



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: June 09, 2016  
Jurisdiction: Harney County  
Local file no.: 16-02  
DLCD file no.: 001-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 06/06/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)





# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**  
File No.: 001-16 {24336}  
Received: 6/6/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: Harney County

Local file no.: **16-02**

Date of adoption: 6/1/2016

Date sent: 6/6/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 4/15/2016

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No

Local contact (name and title): Brandon McMullen

Phone: 541-573-66655

E-mail: Brandon.mcmullen@co.harney.or.us

Street address: 450 N. Buena Vista

City: Burns

Zip: 97720-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Update Goal 5 Aggregate inventory to included amended/expanded site boundaries to existing mining operation.  
No specific plan text amended.

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from \_\_\_\_\_ to \_\_\_\_\_ acres. A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres. A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres. A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary



The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: MARO (Mineral & Aggregate)	Acres added: ~280.00	Acres
removed: 0		

Location of affected property (T, R, Sec., TL and address): T23S., R30E., S. 27, TL1801

List affected state or federal agencies, local governments and special districts: City of Hines, Oregon Department of Fish and Wildlife, BLM

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Permit boundaries approved to include tax lot boundaries of 1801 (312.54ac). Condition of approval for associated mining operation prohibits mining development within 1500' of the Eastern Boundary of TL1801. Conditional Use Permit is also under local file No. 16-02.



# HARNEY COUNTY

## Planning Department

Brandon M. McMullen, Planning Director

450 N. Buena Vista RM11

Burns, OR 97720

Voice: (541) 573-6655

FAX: (541) 573-2762

Email: [Brandon.McMullen@co.harney.or.us](mailto:Brandon.McMullen@co.harney.or.us)

Website: [www.co.harney.or.us](http://www.co.harney.or.us)

**June 2, 2016 (Date of Notice)**

**TO: Parties of Interest**

**RE: Notice of Decision/Adoption – CUP 16-02 & ORD. 2016-77**

## NOTICE OF DECISION/ADOPTION

ORD. 2016-77

CUP 16-02

**Ordinance Number 2016-77 was adopted and is effective on 6/1/2016**

**The Final Decision for Local File No. 16-02 (Conditional Use Permit for Expansion of an Existing Mining Operation) was also approved on 6/1/2016.**

**This is the final decision by Harney County on the matter, and it becomes final 21 days from the date this NOTICE OF DECISION is sent, unless appealed to the Land Use Board of Appeals by a party that either: testified or submitted written testimony, or determines they are an adversely affected or aggrieved party due to this land use action specified above, pursuant to ORS 197.830.**



Brandon McMullen,  
Harney County Planning Director

I, Derrin Robinson, County Clerk for Harney County, Oregon certify that the instrument identified herein was recorded in the Co. Clerk's records.  
*Derrin Robinson*  
Derrin E. Robinson, Harney County Clerk



THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF HARNEY

IN THE MATTER OF AMENDING THE )  
HARNEY COUNTY COMPREHENSIVE )  
PLAN MINERAL AND AGGREGATE )  
INVENTORY AND THE APPLICATION OF )  
THE MARO ZONE. )

Ordinance No. 2016-77

WHEREAS, Harney County has approved a proposal from Harney Rock and Paving Co. to amend the Harney County Mineral and Aggregate Inventory to include an amendment to an existing significant aggregate rock source on land described under Exhibit "A" ; and

WHEREAS, Harney County has designated the resource as a significant site without conflicts based on the associated conditional use permit and conditions of approval as described within Exhibit "A"; and

WHEREAS, The Mineral and Aggregate Resource Overlay (MARO) zone is now applied to the subject site; and

WHEREAS, It is found that Harney County has engaged and completed these updates to the Harney County Zoning Ordinance under a Post-Acknowledgement Plan Amendment process.

NOW THEREFORE, BE IT ORDAINED BY THE COURT OF THE COUNTY OF HARNEY, STATE OF OREGON:

Section 1: ADOPTION OF AMENDMENTS TO THE HARNEY COUNTY COMPREHENSIVE PLAN MINERAL AND AGGREGATE INVENTORY AND THE APPLICATION OF THE MARO ZONE.

The amended aggregate inventory, legal description and permit boundaries of the subject aggregate site is defined under Exhibit "A" and attached hereto and by this reference adopted herein.

Section 2: EMERGENCY. This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED, this the 1<sup>st</sup> day of June 2016



Attest:

Derrin E. Robinson, County Clerk

HARNEY COUNTY COURT

  
Steven E. Grasty, County Judge  
Dan Nichols, Commissioner  
Pete Runnels, Commissioner

**Resource Site Name:** Harney Rock Co.

**Type of Resource:** Aggregate

**Location:** T: 23S R: 30E S: 27 TL: 1801

**Date Added:** (Amended on 6/1/2016)

Parcel Boundaries of 1801 are considered the permit boundaries (see conditions of approval under local file 16-02). Full Legal and map of project boundaries attached.

Description (if available): ROCK

<input type="checkbox"/>	<b>1-A</b>	Sufficient information available to indicate resource site <u>importance</u> ?  <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, proceed to 1-B, if no designate site 1-A, no further action.
<input type="checkbox"/>	<b>1-B</b>	<u>Information Available</u> . If sufficient information to identify location, quantity, and quality of resource, proceed to 1-C. If insufficient, designate 1-B. 1-B action as follows: _____
<input type="checkbox"/>	<b>1-C</b>	Information sufficient to identify location, quantity and quality of resource:  Location: <u>T23S R30E S27 TL1801</u> Quantity: <u>Less Than 500,000 Tons</u> Quality: <u>Suitable Material For Construction Projects</u>  Proceed to 2.
<input type="checkbox"/>	<b>2</b>	<b>Conflicting Uses:</b> _____
<input checked="" type="checkbox"/>	<b>2-A</b>	If conflicting uses identified, proceed to 2-B. If NO conflicting uses identified, designate as 2-A. *Note; Conditional Use Permit (Local File No. 16-02) approved for expansion of mine on 6/1/2016. Site is allowed as long as permit criteria and conditions of approval are being met.
<input type="checkbox"/>	<b>2-B</b>	<b>ESEE Analysis: (N/A)</b>  Economic: _____ Social: _____ Environmental: _____ Energy: _____  Proceed to 3.
<input type="checkbox"/>	<b>3</b>	<b>Program for Resource Protection. (N/A – Conditional Use Permit)</b>  Preserve Site Program: _____ Allow Conflicting Uses: _____ Limit Conflicting Uses: _____

EXHIBIT B

ACCESS ROAD







00012188201600006240210212

I, Derrin Robinson, County Clerk for Harney County, Oregon certify that the instrument identified herein was recorded in the Co. Clerk's records.

*Derrin Robinson*

Derrin E. Robinson, Harney County Clerk



BEFORE THE COUNTY COURT  
OF THE STATE OF OREGON  
FOR THE COUNTY OF HARNEY

**HARNEY COUNTY**  
450 N. Buena Vista, Burns, OR 97720  
Voice: (541) 573-6655  
Fax: (541) 573-2762

IN THE MATTER OF THE )  
APPLICATION OF HARNEY ROCK & )  
PAVING CO. FOR EXPANSION OF AN )  
EXISTING MINING OPERATION IN )  
THE EFRU-1 ZONE. )

**DECISION**

The Harney County Court finds that the Applicant has satisfied the applicable criteria necessary for approval of an expansion of an Existing Mining Operation in Harney County. **The Harney County Court hereby APPROVES WITH CONDITIONS the application of HARNEY ROCK & PAVING CO. FOR EXPANSION OF AN EXISTING MINING OPERATION IN THE EFRU-1 ZONE.** The mine is located west of Hines along HWY20, right on Hines Logging Road 2.4 miles to the site.

FINDINGS AND DECISION

---

**I. GENERAL INFORMATION/EXHIBITS OF RECORD:**

**General Information:**

Applicant Name and Address: Harney Rock & Paving Co.  
457 S. Date Ave  
Burns, OR 97720

Property Owner(s) And Address: Same

Location: The mine is located west of Hines along HWY20, right on Hines Logging Road 2.4 miles to the site.

Legal Description: T 23 S., R 30 E., W.M. TL 1801  
LAND IN HARNEY COUNTY, OREGON, AS FOLLOWS: IN TOWNSHIP 23 S., RANGE 30 E., W.M. SECTION 27: PARCEL 1 OF PARTITION PLAT #93-06-034, RECORDED JUNE 9, 1993, INSTRUMENT #930785, HARNEY COUNTY PLAT RECORDS.

Parcel Size: 312.54 acres

Current Land Use: The parcel has historically been utilized as an aggregate mine (currently the project site approximately 30 acres in area).

Waterways/Wetlands: No lakes or streams are located within the proposed project site.

Fish and Wildlife: According to GIS information provided by the Oregon Department of Fish and Wildlife, it appears that no wildlife nesting sites or sensitive wildlife species are located in the subject study area. Map 5 "Harney County, Wildlife" depicts the County's Wildlife Concentration areas. The map does depict the project site in Mule Deer habitat. Rod Klus, of the Oregon Department of Fish and Wildlife (Hines District Office) was notified of the application.

Water Use/Rights: The applicant specifies that a stock well is on the project site.

Natural Hazards: There are NO natural hazards on the property. (e.g., special flood zone area/steep slopes)

Environmental Health: The environmental health of this property is GOOD.

Property Access: Applicant's has access off of Hines Logging Rd. The hearings process revealed other potential access to the subject parcel, however these other access options were not identified by the applicant in the application or record materials.

Surrounding Land Use(s):

- Grazing/Range and Public lands (agriculture)
- Rural residential (~ 7/10 of a mile to the East of the project site)
- Mining site north of subject site



FINDINGS AND DECISION

Exhibits of Record:

1. Application materials, which includes:
  - a.) Application & Associated Materials
  - b.) Helion (Assessor Department) Printout
  - c.) Property Deed Card
  - d.) Copy of the Deed
  - e.) "Exhibit A" – Legal Description of Subject Parcel
  - f.) "Exhibit B" - Site Plan
  - g.) November 3, 2015 letter from Ben Mundie, DOGAMI – Titled "RE: DOGAMI MLRR ID# 13-025, Hotchkiss Quarry – 2"
  - h.) April 12, 2016 letter from applicant describing the proposed expansion at the site – Titled "RE: Conditional Use Permit for "Hotchkiss" Quarry Expansion"
2. Notice of Application sent to Property Owners (3/30/2016), which includes:
  - a.) Notice of Application to Adjacent Owners
  - b.) List of those notified
  - c.) Property Details Map
  - d.) Application Site Plan
3. Notification Bill from Burns Times Herald (BTH):
  - a.) Statement of Publication Charges from BTH
  - b.) Affidavit of Publication from BTH (*Published April 6, 2016*)
5. Staff Report – Revised on 5/2/2016 - prepared for Harney County Court - updated to account for Planning Commission hearing exhibits and hearing discussion from 4/20/2016 meeting
  - a. Current Inventory Listing – Subject Mine within County Aggregate Inventory
  - b. "Exhibit D" – Harney Rock and Paving Expansion (Map) *\*Listed as Exhibit "A" of this Decision\**
  - c. "Exhibit E" – NRCS Soils Map of Subject Parcel (Map)
  - d. Revised 4/15/2016 Notice of Proposed Change To A Comprehensive Plan or Land Use Regulation (DLCD PAPA Notice Form (updated to include Planning Commission Staff Report and accurate Page 1 information)
  - e. Written Comments – (*Received 4/15/2016*) from: Rex & Laurie Draper, Jason & Stacey Radinovich, Mandy & Justin Decroo, Cheryl Hancock, and Frank & Debbie Cronin.
  - f. Written Comments – (*Received 4/18/2016*) from Joan Davies, City Administrator, City of Hines
6. Exhibits submitted into the record during the 4/20/2016 Planning Commission Review Hearing:
  - a. "Exhibit F-1" – View shed photograph submitted by Laurie Draper (1 of 2)
  - b. "Exhibit F-2" – View shed photograph submitted by Laurie Draper (2 of 2)
  - c. "Exhibit F-3" – Google Earth image submitted by Troy Hooker, Harney Rock & Paving (Applicant)
7. Planning Commission attendance
  - a. Public Attendance
  - b. Planning Commission Attendance
8. County Court Hearing attendance
  - a. Public Attendance

II. CORRESPONDANCE:

- Laurie Draper (also signed by other landowners within the rural residential neighborhood along the Eastern Boundary of the subject parcel) submitted comments on 4/15/2016. Comments refer to concerns over conflicts with their residences and residential property adjacent to a permit boundary

FINDINGS AND DECISION

- Joan Davies (City of Hines) submitted comments on 4/18/2016. Comments refer to possible concerns related to visibility, smoke, dust, and possible affects to drainage off the hills into the city of Hines.

**III. APPLICABLE STATE AND LOCAL CRITERIA:**

**State Of Oregon**

**OAR 660-023-0180(3) – Expansion of Existing Mining Quarry**

**ORS215.298 – Conditional Use Permit – Aggregate Mining Pit**

**Harney County Zoning Ordinance**

**Article 3**

**Section 3.010(3)(D) – Conditional Use (Mining Pit)**

**Section 3.010(7) - Specific Review Criteria**

**Section 3.150 (12) Nonconforming And Pre-Existing Uses.**

**Section 3.150 (4)(B)(c)**

**Section 3.150 (7) – Extraction Area – Development Standards**

**Section 3.150 (13) – Adopt Final Decision And Implementing Amendments**

**VI. FINDINGS:**

**State Of Oregon**

**OAR 660-023-0180(3) – Mineral and Aggregate Resources**

**FINDING:** The Harney County Court finds that as per State law, the approval of an aggregate rock source requires an amendment to the local Goal 5 inventory, more specifically the Harney County Mineral and Aggregate Resource Inventory. The proposal (Known as the “Hotchkiss” quarry) calls for expansion of an existing rock quarry and excavating a potential rock source amount of up to ±450,000 tons of material. Under State regulations, the rock source must be found as “significant” to be added to the local inventory.

The Harney County Court finds that the quarry is already existing (accounted for) within the aggregate inventory of the County Comprehensive Plan, however an expansion of the mine proposing no more than <sup>1</sup>450,000 tons of material indicates that an informational amendment to the inventory related to the site to account for the expansion of the mine into the parcel boundaries as the permit boundaries. The existing site predates the requirement for a conditional use permit (pre plan acknowledgment, 1984), and therefore will need to move through the local requirements for said permit as well.

The subject site is defined as an “Existing site” and the request for expansion of the quarry into the “Area of Activity for Mine” as listed within this staff report fits the definition of “expansion Area” as listed and defined under the HCZO section 3.150, page 162 as follows<sup>2</sup>:

<sup>1</sup> OAR 660-023-0180(4) – provides for materials totaling no more than 500,000 tons as “significant” without the requirement to apply a Goal 5 ESEE analysis

<sup>2</sup> Harney County Zoning Ordinance, Article 3, Section 3.150 “Mineral and Aggregate Resource Overlay Zone,” page 162



FINDINGS AND DECISION

---

- A. Existing Site. A significant aggregate site that is lawfully operating, or is included on an inventory in the Harney County Comprehensive Plan, which is acknowledged by LCDC, on or before the date of adoption of this Ordinance.
- B. Expansion Area. An aggregate mining area contiguous to an existing site.
- 

OAR 660-023-0180(3) is the appropriate criteria as follows:

660-023-0180

**Mineral and Aggregate Resources**

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

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

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

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

**FINDING:** The Harney County Court finds that subsections (c) is applicable to finding the expansion of the site boundary is considered significant. The existing site was a part of the acknowledged comprehensive plan prior to September 1, 1996.

(d) Notwithstanding subsections (a) and (b) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:

(A) More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on June 11, 2004; or

## FINDINGS AND DECISION

*(B) More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds:*

*(i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties;*

*(ii) 25 feet in Polk, Yamhill, and Clackamas counties; or*

*(iii) 17 feet in Linn and Benton counties.*

**FINDING:** The Harney County Court finds that no area of the existing or proposed expansion of the site contains any NRCS Class I or II soils. Soils Categories for the subject site are 6c (NRCS Map units 203, 367, and 196). Therefore, this criteria is met. See Exhibit "E" 16-02 Soils Map.

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

**FINDING:** The Harney County Court finds that the first review hearing on the matter will go before the Planning Commission. Upon their review, a recommendation will be made to the County Court to either approve, approve with conditions, or not approve the application. The application was found complete to start the notification process by staff on 3/16/2016.

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

**FINDING:** The Harney County Court finds that a map titled "Harney Rock and Paving Expansion" (Exhibit "A" of these findings) was produced by Planning Staff. The impact area is 1500' in all directions from the area of mining activities proposed by the applicant (see April 12, 2016 Hooker letter, Re: Conditional Use Permit for "Hotchkiss" Quarry expansion) referring to the "Area of Activity for Mine" referenced on the said map. It is found that this map is sufficient in determining existing or approved land useless for review under this provision.

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



## FINDINGS AND DECISION

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

**FINDING:** The Harney County Court finds that expansion of the mine would only intersect (based on the impact area) with an existing rock quarry to the north also owned by the applicant. Impacts between the two mining sites would assuredly be mitigated by the applicant as both sites are and have been in existence for decades. Ariel photography shows a portion of what appears to be a private air-strip within the edges of the northeast portion of the impact area. Existing mines as close as 230' adjacent to the strip already exist which would create a closer potential impact than the expansion of the subject quarry.

The impact area contains only one underlying zoning designations of EFRU-1 (Exclusive Farm and Range Use). No other developments or uses are found to intersect the impact area. It is recognized that the applicant is requesting that the conditional use permit and aggregate inventory be amended to show that the permit boundaries matches the parcel boundaries of TL 1801. In Troy Hooker's letter dated April 12, 2016, he states that *"It is common for the area for the conditional use permit for a rock quarry and related activities to match the area of the parcel. This is the case for our 4 other quarries in Oregon and Nevada."* Rural Residential zoning and housing exists contiguous to the Eastern boundary of the subject parcel. The Harney County Court finds that while the proposed boundary is contiguous, that alone does not indicate conflicts from the expansion of the mine as the mining activity and expansion area is roughly over 2800' from any housing. The impact area established in this findings report is over 1300' from said housing. The existing project site is even further at a total of 3600' with no past history of conflicts due to noise, dust, or other discharges.

Based on communication with Staff about the future use of the total site, mining activities outside of the Area of mining activity are not planned for decades (as many as 40 years), however with the boundaries of the permit proposed as matching the parcel boundaries, the applicant may explore and potentially look to develop smaller hillsides to the southeastern portion of the parcel closer to the Hines Logging Road. In the best interests of protecting the rural residential lands and existing dwellings along the Eastern boundary of the subject parcel from potential conflicting uses with mining activities, the Applicant is self-imposing a 1,500' buffer of no development from the Eastern shared boundary. This buffer will be established by a condition of approval for the conditional use permit. (See section VI, page 19 for Condition - Exhibit "A" for labeled "1500' Proposed Condition of Approval: No Development")

Therefore, with a condition of approval established related to no development within 1,500' of the Eastern property boundary, The Harney County Court finds that the expansion of the mining operation and quarry will not create conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (including dwellings & rural residential zoning designation adjacent to the Eastern boundary of the subject parcel).

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

FINDINGS AND DECISION

---

**FINDING:** The Harney County Court finds that expansion of the mine would not create any more potential conflicts to local roads used for access and egress to the mining site as no new entrances are proposed at the site. The transportation plan was not utilized to identify potential conflicts in the manner listed under the rule, as no new entrances to the site are proposed. The existing site is expanding to an area just beyond the historically established project site in order to mine for materials. There is no mention of increased traffic or other modified traffic activity beyond the presently-existing activity at the quarry.

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

**FINDING:** The Harney County Court finds that expansion of the mine would only intersect (based on the impact area) with an existing rock quarry to the north also owned by the applicant. Impacts between the two mining sites would assuredly be mitigated by the applicant as both sites are and have been in existence for decades. Ariel photography shows a portion of what appears to be a private air-strip within the edges of the northeast portion of the impact area. Existing mines as close as 230' adjacent to the strip already exist which would create a closer potential impact than the expansion of the subject quarry. The Burns Municipal Airport is over 7.5 miles from the project site. At such a far distance, it is found that there are no *safety conflicts with existing public airports due to bird attractants due to the expansion of the existing mine.*

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

**FINDING:** The Harney County Court finds that mule deer habitat is the only County identified/mapped goal 5 resource that intersects the impact area. Map 5 of the county comprehensive plan depicts mapped mule deer habitat within the impact area. Although present, the listing of the existing site specifically lists no protection programs for other uses or goal 5 resources. The inventory states: "Conflicting Uses: NONE-SITE IN RESOURCE DESIGNATION RURAL AREA WITH NO ADJACENT DEVELOPMENT." Chapter 5 of the County Comprehensive Plan lists the wildlife preservation policies under page 44. None of the policies refer to wildlife habitat protection related to aggregate mining.

Staff notified the local ODFW field office of the application and provided a copy of the application prior to the review hearing on 4/20/16. Any comments or recommendations from them will be included in the record for consideration, however absent any additional information, there are no apparent conflicts with the expansion of the mine as no conflicts are evident to this point related to the existing active mining site and associated activities.

*(E) Conflicts with agricultural practices; and*

**FINDING:** The Harney County Court finds that only marginal and/or seasonal grazing are identified as agricultural uses in the impact area. The movement of livestock on private lands in the area is not quantified, however with existing levels of mining activities present for decades, and expansion of the site not increasing traffic, noise or dust levels beyond normal, Staff find that there are no conflicts with agricultural practices.

---

## FINDINGS AND DECISION

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

**FINDING:** The Harney County Court finds that there are no local ordinances which exist that supersede the requirements of DOGAMI as referenced under ORS 517.780 “Effect on county zoning laws or ordinances; rules; certain operations exempt.” The Harney County Court finds that DOGAMI reclamation requirements are consistent with Policy 2 of the Mineral and Aggregate Resources Goal of the County Comprehensive Plan, which states:

*Policy 2. The county shall protect and conserve aggregate resources, reduce conflicts between aggregate operations and adjacent land uses, and ensure that aggregate resources are available for current and future use.*

<sup>3</sup> And further states under the related Implementation Strategy under page 46:

*A. The county recognizes the jurisdiction of the Department of Geology and Mineral Industries over mined land reclamation pursuant to ORS 517.750 to 517.900 and the rules adopted there under.*

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

**FINDING:** The Harney County Court finds that no conflicts were identified under subsection (b) of this section. Therefore, no measures will need to be taken for the purposes of minimizing conflicts.

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

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

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

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

**FINDING:** The Harney County Court finds that no conflicts were identified under subsection (b) of this section. Therefore, no measures will need to be taken for the purposes of minimizing conflicts.

<sup>3</sup> Harney County Comprehensive Plan; Chapter 5, “Mineral and Aggregate”, Policy 2: Implementation Strategies, Pg. 47



FINDINGS AND DECISION

---

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

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

*(B) Not requested in the PAPA application; or*

**FINDING:** The Harney County Court finds that a conditional use permit process will be utilized as the minimum land use review necessary to carry out the proposed expansion of the mine. Any conditions of approval for the permit will be consistent with the conditional use criteria for expanding upon an existing mining operation. An amendment to the Goal 5 Aggregate inventory will be applied depicting the expanded permit boundaries and referencing the approved conditional use permit for the site. No other approval criteria will be applied to reach compliance for additional impacts beyond local criteria, as no significant conflicts have been found.

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

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

**FINDING:** The Harney County Court finds that the site is not on Class I, II, or “Unique farmland,” and therefore no additional post-mining uses are anticipated. It is anticipated that all reclamation-related activities under the authority of DOGAMI will be followed by the applicant, and that the County shall “...coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.”

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

**FINDING:** The Harney County Court finds that the conditional use permit approved under this decision will not require a reauthorization of the aggregate processing operation at the existing or expansion site as no limits on such processing were established at the time the mine was originally established

---

## FINDINGS AND DECISION

**ORS215.298 – Conditional Use Permit – Aggregate Mining Pit**

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

**FINDING:** The Harney County Court finds that the proposal calls for mining of more than 1000 cubic yards and more than 1 acre of land (surface area) because the application calls for approximately 450,000 tons of aggregate material on after expansion of the site. Therefore, a conditional use permit (land use permit) is required for final approval.

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

**FINDING:** The Harney County Court finds that the site is currently listed within the Harney County Goal 5 Aggregate Inventory under the Resource Site Name: “Hotchkiss Co. Inc.” The entry will be amended in the local inventory of mineral and aggregate resources under HCZO 3.150 (13) “Adopt Final Decision and Implementing Amendments”. Said finding for the amendment is listed in the latter part of this section (V.)

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

**FINDING:** The Harney County Court finds that the application specifically requests the site be expanded as an already existing rock source and mining operation. The Harney County Court finds that the proposal fits the description of “mining” as set forth under this section.

**Harney County Zoning Ordinance****Article 3****Section 3.010(3)(D) – Conditional Use (Mining Pit)**

D. Operations conducted for the mining and processing of geothermal resources as defined in ORS 522.005 or exploration, mining and processing of aggregate and other mineral resources or other subsurface resources and oil and gas as defined by ORS 520.005 not otherwise permitted under Section 3.010(1)(B):

FINDINGS AND DECISION

- a. Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;
- b. Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement;
- c. Processing of other mineral resources and other subsurface resources; and,
- d. Approval of any use pursuant to this subsection is subject to the review criteria of Section 3.020(7)(a), and any other applicable criteria or provision of law. Section 3.150 of this Ordinance may apply if the project meets the definition of a "significant site" (see Section 3.150(2)(X)).

**FINDING:** The Harney County Court finds that the proposal calls for development of a small significant aggregate resource site and development of a small mining operation on said site for extraction/mining of the resource. Therefore, the applicant's proposal is consistent with the section under 3.010(3)(D)(a). The approval of a small mining operation is considered a Type III decision, calling for a conditional use permit, and the approval of the resource site (mineral and aggregate resource site) is considered an amendment to the Harney County Comprehensive Plan – Goal 5 Inventory as called for by Oregon Administrative Rule. The Zoning Ord. stipulates under 3.150(5)(A)(c) that applications for conditional uses within the Extraction Area shall be reviewed against the approval of HCZO 3.150(7) Extraction Area – Development Standards.

Approval of the conditional use permit, however must meet the criteria as found under HCZO 3.020(7)(a). Said criteria are as follows:

**Section 3.010(7) - Specific Review Criteria (HCZO, pg. 53)**

7. *Specific Review Criteria.* In the EFRU-1 Zone certain uses are subject to specific criteria, in addition to any other applicable criteria. The specific provisions of this subsection apply only when referenced within the list of uses included in subsections 3.010(2) and (3).

- A. The use may be approved only where Harney County finds that the use will not:
  - a. Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or
  - b. Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

**FINDING:** The Harney County Court finds that both (a) & (b) are satisfied as the proposal will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm use or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm use because only marginal and/or seasonal grazing are identified as an agricultural uses/related practices in the impact area established in the prior OAR criteria. The movement of livestock on private lands in the area is not quantified, however with existing levels of mining activities present for decades, and expansion of the site not increasing traffic, noise or dust levels beyond normal, Staff find that there are no conflicts with agricultural practices.

**Harney County Zoning Ordinance**



FINDINGS AND DECISION

Section 3.150. Mineral and Aggregate Resource Overlay Zone, MARO

Section 3.150 (4)(B)(c)

**FINDING:** The Harney County Court finds that this criteria mirrors OAR 660-023-0180(3), was applied and found to be met under an expansion to an existing operation as listed previously. Additionally, it is noted that the application calls for up to 450,000 tons of material at the site after expansion occurs. The state administrative rules under (OAR 660-023-0180(4)) allow for proposals with less than 500,000 tons to be approved without having to be reviewed under the Goal 5 ESEE process. Given the proposed scale of the operation expansion, Staff finds it appropriate to follow the State administrative rules process for approval of the site as expansion of a significant resource, and therefore find that any Goal 5 ESEE assessment is not required in the granting of a conditional use permit and minor amendment to the Aggregate Inventory.

Section 3.150 (12). Nonconforming And Pre-Existing Uses. (HCZO, pg. 177-178)

A. Within an Extraction Area, existing mining activities that do not conform to the standards of Sub-Section 7 may continue as nonconforming uses. Expansion of mining beyond the area in which mining is occurring on the date the Mineral and Aggregate Resources Overlay Zone is adopted shall comply with Sub Section 7.

**FINDING:** The Harney County Court finds that the proposal is for expansion of a pre-existing mining operation. The standards within Section 3.150(7). Extraction Area Development Standards will be applied to the review of the project.

Section 3.150(7). Extraction Area Development Standards –

*Note: These standards are to be applied for the conditional use permit granted for the mining operation.*

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, and no later than site plan review, 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.

- a. On-site 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:
  1. All access roads within 100 feet of a paved County road or state highway shall be paved unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads;
  2. All on-site roads within the Extraction Area shall be constructed and maintained in a manner so that all applicable DEQ standards for vehicular noise control and ambient air quality are met or can be met by a specified date; and,
  3. All on-site roads within the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use unless the applicant demonstrates that other specified methods of dust control will effectively eliminate dust rising from access roads.

FINDINGS AND DECISION

---

**FINDING:** The Harney County Court finds that this criteria is met because the mining operation and aggregate quarry have been in operation since the 1970's. The site plan submitted does not indicate any new (additional) access points/roads from "Hines Logging Road" or other location (Hines Logging Road is the only paved county road within 100' of the site). The main access road entering the site from the Northwest corner of the quarry is paved. The site is at a considerable distance (over 3600') to any other developed use in the vicinity. Because of this distance, noise has not been an issue at the site since it's development and expansion of the site to the area of activity for the mine does not warrant any additional requirements for noise or ambient air quality. At the County Court review hearing it was expressed by the applicant that, other than the main access off of Hines Logging Road, other access routes available to the mine would only be used for light use by employees of the operation. This criteria is met because, based on verbal comments from the applicant, any other available access routes will not be used for hauling material as part of the operation.

The 1500' impact area did not show any conflicts created by noise or dust with existing uses which would warrant application of a paved road surface.

- b. *Improvements to substandard public roads outside of the Extraction Area may only be required as necessary to comply with a road improvement program adopted as part of transportation element of the comprehensive plan. Mitigation for public road may be assessed at a proportional rate by the County based on the finding by a traffic analysis approved by the County.*

**FINDING:** The Harney County Court finds that the applicant does not specify the need to improve any part of S. Hines Logging Road to accomplish expansion of the site in their proposal. There will be no traffic increase proposed to meet the expansion beyond the current level of activity at the existing site.

B. *Screening.*

- a. *The mining activities listed in subsection (B)(b) of this section shall be obscured from view, unless one of the exceptions in subsection (B)(d) of this section applies. Screening shall be accomplished in a manner consistent with subsection (B)(c) of this section.*
- b. *Mining Activities to be screened:*
  - 1. *All excavated areas except those areas where reclamation is being performed, internal on-site roads existing on the effective date of this ordinance, new roads approved as part of the site. Plan review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation, which provides natural screening;*
  - 2. *All processing equipment; and,*
  - 3. *All equipment stored on the site.*
- c. *Types of Screening:*
  - 1. *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.*

FINDINGS AND DECISION

---

2. *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 not be required to exceed a density of alternating rows of conifer trees six feet on center and a height of six feet at the commencement of mining. Supplied earthen screening shall consist of berms covered with earth and stabilized with ground cover.*

**FINDING:** The Harney County Court finds that the current site utilizes natural screening of the existing landscape features (hillside) from the view shed along Hines logging Road (West – Southwest border of the quarry site). Only small sections of the site cannot be completely screened using this the natural topography of the hillside facing the road. The expansion in the area of activity will extend further East from the existing quarry. Visibility of the quarry looking at the site from the East is screened by the topography/sloping hillside of the entire parcel. Any mining activity on smaller rock sources within the permit boundaries identified in the southern portion adjacent to Hines Logging Road will also employ a natural screening method as with the existing quarry. *A condition of approval will require any future mining quarry on the site to utilize the topography of the existing hillside as much as feasible to screen activities.*

- d. *Exceptions. Supplied screening shall not be required when and to the extent that any of the following circumstances exist:*
  1. *The natural topography of the site provides screening to obscure mining activities from screened uses;*
  2. *Supplied screening cannot obscure mining activities from screened uses due to local topography;*
  3. *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;*
  4. *Temporary mining activities otherwise requiring screening will either be removed or reclaimed within 18 months; or,*
  5. *An alternate program or technique to achieve screening is developed, and embodied in a waiver of remonstrance and a restrictive covenant.*

**FINDING:** The Harney County Court finds that based on subsection II being met, this criterion is satisfied. No exceptions are applicable to the site for the purposes of screening.

- C. *Air Quality. The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards, or approval shall be conditioned to ensure that such standards will not be violated.*



FINDINGS AND DECISION

---

**FINDING:** The Harney County Court finds that no public or private establishments are located within the impact area of the expansion. The applicant can demonstrate compliance with this criteria based upon a condition of approval that ensures that such standards will not be violated.

*D. Streams and Drainage. Unless a waiver of remonstrance and a restrictive covenant are obtained from adjoining property owners, mining shall not alter drainage patterns on adjoining property, or drain waste materials or wastewater onto adjoining properties or Class I streams. Where mining abuts a lake or other perennial body of water, all existing vegetation within 250 feet of the mean high water mark shall be retained unless mining is allowed within this area as part of the Goal 5 process.*

**FINDING:** The Harney County Court finds that the proposal is not contiguous to any stream, creek or natural drainages. Based on the great distance between the existing site and expansion area, it is found that no alteration of a drainage or prospect of waste materials being drained into streams will occur into any perennial body of water or Class I streams.

*E. Flood Plain. Any mining operation conducted in a flood plain shall demonstrate compliance with all applicable standards and criteria of the flood plain ordinance as part of site plan approval.*

**FINDING:** The Harney County Court finds that the proposal is not located within a special flood hazard area (Zone "A" Areas of 100-year flooding). This criteria is not 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 an acoustical engineer, and compliance methods may include siting mining to achieve compliance by way of existing topography or other natural features, or by use of supplied berms or other noise abatement methods.*

**FINDING:** The Harney County Court finds that DEQ noise standards are not enforced by the State (DEQ, since 1991). DEQ indicates on their website (<http://www.deq.state.or.us/aq/noise/> - as of 4/15/2016) that local governments enforce noise standards through local ordinances. Because Harney County does not have a local noise ordinance and a condition of approval regarding no development to 1,500' from adjacent residential properties is in place, staff finds it feasible to believe the applicant can meet this criteria.

*G. Hours of Operation.*

- a. Mining and processing are restricted to the hours of 7 a.m. to 9 p.m. Monday through Friday, and 7 a.m. to 5 p.m. Saturday. Hauling and other activities may operate without restriction provided that DEQ noise control standards are met.*
- b. 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 AND DECISION

---

**FINDING:** The Harney County Court finds that these hours of operation are appropriate and that the applicant has been informed of such requirements during the application review process.

*H. Drilling and Blasting.*

- a. Drilling and blasting are restricted to the hours of 7 a.m. to 7 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.*
- b. Notice of blasting events shall be provided in a manner calculated to be received by property owners and tenants within 750 feet of the blast site at least 48 hours prior to the blasting event. In the case of 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.*

**FINDING:** The Harney County Court finds that these hours of operation are appropriate and that the applicant has been informed of such requirements during the application review process.

- I. Surface water shall be managed: (a) in a manner that meets all applicable DEQ water quality standards and DOGAMI requirements, or (b) approval shall be conditioned upon meeting such standards by a specified date. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.*

**FINDING:** The Harney County Court finds that under (b) of the criteria that this standard can be met by applying a condition of approval specifying that the applicant will work with DOGAMI 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.*

**FINDING:** The Harney County Court finds that a Goal 5 process is not required and therefore no conditions through such a process have been applied, however certain conditions of approval are necessary for the applicant to demonstrate the ability to meet the standards for development of an excavation site – mining operation expansion. Therefore all conditions of approval are to be met and maintained throughout the life of the resource site and mining operation.

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

FINDINGS AND DECISION

---

**FINDING:** The Harney County Court finds that adjacent zoning districts or parcels allow for dwellings as an outright permitted use to the East of the No Development zone. The area of activity for the mine is not projected to reach beyond the immediate quarry location presently, however over the next 40 years the mining activity may reach to small hillsides near the southern border of the parcel near Hines Logging Road. Because that potential activity is within 1,500' from rural residential properties, the applicant is highly encouraged to fence those quarry areas.

*L. Performance Agreements.*

- a. The mining operator shall keep applicable DOGAMI permits or exemption certificates in effect.*

**FINDING:** The Harney County Court finds that it is reasonable to believe the permit holder will abide by this standard.

- b. The mining operator shall carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$500,000. A Certificate of Insurance for a term of one year shall be deposited with Harney County prior to the commencement of mining.*

**FINDING:** The Harney County Court finds that a condition of approval will be made a part of the decision which requires the mining operator to carry a Comprehensive General Liability policy covering mining, processing and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$500,000. A Certificate of Insurance for a term of one year shall be deposited with Harney County prior to the commencement of mining.

---

**Section 3.150(13) .Adopt Final Decision And Implementing Amendments.**

- A. Amend the Harney County Comprehensive Plan to carry out the decision. The decision maker shall implement the determinations made under this Chapter by amending the Comprehensive Plan as set forth in paragraphs (1) and (2) of this subsection.*
- a. Inventories. The decision maker shall amend the appropriate section of the Harney County Mineral and Aggregate Inventory to include the site on an inventory and to include any supporting analyses pursuant to this paragraph.*
- b. Information is not adequate to make a determination. If the Planning Director determined that the application is not complete solely because the applicant was unable to provide information adequate to make the determination required by Section 4 of this ordinance, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 1 "Inventory of Possible Significant Site" (Formerly 1B Site).*



## FINDINGS AND DECISION

- c. *Non-significant sites. If the Planning Director, based on location, quality and quantity information determines that an aggregate resource site is not significant; the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 2 entitled "Inventory of Non-Significant Sites" (Formerly 1A Sites).*
- d. *Significant sites without conflicts. If the Director, based on location, quality and quantity information determines that an aggregate resource site is significant, and the decision maker has determined that the site is without conflicts, the decision maker shall amend the Harney County Mineral and Aggregate Inventory and add the site to Section 3 entitled "Inventory of Significant Sites Without Conflicting Uses" (Formerly 2A Sites).*

**FINDING:** The Harney County Court finds that although a Goal 5 ESEE analysis was not performed nor required, the resource site meets the requirements for a significant site. Additionally, through the approval of a conditional use permit for the associated mining operation expansion, any potential conflicts have been addressed. Staff proposes based on the above findings and decision for a significant aggregate resource site and conditional use permit for a mining operation expansion, that the Harney County Comprehensive Plan Goal 5 inventory of significant mineral & aggregate resource sites be amended for the existing site to include the new boundaries of the permit along with the conditional use permit and associated mapping exhibits. The overlay zoning designation of "MARO" will be applied to the site boundaries, thus applying the applicable standards listed under said designation – HCZO 3.150.

**VI. CONDITIONS OF APPROVAL (CONDITIONAL USE PERMIT – MINING OPERATION EXPANSION):**

- 1.) **NO DEVELOPMENT AREA:** As indicated under Exhibit "A" of these findings, no associated mining activities are to be developed within 1,500' of the Eastern boundary of the subject parcel (TL 1801). Under Exhibit "D", this space is depicted as a red cross-hatched area labeled "1500' Proposed Condition of Approval: No Development."
- 2.) **FUTURE QUARRY SCREENING:** All future mining activities will employ screening the activities and quarry operations as much as possible utilizing the hillside topography.
- 3.) **WATER QUALITY:** The applicant will work with DOGAMI to demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available. Review of this condition will be performed by the Planning Director before any mining operations take place on the site.

## FINDINGS AND DECISION

- 4.) **AIR QUALITY**: The discharge of contaminants and dust created by mining shall comply with applicable DEQ ambient air quality and emissions standards.
- 5.) **PERIODIC REVIEW**: As long as the conditions of approval are being met, this permit is approved and permitted as conditioned or until reclamation of the resource site is completed and the MARO zoning designation has been removed.

**VII. CONCLUSION:**

This is the final decision by Harney County and it becomes final 21 days from the date this NOTICE OF DECISION is sent, unless appealed to the Land Use Board of Appeals by a party that either: testified or submitted written testimony, or determines they are an adversely affected or aggrieved party due to this land use action specified above, pursuant to ORS 197.830.

Dated this 1<sup>ST</sup> of June, 2016

Attest:

/s/ Derrin Robinson  
Derrin E. Robinson, County Clerk

[Signature]  
Deputy Clerk

HARNEY COUNTY COURT

[Signature]  
Steven E. Grasty, Judge

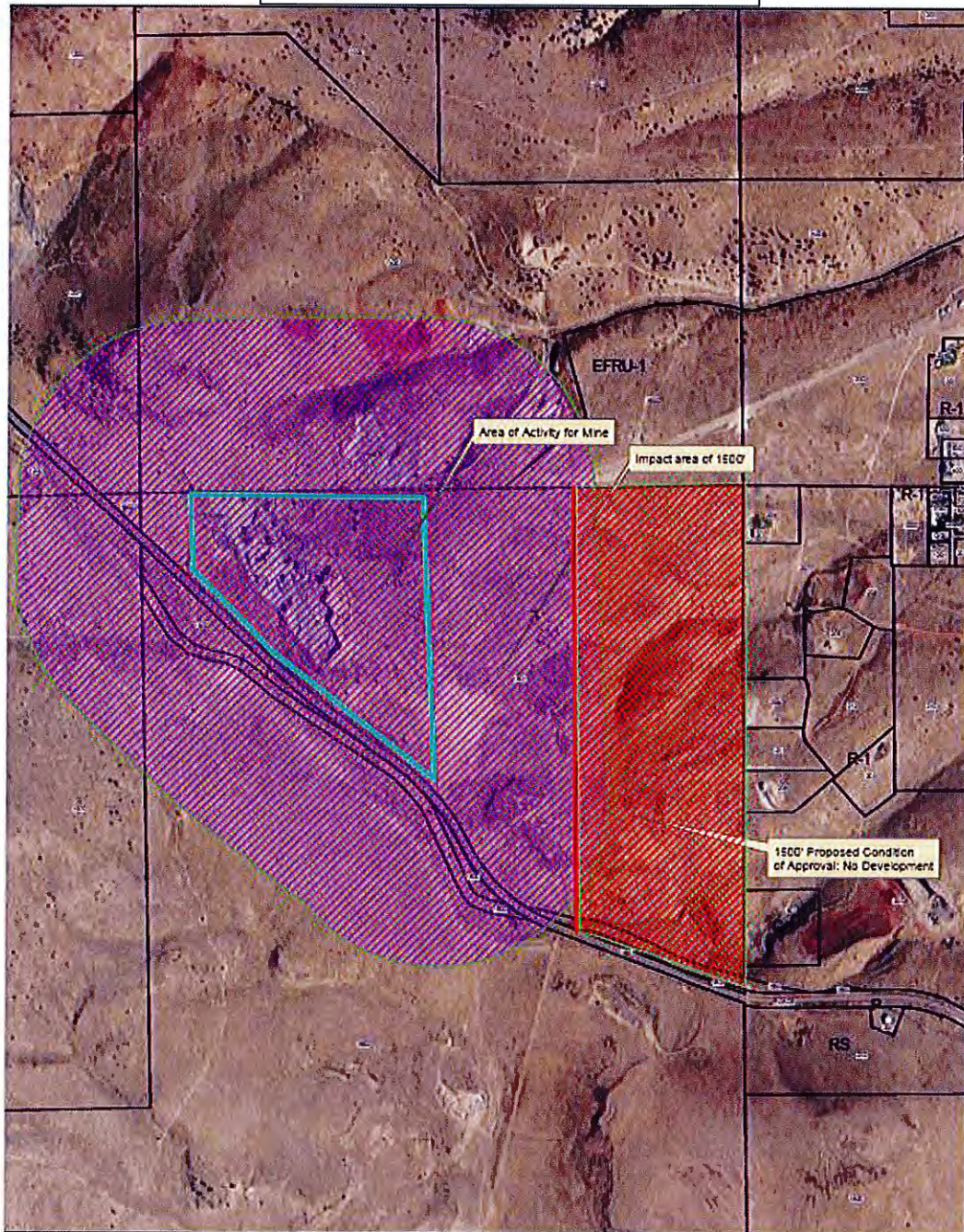
[Signature]  
Dan Nichols, Commissioner

[Signature]  
Peter Runnels, Commissioner



FINDINGS AND DECISION

Exhibit "A"



0 0.125 0.25 Miles



**Harney Rock and Paving Expansion**  
 (Area of Mining Activities, 1500' Impact Area, No Development Area)  
 Zoning Designations



HARNEY COUNTY GIS  
 841-673-8195  
 www.co.harney.or.us  
 In cooperation with  
 The Bureau of Land Management

Impact Area	<b>Zoning County</b>
15,00' Mining Area	<b>CODE</b>
Tax Lots	EFRU-1 Farm Ranch Use-100 AC
RGB	R-1 Rural Residential
Red Band_1	C-1 Rural Commercial
Green Band_2	P-F Public Facility
Blue Band_3	RS Single Family Residential

This document is made to comply with the Bureau of Land Management in the primary activity to determine if there are any public lands or interests in the area and to determine if there are any public lands or interests in the area. It is not intended to be a final determination of public lands or interests in the area. It is not intended to be a final determination of public lands or interests in the area. It is not intended to be a final determination of public lands or interests in the area.

DEM 4/13/2016 Author: MICHAEL MCGUIRE

Troy Hooker  
PO Box 800  
Hines, OR 97738

HANCOCK, CHERYL L  
2399 NE SUNSET VIEW LANE  
PRINEVILLE, OR 97754

DRAPER, REX L & LAURIE A  
PO BOX 382  
HINES, OR 97738

City of Hines  
ATTN: Joan Davies  
PO Box 366  
Hines, OR 97738

HARNEY ROCK & PAVING CO  
P O BOX 800  
HINES, OR 97738-0800

RADINOVICH, JASON & STACEY  
P O BOX 44  
HINES, OR 97738-0044

Rob Paramore  
PO Box 1379  
Hines, OR 97738

DECROO, JUSTIN  
PO BOX 264  
HINES, OR 97738-0264

CRONIN, FRANK L & DEBBIE E  
PO BOX 274  
HINES, OR 97738

Notice of Final Decision was  
mailed to the following on

~~6/2/2016~~ 6/2/2016

Brandon McMullen,  
Harney County Planning Director



---