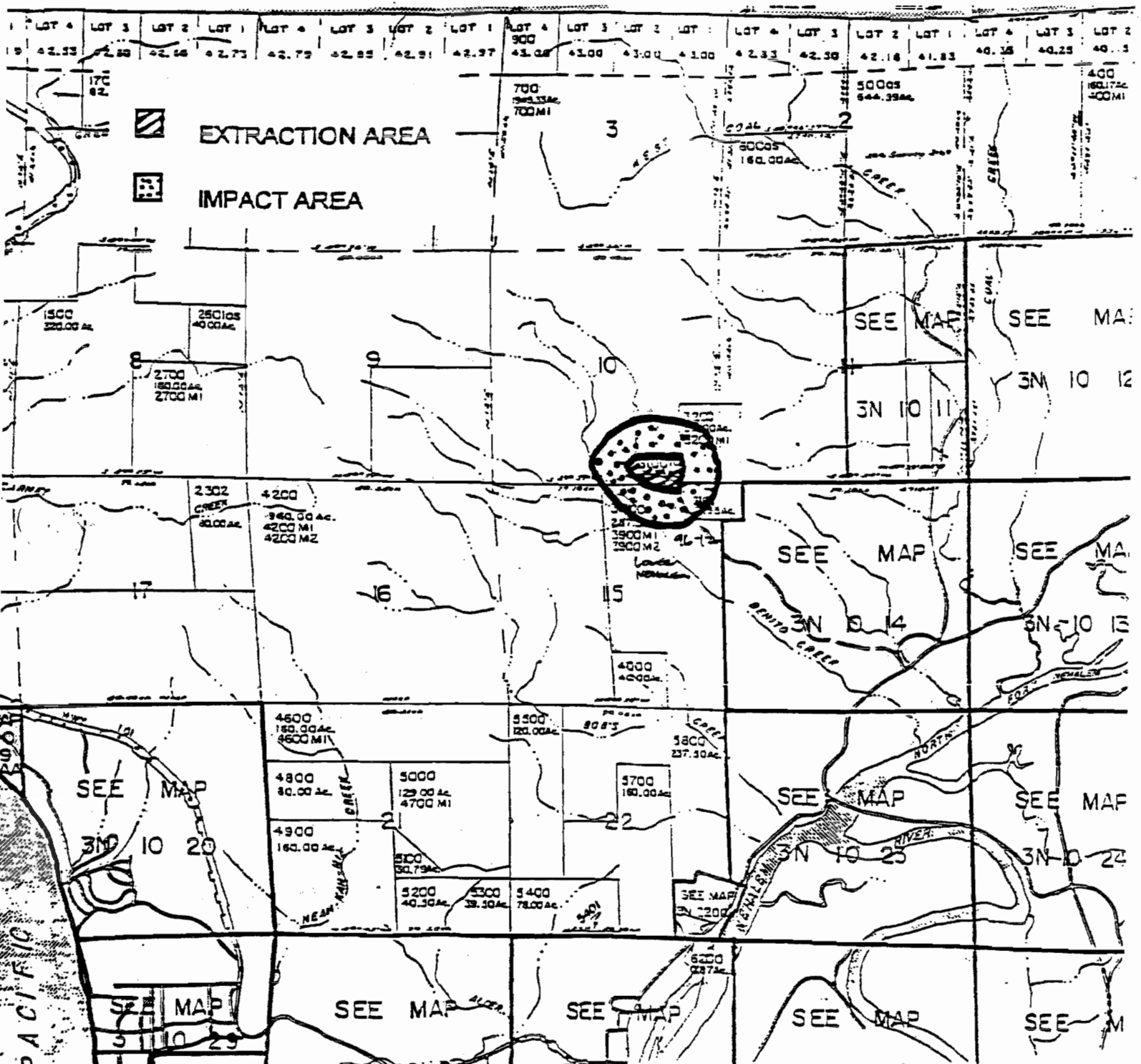
Map II: Alder Creek Quarry -- 5S9-300



Map IV: Ogie Quarry - 5S10-15-400 & -1800





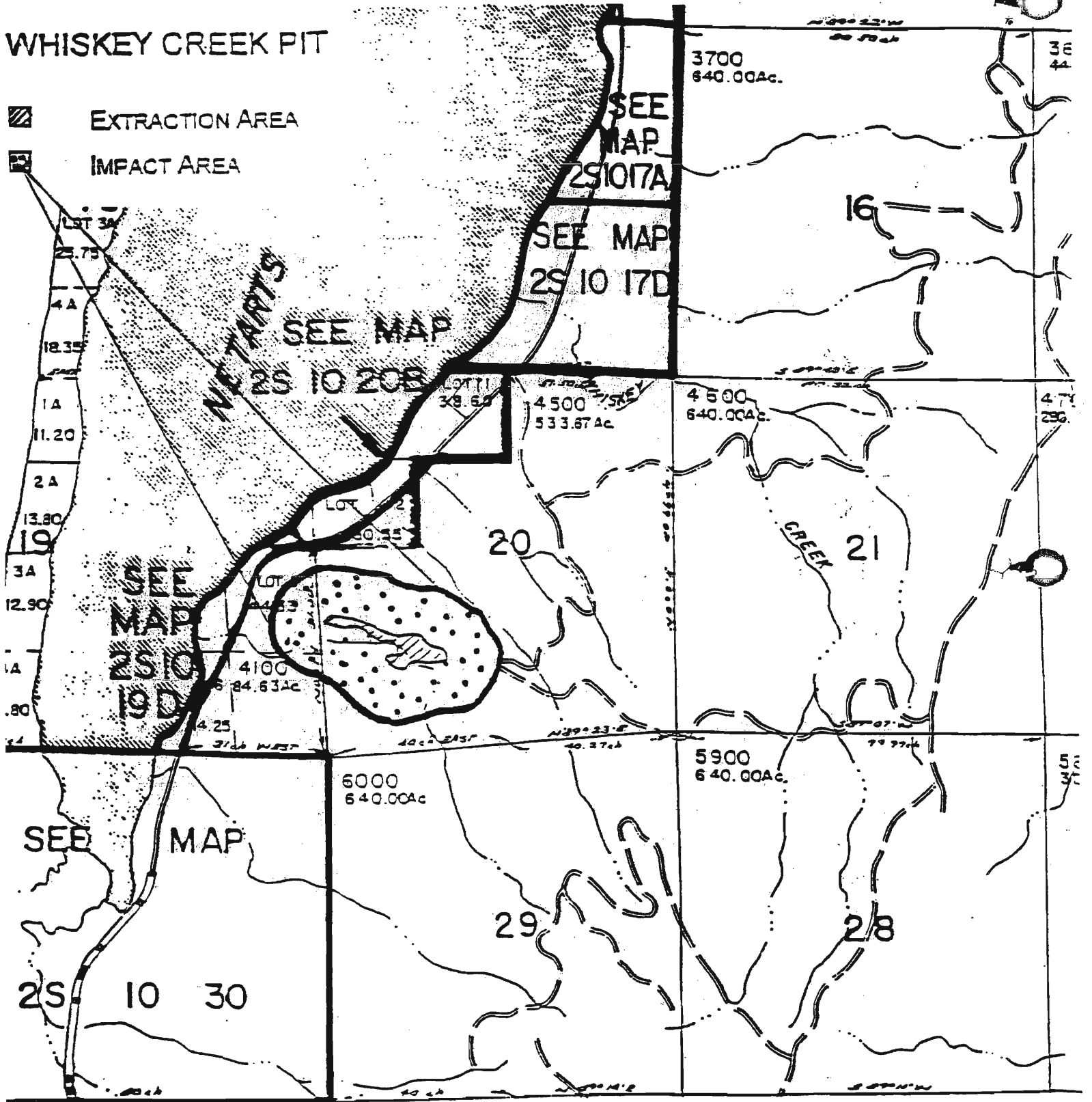
Map V: Lower Nehalem Quarry – 3N10-3100



Map VI: Whiskey Creek Pit - 2S10-4500

WHISKEY CREEK PIT

-  EXTRACTION AREA
-  IMPACT AREA



Oregon Dept. of Geology & Mineral Industries
(DOGAMI) bulletin

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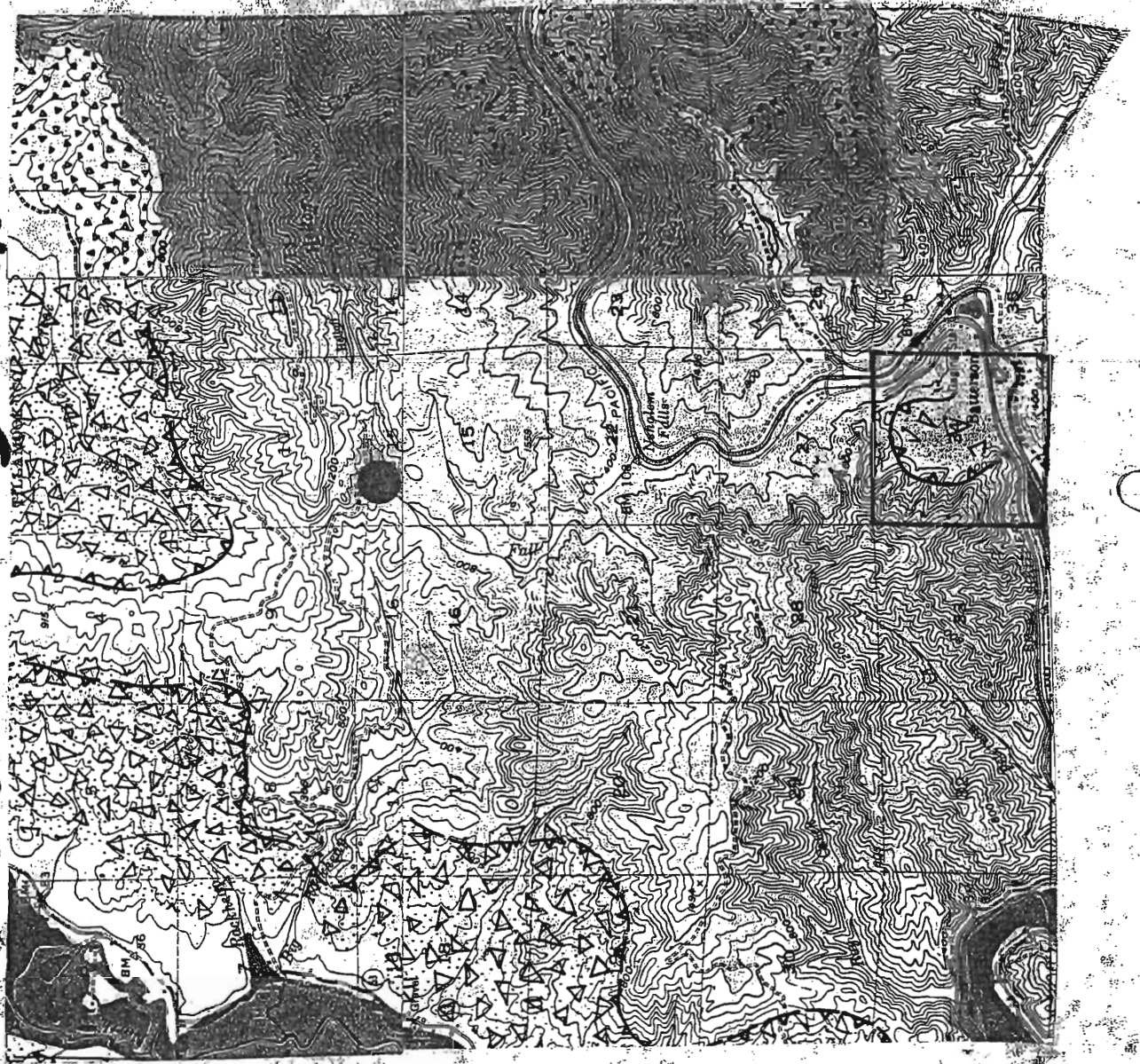


Exhibit VI



U.S. Fish and Wildlife Service









National Wetlands Inventory

ZC-09-03

Jul 13, 2010



Wetlands

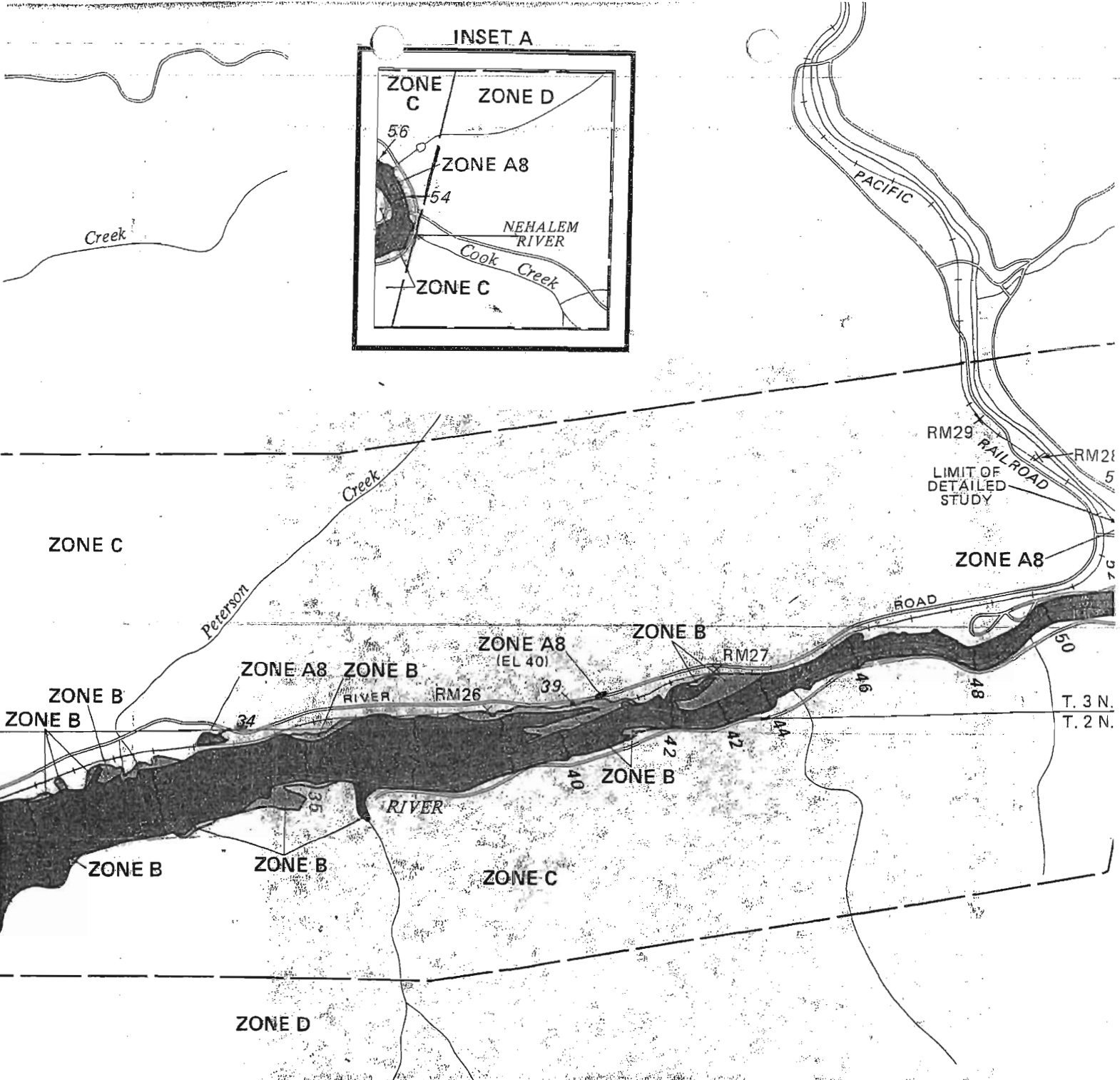
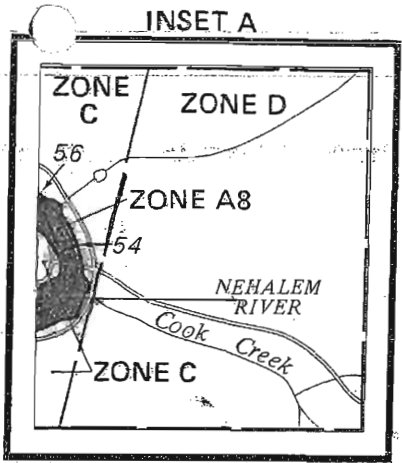
-  Freshwater Emergent
-  Freshwater Forested/Shrub
-  Estuarine and Marine Deetwater
-  Estuarine and Marine
-  Freshwater Pond
-  Lake
-  Riverine
-  Other

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

User Remarks:

National Wetland Inventory

Exhibit VII



FEMA FIRM

410196 0020A

August 1, 1978

REFERENCE MARKS

DESCRIPTION OF LOCATION

Oregon State Highway Department disk, stamped M 47, approximately 0.3 mile east of Mohler, along the Necanicum at the northeast corner of a concrete bridge over the creek, in top of wingwall.

U.S. Coast & Geodetic Survey disk, stamped M 471, top of concrete post, approximately 50 feet south of road centerline, 30 feet west of Necanicum Highway 30 feet east of the northeast corner of a large barn, near an iron witness post, at junction of McKinnen's Road and Peterson Creek.

REFERENCE MARK	ELEVATION (FT. NGVD)
RM25	35.518
RM26	46.8
RM27	47.172

DESCRIPTION OF LOCATION

A standard U.S. Coast & Geodetic Survey disk, stamped G 97 1934, approximately 2.3 miles east of Mohler, along the Southern Pacific Railroad, 0.5 mile west of Knudsen, 70 feet northwest of wooden culvert, 7 feet north of track, in top of rock outcrop, in top of wingwall.

A standard disk, stamped F 97-1934, set in the top of a concrete post, approximately 0.4 mile east along the Southern Pacific Railroad, in top of wingwall.

Exhibit VIII

Pacific

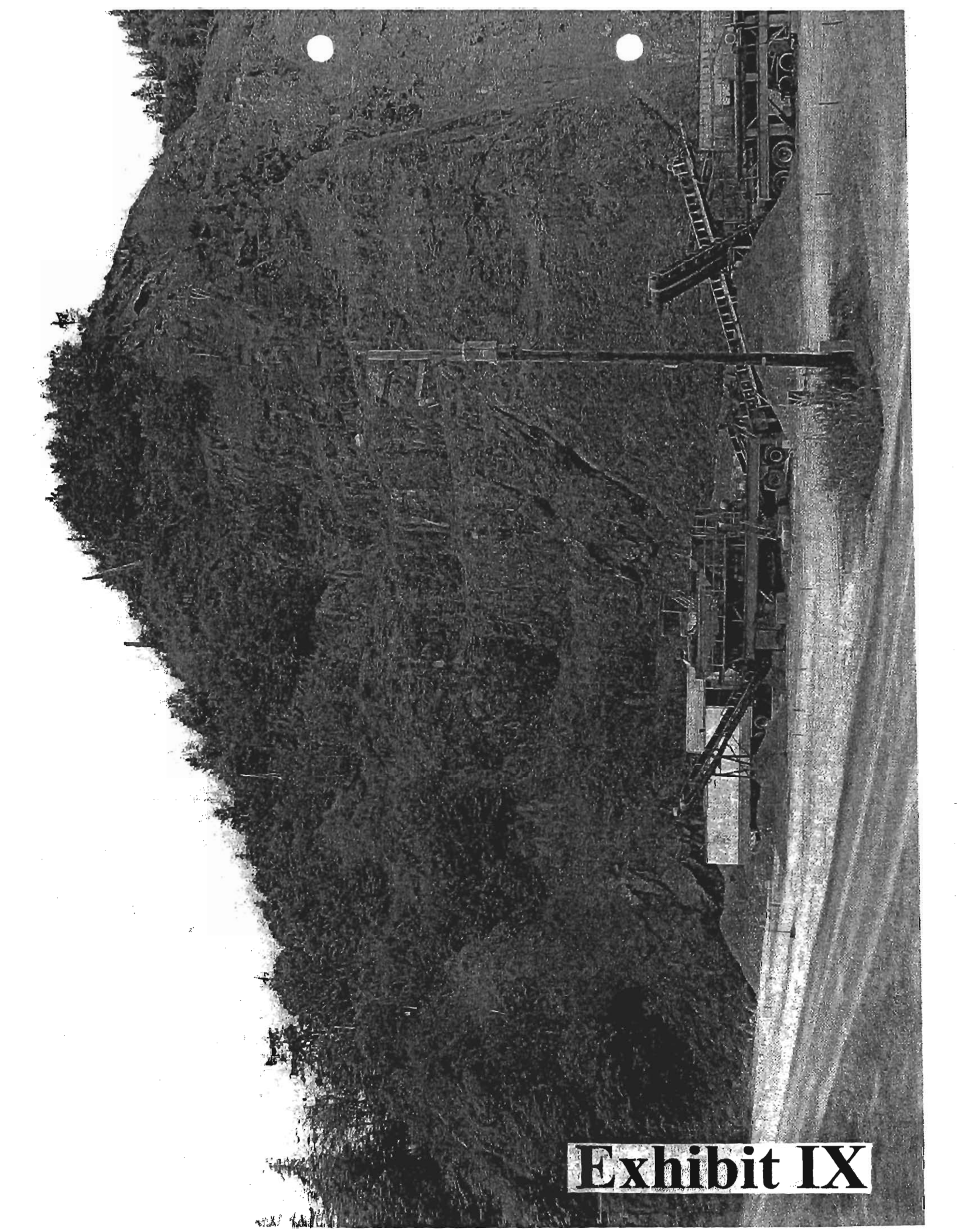
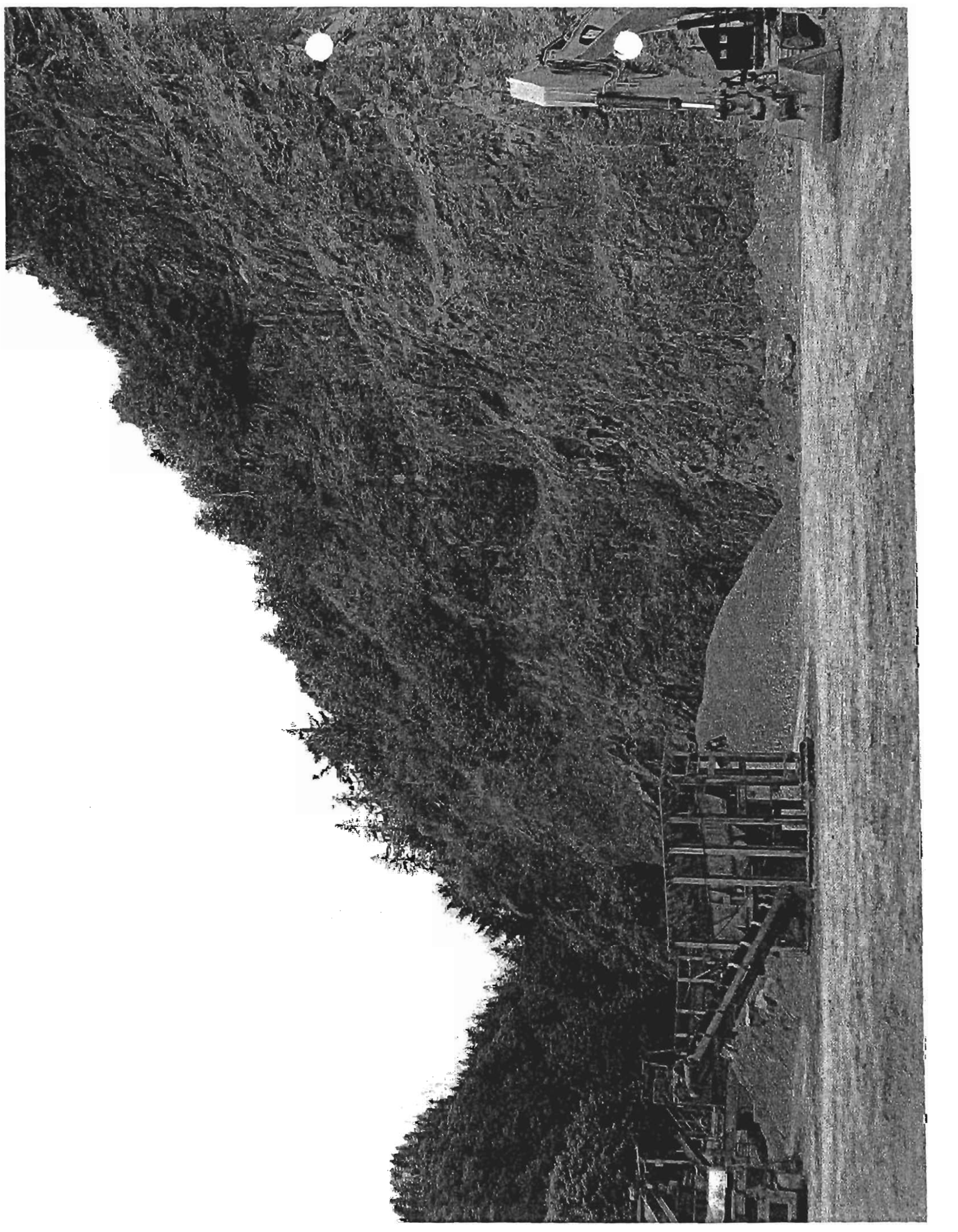


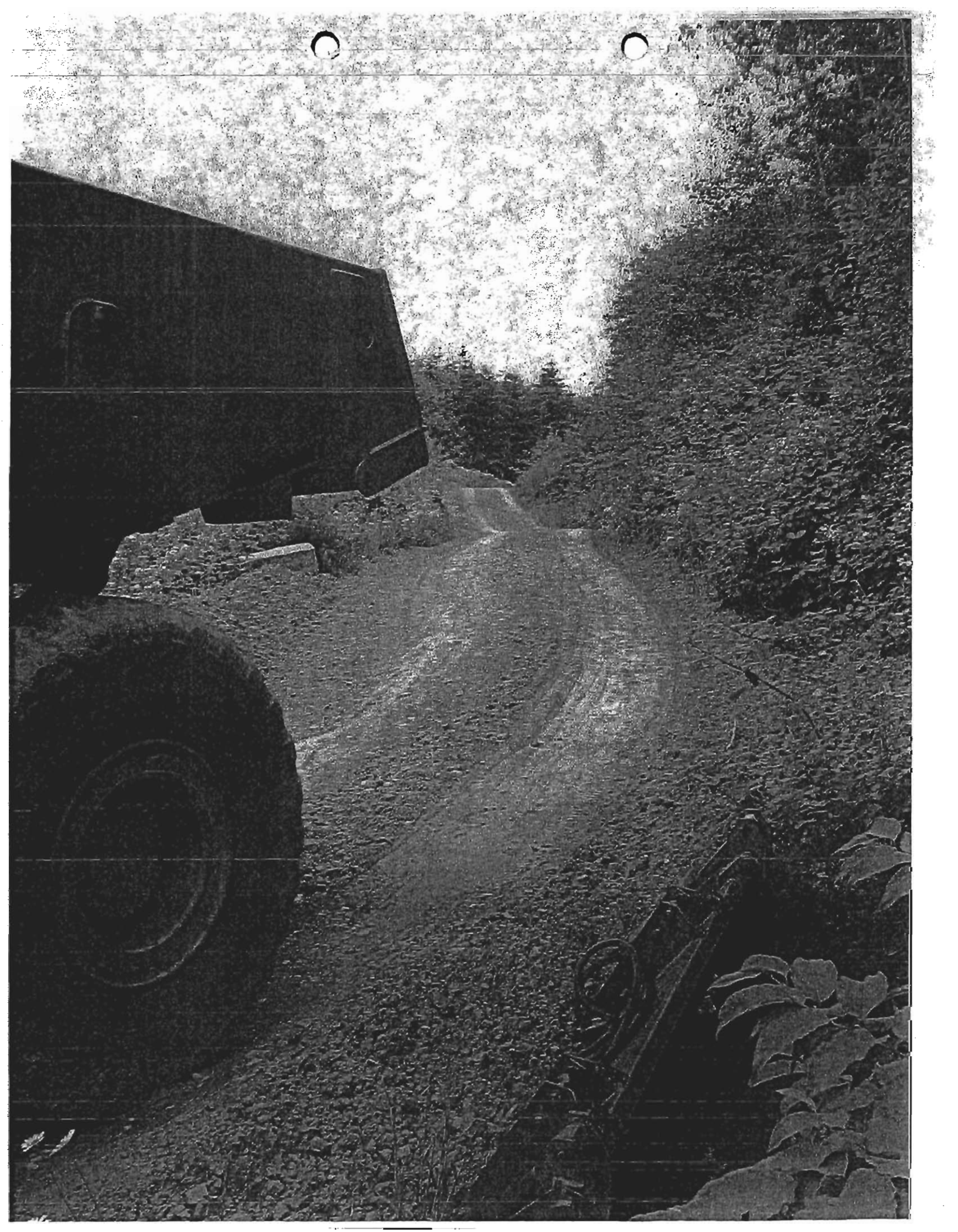
Exhibit IX

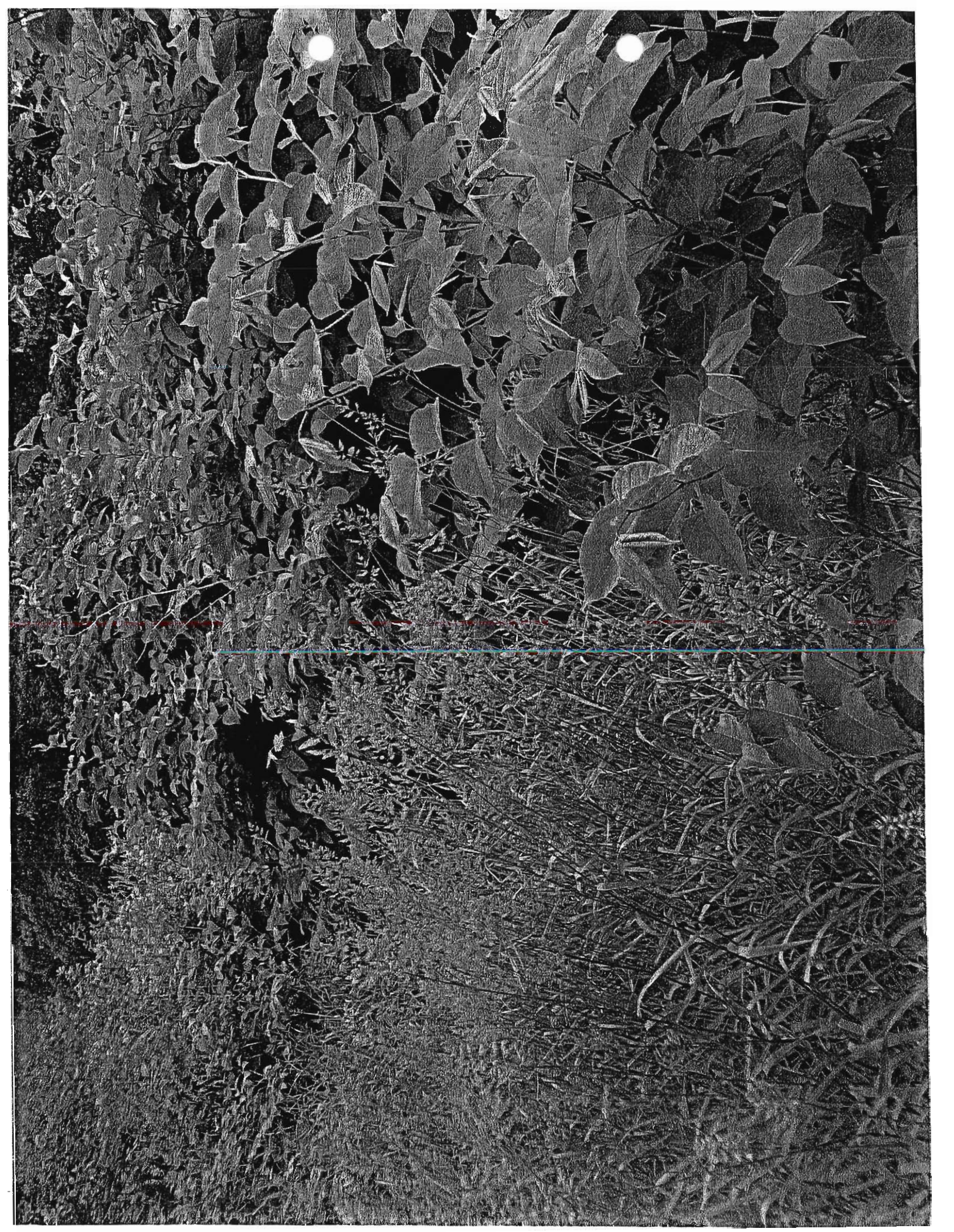










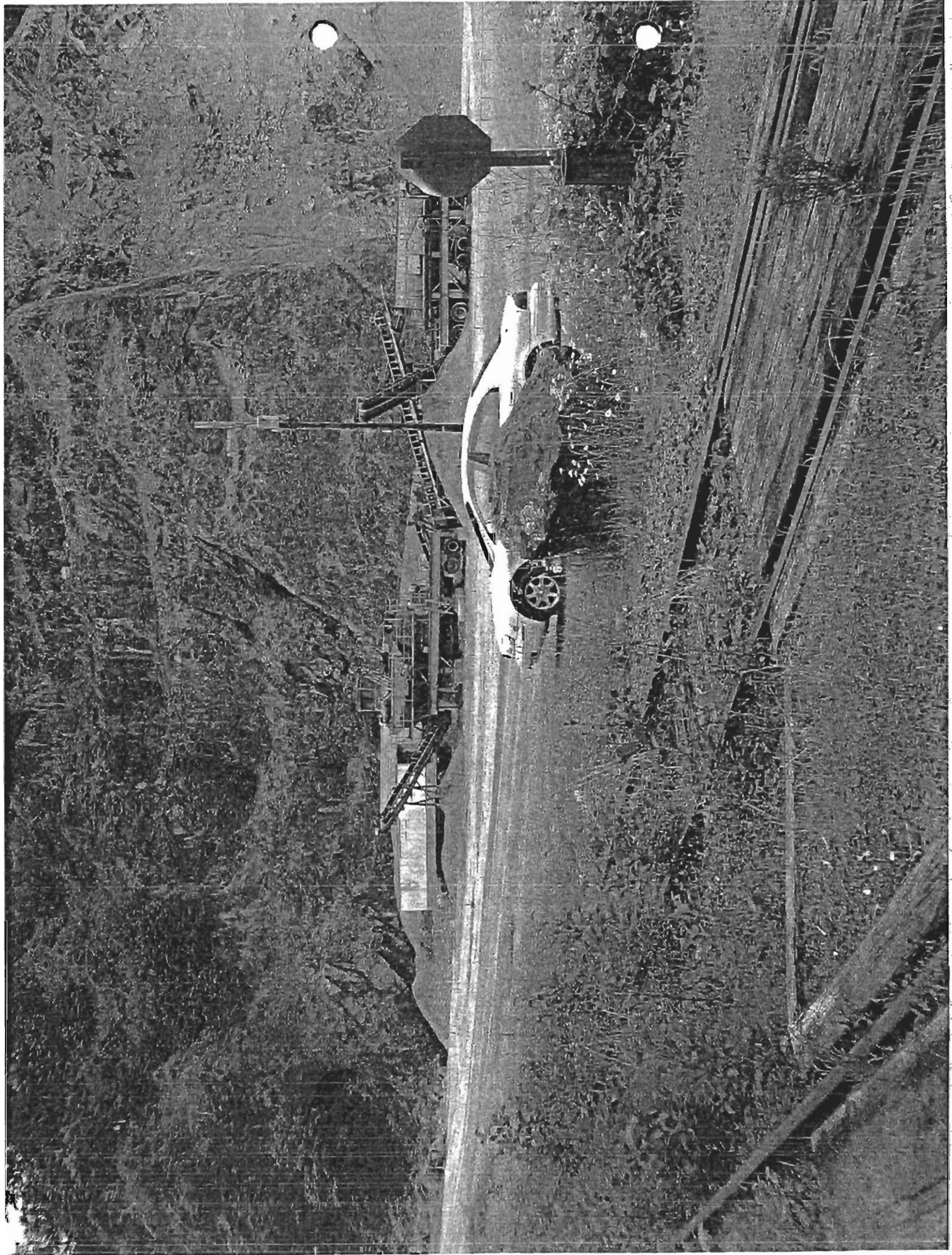


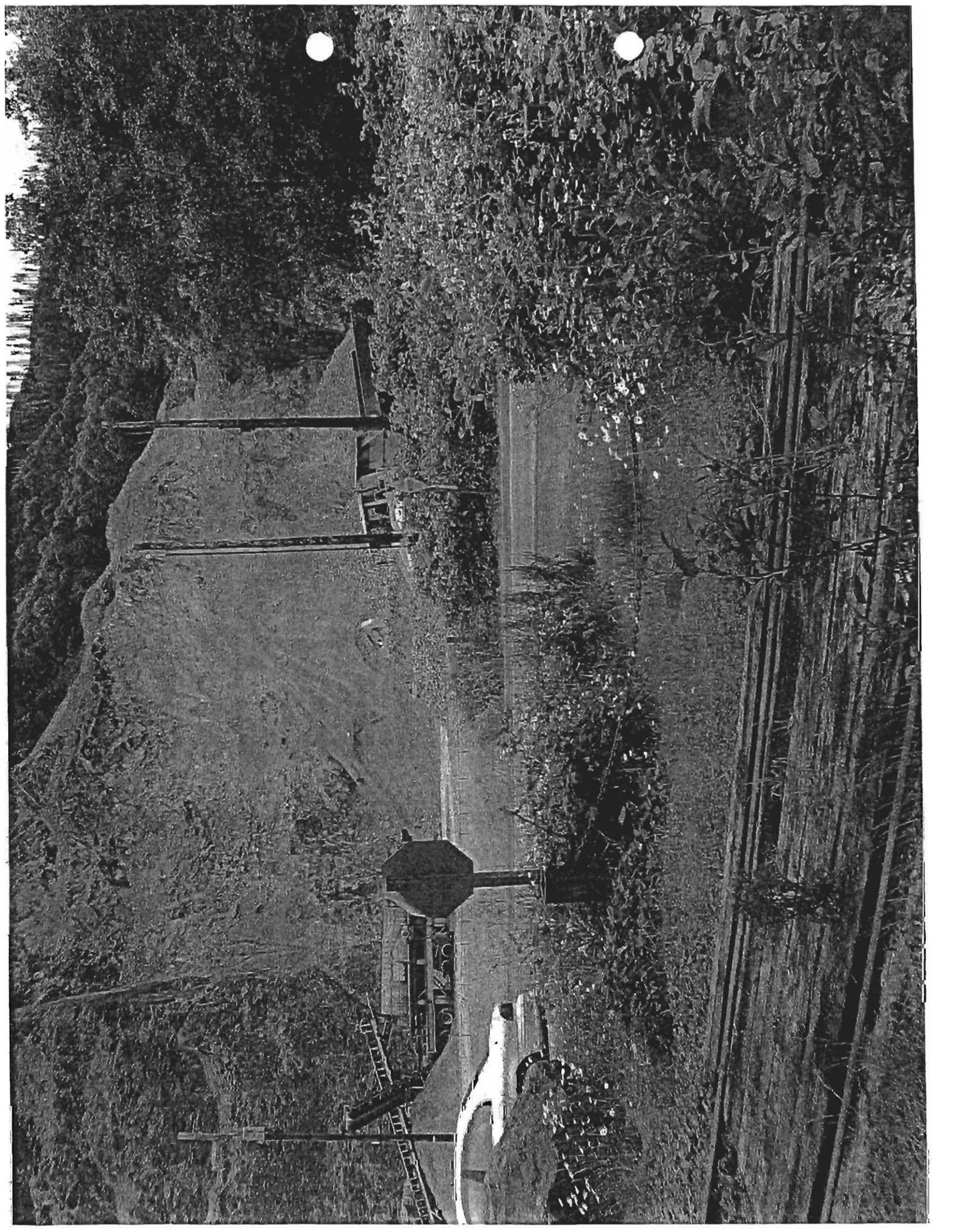






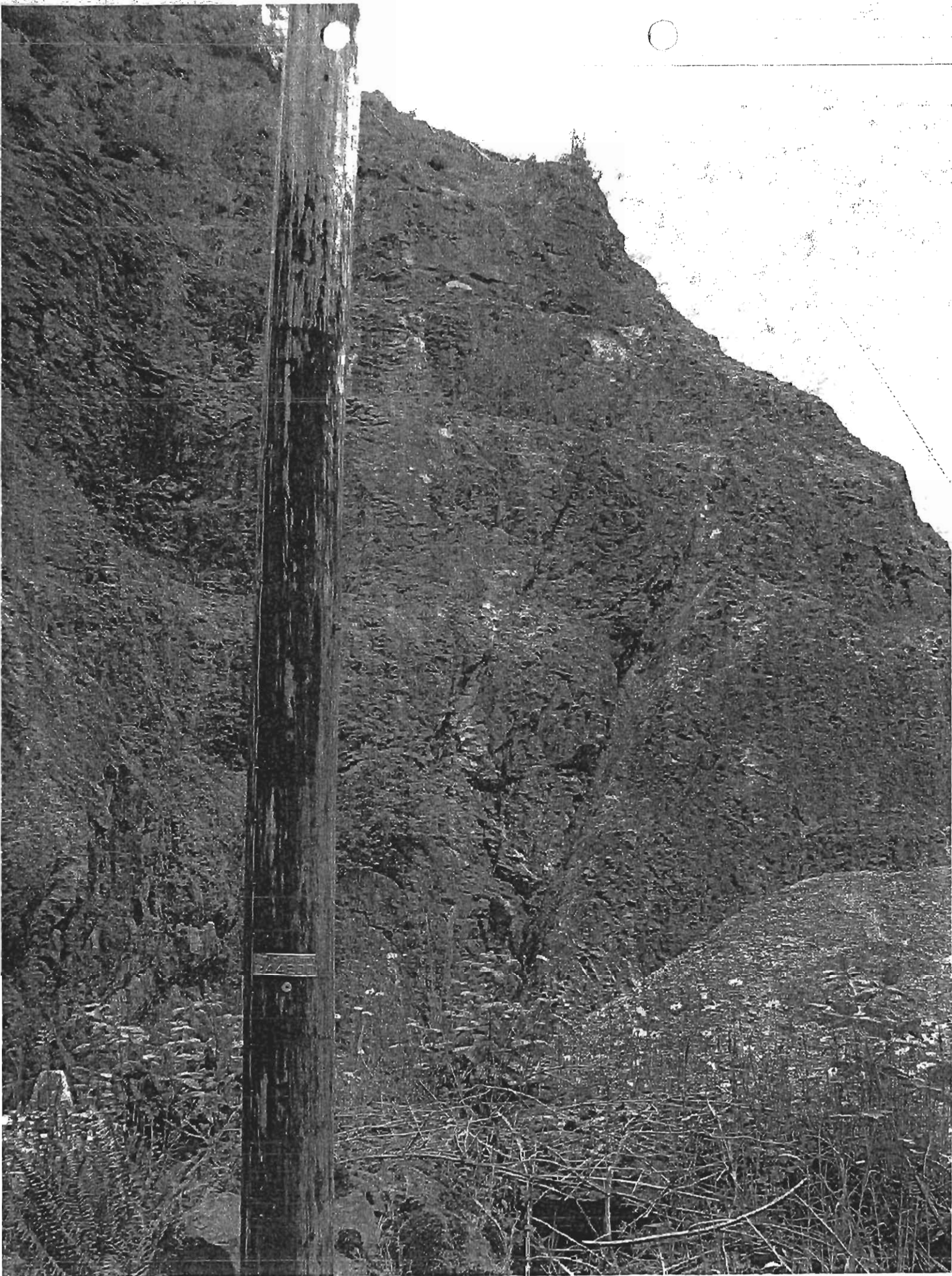


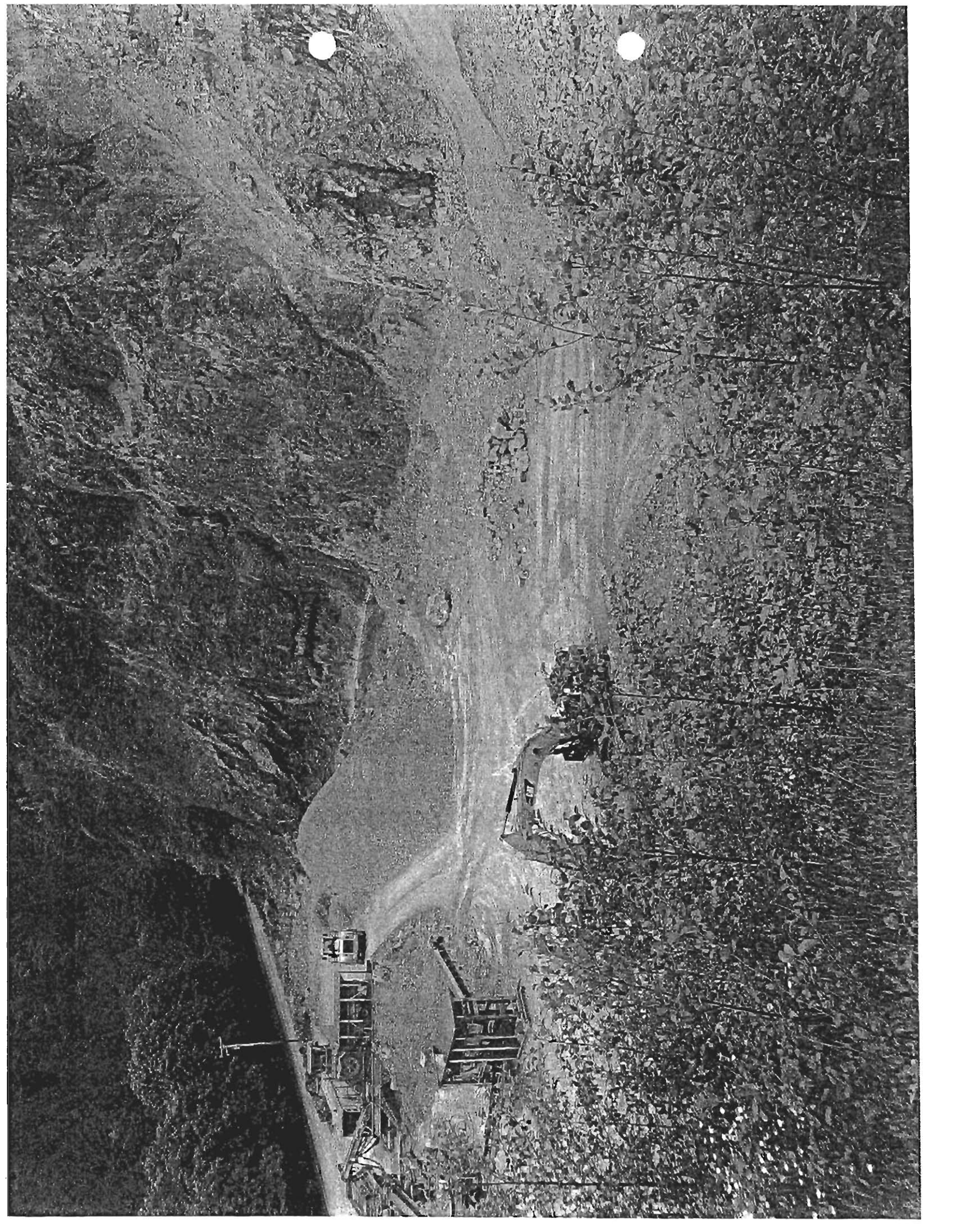














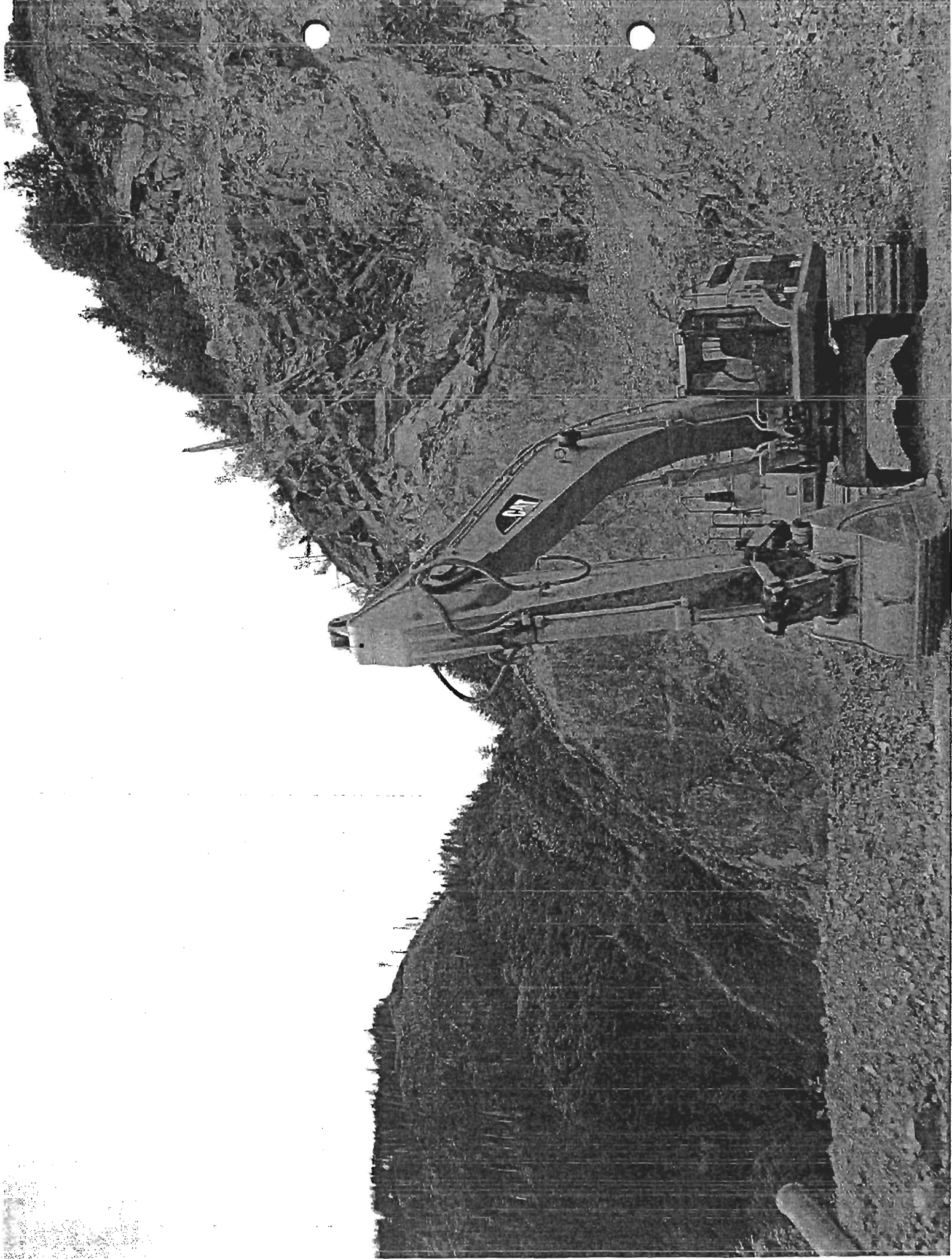


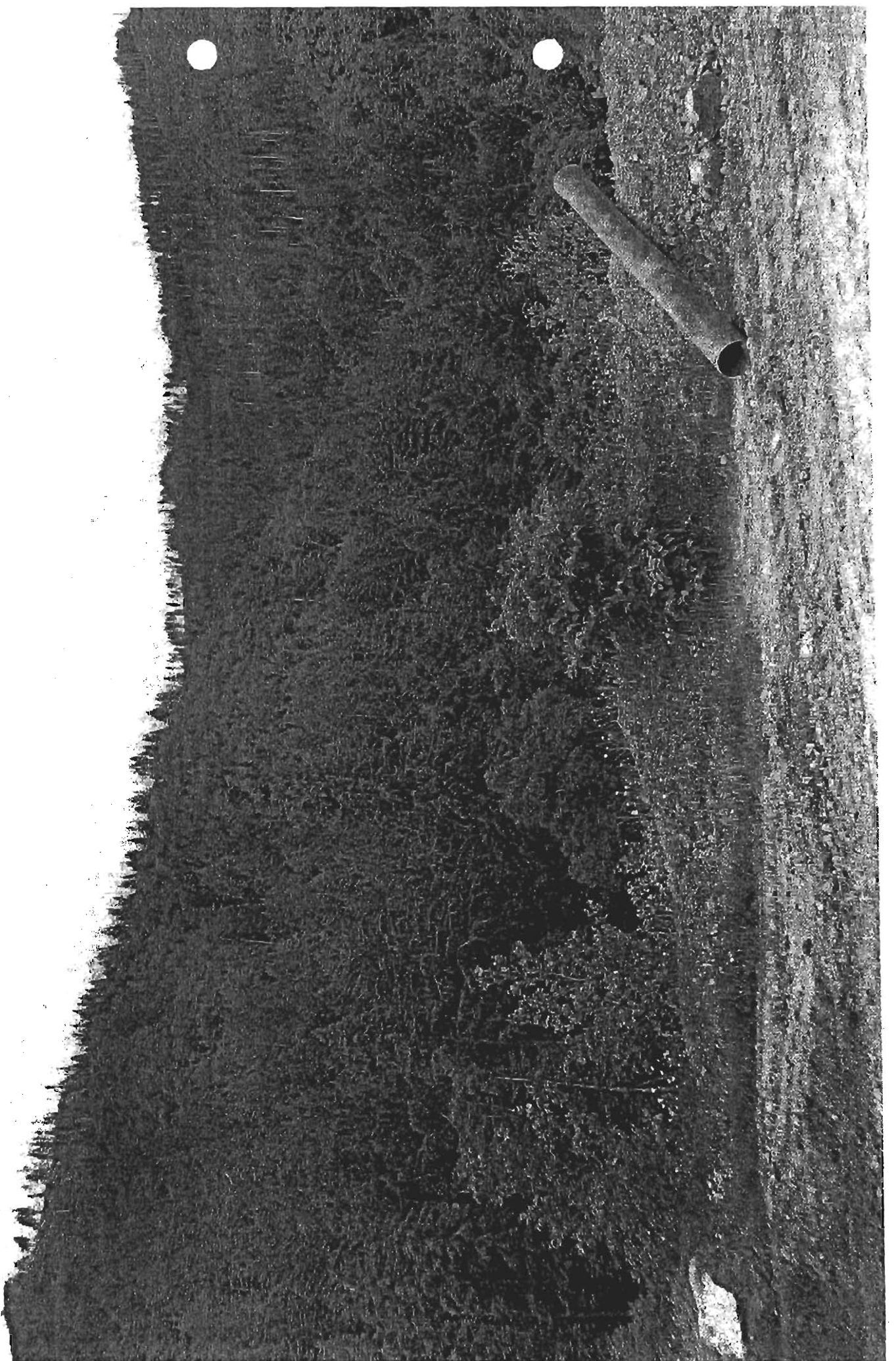








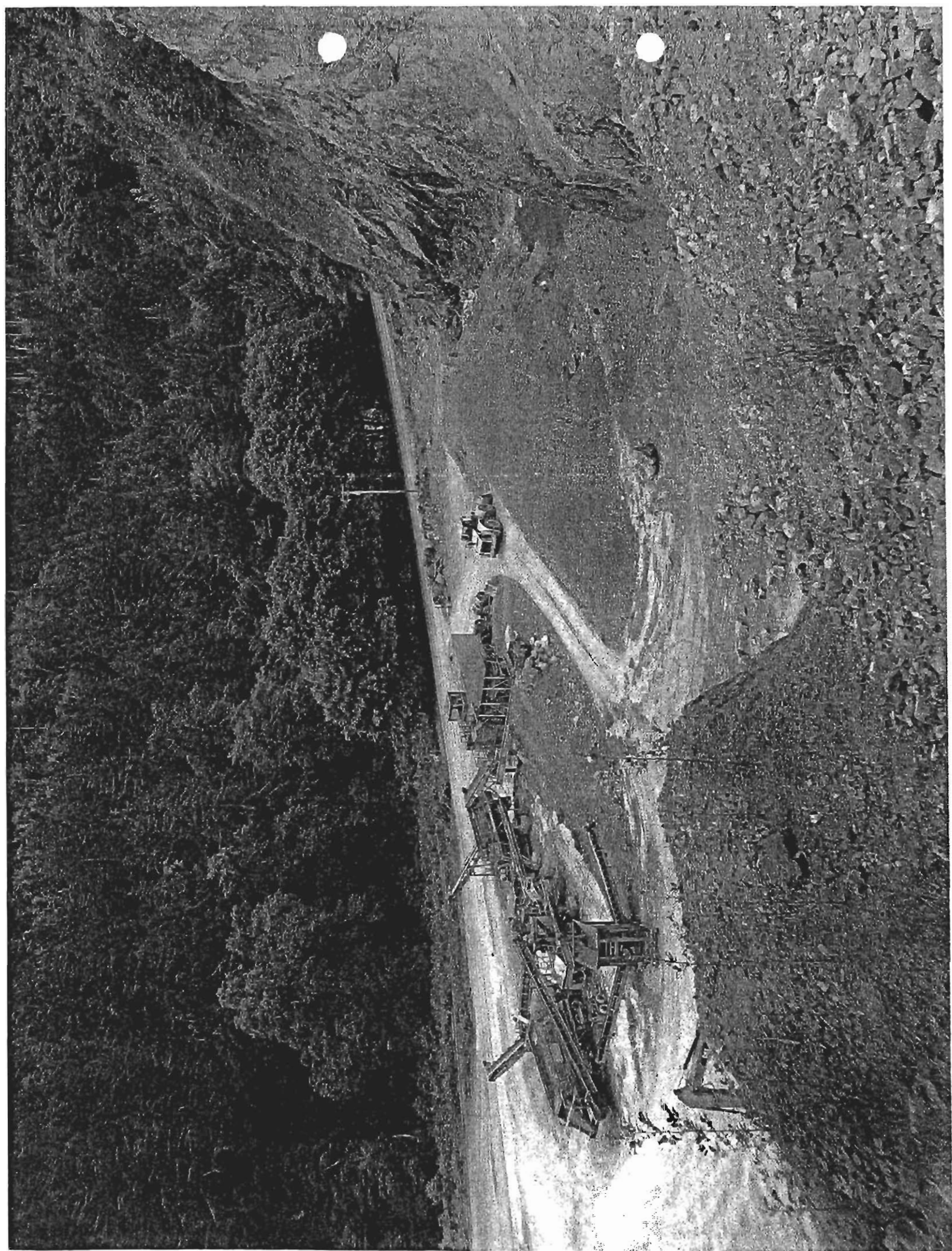


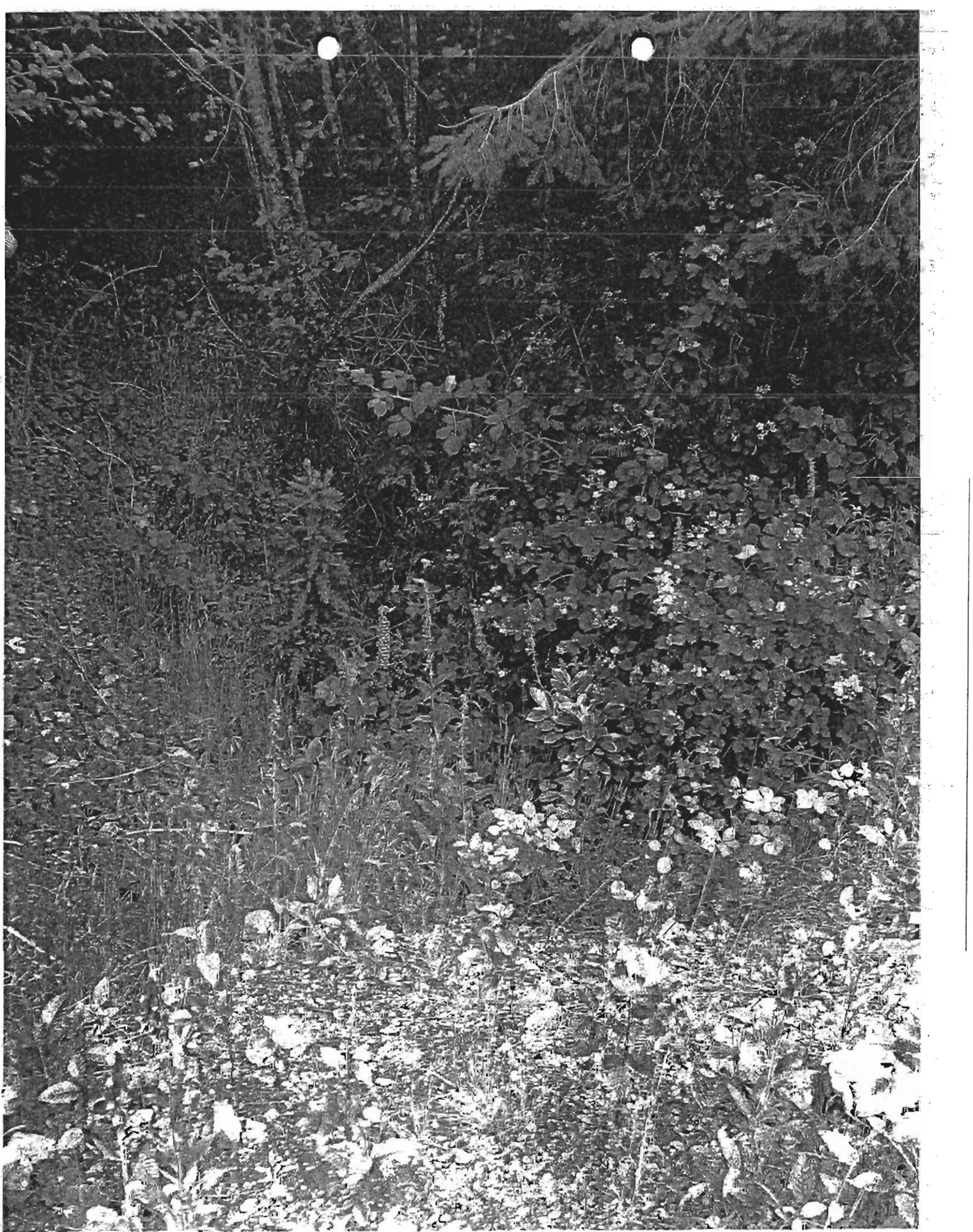








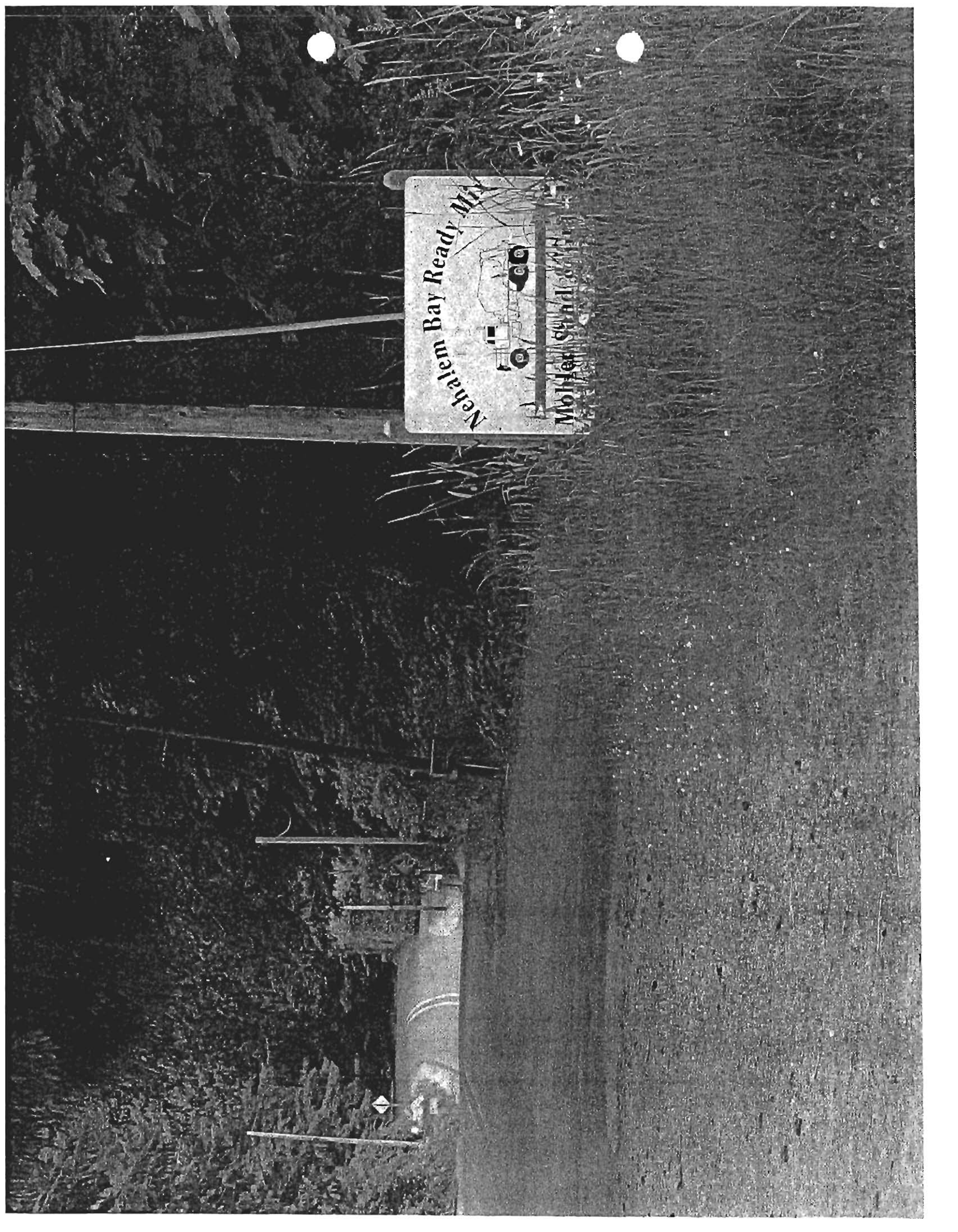


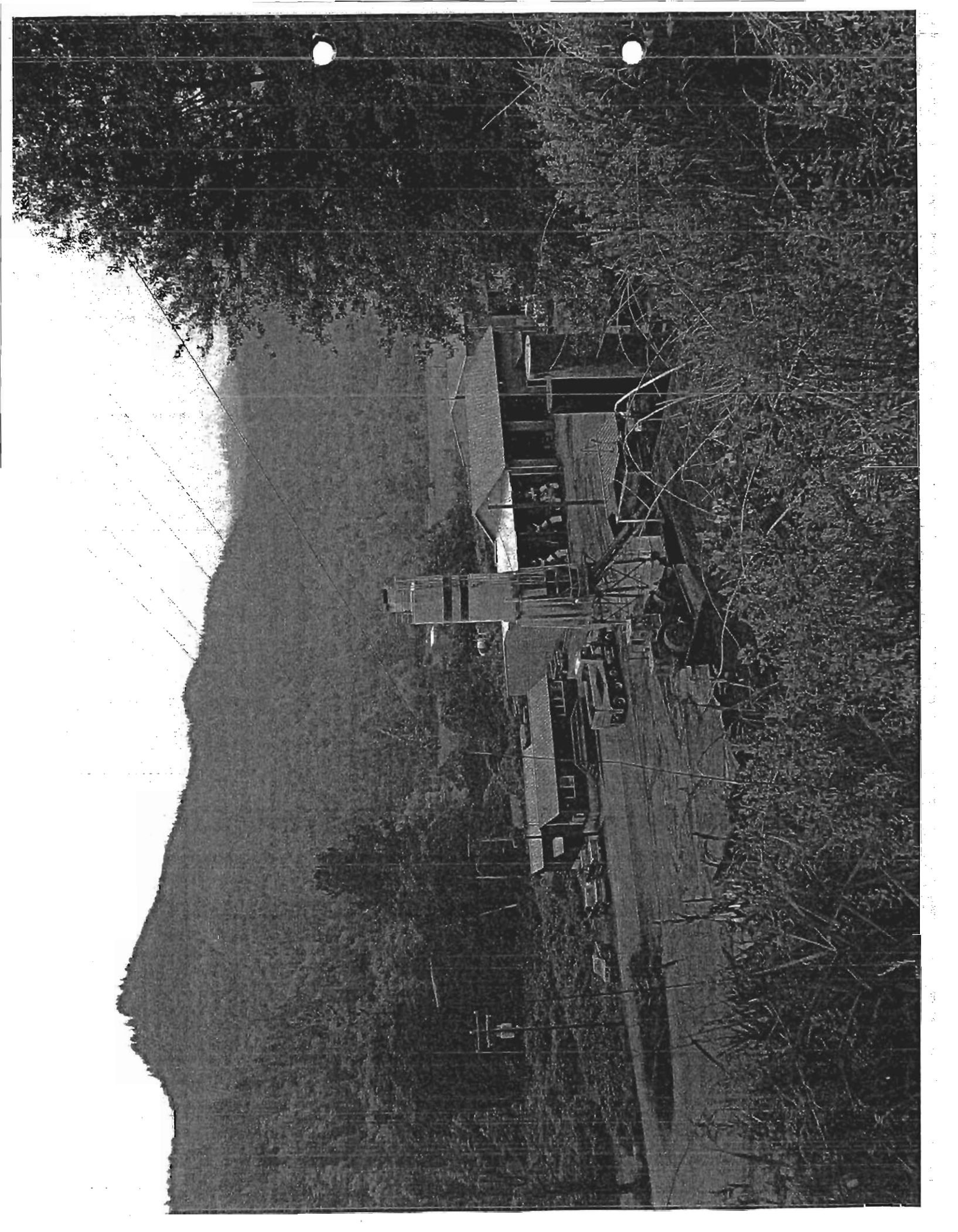


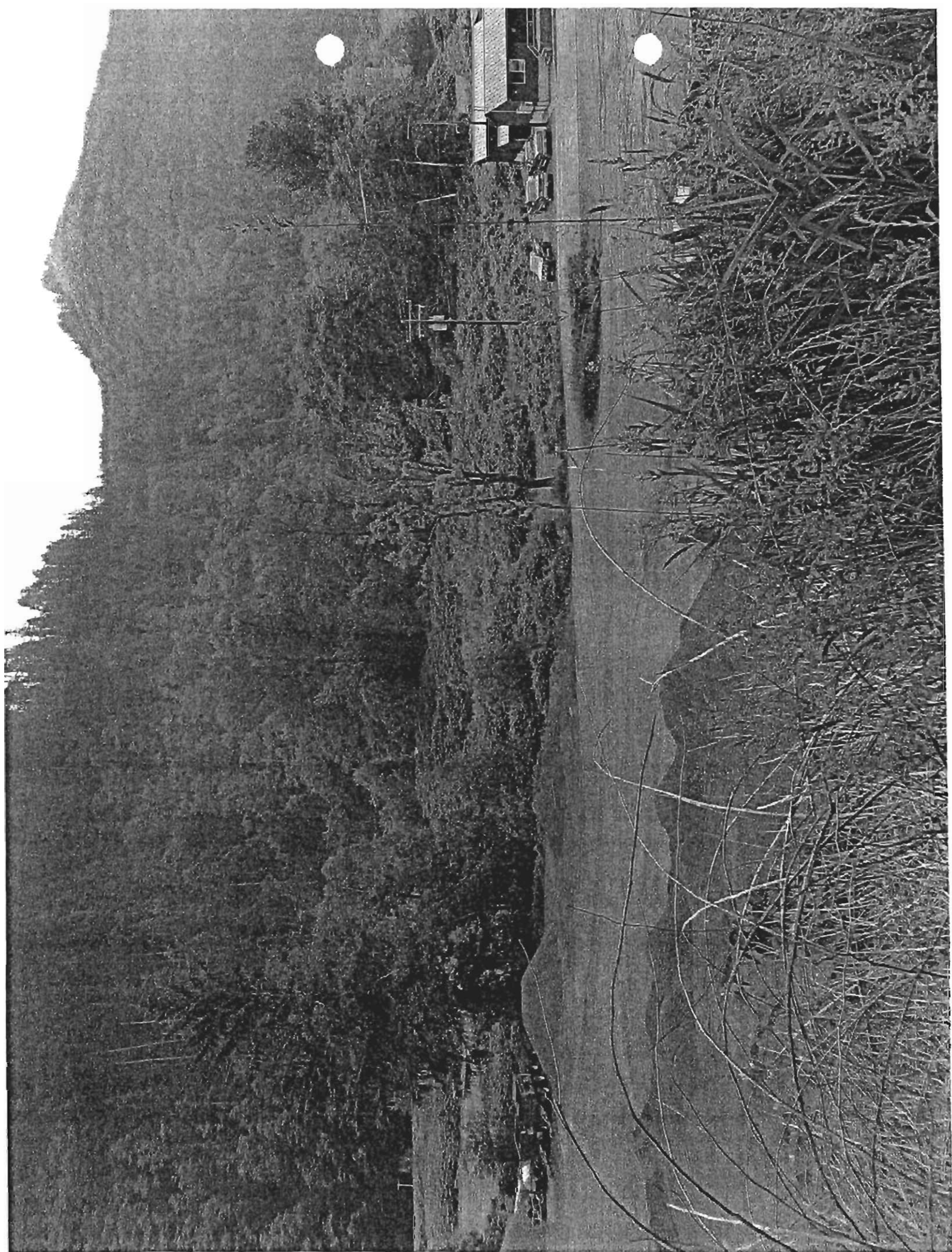
Nehalem Bay Ready Mix



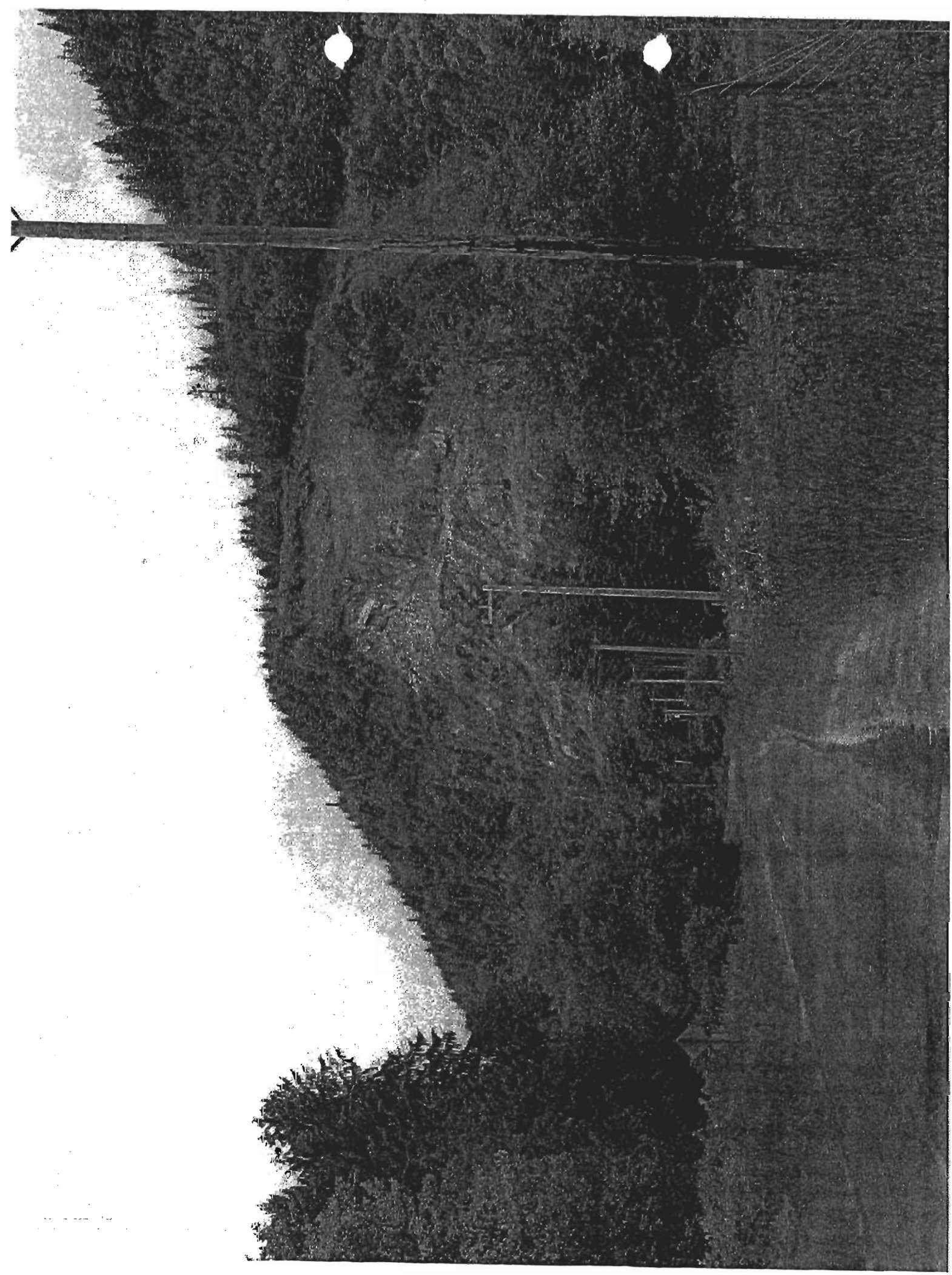
Mobile Concrete

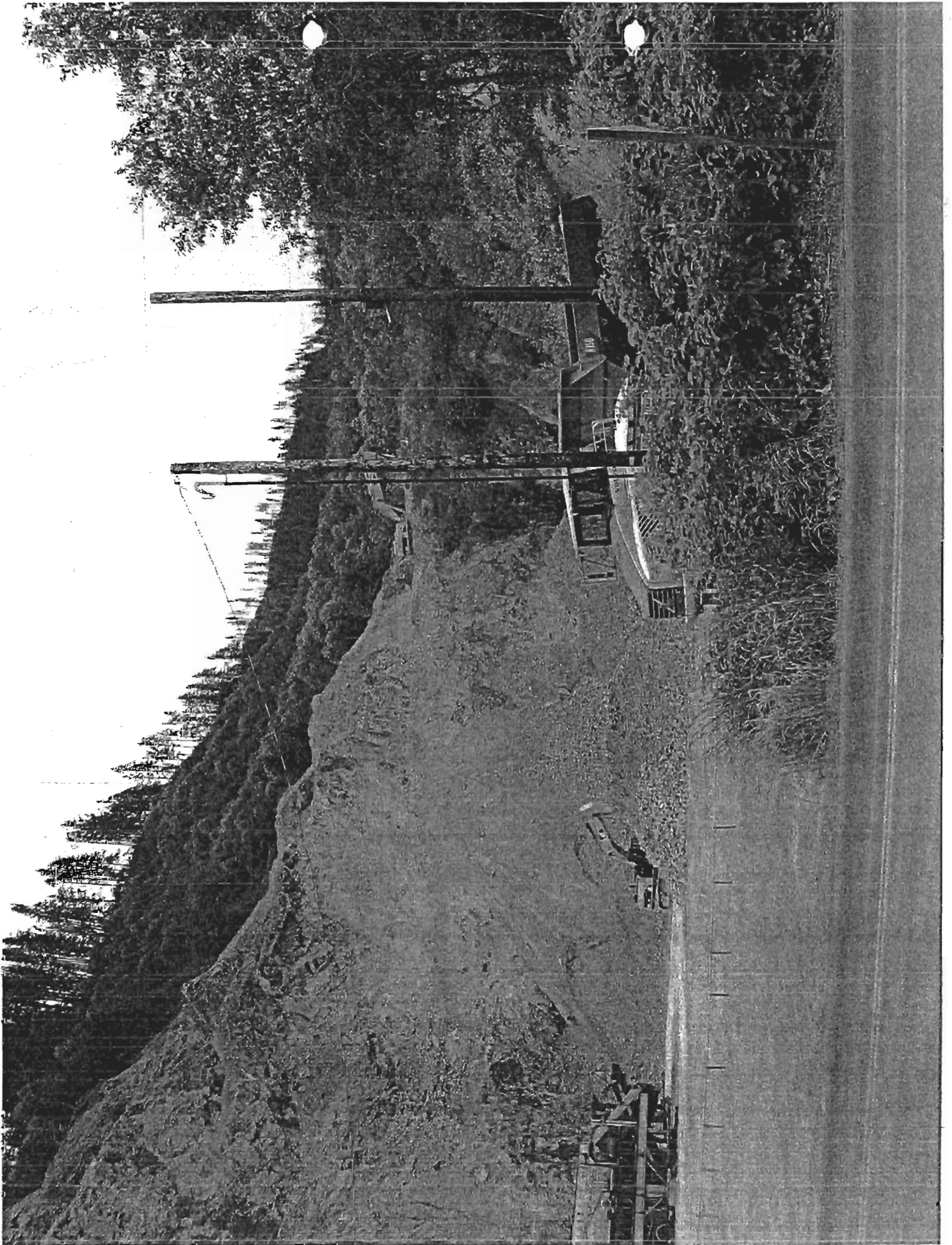












Bradford Sheets

From: Dave Stewart [dave.stewart@state.or.us]
Sent: Thursday, July 22, 2010 11:47 AM
To: Bradford Sheets
Subject: ZC-09-03 Yunker Pit
Attachments: yunker pit comments.pdf

Brad,

I have attached my comments for the proposed zone change at Yunker Pit. Thanks.

Dave Stewart
Habitat Conservation Biologist
Oregon Dept. of Fish and Wildlife
4907 Third St.
Tillamook, OR 97141
(503) 842-2741
dave.stewart@state.or.us



Oregon

Theodore R. Kulongoski, Governor

Department of Fish and Wildlife

North Coast Watershed District

4907 Third Street

Tillamook, OR 97141

(503) 842-2741

FAX (503) 842-8385

www.dfw.state.or.us



July 22nd, 2010

Bradford Sheets
Tillamook County Dept. of Community Development
201 Laurel Avenue
Tillamook, OR 97141

Re: Yunker Pit Zone Change, ZC-09-03

Mr. Sheets,

The Oregon Department of Fish and Wildlife (ODFW) has reviewed a proposed Zone Change (ZC-09-03) to add a mineral and aggregate resource zone over the subject property at Yunker Pit. ODFW recommends that the project be designed to avoid entering County designated riparian setbacks. This includes all proposed development actions. Any development within or adjacent to wetlands and waterways could result in a loss of fish and wildlife habitat, and would require that the impacts be mitigated consistent with current habitat mitigation standards (OAR 635, Division 415). Please contact me if you have any additional questions regarding ODFW's review of this request.

Thank you,

Dave Stewart
Habitat Conservation Biologist, ODFW
4907 3rd St.
Tillamook, OR 97141
503-842-2741
dave.stewart@state.or.us



PORT OF NEHALEM

P.O. BOX 476, NEHALEM, OR 97131-0476

DATE 7/20/10

TO: Dept. Comm. Development

FAX #: 1-503-842-1819 / Brad Sheets

FROM: Port of Nehalem Dale Stockton

FAX #: 1-503-368-7234

SUBJECT: Approval Support Letter
Nehalem Sand & Gravel

No. Pages, including cover page: 3

Message:

RECEIVED
JUL 21 2010
COMMUNITY
DEVELOPMENT



PORT OF NEHALEM

P.O. BOX 476, NEHALEM, OR 97131-0476

July 20, 2010

Department of Community Development
Tillamook County -
1510 - B Third Street
Tillamook, Oregon 97141

Attn: Brad Sheets

RECEIVED

JUL 21 2010

COMMUNITY
DEVELOPMENT

Re: ZC-09-03 - Mohler Sand & Gravel Zone change and Plan Amendment for the Expansion and Goal 5 Protection of the Yunker Pit

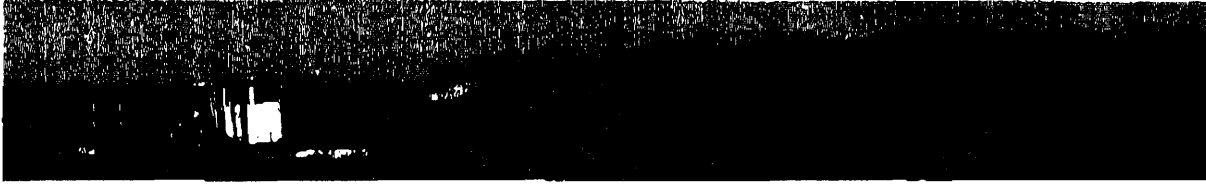
Members of the County Planning Commission & Board of Commissioners:

The Port of Nehalem strongly supports this application and request for a Zone Change and Plan amendment for the expansion and Goal 5 protection of the Yunker Pit and the Mohler Sand & Gravel operations. These operations, including the in-stream operations, are of vital importance to the North County sub-area of Tillamook County. The materials provided by Mohler Sand & Gravel are of substantial economic value to North County, and the expansion and proper zoning of the resource will protect those assets into the future.

North Tillamook County has long been characterized by the harvest of natural resources to provide a family-wage job base and approving this request will ensure the continuity of these important jobs and services to the community. The harvested materials provide essential support to the construction trades in North Tillamook County, meeting the need for aggregate, decorative and drain rock for both urban and rural construction and development projects.

The cessation of aggregate mining in coastal rivers and streams through the Mediated Agreement to improve and enhance salmonid habitat has substantially reduced the amount of quality drain rock for on-site subsurface sanitation systems and drain fields. Protecting the resources and the operations of Mohler Sand & Gravel will yield a long lasting benefit to Tillamook County. While the products of Mohler Sand & Gravel are of value to North County, many of their products can be transported by rail to Tillamook through arrangements with the Port of Tillamook Bay, providing scarce drain rock to the greater Tillamook marketplace together with the communities between Tillamook and the Yunker Pit on the Nehalem River.

We have reviewed the application and standards for designation as a Significant Goal 5 resource site, and believe that all of those standards have been satisfied. The



PORT OF NEHALEM

P.O. BOX 476, NEHALEM, OR 97131-0476

products provided augment the areas economics through the provision of affordable quality rock products meeting the needs of residential, commercial and industrial property owners in the area. The availability of the materials and their affordability ore of substantial value to the North County municipalities for public works projects and to the various water districts and the Nehalem Bay Wastewater Agency in their daily operations and maintenance projects. Protection of these valuable resources may also provide a basis to re-start rail operations between North and Central Tillamook County for economic purposes, providing a broader range of benefits to our citizens and communities.

Thank you for this opportunity to present testimony in support of ZC-09-03.

Respectfully yours,

Dale E. Stockton

Dale Stockton, President
Port of Nehalem

CC: Board of Commissioners
Brian Smith, Mohler Sand & Gravel

Bradford Sheets

From: Ron Newton
Sent: Tuesday, July 13, 2010 5:02 PM
To: Bradford Sheets
Cc: David Schrom
Subject: ZC-09-03 Review
Attachments: ZC-09-03-PW-REVIEW.pdf

Brad

Attached is the Public Works response to ZC-09-03 Application.

Ron Newton
Engineering Technician
Tillamook County Public Works
503 Marolf Loop Rd.
Tillamook, OR 97141
Office: 503.842.3419
FAX: 503.842.6473
Direct Line: 503.842.2032 ext. 3110

PUBLIC WORKS DEPARTMENT



503 Marolf Loop Road
Tillamook, Oregon 97141
Roads (503) 842-3419
Solid Waste (503) 815-3975
FAX (503) 842-6473
Email: pubwks@co.tillamook.or.us
TTY Oregon Relay Service

Land of Cheese, Trees and Ocean Breeze

July 13, 2010

TO: Department of Community Development
Bradford Sheets, Associate Planner

FROM: Ron Newton, Engineering Technician

RE: ZC-09-03 Expansion of an Existing Quarry Facility

Conditional Use Request Notice of Administrative Review and documents were received by this office requesting input for the above named Zone Change.

TILLAMOOK COUNTY PUBLIC WORKS ENGINEERING STAFF HAS REVIEWED THE APPLICATION AND HAS THE FOLLOWING OBSERVATIONS AND COMMENTS:

1. The applicant has been operating a quarry and crushing operation at the subject site for more than 20 years. Public Works has no record of change in ownership or operational responsibility for the quarry. Construction and maintenance of the road approaches that enter the quarry base and the staging area across Foss Road, Tillamook County Road #A507, do not meet the requirements of original road approach permit #1775A & 1775B issued by this office on September 24, 1990, or criteria established by the current Tillamook County Ordinance #44. For the Public Works department to support any further authorizations the following road approach requirements must be met.
 - The road approach access points along the main floor of the quarry and the staging area across Foss Road will be limited to the locations identified in the original road approach permit issued by this office. Access points for the original permit were clearly identified on engineering drawings provided by Handforth Larson & Barrett, Inc. Access shall be limited by whatever means is reasonable, (boulders, bollards, etc.), and shall be maintained perpetually by the applicant.
 - Any changes in location or quantity of access points to Foss Road from the quarry floor or the staging area will only be approved following receipt and review of an application by the Public Works Department.
 - All road approaches are to be paved with no less than 6" of A.C. to the limits of the public Right of Way and maintain a maximum of 30 feet in width.

Please call if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald E. Newton".

Ronald E. Newton, L.S.I.
Engineering Technician
Tillamook County Public Works
503 Marolf Loop
Tillamook Oregon 97141
503-842-3419
Fax#503-842-6473

TILLAMOOK COUNTY PLANNING COMMISSION

July 22, 2010 – Beginning at 7:00 pm

- I. **CALL TO ORDER:** Chair Heckeroth called the meeting to order at 7:04 pm.

- II. **ROLL CALL:** Merianne Hoffman, Kurt Mizze, Gale Ousele, Kurt Heckeroth, Don LaFrance, Trish Bush, and Terry Jones

- III. **APPROVAL OF MINUTES:** None

- IV. **OLD BUSINESS:** None

- V. **NEW BUSINESS:** **ZC-09-03:** A Zone Change request for Tax Lot 900 of Section 34, Township 3 North, Range 9 West, W.M., Tillamook County, Oregon, to add a Mineral and Aggregate Resources Overlay Zone to the existing Forest (F) zone, an Amendment (Map & Text) request to the Tillamook County Comprehensive Plan to apply Goal 5 protection to the existing rock quarry, designating the quarry as a significant resource within the Tillamook County Comprehensive Plan, and a concurrent site review to obtain approval to continue operations within the quarry. The applicant is Mohler Sand and Gravel, c/o Brian Smith or Brett Smith, 36435 Hwy 101 N., Nehalem, Oregon 97131. The property owner is Blue Rock Quarry, LLC, a subsidiary of Mohler Sand and Gravel, c/o Brian Smith or Brett Smith, 36435, Hwy 101 N., Nehalem, Oregon 97131.

Chair Heckeroth began the hearing by reading the Chair Statement. He continued by asking Planning Commission Members of conflicts to hearing the application. Commissioner Bush stated she had a former business relationship with Mohler Sand and Gravel and worked at HLB Otak, however did not feel there was a conflict in hearing the matter. Commissioner Mizze stated his college roommate is the engineer for this project.

Staff Report:

Bradford Sheets, Associate Planner, Tillamook County Department of Community Development gave the Staff Report. Prior to beginning his presentation, Mr. Sheets introduced a letters submitted by Tillamook County Public Works Department on July 13, 2010, Commentary from the Port of Nehalem dated July 20, 2010 and, a letter, which was attached to an email, from the Oregon Department of Fish and Wildlife dated July 22, 2010.

Mr. Sheets began by stating the Applicant applied for a Zone Change to add a Mineral and Aggregate Resources Overlay Zone over the base of the Forest zoning on the subject property. The subject property is identified as Tax Lot 900 of Section 34, Township 3 North, Range 9 West of the Willamette Meridian, Tillamook, Oregon. Planner Sheets continued by stating the Applicant has requested Goal 5 protection to the rock quarry designating the quarry as a

significant resource within the Tillamook County Comprehensive Plan. He further stated that there is no process to amend the Tillamook County Comprehensive Plan. Mr. Sheets stated, in the past, Staff have used the ordinance in the amendment article to implement changes to the Comprehensive Plan and subsequently, zoning maps and text amendments. Planner Sheets further stated that the applicant has also requested a site review to obtain approval for continued operations within the quarry and plans for future expansion.

Mr. Sheets continued by showing, on an aerial map, the extraction and impact areas on the subject property. Commissioner LaFrance asked for the date of the aerial photo. Mr. Sheets stated it was taken in 2005.

Commissioner Jones asked Mr. Sheets what he meant by 'impact area'. Mr. Sheets explained that noise, dust, and explosions of mining in the extraction area are all 'impacts'. Gerald Parker, Director of the Tillamook County Department of Community Development, asked Mr. Sheets how big the impact area is. Mr. Sheets stated the impact area goes out 750 feet from the extraction area.

Mr. Sheets stated the subject parcel is 42.5 acres in size and is located north of the South Fork of the Nehalem River, on the north side of Foss-Batterson County Road. The existing rock quarry on the subject property was Approved with Conditions through Conditional Use, CU-89-15(a), and the applicant/property owner has been operating under that permit since.

Planner Sheets continued by explaining the base zoning is Forest and is consistent with natural resource uses in Forest zone with certain considerations. Mr. Sheets stated the applicant went through the considerations in the prior Conditional Use application.

He continued by reading Tillamook County Land Use Ordinance 3.094: Mineral and Aggregate Resources Overlay Zone definition. The purpose and intent of the Mineral and Aggregate Resources Overlay Zone is: (A) To provide a mechanism to identify and protect significant mineral and aggregate resource sites; (B) To allow the development and use of mineral and aggregate resources subject to uniform operating standards; (C) To balance and resolve conflicts between surface mining activities and activities on surrounding land.

Mr. Sheets stated that Tillamook County Comprehensive Plan (TCCP) Goal 5 looks at the natural resources component and inventoried sites identified as 'potential' sites. Applicant is looking to transition that to a 'significant' site.

Mr. Sheets continued by reading TCCP Goal 5 definition of a Significant Aggregate Resource site, "A significant aggregate resource site is a site that contains aggregate or stone material which meets modified Oregon Department of Transportation specifications for construction grade material, which meets the three materials test of abrasion (OSHD TM 211) with loss of not more than 35 percent by weight, Oregon Air Degradation (OSHD TM 208) with loss of not more than 35 percent by weight and Sodium Sulphate Soundness (OSHD) TM 206) with loss of not more than 18 percent by weight; and is located within an ownership or long-term lease containing reserves in excess of 100,000 cubic yards; or is located on property owned by, or under long-term lease to a city, county, state jurisdiction for the primary purpose of excavating

aggregate or stone materials for road construction and maintenance”. He further stated that the Applicant is the sole property owner of the 42.5 acres identified as the subject parcel.

Mr. Sheets stated when looking at Statewide Planning goals, Citizen Involvement, Staff notified all property owners within 750 feet of the exterior boundaries of the subject property. Staff also notified all applicable state, local, and federal agencies to solicit commentary.

Mr. Sheets stated that this site is mapped as a known geologic hazard area in the Department of Geology and Mineral Industries (DOGAMI) bulletin. He continued by stating the bulletin depicts the subject property in an area of Inactive Landslide Topography. He further stated that the Coastal Goals do not apply to this site as it is considered an upland site which does not have any of the relevant overly zones.

Planner Sheets explained the Mineral and Aggregate Overlay Zone is comprised of the Extraction Area and the Impact Area. He continued by stating the Applicant has indicated the existing and future ‘Extraction Area’ and ‘Impact Area’ on surveys included with their application.

Mr. Sheets further summarized the Carlson Testing, Inc. report and based on the findings, Staff concurs that it is ‘significant’ rock on the subject property. Mr. Sheets finds that the volume calculations provided by Ronald G. Larson, PE, with HLB Otak, Inc., indicate that the quantity of this aggregate resource is over 3,000,000 cubic yards of rock reserve, which is well in excess of 100,000 cubic yards required within an ownership or long term lease. Mr. Sheets continued by stating that based on production data from 2002 – 2007, the life expectancy of this quarry could be over 100 years and would make this a significant resource. Mr. Sheets finds that based upon the information supplied, the subject site should be reclassified from a “Potential Site” in the Tillamook County Comprehensive Plan to a “Significant Site”.

Mr. Sheets continued by addressing Conflicting Uses. Mr. Sheets stated that there are two existing dwellings located on adjacent SFW-20 zoned land (east and Southwest) and one existing dwelling located in the Rural Residential 2-acre zone (west). He further stated that the Department is currently considering a Conditional Use application for an Accessory Structure without a primary structure; however the homeowner states he intends to place a single-family dwelling on this property in the future. Mr. Sheets states that given the rules and regulations changing, over time, it is difficult for Staff to project potential conflicts. However, there are constraints to development on many of the surrounding parcel given their proximity to the South Fork of the Nehalem River, current zoning restrictions, topography, etc.

Planner Sheets explained the Economic Social Environmental Energy Analysis (ESEE), which looks at Economic, Social, Environmental and Energy consequences. Mr. Sheets stated that Based on the ESEE analysis, the County shall determine the amount of protection to be given each significant site. Each determination shall be incorporated into the Comprehensive Plan, and reflected on the County zoning maps. The County shall make one of the following determinations:

- (1) Protect the site fully and allow mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY

ZONE. Development of the significant site shall be governed by the standards in Section 3.094 (7). As part of the final decision, the County shall adopt site-specific policies specifying the planned use of the site following reclamation and prohibiting the establishment of conflicting uses within the Impact Area.

(2) Balance protection of the significant site and conflicting uses and allow mineral and aggregate mining and processing. To implement this decision the County shall apply the MINERAL AND AGGREGATE OVERLAY ZONE, specify the planned use of the site following reclamation, and identify which uses in the underlying zone are allowed outright, allowed conditionally, or prohibited. Section 3.094 (7) and other site-specific requirements developed through the Goal 5 process shall govern mining at the significant site. Section 3.094 (10) and any other site-specific requirements developed through the Goal 5 process shall govern development of conflicting uses within the Impact Area.

(3) Allow conflicting uses fully, even though this may impair mining and processing. To implement this decision the County shall not apply the MINERAL AND AGGREGATE OVERLAY ZONE, and shall not include the site on the inventory of significant sites. The site will not be protected from conflicting uses.

Mr. Sheets continued by stating that Staff finds that Subsection #2 of the criterion above, "Balanced Protection", is the most prudent option given the zoning and parcels within the 'Impact Zone'. He further states that the applicant has requested the proposed change and has requested a Site Plan Approval as part of the Goal 5 process.

Mr. Sheets stated that Public Works would require a Road Approach Permit and may or may not require improvements to public roads outside of the Extraction Area as necessary to correct safety deficiencies and to provide effective dust control within its Road Approach permit analysis. He also stated that DEQ standards for Vehicle noise control, ambient air quality and water quality would have to be met and would be monitored by DEQ.

Mr. Sheets continued by talking about Screening. He stated that the southern portion of the subject parcel, abutting Foss-Batterson County Road, is open and visible. Staff finds that a vegetative buffer or fencing could be required at the southern portion of the subject parcel, to create a visual buffer of all processing equipment and all equipment stored on the site. Mr. Sheets states he spoke with Public Works Department about the screening issues as they review the site plan for a road approach.

Mr. Sheets stated that stream/drainage at the east boundary of the subject property would be monitored by Oregon Department of Fish and Wildlife who could impose setbacks along the stream/creek.

Mr. Sheets stated that noise control standards are prescribed by Oregon DEQ. He also stated that there is steep topography at the site which provides for a noise buffer to adjacent properties. He continued by stating that hours of operation are imposed and that with the Aggregate Mineral Overlay zone it requires applicant/owner to notify property owners/tenants, within the impact area, 48 hours prior to a blasting event. He further stated that for ongoing blasting events, the applicant/owner must provide notification

once each month for the period of blasting events and these notices shall specify the days and hours when blasting is expected to occur. Mr. Sheets stated that in looking at the files there was no record of complaint regarding blastings in the past.

Mr. Sheets stated that if the Planning Commission generates 'Special Conditions', the applicant/property owner shall demonstrate that those special conditions or requirements adopted as part of the Goal 5 process have been satisfied or will be satisfied by a specified date. He further stated that the applicant/property owner/mining operator shall keep applicable Oregon Department of Geology and Mineral Industries permits or exemption certificates in effect.

Mr. Sheets spoke to Site Reclamation and stated that a Condition of Approval can be made that the applicant/property owner shall provide the Department proof of a current operating permit and approved reclamation plan or exemption certificate from DOGAMI prior to the mining proposed in their request. Staff finds that on-going coordination with the Oregon Department of Geology and Mineral Industries is typical for Mineral and Aggregate extraction operations. As the applicant/property owner indicates, they have an approved DOGAMI operating permit and approved reclamation plan. The Oregon Department of Department of Geology and Mineral Industries was notified of this request and at the time of this Staff report had not provided commentary. Staff finds that the applicant/property owner can be required to provide this Department with documentation of an active operating permit from DOGAMI. As the applicant/property owner notes, the reclamation plan will likely have to be amended by DOGAMI if these requests are approved. The County will work with DOGAMI to review a proposed reclamation plan if this is determined by DOGAMI to be applicable.

Mr. Sheets states that a Site Plan Review is required and this criterion related to the proposed site plan could be approved through the recommended Conditions of Approval.

In reference to Termination of the Mineral and Aggregate Overlay, Mr. Sheets stated that rezoning shall not relieve requirements on the part of the owner of operator to reclaim the site in accordance with ORS 517.750 through 517.900 and the rules adopted hereunder. Staff recommends that a Condition of Approval state that when this site has been fully mined and reclamation has been complete, the property shall be rezoned to the base zone, Forest, and susceptible to regulations of the Forest zone at that time.

Under Section 4.030 of the Tillamook County Land Use Ordinance (Off-street Parking and Off-street Loading Requirements), Mr. Sheets stated that these criteria can be addressed through a recommended Condition of Approval requiring the development of a Parking Plan in conjunction with the Road Approach Permit standards from Tillamook County Public Works. He also recommends that a Condition of Approval be made that a new Fire Letter shall be obtained and submitted by the applicant/property owner addressing emergency access to the subject parcel. He further stated these can be met through the recommended conditions of approval.

Mr. Sheets spoke to the Map Amendment procedure and criteria, stating that 29 property owners and agencies were notified of the Planning Commission Hearing and the Headlight Herald ran a notice in its advertising section under "Public Notice". Mr. Sheets stated that there was no public comment relating to this proposed zone change.

In summary, Mr. Sheets recommended approval of the text amendment. He further outlined the conditions of approval from his staff report. Mr. Sheets recommends that the request by the applicant/property owner of the subject parcel be granted a Zone Change to apply TCLUO Section 3.094: Mineral and Aggregate Resources Overlay Zone over the base Forest (F) zoning. In applying the Mineral and Aggregate Resources Overlay Zone, Staff recommends that the subject parcel have its Tillamook County Comprehensive Plan Goal 5 categorization as a "Potential Site" be changed to a "Significant Site." Staff recommends to the Planning Commission that the County apply the Mineral and Aggregate Resources Overlay zone to the subject parcel with "Balanced Protection." Staff recommends that the above two requests be Approved with Conditions, including site plan review. Mr. Sheets stated there are 17 Conditions Approval listed in his report. He further stated that many of these conditions are prescriptive as outlined in the Mineral Overlay Zone.

Questions from Planning Commission:

Commissioner LaFrance asked Mr. Sheets about applying conditions to a zone change and how these conditions will work in this case. Mr. Sheets stated that he modeled the conditions on the last Goal 5 Protection application for Wilford Rock. Mr. Sheets further stated that the zone change will not be deemed null and void if conditions are violated, however, there is a Code Enforcement officer on staff who can help ensure proper precautions and conditions are being followed.

Commissioner LaFrance stated that the recommendation made is for balanced protection and the overlay zone. He further stated that the Development Plan was referenced at the beginning of the Staff Report and conditions could be attached to that, but not the zone change. Mr. Sheets stated that his recommendation was for the balanced protection, overlay zone and the site plan review. He continued by stating that the site plan was reviewed and one question was raised about the waterway, at the eastern property boundary, that could change one of the roads, but it would not change the actual extraction of rock.

Commissioner LaFrance asked how enforceable are the conditions or are they more recommendations versus conditions. Mr. Sheets replied that he made the recommendations, which are prescriptive to other aggregate mining operations in Tillamook County. He further stated that they are enforceable. Commissioner LaFrance stated the conditions referenced had been attached to Conditional Uses and were enforceable. Mr. Sheets stated that on previous Board Orders, the same types of conditions had been attached to zone changes. Commissioner LaFrance stated that the conditions are already in the TCLUO and do not need to be repeated as they are enforceable because they are in the ordinance.

Mr. Sheets stated that conditions were generated based on the requirement for public comment. He further stated that several of the conditions are based on the comments received after the staff report was written, specifically the need for a fire letter, road approach permit and the potential setbacks for the stream. Mr. Sheets continued by stating that the conditions could be condensed to read 'Applicant shall adhere to the standards of the Mineral Aggregate Resource Overlay zone based on the balanced protection component'.

Commissioner LaFrance suggested having a workshop to discuss applying conditions in these types of applications.

Commissioner LaFrance stated that conditions 8-12 were not necessary as they come straight from the TCLUO.

Commissioner LaFrance suggested condition number four be removed as it speaks to the responsibility of the Department, not of the applicant.

Commissioner LaFrance asked about the visual buffer and if it was a matter of separating the operation from the county road. Mr. Sheets replied that the Mineral Aggregate Overlay prescribes that the processing equipment have a visual barrier. Commissioner Mizee asked if it was safe to have a visual barrier on Foss-Batterson Road. Mr. Sheets stated that the barrier is tied in with the Public Works review. Commissioner Jones asked if this was a mandatory requirement. Mr. Sheets stated that it is a mandatory requirement for the rock crushing equipment and equipment stored on site.

Commissioner LaFrance asked to change condition number 13 be reworded to read, 'The applicant/property owner *shall provide evidence* to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available'. Mr. Sheets stated that this requirement ensures that there is enough water for dust control and for any emergency that may take place and it comes from a legal water source.

Commissioner LaFrance asked that in condition 14, it be assumed that the stream is perennial and leave it to the applicant to prove otherwise.

Commissioner Jones asked about the overlay zone and if it would encompass the whole impact area. Mr. Sheets stated that it would overlay all property in the impact area. He further stated that the overlay zone would be looked at for further development when looking at noise and dust. Commissioner Jones asked how many residential properties there are adjacent to the subject property. Mr. Sheets stated that there are three residences within the 750 foot impact area. Commissioner Jones asked of the impact on the homeowners with this Mineral Aggregate Overlay zone. Mr. Sheets stated that there would be no restrictions on a property owner building a single family dwelling as it is permitted outright.

Commissioner Jones asked to what extent did Staff notify the four property owners of the Mineral Aggregate Overlay zone. Mr. Sheets replied that Staff sent the staff report and all criteria to all properties within 750 feet of the subject property. Mr. Sheets stated that the property owners had every opportunity to respond and no comment was received. Commissioner Jones suggested the Department have pre-application meetings with property owners in the impact zone regarding the possible impacts. Mr. Sheets stated that homeowners have ample opportunity to call and ask questions, come to the hearing and be involved regarding possible impacts.

Chair Heckerath agreed with Commissioner Jones on the wording and stated that the report is vague and that property owners probably do not understand what is happening. Mr. Sheets stated that the property owners need to be proactive in the process and that it is difficult to outline all of the impacts in a notification. Commissioner LaFrance asked if the notification letter stated that by applying the MAO zone, it could impact future uses in the impact zone. Mr. Sheets stated that the letter did not state that, however, he further stated that the basis for sending the notifications is that there could be impacts.

Commissioner Hoffman referenced page 5, number 3, subsection (B), where it states 'the impact area may be applied to parcels or portions of parcels adjacent to and within 750 feet of the Extraction area boundary unless a different sized impact area is identified in the Goal 5 Process'. She continued by asking Mr. Sheets if the impact area could be lessened on the side of the subject property where the residences are. Mr. Sheets stated that the 750 foot impact area could be modified as a special condition under subsection 10. Commissioner Ousele stated that the impact area is to protect the quarry as a resource, not the residences around the quarry. Mr. Sheets gave some examples of how the impact zone could be referenced if a property owner wanted to come in and develop a piece of property, either outright or conditionally. Mr. Sheets further stated that it could be looked at on a case by case basis.

Chair Heckerath asked for clarification on the road approach permit. Mr. Sheets stated that in his discussions with public works, they would like to see the property owner come into the Public Works office to discuss how the road approach could be brought to current standards. Chair Heckerath asked about clarifying what is required from Public Works. Mr. Sheets stated that Public Works is looking for current and future uses of this property to get access up to standards for the development and use for safe exit and entry to the property, and anything else is up to Public Works. Chair Heckerath asked about condition number 6. Mr. Sheets stated that the wording 'shall adhere to the requirements of the Public Works Department' could be added for clarity.

Applicant Presentation:

Brian Smith, Mohler Sand and Gravel, Applicant.

Commissioner Jones asked the Applicant about the road approach. Mr. Smith stated that they would need to meet with Public Works to get another road approach permit as they are currently using one approach at this time.

Commissioner Hoffman asked where the employees park. Mr. Smith stated the employees park at the office and in the quarry area. He further stated that there is plenty of parking and the amount of spaces is not an issue.

Commissioner Bush asked about dust control and current requirements. Mr. Smith stated that they are federally mandated to comply with air and water.

Commissioner Mizee asked about screening and a visual buffer. Mr. Smith stated that it is difficult for them to buffer and it would be difficult to get the crusher in and out of the quarry. Commissioner Jones asked if there have been complaints about the crusher. Mr. Smith stated that they have not had complaints. Commissioner Jones asked Staff if there have been complaints. Mr. Sheets stated that there have not been any complaints in the files.

Commissioner Bush asked Mr. Smith about the Road Approach and if it was paved. Mr. Smith stated that it is a paved approach.

Commissioner Heckerth asked about the distance that needs to be buffered on the south line. Mr. Smith stated that it would be about 300 feet.

Staff Rebuttal

Commissioner Heckerth asked Mr. Sheets about the buffering and if it was a requirement under the Mineral Aggregate Overlay. Mr. Sheets stated that it is a requirement but suggested using moveable fencing or make the property exempt from the visual buffering condition. Commissioner Jones stated that the property seems well buffered along the property lines and that the only issue is along the county road. Mr. Sheets agreed with Commissioner Jones. Commissioner Hoffman asked Staff what they envisioned for the 300 feet of buffering. Mr. Sheets directed the Commissioners to page 15 of the Staff Report, (B) Screening. He summarized the types of screens that could be used along with the types of activities to be screened. Commissioner Heckerth referenced page 16, (4), subsection (c), 'the applicant demonstrates that supplied vegetative screening cannot reliably be established or cannot survive for a ten-year period due to soil, water or climatic conditions', as a valid exception for the quarry. Mr. Sheets concurred with Commissioner Heckerth that vegetative buffering would not be viable for this location. After discussion, it was decided to remove condition five.

Commissioner Jones asked about conditions 16 and 17. Mr. Sheets stated that condition sixteen could be used as needed to address any special conditions imposed.

Chair Heckerth closed the hearing to public comments and opened up the floor for discussion among the Commission members.

Commissioner LaFrance stated that his concern around buffering is to separate the activity of the quarry from the county road versus the visual aspect. He continued by stating that due to the topography, it would be hard to create a buffer to hide the crusher. He further stated that the condition is just a recommendation and not enforceable. Commissioner LaFrance suggesting removing condition 5 and leaving condition 7. Commissioner Ousele referenced page 15 for the exceptions and suggested that the internal part of the quarry would fall into a road area and thus exempt. After discussions of rewording condition 5, it was decided to strike condition 5.

Chair Heckerth asked for comments on conditions 8 through 12. Commissioner LaFrance stated that they are part of the ordinance and do not need to be added. Commissioner Ousele agreed that it was spelled out in the staff report. Commissioner Jones stated that it leaves room for flexibility of change in the future.

Chair Heckerth suggested changing condition 13 to read, 'The applicant/property owner shall provide evidence to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available'.

Commissioner Ousele suggested rewording condition 6 to include requirements from Public Works. Commissioner Jones stated that the issue is that Public Works wants there to be one 35 foot approach versus 200 feet that is being used. Mr. Sheets suggesting adding 'shall adhere to the requirements of the Tillamook County Public Works Department' to the end of the sentence. Commissioner LaFrance asked if Public Works has the authority to enforce the approach. Mr. Sheets stated that the condition is present to ensure the access portion of the Mineral Aggregate Overlay Zone is addressed as prescribed.

It was decided that condition 4 should be deleted.

Commissioner Bush asked for clarification on condition 13 and would it be covered in the fire letter. Commissioner LaFrance stated that since the water is not used for fire suppression, there has to be documentation that it is a legal water source.

Commissioner Jones asked about the need for conditions 16 and 17. Commissioner LaFrance suggested deleting condition 15 and rewording condition 17 to read, 'The applicant/property owner shall provide this Department with a copy of a current operating permit and approved reclamation plan or exemption certificate from DOGAMI, prior to the mining proposed in their request'.

Chair Heckerth stated that he feels there was proper information regarding the application. Commissioner Mizze agreed that there was ample notification and the property owner should get involved at some point.

Commissioner Ousele asked about site plan review in the conditions

Commissioner Ousele moved that in the matter of ZC-09-03, on the basis of findings of fact and the staff report, recommend to the Board of County Commissioners approval of the request for the amendment map and text request to the Tillamook County Comprehensive Plan to apply Goal 5 to the existing rock quarry, to add a Mineral Aggregate Overlay to the existing Forest zone, to designate the quarry as a significant resource within the Comprehensive Plan with the following conditions 1 – 9:

1. By accepting this approval the property owner agrees to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval.
2. The applicant/property owner shall obtain all local, State and Federal permits prior to expansion and recognition of these requests.
3. The applicant/property owner shall submit a Fire Letter from the Oregon Department of Forestry (ODF) to this Department prior to expansion and operation.
4. Based upon the Road Approach permit from the Tillamook County Public Works Department, an on-site parking/traffic flow pattern shall be developed and submitted to this Department prior to expansion. Shall adhere to the requirements of the Tillamook County Public Works Department.
5. The existing visual barriers at the northern, western and eastern property lines shall be maintained.
6. The applicant/property owner shall provide evidence to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.
7. The applicant/property owner shall submit documentation to the Department of Community Development from ODFW indicating the status of the waterway at the eastern property line in relation to potential riparian setbacks outlined in TCLUO Section 4.080.
8. The applicant/property owner shall provide this Department with a copy of a current operating permit and approved reclamation plan or exemption certificate from DOGAMI, prior to the mining proposed in their request.
9. The Site Plan shall adhere to the Aggregate Overlay Zone requirements.

Commissioner Hoffman seconded. Motion carries 7:0

VI. AUTHORIZATION FOR CHAIR TO SIGN APPROPRIATE ORDERS, IF NECESSARY: Commission LaFrance Moved. Commissioner Ousele seconded. Motion carries 7:0.

VII. ADMINISTRATIVE DECISIONS: None

VIII. **DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT:** Mr. Sheets stated that the Ordinance Amendment for the Firearms Training Facility will be going before the BOCC on August 4th. There will be a 21 day appeal period following that decision. The Zone Change will follow as soon as possible.

The next hearing is August 5th for Netarts North Subdivision. Mr. Parker stated that today was the last day for new information to be submitted and information was received in the office.

Howard Goodman's Appeal will go before the BOCC on August 4th.

IX. **ADJOURNMENT:** There being no further issues Chair Heckerth adjourned the meeting at 9:45 pm.

Kurt Heckerth, Chair

Christina Biggs, Recording Secretary

Date

DRAFT

TILLAMOOK COUNTY DEPARTMENT OF
COMMUNITY DEVELOPMENT
1510 B THIRD STREET
TILLAMOOK, OR 97141



Attention: Plan Amendment Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
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