

(One must question how or why this portion of the traffic analysis was left out to begin with.)

- IV. There are too many easements along the proposed quarry access route to be in compliance with the access requirement of Lane County Code Chapter 15. The access route has many easements and a private access easement is to serve four or fewer lots or parcels. Further, the Applicant has only submitted copies of two of these easements. (One must question why this important information is left out of the application).
- V. The Applicant claims they do not have to assess the impact of the quarry on the land use and ownership patterns of the area. However, Lane County Code expressly requires a broad assessment that would/and does include properties along Cedarcroft and S. Bradford Roads.
- VI. The Applicant has not adequately reported "an Inventory of Reasonable Alternative Sites" in accordance with another Lane County Code. He specifically has not mentioned the quarry just ½ mile South that has access roads that do not interfere with residences.
- VII. The applicant has failed to demonstrate that the proposed use will be compatible with the surrounding land uses as required by Lane Code. The compatibility requirement applies to other uses in the "area", not merely adjacent. The NIMBY comments are unjustified. The quarry would simply not be compatible with the existing residences and their livestock in the area and that is reason for denial. This is not the same situation as saying we don't want a 'residential home' in our midst, this is a commercial rock quarry with a single motive for existence-money.  
  
The Applicant does not address the impact on nearby farmlands. Just because it is currently his land does not mean the effects need not be addressed.
- VIII. The Applicant makes many implications that there is a "need" for this particular quarry and that there are few alternative sources in the area; however, he does not back this up with any specifics. The opponents are currently submitting some documentation to address this misrepresentation of "need". When there is no need, why should a neighborhood lose their way of life and, for some, their life investments in their property?
- IX. The application is vague, inaccurate, and incomplete. It has failed to address such things as DOGAMI questions about settling ponds, has given misinformation about whether the site will need to be pumped, just what products will be used to control the dust on the roads, among others. One has to wonder about future compliance to any conditions set by the commissioners when the applicant can not even give the appropriate response on the application. The application can and should be denied on these grounds alone. The commissioners are NOT mandated to approve an application with this degree of inconsistencies and omissions.

- X. Blasting procedures used this past summer were not of the kind that BJ Equipment described in their testimony nor that they state they plan to use in the future. Many in the neighborhood felt and heard the blast with at least one home reportedly damaged by the blast. (Unfortunately, I think, this particular owner chooses not to come forward and request remuneration for those damages.) The current application has no restrictions nor any specifications about procedures to be used for the blasting, crushing, loading or hauling detailed in their application. One has to wonder if these omissions are merely oversights on the part of the applicant or an insight into the way they will conduct their business in the future.
- XI. The risk of property damage is great. The applicant stated that this is a "perfect" setting for blasting because of the dearth of homes proximal to the quarry site. However, structural damage can occur further away than the 1,500-2,300 feet they have claimed. Mr. Bradford told me himself, just about 4 weeks ago, that I SHOULD be concerned about that!

Conclusion: The applicant has failed to submit a complete, accurate, and forthright application. Perhaps the reason they have not is because they simply can not address nor minimize the many adverse effects of the proposed land use on the areas that will be impacted by such an incompatible land use change. Further, the Applicant has not demonstrated compliance in even the application process; the application should be recommended for denial!

Sincerely,



Vicky Curry  
82766 S. Bradford Rd.  
Creswell , OR 97426

March 21, 1999

To whom it may concern:

This is my response to errors in Mr. Spickerman's summation. It is hindered by the lack of availability of transcripts of the two hearing, so must be done from my notes.

***Application meets legal requirements and that's all the planning commission needs to be concerned with.***

It doesn't. While the original application identifies LC 16.400(6)(h)(iii)(bb)(iii-iii) as the reason for compliance, the amended application **does not give any reason** for compliance. Which section of LC 16.400(6)(h)(iii)(bb) does the applicant believe they comply with? What evidence is there for a public need mentioned on page 23? The **commission needs to consider human values** as well as the law.

***There are no other sites.***

In the previous hearing a River Road citizen asked wouldn't it make more sense to designate zoning where mining is planned so no one would build nearby. Steven Moe, prior chair, responded yes, the county has such quarry zones designated.

***Having a quarry is part of country living.***

Reviewing back issues of Country Living and similar periodicals, I find no mention or pictures of quarries as a part of the rural lifestyle. Could Mr. Spickerman please document where it is stated that quarries are a part of country living?

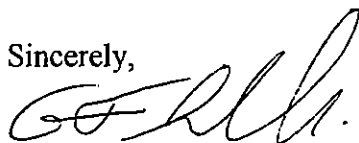
***You can't move around a quarry resource like you can move around a residential area.***

This is a really cool idea! Let's move the neighbors! But how and where would Mr. Spickerman propose to move our neighborhood? (Of course he'd want to pay for this as a mitigation cost of operation.)

***The rule is as it is because the industry, and state, wanted to avoid hearings like this.***

There are provisions for land use changes that do not involve hearings, even when they impact neighborhoods. Laws regarding residential housing for elderly or disabled citizens, are one example. In contrast, the goal 5 rules do not bypass hearings because **hearings are necessary to clarify human values**. It is true that the quarry industry influenced the law to ease the quarry application process. This industry's lobby would indeed have wanted to totally avoid this type of hearing, but was blocked by the common sense of the legislature. Human values **must** be taken into account!

Sincerely,



Gerald Fleischli, M.D.

34977 Meadow Lane, Creswell, OR 97426-9469

FILE # PA 98-5144  
EXHIBIT # 95

March 22, 1999

Thom Lanfear  
Lane County Land Management Division  
Public Service Building  
125 East 8<sup>th</sup> Avenue  
Eugene, OR 97401

Re: File No: PA 98-5144  
Applicant: Ross Bradford B.J. Equipment Company  
TRS/TL: 19-02-00 #3500

Dear Mr. Lanfear:

It is my understanding that if Ross Bradford's application is granted, it is he, as the landowner, who will ultimately be responsible for compliance with any conditions attached to that application. I do not believe that Ross Bradford will comply with any conditions set by the planning department. His past history and present conduct are evidence of Mr. Bradford's failure to comply with any conditions or laws set by the county.

In October of 1998, I called Lane County Compliance to address what I felt to be an illegal rental which Mr. Bradford had on his property and which I believe had been there for at least eight years. After repeated calls, I was contacted by Jane Burgess. She advised me that she would check into the matter. Since I did not hear back from Ms. Burgess, I began calling her office and leaving messages. By December, I had still not received a call from Ms. Burgess. On December 3, 1998, a letter was sent to Mr. Bradford advising him that he would have to remove the trailer which he had been renting. (See attached copy of letter from Ms. Burgess.) Mr. Bradford informed Ms. Burgess that he had obtained the trailer for his wife to live in since she was having difficulty walking and he was afraid she would fall down the basement steps in their home. I have met and observed Mrs. Bradford and do not feel she would have a problem negotiating steps. If he did in fact purchase the trailer for his wife, why has he rented it out for the last eight years? The County, however, gave Mr. Bradford time to try and obtain permits to keep the trailer. As of a week ago, he was informed that no permits would be forthcoming and that he would have to remove the trailer. As of March 21, 1999, the renters were still residing in the trailer.

Mr. Bradford also has built a structure on Cedarcroft Road which he has been told by the County he cannot reside in. It is our belief that Mr. Bradford has in fact moved from his residence on South Bradford Road and is residing in that structure. Again, no rules apply to Mr. Bradford.

Mr. Bradford also has a cabin located approximately 1/4 of a mile from his residence on South Bradford Road. We have been told by his nephew that he is going to run electricity to that cabin.

FILE # PA 98-5144  
EXHIBIT # 96

Mr. Thom Lanfear  
March 22, 1999  
Page - 2 -

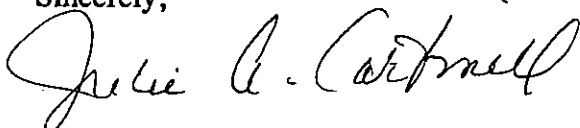
Is this another illegal dwelling on forest land and will it too become another rental?

Maybe it is time the County made an on-sight inspection of Mr. Bradford's property. It has been five months since I first called the County and compliance still has been unable to do an on-sight inspection regarding these matters. These are items that are not harmful but merely illegal. What if Mr. Bradford fails to comply with conditions which would prevent pollution and harm the surrounding residents. How long would it take the County, with merely two compliance officers, to remedy the situation, six months, seven, a year? How can Mr. Bradford comply with conditions when he has stated that he will be down south every year during the winter months?

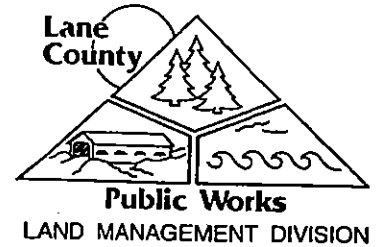
When we were building our home approximately three years ago, we purchased gravel from BJ Equipment which was obtained from the Bradford quarry. At the time, we were under the impression that Mr. Bradford could legally sell rock from his quarry for commercial purposes. We have since learned that was not the case and that Mr. Bradford was to use the rock only for roads located on forest land.

If this application can only be granted with conditions, I feel it should be denied since Mr. Bradford will not see that any conditions are complied with and has proven that fact by his past and present track record.

Sincerely,



Julie A. Cartmill  
82710 South Bradford Road  
Creswell, Oregon



December 3, 1998

Ross H. Bradford TE et al.  
82452 Bradford Road  
Creswell, OR 97426

Concerning: TRS 19 02 19 Tax Lot 700  
File: 8-9/89

### REQUEST FOR VOLUNTARY CORRECTION

A violation of Lane Code 11.100-10 is occurring on the property located at 82452 Bradford Road, Creswell, Oregon, because a 1977, 14' x 66' Concord mobile home, X-139654, has been placed on the property with neither land use nor building and is being used as a residence.

Lane Code 11.100-10 requires a building permit for any mobile home sited in Lane County. Oregon Revised Statutes 455.450(1) and (2), 446.252, and 455.153 require that a building permit be obtained for any mobile home sited, placed, or stored on parcels and provides that Lane County may enforce this statutory requirement as if it were a local ordinance. Failure to obtain required permits is, therefore, a Lane County infraction subject to enforcement procedures under Lane Code 5.017.

The appraisal record obtained from Assessment and Taxation reveals that there is a 40 x 60 general purpose building on the property. The permit history reveals that a building permit was not issued from Lane County for this structure. Information also suggests that a 14' x 30' deck has been added to the structure referred to as the "old cabin" and may also require a building permit.

You are being asked to voluntarily comply with the Lane Code by submitting the required building permit application and paying the required fee to Lane County to allow the 1977, 14' x 66' Concord mobile home to remain on the property or remove the mobile home from the property. Lane County believes that 30 days should be more than sufficient to correct the violation. While this request is for voluntary compliance with the Lane Code, you should know that Lane County will not allow a continued violation of the law. If you do not correct the violation within 30 days you may receive an ORDER TO COMPLY. If you disobey an ORDER TO COMPLY you may become liable to pay a fine of up to \$1,000 per day as long as the violation continues.

It is my understanding that the property has been listed for sale. I have spoken to the realtor and suggested that you may want to review the property file and appraisal records to determine which structures have been lawfully placed on this E40 parcel.

If you have any questions, please contact me at 682-3724.

Sincerely,

A handwritten signature in cursive script that reads "Jane Burgess".

Jane Burgess  
Compliance Officer

FILE # PA  
EXHIBIT #

## Lane County Planning Commission

### Concerns over Blasting

At the March 2, 1999 meeting of the Lane county Planning Commission, the Applicants for the zoning change submitted by BJ Equipment and those opposed to the change presented their arguments. Kris Jeremiah of BJ Equipment explained blasting techniques, their safety, successes and that they had expert personnel who were used on many jobs. The Bear Creek Neighbors should not be concerned over water volume and quality or excessive noise.

In 1976, Lane County started the Short Mountain Land Fill. Traffic to the fill and an accident on the Dillard Road Access Bridge over Interstate 5 required a major overhaul to the bridge. The rock abutment on the east side required changing. The contract for the work was let July 24, 1986. BJ Equipment was employed to blast the rock. In my research with the Oregon Department of Transportation I talked with Larry Lindley, the Project Manager and three of his staff, who informed me that the explosion from the blast was of such a degree that rock was blown over a wide area on Interstate 5. The blasting expert from BJ Equipment admitted that he made a mistake and used too much explosive.

I got the same explanation from Mike turner, Lane County Director of Waste Management and Ollie Snowden, Lane County Public Works Engineer. Further, the Eugene Register Guard considered the blasting error at the Dillard Road Access Bridge of sufficient consequence to be of importance to the county. This was headline news.

While the applicant has provided assurances that its personnel doing blasting are trained and certified and will be careful, blasting accidents can and do happen. This fact should be recognized and addressed.

Thanks,

Bob Still  
Bear Creek Neighbors

FILE # 98-5144  
EXHIBIT # 97

March 22, 1999

Lane County Planning Commission  
Public Service Building  
125 East 8<sup>th</sup> Avenue  
Eugene, OR 97401

Re: PA 98-5144

Dear Commissioners:

Shortly before the first planning commission hearing, I had a conversation with Thom Lanfear regarding BJ Construction's rock removal from the Bradford property during the summer of 1998. When I expressed concern about possible difficulties obtaining the owner and operator's compliance with conditions of approval, Mr. Lanfear stated that last summer he called BJ Equipment to request them to stop hauling rock from the Bradford property off-site and he believes they complied with that request.

If there were ever a time a party is likely to voluntarily comply with such a request, it would be when it intends to submit an application and needs the county's approval.

We remain troubled that rock was being hauled from the Bradford property by BJ Equipment in the first place. From industry sources, my understanding is that such hauling occurred for about three years and rock from this site was transported as far away as the coast.

Sincerely,



Diane Lane  
82841 Bradford Rd.  
Creswell, OR 97426

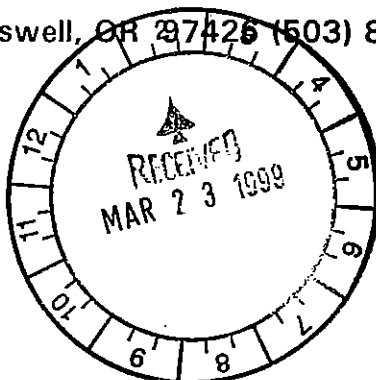
FILE # PA 98-5144  
EXHIBIT # 98



**Evalyn Z. Lemon**

**Jesse Castillo**

P.O. Box 235, Creswell, OR 97426 (503) 895-2982



March 23, 1999

Lane Co. Planning Commission  
Public Works Dept.  
125 East 8th Ave.  
Eugene, OR 97401

Ref: Land Use Change Department File Number PA 98-5144 (Owner Ross Bradford - Applicant B.J. Equipment Co.)

We would like to go on record as being opposed to the Application for Land Use Change referenced above. To all the other information already on file or about to be filed we would like to add the following three points:

During the March 2, 1999, meeting of the Lane County Planning Commission on the matter of the application, testimony was given by the applicant's representative. The second slide presented was to show buildings and properties nearest the proposed quarry site. The slide designated two properties nearest the site as being a tax lot with an abandoned shack and a tax lot with a mobile home.

I am, and have been since 1985 the resident and owner of the first indicated tax lot - 87206 South Bradford Road. (See the attached Exhibit G from Amended Application, dated February 17, 1999.) There has never been an abandoned shack on this property. In 1995-96 my partner and I constructed a new home on the property which is on the tax rolls for \$189,000. The property next to us, owned by Carl and Julie Cartmell - 82710 South Bradford Road - has a house that is approximately one year older than ours, appraised at approximately the same value.

My first point being that if the information used to compile this application is 15 plus years out of date, how reliable can it be?

My second point has to do with the burden of proof. The applicant does not have to prove anything. Forms are filed out, requirements are met, assurances are made and permits are issued. No one asks "Is the quarry needed? Where is the market, is there a market? What are the reasons behind this change of zoning and use?"

Those of us most affected by the granting of this application are then left with the task of persuading you of the reasons why it shouldn't be approved. We have to prove our case. And if we don't persuade you, then we are left with having to prove the cause of damage when it happens and also bear the cost of such proof as well as the cost of the damage. One change of land use for reasons unknown puts 80 plus residents in the position of defending themselves against the results, which could end up being anything from the cost of a new well to the

FILE # PA98-5144  
EXHIBIT # 99

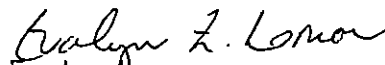
complete loss of property value and investment. Which may explain why Ross and Norma Bradford, who have been residents for most of their lives, have recently put their homesite up for sale. Perhaps they don't want to live with a quarry either.

If we were new-comers moving into a neighborhood where a quarry was in full commercial operation, who when chose to complain about the noise, the dirt, the safety factors, I would be the first one to defend the rights of the quarry owner. However, most of us are not new-comers. When I purchased my property fifteen years ago, I knew there was a logging operation going on and that the property owner operated a rock pit on a personal use basis. An editorial in a recent issue of the Creswell Chronicle indicated that those of us who have made our beds should be resigned to sleeping in them. Fine. But when someone then decides to remodel my bedroom, I insist in having a say in the matter. I did not move in next door to a commercial quarry. It was a tree farm when I laid down next to it.

Thirdly: The New Carissa. The damage is done. Good and honest efforts, I believe, were made to prevent damage. Forces of nature, however, intervened and what might have been a very little problem was turned into something much which no one was prepared for. We won't know for years to come what the damage will be. It might be only some greasy beach and a few dead sea birds. It might be much more, touching the lives and livelihoods of residents of Coos Bay and reaching out in all directions.

As for the quarry on the Bradford ranch, before the damage is done, please consider what the cleanup could be. Before the water becomes polluted or goes away all together, before the school bus collides with the gravel truck, please consider, that the effects this application will have on the residents of this area are projected over the next thirty to forty years. That's a long time to live with a mistake.

Sincerely,

  
Evalyn Lemon

  
Jesse Castillo

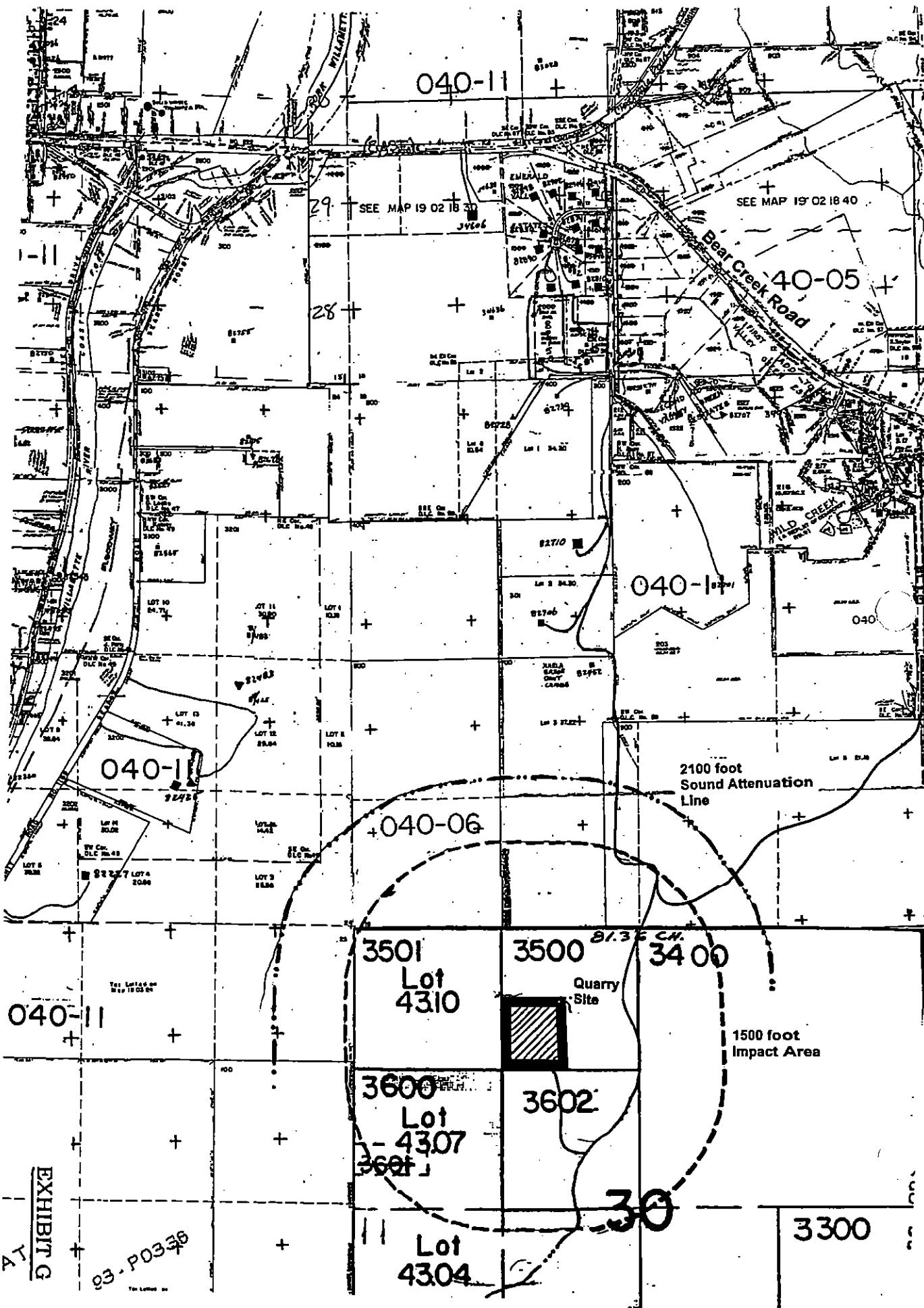


EXHIBIT G  
1A

03-P0338

3501  
Lot  
4310

3500 81.3 CH. 34 00  
Quarry  
Site

3600  
Lot  
4307

3602

Lot  
4304

3300

30

2100 foot  
Sound Attenuation  
Line

1500 foot  
Impact Area

040-11

29 SEE MAP 19 02 18 30

28

SEE MAP 19 02 18 40

40-05

040-11

040-11

040-06

040-11

Bear Creek Road

WILD CREEK

MARIA SARAH CHRY CANADA

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March 21, 1999

RECEIVED BY  
LAND MANAGEMENT

Land Management Division-Planning Commission  
Public Works Department  
125 East 8th Avenue  
Eugene, OR 97401

MAR 23 1999  
AM 7,8,9,10,11,12,1,2,3,4,5,6 PM

Dear Commissioners,

Please accept this letter and attachment as written input relative to the appeal of granting a zoning change and permit to allow gravel mining on Ross Bradford's property.

I am enclosing the press release of March 16, 1999 covering the decision by the National Marine Fisheries Service to add nine species of salmon and steelhead to the endangered species list B. Of specific interest is the listing of both the Upper Willamette River chinook and steelhead as threatened.

Of note in the press release is the statement that, "People -not nature- have created the conditions that have affected the health of these fish. The endangered species listings are the result of such factors as land use and water development projects that degrade watershed and stream conditions critical to salmon survival—"

The proposed gravel mine is certainly in a watershed of the Upper Willamette River and a few of the negative effects of the ground disturbing and watershed impacts have previously been pointed out.

Fishery biologists at the Springfield Office of the Oregon Department of Fish and Wildlife are of the opinion that the lower ends of this watershed, "may have been historic habitat for juvenile spring chinook". Without question the Coast Fork of the Willamette was historic habitat for the listed fish and allowing this gravel mine is a step in the wrong direction for ameliorating ground and watershed degradation in the Upper Willamette River Basin.

It would seem that the Commission should consider deferring any approvals of ground and watershed disturbing uses in affected watersheds until comprehensive guidelines are in place on how to comply with the effects of the listing.

Sincerely,



William P. Helmer

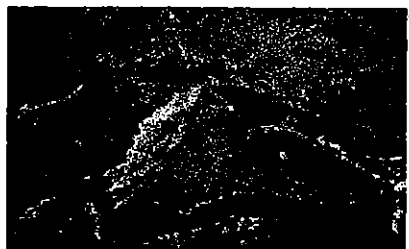
attachment-Press Release on Chinook and Steelhead T&E Listing.

FILE # PA 98-5144  
EXHIBIT # 100



## FEDERAL FISHERIES AGENCY ADDS NINE WEST COAST SALMON TO ENDANGERED SPECIES LIST

Action marks first time protection has extended to heavily populated areas



Washington, March 16, 1999 — NOAA's National Marine Fisheries Service today added nine species of salmon and steelhead in Washington and Oregon, including metropolitan Portland and Seattle, to the endangered species list B marking the first time federal protection has been extended to

salmon found in streams in heavily populated areas of the Pacific Northwest.

The Clinton Administration expects the move to encourage successful state and local salmon conservation efforts in the Pacific Northwest now and into the future.

People — not nature — have created the conditions that have affected the health of these fish. The endangered species listings are the result of such factors as land-use and water-development projects that degrade watershed and stream conditions critical to salmon survival, habitat loss, over-harvesting, dam construction and operation, and certain hatchery practices.

"Our goal here is to restore salmon," said Department of Commerce Secretary William M. Daley. "But we know that we cannot accomplish that alone. As we have all said repeatedly, extinction is not an option! We want to work together with state and local officials to preserve, for future generations, healthy salmon stocks along with clean and productive rivers and streams."

"One of our greatest challenges is to restore the great salmon runs of the Pacific Northwest to sustainable levels," said Terry Garcia, assistant secretary of commerce for oceans and atmosphere. "Healthy salmon resources are essential to the economic health and prosperity of the region."

The salmon populations listed, known as ESUs or evolutionary significant units, range from the sockeye salmon in Washington's rugged Olympic Peninsula to chinook salmon, the largest of any salmon, found in the heavily urbanized area of Puget Sound. Those listed today are:

### Four chinooks ESUs

- Puget Sound chinook (threatened)
- Lower Columbia River chinook (threatened)
- Upper Columbia River spring-run chinook (endangered)
- Upper Willamette River chinook (threatened)

### Two chum ESUs

FILE # PA 98-5144  
EXHIBIT # 100 Attachment

3/21/1999 11:45 AM

- Hood Canal summer run chum (threatened)
- Columbia River chum (threatened)

#### Two steelhead ESUS

- Upper Willamette River steelhead (threatened)
- Middle Columbia River steelhead (threatened)

#### One sockeye ESU

- Ozette Lake sockeye (threatened)

At this time, no immediate regulations will apply to state and private activities in the areas where species are listed as threatened. However, because it is listed as an endangered species, any accidental or incidental "take" of Upper Columbia River spring chinook would require a permit. In the future, fisheries service staff will work closely with its partners to develop "tailor-made" regulations that would include state and local conservation initiatives. The fisheries service said that the listing decisions would go into effect in two months.

Garcia added that "Governors John Kitzhaber and Gary Locke and many political leaders in the region have committed to me their support and willingness to do what it takes to save these fish. We are serious about achieving that goal and are committed to working cooperatively with the states, counties, Indian tribal governments and the public to produce comprehensive conservation plans that build on those partnerships to restore salmon habitat and recover these fish. We must work together to meet the challenge and find the right path to recovery into the 21st century."

The agency is deferring, for six months, its decision on four remaining chinook salmon (ESUs): Snake River fall-run, southern Oregon and California coastal, California Central Valley fall-run and California Central Valley spring-run chinook. The fisheries service will use the six-month extension to resolve areas of scientific disagreement about the ESUs. A final determination will be made in September. Garcia said President Clinton's FY2000 budget proposal asks Congress for \$100 million for West Coast and Alaska salmon protection to help local and tribal efforts, some of which are already underway in the three western states.

Under the Endangered Species Act, a species likely to become extinct is categorized as endangered. A species likely to become endangered within the foreseeable future is categorized as threatened.

Additional specific information related to this decision, including maps and fact sheets, is available on the fisheries service's Northwest region Web site at [www.nwr.noaa.gov](http://www.nwr.noaa.gov).

#### STATEMENT BY COMMERCE SECRETARY WILLIAM M. DALEY ON PACIFIC NORTHWEST SALMON

After careful study, and consultation with state and tribal scientists, the Commerce Department's National Oceanic and Atmospheric Administration is today listing as threatened or endangered several groups of Pacific northwest salmon.

I believe this action is essential to protect a valuable natural resource, a source of income and a symbol of all that is so special about the Pacific Northwest.

I recognize the challenge we face in restoring the great salmon runs. Therefore, I have directed NOAA to increase resources devoted to the Pacific Northwest.

In addition, the administration has asked Congress for \$100 million, coordinated by the Department of Commerce, that would go directly to state and local governments and Native American tribes. These funds will help defray the costs of developing and implementing plans to restore these fish to sustainable populations and to protect and restore healthy streams and the clean water upon which they – and all of us B depend. Clean water, healthy streams, and strong salmon runs go hand in hand.

I am committed to working in partnership with the state and local communities on their conservation efforts. It is only through these partnerships that we can ensure healthy salmon populations, protect and restore our clean water and continue to assure a vibrant economy for generations to come. I salute the leadership of Governors Kitzhaber and Locke, the Tri-County process and the many local leaders who have stepped forward with clear and determined commitments. I pledge my efforts to build these lasting and effective partnerships.

March 16, 1999

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Publication of the NOAA Home Page Design and Construction Company.



**HERITAGE  
RESEARCH**  
ASSOCIATES, INC.

1997 Garden Avenue  
Eugene, Oregon 97403  
Phone 541/485-0454  
FAX 541/485-1364

## FAX TRANSMISSION

Date: March 23, 1999

Time: 11:00 AM

To: Tom Lanfear, Lane County Planning

From: Rick Minor

Number of Pages (including this one) 1

**Comments:** As you requested, a check was made of the cultural resource site records on file at the Oregon State Historic Preservation Office in Salem for information on any sites recorded in T19S, R2W, Section 30. No sites have been recorded. However, as we discussed, it is likely that no sites have been recorded because the land has not been examined by a professional archaeologist. Let me know if there is anything further we can do.

Please call 541-485-0454 or FAX 541-485-1364 if you have any questions or problems with this transmission.

FILE # PA 98-5144  
EXHIBIT # 101

TOTAL P.01

03/23/99 TUE 11:01 [TX/RX NO 9051]



## LANFEAR Thom

**From:** HOLT CAMP Lloyd  
**Sent:** Tuesday, March 23, 1999 4:49 PM  
**To:** LANFEAR Thom  
**Subject:** PA 98-5144, BJ equipment zone change to QM, Cedarcroft Road.

Last week Lane County Materials Lab staff concluded deflection testing on Cedarcroft Rd and Bear Creek Road from the end of Cedarcroft Road to Cloverdale Road, a State Highway. This is the route proposed for Quarry related vehicles.

Projected Quarry Operation ( supplied by Branch Engineering by applicant):  
Maximum Rock Production: 100,000 cu. yds per year  
250 work days per year  
400 cubic yards per day  
40 - 10 cu. yd. trucks per day  
On site employees : 3  
Total trips = 86 vehicles = 86 trips per day maximum  
Total trips per day will be reduced by the use of trucks with more than 10 cu. yard capacity.

The Lab results are as follows:

	W/O the Quarry	With Projected Quarry Traffic
Bear Creek Road	AC Overlay in 20 years	AC Overlay in 5-10 years
Cedarcroft Road	AC overlay in 20 years	2.5" structural AC overlay needed prior to quarry operation

AC (asphalt) overlay costs ( todays prices) is estimated at:

Bear Creek Road	\$34,000
Cedarcroft Road	\$12,500

The applicant has not proposed to carry out an AC overlay in addressing GOAL 5 or Lane Code 15.105.

Other alternatives to an AC structural overlay.

The Board of County Commissioners (BCC) placed a 17 ton load limit on Molitor Hill Road and Sears Road when another quarry operation off the end of Molitor Hill Road proposed to use roads which could not accommodate the projected quarry related traffic. The planning commission and/or BCC may wish to pursue this option.

Under this option overloads were allowed on a case by case analysis during the summer months. The analysis took some time based on staff availability during the summer road construction season and was not popular with heavy vehicle operators. Monitoring of the truck traffic meant staff were diverted to this area as well.

### Bradford Road South Sight Distance

Chris Clemow's sight distance analysis indicates sight distance is insufficient to the east for existing traffic entering to enter onto Bear Creek Road.

The applicant's engineer did not suggest improvement in addressing Goal 5 or Lane Code 15.105.

### Traffic Signals

A suggestion was made that traffic signals be installed at the intersection of Bradford Road S. and Cedarcroft Road with their respective intersections with Bear Creek Road.

The Federal Highway Administration in its Manual on Uniform Traffic Control Devices outlines warrants (criteria) which need to be met in order to place a traffic signal. These criteria are intended to provide a uniform criteria nationwide for signal placement. Even if all criteria are met a traffic engineer may opt not recommend placement based on other considerations.

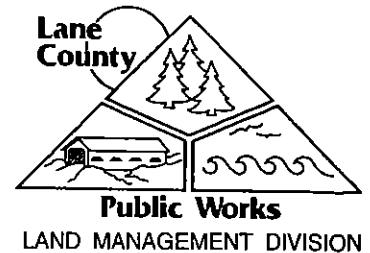
The first warrant ( or criteria ) to be met on a rural roadway is an average daily traffic of 5,600 on both major street approaches and 1,680 vehicles per day on the highest minor street approach. Bear Creek Road's 1997 average daily traffic of 700 just east of Cloverdale doesn't come close to meeting warrants.

At a cost of approximately \$100,000 per signal installation, signal installations should be reserved for higher volume street locations. It is not expected either intersection would warrant an installation.

FILE # PA 98-5144  
EXHIBIT C 102

# LANE COUNTY PLANNING COMMISSION

## Supplemental Staff Report



Hearing Date: April 6, 1999

File: PA 98-5144

Report Date: March 29, 1999

### I. PROPOSAL

**A. Applicant:** B.J. Equipment Company  
P.O. Box 543  
Cottage Grove, Oregon 97424

**Owner:** Ross Bradford  
82452 Bradford Road  
Creswell, Oregon 97426

**Agent:** James W. Spickerman  
Gleaves Swearingen Larsen Potter Scott & Smith  
P.O. Box 1147  
Eugene, Or. 97440-1147

### B. Proposal:

Amend the Rural Comprehensive Plan from "Forest" to "Natural Resource" and Rezone that Land from "F-1/Non-Impacted Forest Land" to "QM" ("Quarry and Mine Operations") for 40 acres, pursuant to Lane Code 16.400 and 16.252. Map 19-02-00 (30) Taxlot 3500.

### II. PROCEDURE

Testimony has been heard by the Planning Commission at the 3/2 and 3/16 Hearings. The record remained open until 3/23 for the submittal of written material by persons in opposition. The record remained open until 3/30 for the applicant to submit final written rebuttal. The record is now closed and ready for the Planning Commission to begin deliberations on the merits of the application request. The Planning Commission may follow these hearing procedures on April 6:

1. Announce the hearing and explain the rules of conduct.
2. Disclose any ex parte contacts.
3. Call for abstentions due to ex parte contacts or biases.
4. Request the Director or staff to present an introductory report, read findings and recommendations, if any, and provide such information as may be requested by the Planning Commission ("Commission", hereinafter).
5. Questions may be asked at any time by the Commission. Questions by the applicant, parties testifying, or County staff may be allowed by the Commission upon request. Upon recognition by the Commission, questions may be submitted directly to the persons being

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FILE # PA 98-5144  
EXHIBIT # 103

questioned. The persons questioned shall be given a reasonable amount of time to respond solely to the questions.

6. Staff recommends that the Commission conduct the deliberations in 8 segments that correspond to the steps outlined in the Goal 5 rule and the Lane Code Plan Amendment/Rezone requirements:
  - Step 1. Determine if the PAPA information is adequate.
  - Step 2. Determine if the resource site is significant.
  - Step 3. Determine if conflicts from mining can be minimized. The Commission can direct any party to prepare an ESEE analysis on unresolved conflicting uses to be completed prior to closing the record.
  - Step 4. Weigh the ESEE consequences and determine whether to allow mining.
  - Step 5. Determine the ESEE consequences of potential new conflicting uses within the impact area.
  - Step 6. Determine if the application meets the Plan Amendment requirements of Lane Code 16.400;
  - Step 7. Determine if the application meets the Lane Code Rezoning requirements of Lane Code 16.252;
  - Step 8. Develop a program to allow mining (Step 6 of the Goal 5 Rule).
7. The Commission may request proposed findings of fact and conclusions from any party to the hearing or assign the drafting of the recommendations and supporting findings of fact and conclusions to the Director.
8. Upon adoption of findings, conclusions and recommendations, the Commission shall submit the minutes of the public hearing and the recommendations to Board of Commissioners in compliance with Lane Code 16.400(6)(d).

### **III. SITE & PLANNING PROFILE**

#### **A. Location**

The subject property is identified as Map 19-02-00 Taxlot 3500 located within Section 30, east of Creswell. The applicant proposes to use contiguous ownership for access to Cedarcroft Road. These parcels are identified as Map 19-02-19 Taxlots 100, 700, & 800.

#### **B. Zoning**

The subject property is zoned Non-Impacted Forest Lands (F-1) within the Rural Comprehensive Plan on Zoning Plot Map #440B. The current Plan Designation for the property is Forest Lands.

#### **C. Surrounding Area**

All properties surrounding the subject parcel are zoned as Forest Lands with the exception of the parcel immediately to the north which is zoned Exclusive Farm Use. This parcel is in common ownership as the subject parcel. The access road follows through this resource land until it reaches the end of Cedarcroft Road where there is a Developed and Committed Lands Area containing residentially-zoned properties.

#### D. Services & Resources

Fire:	The site is not within a Rural Fire Protection District.
Sewer:	No sewage disposal systems have been approved on the subject property.
School District:	The property is located within the Creswell School District #40
Power:	Electricity is provided in this area by Emerald Peoples Utility District (EPUD)
Access:	Access is provided to Bear Creek Road (County) by Cedarcroft Road (County). Taxlot 100, an 80 ft. wide access lot, provides frontage onto the end of Cedarcroft Road for the proposed quarry.
Class I Stream;	No Class I Streams are identified within the Rural Comprehensive Plan on the subject property
Historical:	No historical resources are identified on the subject property.
Archaeological:	No archaeological sites are identified near the subject parcel in the Historical Resources Exhibit A of the Lane County General Plan Policies. Information was also solicited from Heritage Research Associates Inc.. They verified that no sites are on record with the Oregon Historic Preservation Office within T19S, R2W, Section 30.
Sensitive Habitat:	The subject property is not located within an area designated as sensitive bird habitat in Lane Manual 11.400.
Water Quantity:	The area is not located within a groundwater limited area identified in Lane Manual 13.010(2).
Water Quality:	The subject property is not located in an area that has been designated as a water quality limited area in Lane Manual 13.010(1). However, the area is known to contain elevated levels of arsenic in groundwater.
Wetlands:	There are no wetlands identified on the subject property as identified on the National Wetlands inventory map for Jasper (3). However, there is a wetlands shown on the map south of Cedarcroft Road and the panhandle access crosses over the wetland.

#### E. Referral Comments Received

1. **Oregon Department of Fish & Wildlife (ODFW):** You asked about the potential impacts of the proposed rock quarry off Bradford Road on the population of elk in that area. During the 1980's elk numbers and elk damage problems increased dramatically in the Sears Road/Bradford Road area. Through a meeting with landowners, the Oregon Department of Fish & Wildlife (ODFW) agreed to reduce and maintain the elk herd in this area at low densities to minimize damage conflicts. ODFW has trapped and removed (transplanted) elk from this area and we have an annual damage control hunt in this area. The proposed rock quarry does not conflict with ODFW's management objective of maintaining elk at low population densities in this area.
2. **Department of Geology and Mineral Industries (DOGAMI):** "DOGAMI-MLR has completed the circulation of the Bradford quarry permit application and reclamation plan to other resource agencies. We received comments from Lane County, the landowner, and the Department of Agriculture. The Department of Agriculture comments related to storm water controls for the site. We will be working with the permittee on a continuing basis to insure that the site is in compliance with the NPDES rules. I have enclosed a

copy of the site map prepared by DOGAMI for your reference. An operating permit can be issued when the \$7,500 reclamation bond for the site has been submitted.”

3. **Lane County Surveyors:** Lane County Surveyors: “Cedarcroft Road was established on March 10, 1982 by Board Order 82-3-10-5. The right-of-way width is variable but never less than 60 feet wide. I will provide you with the Order and a legal description with an accompanying map.”
4. **Lane County Transportation Planning:** “Comments from the Lane County Transportation Planning Section as follows:

Cedarcroft Road

This is a paved 24' wide County maintained road functionally classified as a local road in the Lane Coded 15.027. No traffic counts were taken on Cedarcroft Road.

Bear Creek Road

This is a paved 24' wide County maintained road functionally classified as a minor collector. The average daily traffic ( ADT) just east of Cloverdale Road published in Lane County's 1997 Traffic Volume Tables is listed as 700 vehicle trips per day.

Bradford Road South

This road is also County maintained road of Bituminous construction. No analysis of the suitability of the this road for this use was made as it was staff understanding this road was not going to be used for access to the proposed site.

Cloverdale Road

This road is under State Highway jurisdiction at the point of intersection with Bear Creek Road

Traffic Impact Analysis (TIA)

The TIA was done by Branch Engineering. The study assumes use of Cedarcroft Road and Bear Creek Road to get to Cloverdale Road. No Level of Service capacity problems were identified for the proposed use. This is to be expected given the low existing traffic volumes and the stated trip generation.

Roadway Structures

County staff felt there was no need for additional structure to be added to Cedarcroft or Bear Creek Road for this use. This was based on the figures supplied by the Loren Chilson of Branch Engineering for removal of 50, 000 cu. yds per year in non continuous usage over the projected 20 year life of the site. The analysis was based on an average 13 loaded trucks per day, per year for a 10 year period.

Lane County Facility Permit

A Facility Permit is required for any construction within the right-of-way of road under County jurisdiction. This includes, but is not limited to, such activities as driveway or street approach construction.

Additional response of 2/19: Based on revised information from Branch Engineering ( 40 loaded dump trucks per day/5days per week/per 20year period) the indication is asphalt overlays on both Cedarcroft and Bear Creek Roads to Cloverdale Road would be needed to support the planned use. The initial indication is a 4.5 inch and 3.5, asphalt overlay would be needed for Cedarcroft and Bear Creek Roads respectively. Lane County Facility Permits are required

for any work within the road right-of-ways. A licensed Oregon Civil engineer must prepare the construction plans and provide inspection and testing services. The County may do inspection and testing at its option on a billable basis.

If this use is approved, the County will investigate the need for a Stop sign on Cedarcroft road at the Bear Creek Rd. intersection. County crews will address brush within the right-of-way that may be limiting sight distance. The applicant may need to address brush removal on private property at this intersection if that is an issue.

Additional Response of 3/23: Last week Lane County Materials Lab staff concluded deflection testing on Cedarcroft Rd and Bear Creek Road from the end of Cedarcroft Road to Cloverdale Road, a State Highway. This is the route proposed for Quarry related vehicles.

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At a cost of approximately \$100,000 per signal installation, signal installations should be reserved for higher volume street locations. It is not expected either intersection would warrant an installation.

#### F. File Record

The complete file record is listed on Attachment "A" to this report. The primary applicant's submittals consist of:

- Amended Application (Exhibit 44);
- Response to Staff Report (Exhibit 48);
- Response to Testimony (Exhibit 80);
- Final Rebuttal (submitted after the drafting of this report)

#### IV. CRITERIA AND ANALYSIS

This staff report is intended as a working document to facilitate the Commission's deliberations. This report is structured to only briefly summarize the applicant's findings of fact at each evaluation step. If the supporting evidence and findings are sufficient for a recommendation to move directly to the next step, staff will state that. In the instances where a particular issue has been the subject of conflicting testimony, staff has identified the opposing viewpoints and made

a recommendation for the Planning Commission to consider in its' deliberations. Provisions of the Oregon Administrative Rules, Oregon Revised Statutes and Lane Code are shown in italics.

## A. Evaluation

### 1. Oregon Administrative Rules (OAR)

Statewide Planning Goal 5 was amended on June 14, 1996 and the Amendment became effective September 1, 1996. Accompanying Oregon Administrative Rules 660, Division 23 was amended and became effective on the same date. This application is being reviewed pursuant to the provisions of OAR 660, Division 23 regarding mineral and aggregate resources.

#### A. PROCESS

OAR 660-23-180 is the portion of Administrative Rules 660, Division 23 that applies specifically to mineral and aggregate resources. OAR 660-23-180(2) states: *"Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a PAPA, or at periodic review as specified in OAR 660-023-0180(7). The requirements of this rule either modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:*

Lane County is required to amend the acknowledged mineral and aggregate inventory in response to this application for a Post Acknowledgement Plan Amendment (PAPA). The Rule evaluation criteria for a PAPA are separated into six analytical steps:

- Step 1. Determine if the PAPA information is adequate.
- Step 2. Determine if the resource site is significant.
- Step 3. Determine if conflicts from mining can be minimized.
- Step 4. Weigh the ESEE consequences and determine whether to allow mining.
- Step 5. Determine the ESEE consequences of potential new conflicting uses within the impact area.
- Step 6. Develop a program to allow mining.

*(a) A local government may inventory mineral and aggregate resources throughout its jurisdiction, or in a portion of its jurisdiction. When a local government conducts an inventory of mineral and aggregate sites in all or a portion of its jurisdiction, it shall follow the requirements of OAR 660-023-0030 as modified by subsection (b) of this section. When a local government is following the inventory process for a mineral or aggregate resource site filed under a PAPA, it shall follow only the applicable requirements of OAR 660-023-0030, except as provided in sections (3) and (6) of this rule;*



These are the applicable provisions contained in the "Step 1: Adequacy of the Information" section of this report.

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

These are the applicable provisions addressed in the "Step 2: Significance of the Resource" section of this report.

*(c) Local governments shall follow the requirements of section (4) of this rule in deciding whether to authorize the mining of a significant mineral or aggregate resource site; and*

These are the applicable provisions addressed in "Step 3: Minimization of Conflicts" and "Step 4: Weigh ESEE Analysis" sections of this report.

*(d) For significant mineral and aggregate sites where mining is allowed, local governments shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses.*

These are the applicable provisions addressed in "Step 5: Determine ESEE Consequences of New Uses" section of this report.

## **B. DEFINITIONS**

The evaluation steps outlined above include several terms or phrases which are defined in OAR 660-23-180(1). Four of the definitions are provided below:

*(b) "Conflicting use" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site (as specified in 660-23-180(5) and OAR 660-23-180(4)(b)(A) through (f)).*

*(e) "Mining" is the extraction and processing of mineral or aggregate resources, in the manner provided under ORS 215.298(3).*

ORS 215.298(3) states: "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.

*(f) "Minimize a conflict" means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state or federal standards (such as the Department of Environmental Quality standards*

for noise and dust levels) to “minimize a conflict” means to ensure conformance to the applicable standards.

- (g) “Mining area” is the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.
- (h) “Processing” means the activities described in ORS 517.750(11). ORS 517.750(11) states: “Processing” includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and portland cement concrete located within the operating permit area.
- (i) “Protect” means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site and to limit or prohibit new conflicting uses within the impact area of the site.

### C. GOAL 5 ANALYSIS

Conflicting uses which are identified in the six-step evaluation must be minimized or resolved. The conflicts may be either from the impact area surrounding the proposed aggregate site or from an aspect of the proposed operation on a nearby use. If the Commission finds an existing or potential conflict has been minimized by the proposed operations plan, then the amendment can be allowed outright. If a conflict can not be minimized by the proposed operations plan, then the issues must be resolved by limiting either the aggregate use or an off-site use. This would be done by imposing conditions of approval. If the conflicting uses can not be resolved by conditions, then the proposed use can be prohibited.

#### STEP 1: ADEQUACY OF THE INFORMATION

OAR 660-023-0030(3) states:

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

*(a) Information about location shall include a description or map of the resource area for each site. The information must be sufficient to determine whether a resource exists on a particular site. However, a precise location of the resource for a*

*particular site, such as would be required for building permits, is not necessary at this stage in the process.*

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

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

Adequate information to evaluate the resource at the site has been submitted in the form of a report from Century West Engineering Corporation. (Exhibit "A" of Applicant's Amended Application.) The report contains information with regards to quantity, quality and location of the resource at the site.

**Staff recommends a positive finding on the adequacy of the information.**

## **STEP 2: SIGNIFICANCE OF THE RESOURCE**

OAR 660-023-180(3) states:

*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 Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or 100,000 tons outside the Willamette Valley;*

The report from Century West Engineering Corporation, combined with the letter of March 2, 1999, documents that the resource at the property meets the ODOT specifications for abrasion, air degradation, and sulfate soundness. The report estimates the amount of material available at the site to be 2,560,000 tons of high quality rock.

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

Lane County has not established a lower threshold for significance than Subsection (a) above.

*(c) The aggregate site is on an inventory of significant aggregate sites in an acknowledged plan on the applicable date of this rule.*

The site is not contained within the acknowledged Mineral and Aggregate Resource Sites for Lane County identified as Revised Appendix "D" of the Mineral And Aggregate Resources Working Paper.

*(d) Notwithstanding subsections (a) through (c) 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 the date of this rule; or*

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

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

No soils on the property are classified as Class I, II, or Unique in the "Soil Survey of Lane County Area, Oregon" containing the maps of the Natural Resource and Conservation Service.

**Staff recommends a positive finding for the significance of the resource and addition of this site to Revised Appendix "D" of the Mineral And Aggregate Resources Working Paper.**

### **STEP 3: MINIMIZE CONFLICTS**

OAR 660-23-180(4) states:

*For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving a significant aggregate site, the process for this decision is set out in subsections (a) through (g) of this section. For a PAPA involving a significant aggregate site, a local government must complete the process within 180 days after receipt of a complete application that is consistent with section (6) of this rule, or by the earliest date after 180 days allowed by local charter. The process for reaching decisions about aggregate mining is as follows:*

*(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.*

The local government (Lane County) must determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. There are two components to this review:

First, the review is limited to conflicts with proposed "mining and processing activities." "Mining" by definition appears to consist only of the actual extraction of the resource from the ground in some manner. "Processing" by definition includes the refinement of the mineral in some manner such as crushing, washing, milling and screening. Relevant conflicts appear to be limited to those uses that conflict with the extraction of the rock from the ground and the refinement of the product. The transport of the product is not an activity for which conflicts can be identified.

Secondly, the area of impacts is limited to 1500 feet from the boundaries of the "mining area." The definition of "mining area" restricts the review of impacts beyond 1500 feet from "*the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized*", unless factual information indicates significant potential conflicts beyond this distance. The applicants Noise Impact Study finds the noise from the "mining" and "processing activities" comes into conformity with the Department of Environmental Quality daytime standards at a distance of 2100 feet from the mining area.

The expansion of the impact area from 1500 feet to 2100 feet does not cause additional properties to be included in the analysis, only additional portions of the properties. There are 9 properties located within the 2100 foot area:

1. Map 19-02-00 Taxlot 3501; owned by Sears Ranch LLC
2. Map 19-02-00 Taxlot 3600; owned by Bettie Troxclair
3. Map 19-02-00 Taxlot 3602; owned by Burnell & Helen Falk
4. Map 19-02-00 Taxlot 3400; owned by Columbia Pacific Inc.
5. Map 19-02-19 Taxlot 600; owned by Sears Ranch LLC
6. Map 19-02-19 Taxlot 700; owned by Ross Bradford
7. Map 19-02-19 Taxlot 800; owned by Ross Bradford
8. Map 19-03-24 Taxlot 3201; owned by Sears Ranch LLC
9. Map 19-02-25 Taxlot 100; owned by US Government

**Staff recommends a finding for an impact area of 2100 feet from the perimeter of the proposed quarry site.**

*(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.*

There are no residential zoned properties located within the impact area. Only one approval for a residence has been issued on a property that lies within the impact

area, the Troxclair residence at 82704 South Bradford Road. This is the residence that is identified in the applicants' submittal as the nearest residence to the proposed quarry. The residence is located outside of the proposed impact area, approximately 2300 feet from the proposed quarry. No other conditional or final approvals have been granted by Lane County within the impact area.

*For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:*

*(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;*

Again, the review is limited to conflicts from proposed "mining." Only forest uses are existing within the proposed impact area. No conflict has been identified with forest uses.

Impacts from Truck Traffic to properties outside of Impact Area – Many of the comments received from nearby property owners, outside of the impact area, pertain to dust and noise impacts from the trucks transporting the rock from the mining area to the public roads. The primary issue for the Planning Commission to decide is whether those impacts are required to be minimized by the applicant. It appears from a review of the definitions contained within OAR 660-023-180 that noise and dust impacts need only be minimized when the source is the mining and processing area. Although it may not be specifically required under OAR requirements, the applicant has agreed to control dust on Cedarcroft Road by the application of a biodegradable substance at periodic intervals.

*(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;*

Four road issues have been identified in the record:

1. Branch Engineering has identified a change in Level of Service at the intersection of Highway 58 (the nearest arterial) and Cloverdale Road. (Exhibit 81)
2. Balzhiser & Hubbard Engineers has identified substandard sight distance at the intersection of South Bradford Road and Bear Creek Road. (Exhibit 51)
3. Transportation Planning Staff has determined that the existing road bed of Cedarcroft Road is inadequate to support the truck traffic as proposed.

4. Transportation Planning Staff has determined that the existing road bed of Cloverdale Road will need improving 10 years sooner than expected with the level of truck traffic expected from the quarry use.

Transportation Planning Staff comments are included in the "Referrals" section earlier in this report. The applicant responds to the road issues on Page 7 of the 3/2 response to Staff Report document (Exhibit 48) and on Pages 5 & 6 of the Applicant's Response to Testimony (Exhibit 80).

While there are clear and objective standards adopted by the American Association of State Highway Transportation Officials (AASHTO), the Lane County Rural Transportation Plan, Lane Code Chapter 15, has only one relevant provision LC 15.105 which states: "*Dedication and Improvement Requirements. (1) Any commercial, industrial, professional, group dwelling, multiple family or community facility use, or a subdivision or partitioning adjoining a road designated by the Master Road Plan as a Type "A" or "C" road shall meet the following minimum standards and requirements for dedication and improvement:*

*(a) The right-of-way shall be dedicated to the width shown on the Master Road Plan for the length of the frontage or frontages of the parcel to be used for the commercial, industrial, professional, group dwelling, multiple family or community facility use, subdivision or partition, including parking and outside storage areas; and*

*(b) The right-of-way shall be improved by the installation of paving, curbs, gutters, sidewalks, street drainage facilities and other facilities needed for traffic control as may be required by the Lane Code and Director of the Department of Public Works."*

There are two obstacles to using these Lane Code provisions to require road improvements for this proposed quarry:

First, the requirements apply to "industrial" uses. Since "industrial" is not defined within the Lane Code, the application of this provision relies upon an interpretation that mining represents an industrial use. If one looks to the zoning provisions of Chapter 16, it appears that Lane Code does not consider mining to be an industrial use. Mining is not listed as a permitted use under any of the three Industrial Zones.

Secondly, the language of the provision does not contain clear and objective standards as required by the Goal 5 rule. The provision "The right-of-way shall be improved ... as may be required by the Lane Code and the Director of the Department of Public Works" is very discretionary. The Lane Code has no standards for sight distances, road capacity, cross section elements, or horizontal and vertical alignment.

Transportation Planning Staff will be present at the hearing to assist the Commissioners in the discussion regarding possible road improvements.

*(C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments. This paragraph shall not apply after the effective date of commission rules adopted pursuant to Chapter 285, Oregon Laws 1995;*

There are no public airports within the 1,500 foot impact area.

*(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;*

Goal 5 resources include: Historical Resources, Archaeological Resources, Mineral & Aggregate Resources, Wetlands Resources, Open Space, Scenic Areas, Rare Plants, Riparian Vegetation, Sensitive Fish & Waterfowl Areas, Water Resources, and Energy Resources. The Rural Comprehensive Plan does not identify any Goal 5 resource sites within the proposed impact area. Although there has been a substantial amount of testimony regarding the potential wildlife impacts in the area, no significant wildlife habitats have been acknowledged as a significant Goal 5 resource in the Plan.

*(E) Conflicts with agricultural practices; and*

No agricultural practices have been identified to conflict with the proposed mining and processing activities.

*(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;*

ORS 517.780 states that the provisions of ORS 517.702 to 517.989 and the rules and regulations adopted thereunder shall not supersede any zoning laws or ordinances in effect on July 1, 1972.

*(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 (STEP 4).*

No conflicts have been identified within the impact area of 2100 feet from the proposed quarry. No measures are necessary to minimize conflicts.

**Staff recommends a finding that there are no conflicts within the 2100 foot impact area to be minimized.**

**An additional finding needs to be developed during the deliberations with regard to any conflicts to the public roads.**



#### **STEP 4: WEIGH ESEE ANALYSIS**

OAR660-023-180(4)(d) states:

*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.*

No significant conflicts have been identified that cannot be minimized.

**Staff recommends a finding that an ESEE analysis is unnecessary.**

#### **STEP 5: DETERMINE ESEE CONSEQUENCES OF NEW USES**

OAR 660-023-180(5) states:

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

OAR 660-023-040(1) states:

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

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

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

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

No conflicting uses have been identified within the impact area of the significant resource site. In addition to the reasons stated in the applicant's submittals, OAR 660-006-0025 restricts the development of campgrounds within Forest Zones on a parcel located within 3 miles from an Urban Growth Boundary (UGB). The entire proposed impact area is located within 3 miles of the UGB of Creswell. All but one of the parcels are Forest zoned parcels. As discussed in the applicant's submittal, the acknowledged policies and land use regulations are considered sufficient to protect the resource site.

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

No significant Goal 5 resource sites have been identified within the impact area by the acknowledged Rural Comprehensive Plan.

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

The applicant has identified an impact area that extends 2100 feet from the resource site.

(4) Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may

*conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.*

An ESEE analysis is not warranted for this resource site.

- (5) Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:
- (a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.
  - (b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.
  - (c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

**Staff recommends a finding that no conflicting uses have been identified within the impact area and a finding that acknowledged policies and land use regulations are considered sufficient to protect the resource site.**

#### **STEP 6: DEVELOP A PROGRAM TO ALLOW MINING**

OAR 660-023-180(4)(e) states:

*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;*

No conflicts have been identified within the impact area.

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

Any new proposal for the site other than that reviewed under the PAPA application would be reviewed under the Site Review provisions of Lane Code 16.257.

*(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.*

Any change in the operation than that reviewed under the PAPA application would be reviewed under the Site Review provisions of Lane Code 16.257.

*(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.*

The post-mining use is proposed to be forest use under the reclamation plan filed with DOGAMI. Forest Uses are a permitted use within the Quarry and Mines Operations Zone as per Lane Code 16.216(4)(f).

*(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.*

This criterion is not applicable to this proposal.

This provision of the Oregon Administrative Rules conflicts with the Lane Code 16.216(5) provision that requires Site Review for the proposed uses of the property. The Site Review criteria are not clear and objective. For instance, LC 16.257(4)(a) states: "That the location, design, size, shape and arrangement of the uses and

structures are sufficient for the proposed intent and are compatible with the surrounding vicinity." The review for compatibility requires the exercise of judgement and exceeds that which is allowed under the OAR provision. Any conditions of approval required under this process to be fulfilled prior to the start of mining should be implemented under a requirement to submit an application to verify that all conditions of approval have been satisfied.

**Staff recommends a finding that the Site Review requirements of Lane Code 16.257 are not applicable to this proposal because of the conflict between Lane Code 16.257 and OAR 660-023-180(4)(e).**

**Staff recommends the Commission adopt the following conditions of approval:**

- 1. Mining and processing shall be limited to daytime operating hours, usually five days per week but occasionally six days per week.**
- 2. Access to and from the site shall be limited to Cedarcroft Road..**
- 3. The rock crushing machinery shall be operated in accordance with both DOGAMI permit and LRAPA permits, including the release of particulate into the air..**
- 4. Discharge of water at the site shall be limited by the DOGAMI permit.**
- 5. The applicant shall provide prior 24 hour notice of the time and date of blasting at the site to the persons specified by the Planning Commission.**
- 6. Blasting shall only be conducted between the hours of 10:00 A.M. and 4:30 P.M., Monday through Friday.**
- 7. Seismographs will be set at the nearest dwellings to monitor all blasting operations. (These dwellings need to be identified.)**
- 8. The applicant shall apply a biodegradable substance to the unpaved portion of Cedarcroft Road at the intervals specified by the Planning Commission to control dust.**
- 9. The applicant shall direct all drivers using Cedarcroft Road to not use jake brakes in the vicinity of residences.**
- 10. The applicant shall comply with the requirements of Lane Code 16.216 regarding blasting records:  
Each operator shall maintain a record of each blast for at least two years. These records shall be available to the County, the State Department of Geology and Mineral Industries and other governmental agencies with appropriate jurisdiction upon request. Such records shall show the following for each blast:**
  - (i) Name of quarry or mine.**
  - (ii) Date, time and location of blast.**
  - (iii) Description of type of explosives and accessories used.**
  - (iv) Time interval of delay in milliseconds.**
  - (v) Number of different delays.**
  - (vi) Number of holes per delay.**
  - (vii) Nominal explosive weight per hole.**
  - (viii) Total explosive weight per delay.**
  - (ix) Total weight of explosives per blast.**
  - (x) Blast hole diameter, depth, spacing and stemming height.**

11. The applicant shall maintain a 50' setback from adjacent properties for all mining and processing operations.
12. The applicant shall request Lane County to install a stop sign at the intersection of Cedarcroft Road and Bear Creek Road
13. The applicant shall request Lane County to regularly cut back, as far as possible, the vegetation adjacent to Bear Creek Road, particularly east of the intersection of Cedarcroft Road

Additional conditions may be added dependant upon the determination of the Planning Commission of the applicability of road improvement requirements to the project.

## 2. Plan Amendment Criteria

The applicant has addressed the following criteria but has made the assertion that the Oregon Administrative Rule provisions for Goal 5 are the only criteria that are applicable to the request for mining a significant Goal 5 resource. Staff maintains that the Lane Code, as presently adopted, is also applicable to all requests for amendments to the Lane County Rural Comprehensive Plan.

### a. *Lane Code 16.400(6)(h)(iii)*

*The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:*

- (aa) *For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.*

Conformance with the applicable requirements of the Oregon Administrative Rules is determined under Section IV(A)(1) above. Other applicable state law requirements necessary prior to the development of a quarry on the site are administered by the Department of Environmental Quality and the Department of Geology and Mineral Industries. The applicant has addressed the Statewide Planning Goals in the Amended Application on pages 16 through 22.

The opponents have raised an issue that it is necessary to take an exception to Goal 4 Forest Lands in order to change the Plan Designation from Forest to Natural Resource. Their arguments are found in the Memorandum of the Bear Creek Neighbors, pages 1 through 3 (Exhibit 50) The applicant has rebutted the argument in the Response to Testimony pages 2 and 3 (Exhibit 80). When the question was posed by Lane County staff to the Department of Land Conservation and Development, DLCDC Staff did not feel that an exception was necessary to allow mining under the Goal 5 Rule. Staff does not believe that an exception to Goal 4 is warranted since OAR 660-006-0025(4)(g) allows mining within Forest Lands provided it can meet two

criteria: 1) be shown that 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; and 2) be shown that the proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel. No conflict with adjacent forestry or farming operations has been identified in the record.

An issue was also raised regarding the Easement requirements of Lane Code Chapter 15. Opponents argue that the access route to the quarry site is burdened with easements to the extent that the access route does not meet the requirement of LC 15.055(1): "*A private access easement shall be intended to provide access only to four or less lots or parcels or dwelling units, whichever the case may be, unless approved for access to more than four lots through a subdivision, partition or planning action taken pursuant to Lane Code Chapter 14 or 15.*" Staff has reviewed the details of the argument and does not agree with the opponents. The proposed access road from the quarry site to Cedarcroft Road crosses only property held in common ownership with the quarry site. The owner has direct access to the public road (Cedarcroft). No easement is necessary for this use. If there does exist separate legal lots within the ownership, at such time that each legal lot is proposed to be developed with other uses, access will be reviewed for compliance with the Lane Code easement provisions. Note that the Lane Code provision does not prohibit outright the use of an easement by more than 4 parcels, but rather allows the approval of more than 4 parcels under the appropriate processes of Lane Code Chapter 14 or 15. This process allows the placement of appropriate conditions to assure safe and adequate access. No easement is proposed under this application for access to a public road.

- (bb) *For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:*
- (i-i) *necessary to correct an identified error in the application of the Plan; OR*
  - (ii-ii) *necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR*
  - (iii-iii) *necessary to comply with the mandate of local, state or federal policy or law; OR*
  - (iv-iv) *necessary to provide for the implementation of adopted Plan policy or elements; OR*
  - (v-v) *otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.*

The Plan Amendment is in conformity with section (iii-iii). Provided the request meets the applicable criteria of the Goal 5 Rule, Lane County is required by Oregon Administrative Rule (OAR 660-23-180(2)) to amend the acknowledged Mineral & Aggregate inventory in response to an application for a Post-Acknowledgement Plan Amendment.

- (cc) *For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible, achieves policy support.*

The applicant has adequately addressed this criterion on pages 24 through 27 of the Amended Application. No conflict with the adopted Policies have been identified.

- (dd) *For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.*

No conflicts with the existing structure of the Rural Comprehensive Plan have been identified.

b. *Lane Code 16.400(8)(c)*

*Minor amendment proposals initiated by an applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by LC 16.400(6)(h)(iii) above can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:*

- (i) *A complete description of the proposal and its relationship to the Plan.*
- (ii) *An analysis responding to each of the required findings of LC 16.400(6)(h)(ii) above.*
- (iii) *An assessment of the probable impacts of implementing the proposed amendment, including the following:*
  - (aa) *Evaluation of land use and ownership patterns of the area of the amendment;*
  - (bb) *Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply and sewage disposal;*
  - (cc) *Impact of the amendment on proximate natural resources, resource lands or resource sites, including a Statewide Planning Goal 5 "ESEE" conflict analysis where applicable;*
  - (dd) *Natural hazards affecting or affected by the proposal;*
  - (ee) *For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;*
  - (ff) *For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan, within the jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;*



(gg) *For a proposed amendment to a Nonresource designation or a Marginal Land designation, an analysis responding to the criteria for the respective request as cited in the Plan document entitled, "Working Paper: Marginal Lands" (Lane County, 1983).*

This portion of the Lane Code is applicable to all requests for amendments to the Lane County Rural Comprehensive Plan. It functions in a manner similar to the Goal 5 Oregon Administrative Rule provision (OAR 660-023-0030(3)) that requires a review of the adequacy of the information. The above requirements are not criteria to be used to approve or deny a request, but are merely used to assure that a complete understanding of the Plan Amendment request and effects can be made by the Planning Commission and Board of Commissioners. Staff believes that the specific requirements of the Goal 5 Rule address the requirements of this section of the Lane Code.

### 3. Zone Change Criteria

*Lane Code 16.252(2) Criteria. Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.*

Consistency with the applicable Rural Comprehensive Plan elements and components is determined in Section IV(A)(2) above. Discussion of the general purpose of the chapter (Chapter 16) and the specific purposes of the Quarry and Mine Operations Zone follows:

- a. *Lane Code 16.003 Purpose. This Chapter is designed to provide and coordinate regulations in Lane County governing the development and use of lands to implement the Lane County Rural Comprehensive Plan. To these ends, it is the purpose of this Chapter to:*
- (1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*
  - (2) Protect and diversify the economy of the County.*
  - (3) Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.*
  - (4) Conserve farm and forest lands for the production of crops, livestock and timber products.*
  - (5) Encourage the provision of affordable housing in quantities sufficient to allow all citizens some reasonable choice in the selection of a place to live.*

- (6) *Conserve all forms of energy through sound economical use of land and land uses developed on the land.*
- (7) *Provide for the orderly and efficient transition from rural to urban land use.*
- (8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*
- (9) *Provide for and encourage a safe, convenient and economic transportation system within the County.*
- (10) *Protect the quality of the air, water and land resources of the County.*
- (11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*
- (12) *Provide for the recreational needs of residents of Lane County and visitors to the County.*
- (13) *Conserve open space and protect historic, cultural, natural and scenic resources.*
- (14) *Protect, maintain, and where appropriate, develop and restore the estuaries, coastal shorelands, coastal beach and dune area and to conserve the nearshore ocean and continental shelf of Lane County.*

The applicant has adequately addressed this criterion in the Amended Application.

**b. Specific Purpose of Proposed Zone Classification**

*Lane Code 16.216 Quarry and Mine Operations Zone*

- (1) *Purpose. The purpose of the Quarry and Mine Operations Zone (QM-RCP) is to:*
  - (a) *Recognize that minerals and materials within the County are an unrenovable resource, and that extraction and processing are beneficial to the economy of the County and the welfare of its people.*
  - (b) *Protect major deposits of minerals, rock and related material resources with appropriate zoning.*
  - (c) *Establish procedures for the protection of public health and safety on and adjacent to land where quarry and mine blasting operations are occurring.*
  - (d) *Establish County standards in the Lane Manual to be used in reviewing referrals from State and Federal Agencies of Operation and Reclamation Plans, pollution control permits and similar permits.*
  - (e) *Provide for cooperation between private and governmental entities in carrying out the purposes of this Chapter.*
  - (f) *To implement the policies of the Lane County Rural Comprehensive Plan.*
  - (g) *Establish procedures to insure compatibility of a Quarry and Mine Operation use with the area in which it is to be located, establish permitted uses and property development standards.*

The rezoning is consistent with (b) above, the need to protect major deposits of rock. The applicant has demonstrated that there is a significant amount of high quality rock at the site. The rezoning is also consistent with (f) above, to implement the policies of the Lane County Rural Comprehensive Plan. Goal 5,

Policy 1 requires known mineral resource sites to be conserved through the application of compatible land use regulation measures.

**Staff recommends a positive finding with regard to the Rezoning requirements of Lane Code 16.252.**

## **V. CONCLUSIONS**

### **A. Summary and Recommendation**

**Staff recommends approval of the request to Amend the Rural Comprehensive Plan from "Forest" to "Natural Resource" and Rezone that Land from "F-1/Non-Impacted Forest Land" to "QM" ("Quarry and Mine Operations") for 40 acres, pursuant to Lane Code 16.400 and 16.252. Map 19-02-00 (30) Taxlot 3500.**

**Staff also recommends that the applicant be directed to prepare the findings for submittal to the Board of Commissioners.**

### **B. Materials Attached to this Staff Report**

1. File Record Content Sheet

**BEFORE THE LANE COUNTY PLANNING COMMISSION**

IN THE MATTER OF THE POST ACKNOWLEDGMENT )  
PLAN AMENDMENT TO ALLOW MINING PURSUANT )  
TO OAR 660-023-0180 )



APPLICANT'S RESPONSE TO POST  
HEARING SUBMITTALS IN OPPOSITION TO POST  
ACKNOWLEDGEMENT PLAN AMENDMENT (PAPA)

**INTRODUCTION**

The Bear Creek neighbors, as a group, and individuals, have submitted additional written materials in opposition to the proposed Post Acknowledgement Plan Amendment ("PAPA") submitted by the applicant. Most of the contentions made by the opponents have previously been addressed in detail in responses by the applicant and this response will generally be limited to new points made or new information submitted by the opponents.

As previously, the applicant will continue to respond to the opponents' contentions on two levels. First, the applicant will continue to direct the Commission's attention to the precise language of the Goal 5 administrative rule that governs the consideration of post acknowledgement plan amendments for the purpose of establishing significant aggregate resource sites. The opponents' attorney urges that the new Goal 5 rule is not as narrow as it is portrayed but does not indicate how the language of the rule has meaning different than the plain meaning of the words used in the rule which establish the standards for approval.

FILE # PA 98-5144  
EXHIBIT # 104

The applicant will also address issues of impact beyond that which the new Goal 5 rule contemplates and measures to be taken that will address impacts that are not required to be addressed under the law.

**Traffic Impact.**

As has previously been discussed, OAR 660-023-0180(4)(b) limits consideration of conflicts relative to traffic generated by the use to considerations of conflicts based upon clear and objective standards that are to be part of the local transportation plan and implementing ordinances. There is no such plan or implementing ordinances that establish clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment and similar items as called for in the rule.

In spite of the lack of standards by which a traffic impact analysis can be appropriately judged under the rule, a traffic impact analysis has been provided. That analysis was supplemented by James Branch, Traffic Engineer, on March 15, 1999, extending the previous analysis to the intersection of Cloverdale Road with Highway 58 and concluding that all traffic movements would operate at LOS C or better. Mr. Branch's supplemental analysis also acknowledges an existing unsafe condition due to inadequate sight distance at the intersection of South Bradford Road with Bear Creek Road. As Mr. Branch indicates, South Bradford Road will not be allowed as an access or egress from the proposed quarry and the problem of sight distance exists whether or not the quarry is approved. As pointed out by Mr. Branch, the problem needs to be

addressed, with or without the proposed development, with mitigation including tree removal, regrading of the cut slope and possible speed reduction measures and additional signing.

The site distance problem at South Bradford Road is a non-issue for the application. There are no specific standards in the Lane County Transportation Plan or ordinances establishing a required sight distance. If there were such standards, they would be required, by the administrative rule, to be no greater than the standard for other similar trucks which presently pass the intersection. Under the Goal 5 rule, there is no basis to deny the application due to existing conditions at this intersection.

Mr. Holtcamp of Lane County Transportation Planning has submitted an e-mail of March 23, 1999. That e-mail would suggest that use of Bear Creek Road and Cedarcroft Road by the quarry traffic will increase wear on those roads and suggests the need for an asphalt overlay on the roads. Any condition to this effect is not permissible as part of the plan amendment and rezoning process to recognize the aggregate use. As previously pointed out, there are no Lane County standards relative to roads. Furthermore, the administrative rule does not list among the sort of items that can be in local standards the wear that will occur to local roads. The Goal 5 rule further provides that standards cannot be any different for the trucks associated with this use than with other similar trucks (e.g., logging trucks) that use this road. Finally, the Goal 5 rule allows only clear and objective conditions such as

regulating the mining by site review and does not allow the imposition of requirements that do not relate to the standards of the rule.

The effects of sound of truck traffic or dust problems associated with the use of Cedarcroft Road are not within consideration of the rule. The applicant will, however, apply a biodegradable substance designed for the purpose of dust suppression on a regular basis to assure a dust problem is not created. The applicant will make all possible efforts to discourage and prevent truck operators from using jake brakes in approaching the Cedarcroft/Bear Creek Road intersection.

**Effects of sound from the mining operation and blasting.**

It is contented that a blast was heard last year and the assumption is made that this was a blast at the BJ Quarry site. There is no basis to reach such a conclusion as there was evidence that other blasting went on in the area.

The applicant has provided a report of an acoustical engineer. The engineer's report addresses the sound from drilling and blasting:

"Drilling and blasting is another source. Drilling machines attain up to 105 dB,A at distances of 10' but this expands out and by the distance of 2400' the noise level is reduced some 48 dB on the flat, down to 57 dB,A. Then when the sound shadowing effects of hills and sloping ground is added in, the levels drop an additional 10 to 15 dB and fall well below the DEQ limits, even when added to the quarry noise.

Modern sequence blasting is practically inaudible even at distances of ¼ mile. DEQ levels allow upwards of 100 dB for blasting and at

the distances involved here, the noise levels of sequenced blasting will range near below 50 dB, based on my experience with other quarry blasting measurements.

These predictions are based on the quarry noise being directed somewhat like a megaphone towards any one direction and still DEQ compliance is attained for every scenario.”

As was apparent from the view of the site, there will not be a megaphone effect towards the residential areas to the north but rather, if there is any such effect, it will be to the forest lands to the east. Furthermore, the closest neighbors to the north are the Bradfords themselves, at over one-half mile from the quarry site, and the neighbors expressing concern are nearly a mile from the quarry site.

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With respect to the sound of the operation itself, the sound of the equipment was tested by measuring the sound from the exact equipment that will be used at this site where the equipment was located at the Saginaw Quarry. The sound equipment was set up to receive the reflected sounds off the sheer vertical walls of the pit at Saginaw. As stated by the acoustical engineer:

“It is difficult to imagine finding a reference point that could be more representative of the most extreme example for measuring the noise output from the rock processing equipment.”

The engineer concludes that the Department of Environmental Quality (DEQ) daytime noise limit would be reached at 2100 feet and beyond that the quarry noise would fall below DEQ limits. The engineer further notes that the area is not flat and the hills will block some of the expansion of sound and the



ground falls away in many directions due to the elevated location of the site relative to the dwellings nearby. He states:

“Both the hills and downhill slopes contribute further weakening of noise beyond that due to natural expansion on the flat. Sloped ground adds another 2 dB doubling of distance. The hills that block out the view of the noise will easily attenuate an additional 15 dB over that on the flat.”

Mr. Noxon concludes:

“All the nearby houses will be exposed to noise levels well below the daytime DEQ limit of 55 dB,A.”

The Goal 5 rule calls for the determination of impacts based upon adopted standards, including those of DEQ. The evidence submitted establishes that those standards are met.

With regard to noise, particularly from blasting, the level of accountability for the use will be very high. The applicant is required to keep records of any blast and to give notice of blasting. The applicant has agreed to notify any neighbor prior to a time set for blasting. The applicant will monitor impact of blasting by means of seismographs. As indicated above, there are DEQ standards for sound at residences and DEQ can monitor the sound of blasts if that sound is thought to exceed standards. If sound was to exceed DEQ limits, the applicant would be subject to fines by DEQ.

#### **Effect of blasting on surface water, groundwater and wells.**

The applicant, as part of the application process, retained a geologist, Ralph Christensen, to study the potential of impacts of the quarry use and blasting on water. Mr. Christensen notes that with construction of the quarry

to retain surface water, i.e., precipitation, the effect will be to increase recharge of any underground aquifer. Even at deep excavation, any existing groundwater intercepted will not be significantly affected due to the elevation of the site relative to the residential uses. The hydrologist states:

“It is impossible, hydrologically, for the quarry to lower the groundwater below the quarry floor level, and therefore impossible for the quarry to remove sufficient water for there to be an impact on wells 2000’ away drilled into rocks some 300’+ below the bottom of the quarry, since groundwater levels will still be at the quarry floor level.”

With regard to water quality concerns, the only potential for effect on water quality would be a leak from equipment of fuel or oil. As indicated by Mr. Christensen, if such should occur, it can be readily addressed and what cannot be immediately picked up will readily biodegrade. There is speculation by opponents that the blasting will release chemicals in the rock that will pollute the groundwater. There is no scientific basis for such speculation.

Mr. Christensen further establishes in his report that both wells and dwellings are rarely damaged by the ground shaking associated with blasting and then only in areas very close to the blast area.

Mr. Christensen’s summary is as follows:

“The quarry site will not significantly impact the quantity of groundwater in the area. The quarry will not degrade groundwater quality simply by maintaining a spill prevention and clean-up plan, as required by law, and promptly removing any spilled oils or fuels from the quarry area using the appropriate clean-up materials. This is the same kind of effort that logging companies, construction companies, and farm operations use. Blasting will not adversely affect groundwater, wells, or dwellings when it is

performed by professionals trained and certified to conduct it properly.”

The provisions of the applicant’s DOGAMI permit will not allow water to be pumped from the quarry pit unless the applicant applies for and receives a stormwater discharge permit from DEQ. The requirements of such a permit are such that any potential impact of discharge of water from the site will be thoroughly scrutinized prior to the issuance of such a permit.

**Impact on elk.**

The opponents have submitted additional information purported to be relevant to the impact on elk habitat. First, the Goal 5 rule only requires that impacts on Goal 5 “resource sites” that are shown on “an acknowledged list of significant resources” must be considered. Both with respect to elk habitat and possible archeological sites, there are no such identified resource sites within the impact area or even the general area of the proposed quarry.

Beyond the fact that the applicant is not required to address impact on the big game range, it is noted that the materials submitted relate to elk in the Blue Mountains of Oregon and speak of the effect of building of roads in the habitat of those elk. No new roads will be created here and the Oregon Department of Fish and Wildlife (ODFW) has indicated that the quarry would not conflict with ODFW’s objectives. The March 9, 1999 e-mail from William Castillo to Thom Lanfear states in part:

“Through a meeting with landowners (of the Sears Road/Bradford Road area), the Oregon Department of Fish and Wildlife (ODFW)

agreed to reduce and maintain the elk herd in this area at low densities to minimize damage conflicts. ODFW has tracked and removed (transplanted) elk from this area and we have an annual damage control hunt in this area. The proposed rock quarry does not conflict with ODFW's management objective of maintaining elk at low population densities in this area."

**Impact on agricultural lands.**

The opponents continue to raise the issue of impact on agricultural lands without identifying the impacts of concern. The relevant issue under the Goal 5 rule of impact on agricultural practices has previously been addressed by the applicant.

**Fire danger.**

The opponents raise a new issue of potential fire danger from the operation. They do not identify what the nature of this threat might be. Vehicles will be operated over an existing road presenting no greater fire danger than did that activity when the area was logged.

It must be noted that the Goal 5 rule contemplates review for impact on surrounding uses by the mining activity. It is difficult to conceive of any fire danger resulting from drilling, blasting, and processing rock at the site.

**Conditions and controls.**

The applicant has agreed to the following restrictions on the use which can be imposed as conditions of site review:

1. Limitation on operation of hours of each day of operation;

2. Limitations on days of the week of operation;
3. The requirement that that applicant give prior notice of time and date of blasting at the site;
4. Conduct seismographic monitoring of blast impacts;
5. Release of particulate into the air relative to equipment operation be controlled in accord with the operator's LRAPA permit and LRAPA rules;
6. Discharge of water from the processing activity be only allowed subject to approval of a stormwater discharge permit by DEQ;
7. Dust controlled on the unpaved portion of Cedarcroft Road by application of a biodegradable substance;
8. Access to and from the quarry site is restricted to Cedarcroft Road.

Violation of any of the conditions will subject the applicant to a \$1,000 per day fine pursuant to Lane Code 5.017. Violation of many of the conditions would subject the applicant to loss of its permit with DOGAMI, terminating all operations. Additionally, the applicant is subject to fines and permit revocations by LRAPA and DEQ.

**Information requested by the Planning Commission.**

1. Equipment to be used. Attached is a list of equipment to be located at the site when it is operating. With the exception of the listed bulldozer, this is the same equipment present and in operation at the Saginaw Quarry at the time the acoustical engineer conducted his testing.

2. Dust control. Attached is an information sheet regarding the biodegradable substance used for dust suppression.

The original application included a portion of an easement agreement between Mr. Bradford and the Troxclairs, the owners of property to the south of the site. Attached is the easement agreement in its entirety.

## **CONCLUSION**

The applicant submits that the analysis provided with this application relative to the Goal 5 rule for identification of significant aggregate sites and amendment of the acknowledged comprehensive plan to allow the appropriate use of such sites is complete. A significant resource has been identified and, to the extent that there exist any conflict with uses within what is deemed the impact area, those conflicts are mitigated and the use should be allowed.

Respectfully submitted,



James W. Spickerman,  
Of attorneys for applicant BJ Equipment  
Company, LLC

## LIST OF EQUIPMENT

8 conveyors

1 portable jaw crusher

1 set 30"x40" portable rolls

45" cone crusher

1 6'x16' 3deck screen

980 front end loader

Kawasaki-90Z III

D8 K Dozer

Kovelco SK 220 II extractor with hydra-hammer

# MATERIAL SAFETY DATA SHEET



## PRODUCT IDENTIFICATION

Manufacturer's Name	PENNZOIL COMPANY	CAS Number: MIXTURE
Address	P.O. BOX 2967 HOUSTON, TX 77262-2967	MSDS Code: 008349
		<b>NFPA Hazard Identification</b> Degree of Hazard      Hazard Ratings Health: 1              0 - Least 1 - Slight Fire: 0                  2 - Moderate Reactivity: 0            3 - High 4 - Extreme
Emergency Telephone No.	(800) 546-6040	
Trade Name	PENNZSUPPRESS® B	
Synonyms		

## COMPOSITION

COMPONENT NAME CAS NUMBER	HAZARDOUS IN BLEND	PERCENTAGE		COMPONENT EXPOSURE LIMIT	UNITS
		MIN	MAX		
PETROLEUM RESINS 64742-16-1	NO	30	TO 60	OSHA PEL ACGIH TLV	NO LIMIT NO LIMIT
WATER 7732-18-8	NO	20	TO 40	OSHA PEL ACGIH TLV	NO LIMIT NO LIMIT
EMULSIFIERS MIXTURE	NO	15	TO 35	OSHA PEL ACGIH TLV	NO LIMIT NO LIMIT
SURFACTANTS MIXTURE	NO	1	TO 5	OSHA PEL ACGIH TLV	NO LIMIT NO LIMIT
VACUUM RESIDUUM 64741-20-6	NO	5	TO 15	OSHA PEL ACGIH TLV	NO LIMIT NO LIMIT

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7325400

E A S E M E N T

THIS EASEMENT made by, between and among FRANK G. BRADFORD and VERA J. BRADFORD, husband and wife, ROSS H. BRADFORD and NORMA L. BRADFORD, husband and wife, JACK L. BRADFORD and GLORIA L. BRADFORD, husband and wife, and BETTIE L. TROXCLAIR, EDWARD T. TROXCLAIR and ROBERT J. TROXCLAIR, hereinafter referred to as Owners,

RECITALS

A. The parties are the owners of contiguous parcels of land over which a presently existing graveled roadway runs.

B. The parties desire to create a mutual easement and right of way for all of them so that the graveled road may be used by all of the above Owners for ingress and egress to and from their respective properties:

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth it is agreed as follows:

1. Frank G. Bradford and Vera J. Bradford do hereby grant, bargain, sell and convey to Ross H. Bradford and Norma L. Bradford, husband and wife, to Jack L. Bradford and Gloria L. Bradford, husband and wife, and Bettie L. Troxclair, Edward T. Troxclair and Robert J. Troxclair, a non exclusive easement and right of way for roadway purposes sixty (60) feet in width extending thirty (30) feet on each side of the center line of the present existing graveled road located on the following described property:

The East 200 feet of Lot #1 of Section 19, Township 19 South Range 2 West of the Willamette Meridian and all of Lot #2 in Section 19, Township 19 South of Range 2 West of the Willamette Meridian in Lane County, Oregon.

2. Ross H. Bradford and Norma L. Bradford do hereby grant, bargain, sell and convey to Frank G. Bradford and Vera J. Bradford, husband and wife, to Jack L. Bradford and Gloria L. Bradford, husband and wife, Bettie L. Troxclair, Edward T. Troxclair and Robert J. Troxclair, a non exclusive easement and right of way for roadway purposes sixty (60) feet in width extending thirty (30) feet on each