

**LANFEAR Thom**

**From:** Gerald Fleischli [heagjf@oregon.uoregon.edu]  
**To:** Wednesday, April 28, 1999 7:11 AM  
LANFEAR Thom  
**Cc:** heagjf@oregon.uoregon.edu  
**Subject:** ODFW recommendation on density

Thom-

Recognizing that the following LCRCP references an obsolete OAR, I'm still interested in the following questions which reflect upon our neighborhood:

What is ODFW recommendation for overall residential density?  
What is the current residential density for the Bear Creek Neighborhood?  
Have there been any local (Lane County) actions based on these numbers?  
What are they, and when (i.e., are there references we can look up)?

-Jerry

Lane Rural Comprehensive Plan Goal 5 - Flora and Fauna - Policy 11 states:  
"Oregon Department of Fish and Wildlife recommendations on overall residential density for protection of big game shall be used to determine the allowable number of residential units within regions of the County. Any density above that limit shall be considered a conflict with Goal 5 and will be allowed only after resolution in accordance with OAR 660-16-000. The County shall work with Oregon Department of Fish and Wildlife officials to prevent conflicts between development and Big Game Range through land use regulation in resource areas, siting requirements and similar activities which are already a part of the County's rural resource zoning program."

Gerald Fleischli  
34977 Meadow Lane  
Creswell, OR 97429-9469

98-5144  
11



Scotland

Hume

"True, true to the end"




4/28/99

Dear Love Planning Commission Members,

I know you work for D, have to wade thru legalese, and you invariably tee off someone, but the 5-2 (yeah to two) approval of Bradford rezone is as dumb as it gets. I'm reading Goldfarb, Goal 5 stuff and you guys have blown it. Now it goes before the new BOC. I'll be there to vent spleen. As Cornacchia said, "the only thing you need to know to be County Commissioner is that 3 is more than 2. Would you believe, some one on the McKenzie wants a quarry, too,

Your Sincere Friend (at least two of you)

*Bug Hume*  The morning star.

RECEIVED BY  
LAND MANAGEMENT

MAY - 3 1999

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

FILE # PA 98-5144  
EXHIBIT # 112

"Instead of spa, we'll drink ale, and pay no reckoning on the nail, no man for debt shall go to jail from Sarryowen in glory."

~ Irish Bancers, 1801

**LANFEAR Thom**

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**From:** HOLT CAMP Lloyd  
**Sent:** Thursday, May 06, 1999 1:06 PM  
**To:** LANFEAR Thom  
**Subject:** Cedarcroft quarry- road improvement requirements

I thought I heard Mr. Spickerman indicate verbally at the H.O. hearing the roads were adequate based on the Branch analysis, which is why I asked Spickerman in my latest correspondence to him to provide their calculations for this determination.

Branch's study only indicated they did some core samples to provide to the County. I talked to Jim Branch this morning. He confirmed they did no calculations to determine the road structure needed to serve the quarry.

FILE # PA 98-5144  
EXHIBIT # 113

May 17, 1999

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

Re: PA 95-5144

Dear Thom:

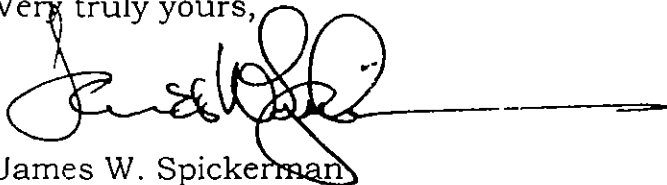
Enclosed herewith are proposed Findings of Fact and Conclusions of Law and Conditions.

As you will see, I have included a little more legal discussion with respect to some issues than may be normally contained in Board findings. My reasons in doing so include not only that these are important issues but that all the important issues of interpretation relate to interpretation of an administrative rule and the terms contained therein. The Board's interpretation is not going to be afforded Clark deference on appeal, as would the Board's interpretation of its own ordinance and plan.

You will note that the conditions of approval in the proposed findings vary in a few respects from those recommended by the Planning Commission. I have put forth what the applicant seeks as conditions and expect that those will be the subject of discussion before the Commissioners. I just wanted you to be clear that I was not attempting to suggest that the conditions in the findings are exactly those recommended by the Planning Commission.

I understand that you will send these proposed findings on to Steve Vorhes. I hope that you and Steve will contact me with your comments and suggestions.

Very truly yours,



James W. Spickerman

jca

Enclosure

cc: BJ Equipment Company

Gleaves  
Swearingen  
Larsen  
Potter  
Scott  
& Smith LLP



ATTORNEYS  
AT LAW

Phone:  
(541) 686-8833  
Fax:  
(541) 345-2034

975 Oak Street  
Suite 800  
Eugene, Oregon  
97401-3156

Mailing Address:  
P.O. Box 1147  
Eugene, Oregon  
97440-1147

Email:  
info@orbuslaw.com  
Web-Site:  
www.orbuslaw.com

Vernon D. Gleaves  
Arlen C. Swearingen  
Eric L. Larsen  
Standlee C. Potter  
Malcolm H. Scott  
Bruce E. Smith  
A. J. Giustina  
Douglas R. Schultz  
Stephen O. Lane  
William H. Martin  
Martha J. Rodman  
Michael E. Farthing  
James W. Spickerman  
Jon V. Buerstette  
Frederick A. Barson  
Thomas P. E. Herrmann  
James V. Shepherd  
Laura T. Z. Montgomery  
Chad C. Potter  
Ian T. Richardson  
Joshua A. Clark  
Kurt Wanless

FILE # F. 99-5144  
INVEST # 114

Of Counsel  
Harold D. Gibbs

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF  
LANE COUNTY, OREGON**

IN THE MATTER OF THE POST ACKNOWLEDGMENT )  
PLAN AMENDMENT (PAPA) TO REDESIGNATE LAND )  
FROM F-1, NON-IMPACTED FOREST LAND TO )  
QM-RCP, QUARRY AND MINE OPERATION ZONE )  
(PA 98-5144; ROSS BRADFORD) )  
\_\_\_\_\_ )

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
AND CONDITIONS IN THE MATTER OF PA 98-5144**

**A. The Application.**

The applicant and property owner, Ross Bradford, by and through his agent, BJ Equipment Company, LLC, has submitted an original Application and Amended Application seeking approval of the following:

1. Pursuant to OAR 660-023-0180, amendment to Lane County's acknowledged inventory of mineral and aggregate resources to include the parcel designated in the application by means of a Post Acknowledgment Plan Amendment (PAPA);
2. Amendment to the Rural Comprehensive Plan Diagram to designate the subject parcel Natural Resources: Mineral; and
3. Rezoning of the subject parcel to from F-1 (Non-Impacted Forest Land) to Q-M (Quarry and Mine Operations zone).

**B. Lane County Planning Commission action.**

On March 2, 1999 and March 16, 1999, the Lane County Planning Commission held public hearings and the record remained open for written material until March 30, 1999. The Lane County Planning Commission toured the site of the request. On April 6, 1999, the Lane County Planning Commission deliberated in public meeting and recommended by a vote of 5-1 to approve the PAPA and rezoning and adopt certain conditions.

**C. Legal criteria applicable to the decision.**

The substantive criteria for approval of a PAPA are set forth below in the text of the findings.

The procedural rules applicable to the Board's decision are as follows:

- Lane Code 14.200, 14.300 – General Hearing Rules, De Novo Hearing Procedure.
- Lane Code 16.252 – Procedures for Zoning, Rezoning and Amendments to Requirements.
- Lane Code 3.915 – Procedural Rules for Conduct of Hearings.

**D. Findings of fact and conclusions of law: PAPA review pursuant to OAR 660-023-0180, the Goal 5 analysis.**

Statewide Planning Goal 5 was amended June 14, 1996 and the amendment became effective September 1, 1996. Oregon Administrative Rules Chapter 660, Division 23 was amended and became effective the same day. The Board makes the following findings required by the Administrative Rule.

**Step 1. Adequacy of the PAPA information.**

The Board finds that the information contained in the original Application, the Amended Application submitted February 17, 1999 and subsequent written submittals by the applicant provided the information required by OAR 660-023-0180(6). The following is a brief discussion of the information provided and its adequacy.

**1. Minimum information. OAR 660-023-0180(6).**

**a. Details about the quantity, quality and location that are sufficient to determine whether the standards and conditions of section (3) of the Administrative Rule are satisfied.**

This requirement is met if samples of the aggregate material on the site meet Oregon Department of Transportation (ODOT) specifications for base rock or air degradation, abrasion, and sodium sulfate soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley. Attached as Exhibit A is the September 10, 1998 and the March 2, 1999 reports of Century West Engineering Corporation establishing that standards and conditions of Section (3) of the Administrative Rule are satisfied.

**b. A conceptual site reclamation plan.**

The Application contained a conceptual site reclamation plan and that plan is attached as Exhibit B to these findings.

**c. A traffic assessment within one mile of the entrance to the mining area pursuant to OAR 660-023-0180(4)(b)(B).**

Attached as Exhibit C is the Traffic Impact Analysis for the proposed Bradford Pit Quarry prepared by Branch Engineering on June 1998, and the October 15, 1998 addendum to that report, followed by supplemental reports from Mr. Branch.

**d. Proposals to minimize any conflicts with existing uses preliminarily identified by applicant within a 1500 foot impact area.**

The mining site is located in the southwest quadrant of a 40-acre F-1 zoned parcel and is approximately 2300 feet from the nearest residence which is on the opposite side of a hill and is well over one-half mile from the nearest residence to the north. There are only forestry uses within the 1500-foot radius of the site. The impact area and potential impacts are discussed further below.

**e. A site plan indicating the location, hours of operation and other pertinent information for all proposed mining and associated uses.**

The Bradford Pit site plan is included in Exhibit B.

**Step 2. Determination whether the resource site is significant.  
OAR 660-023-0180(2)(b) and (3).**

**OAR 660-023-0180(3):**

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

**(a) A representative set of samples of aggregate material in the deposit on the site meets 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 reports of Century West Engineering Corporation, attached as Exhibit A, establish the requisite quality and quantity of the rock at the site to satisfy the Administrative Rule.

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

The Board finds that Lane County has not established a lower threshold for significance than subsection (a) above.

**“(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;”**

The information submitted including Exhibit I, a soils map produced by Lane Council of Governments from the NCRS map, establishes that the only high value soils on this parcel are located at the northeast corner of the parcel. This area is far removed from the location of the pit itself, as shown on the site plan, and the geotechnical investigation by Century West establishes that the area where the mining will occur contains virtually no soils. The Board finds that this site qualifies as a significant site in that far less than 35 percent of the proposed area consists of Class I, Class II or Unique soils.

The Board concludes that the resource site is “significant.”

**Step 3. Determine if conflicts from mining can be minimized.**

**The impact area. OAR 660-023-0180(4)(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 1500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance.”**

The Board notes that the term **“mining area”** as used above is defined at OAR 660-023-0180(1)(g) as:

**“. . . 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.”**

The rule defines **“mining”** as:

**“. . . the extraction and processing of mineral or aggregate resources, in the manner provided under ORS 215.298(3).”** [OAR 660-023-0180(1)(e).]

The rule defines **“processing”** as:

**“. . . the activities described in ORS 517.750(11)”** to include refinement of the mineral in some manner such as crushing, washing, milling and screening. [OAR 660-023-0180(1)(h).]

The Board finds that this portion of the rule clearly limits consideration of conflicts to those uses that conflict with the extraction of the rock from the ground and its processing. The Board finds that transport of the product is not a mining or processing activity as defined in OAR 660-023-0180, therefore, is not relevant to the establishment of an impact area.

The Board finds that the definition of **“mining area”** restricts the review of impacts to 1500 feet from the area where the mining and processing occurs unless factual information indicates significant potential conflicts with mining and processing beyond this distance. The Noise Impact Study prepared by Art Noxon, attached as Exhibit D, establishes that noise from mining and processing activities comes into conformity with Department of Environmental Quality (DEQ) daytime standards for exposure to residences at a distance of 2100 feet from the mining area. The Board finds that this 2100-foot perimeter from the proposed quarry site is the impact area. No impacts, in addition to that of noise, have been identified or established by the evidence beyond the minimum 1500 foot impact area.

Attached as Exhibit F is a zoning map of the general area and attached as Exhibit G is a map showing existing residences and the subject site. Exhibit

H is a topography map. There are a total of 9 properties that are, at the least, in part 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 and 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

Within the potential impact area, only forest uses exist. The quarry site is approximately 2300 feet from the nearest residence, which is on the opposite side of the hill from the quarry and is approximately 3300 feet from the nearest residence on the north side of the hill.

**OAR 660-023-0180(4)(b):**

**“(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. The closest residence is 2300 feet from the mining activity on the opposite side of a hill. 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;”**

As stated above, the impact area is the area measured from the mining activity itself and the impacts must be from the mining or processing activities and not from transportation of the product. For a use to be conflicting, it must interfere with or be adversely affected by mining or processing activity [OAR 660-023-0180(1)(b)]. The Board finds that the rule requires that if a conflict is identified, the mining be allowed if the conflict is minimized. To "minimize a conflict" within the rule means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts that are addressed by local, state or federal standards (such as DEQ standards for noise and dust levels), a conflict is deemed minimized when there is compliance with those standards. [See OAR 660-023-0180(1)(f).]

The testimony in opposition included concerns with noise from mining activity, including blasting and crushing. The Board finds that the report of the acoustical engineer, Exhibit D, establishes that, assuming the worst case acoustically, sound levels from the crusher and loading of trucks would be at DEQ specified levels for exposure to a residence at a distance of 2100 feet and diminish from there. There are no residences within this impact area. The acoustical engineer also establishes that the sound from blasting will be well below DEQ limits for blasting, and with modern sequential blasting, will be practically inaudible even at ¼ mile.

The testimony included concern with effects of blasting in the quarry operation on water quality. The report of Ralph Christensen, hydrologist, Exhibit E attached hereto, points out that the level of the quarry is well above that of properties owned by those expressing a concern, therefore, would not affect groundwater for wells that will be far below the quarry floor level. As to water quality concerns, the hydrologist points out that the only possibility is a fuel spill from the mining operation if it were to infiltrate the ground through the quarry floor. As pointed out by the hydrologist, a spill prevention and cleanup plan must be prepared for the site as required by law which includes the requirement that cleanup materials be kept at the site and be readily available at all times. As discussed in the hydrologist's report, DEQ allows onsite remediation of hydrocarbon spills much larger than would occur in this situation and any risk of temporary groundwater pollution is minimal.

Concern was expressed with the possibility of discharge of water from the mining site. The DOGAMI permit does not allow discharge of stormwater or process water from the site. Obviously, the mining operation cannot function without a DOGAMI permit, therefore, the applicant must adhere to these conditions. Any discharge of stormwater from the site could only occur upon issuance of a stormwater discharge permit after satisfying DEQ requirements for such a permit.

Some of the testimony presented suggested that blasting would release arsenic and other chemicals into the groundwater. The Board finds that there

is no scientific or factual basis for this concern. The same is true of fears of debris being thrown into the air. The Board finds that there is no credible evidence that objects could be propelled beyond 2300 feet from the mining area.

The Board acknowledges that there is much testimony in the record concerning dust caused by trucks but the rule contemplates impacts from mining itself. The potential of release of dust into the air by the mining and processing activity is addressed by the requirements of the Lane Regional Air Pollution Authority (LRAPA) permit under which the processing equipment operates. The level of release of particulate into the air must meet DEQ standards as locally regulated by LRAPA and involves the wetting of materials during the processing. The issue of dust on Cedarcroft Road will be addressed by the applicant even though that is not required by the applicable criteria.

The Board finds that other impacts of truck traffic on Cedarcroft Road and Bear Creek Road are not impacts of the mining and processing operation and only the specific conflicts considered under OAR 660-023-0180(4)(b)(B) as discussed below, may be considered.

The Board finds the written testimony submitted by Art Noxon, acoustical engineer, and Ralph Christensen, engineer and hydrologist, is credible and not rebutted by the evidence in opposition.

With respect to the impacts of the mining and processing operation, in summary, the Board finds, first, there are no conflicts with existing and approved uses and associated activities. In the alternative, any potential conflicts that do exist are minimized by the distance of the mining operation from such uses and the required adherence of the mining operation to adopted state standards.

**OAR 660-023-0180(4)(b)(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 site 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 the capacity that haul other materials;”**

The administrative rule only allows conflicts to local roads to be identified relative to "clear and objective standards" in the local transportation plan and existing ordinances. The Board finds that there are no existing Lane County ordinances that contain standards such as those set out in the applicable administrative rule. While Lane County may, as a matter of policy, generally apply the AASHTO standards for highway design and safety, no ordinance or plan adopts those standards, therefore, they cannot be applied as local ordinances.

1. Existing Ordinances.

It is contended that Lane Code (LC) 16.400(8)(c)(iii)(ee) is an ordinance standard to be applied. That section requires documentation including:

"An assessment of the probable impacts of implementing a proposed amendment (to the Rural Comprehensive Plan), including the following:

For a proposed amendment to a nonresidential, nonagricultural use or nonforest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility cost, as compared to equivalent factors for the existing uses to be replaced by the proposal."

This provision of the Code is not a criterion for plan amendment. The language used and the context of the provision plainly indicate that it is a requirement for information in order to make a determination relative to another section. It is not a clear and objective standard.

2. 1980 Lane County Rural Transportation Plan.

The Board finds that Lane County has not adopted a Transportation System Plan (TSP) subsequent to the adoption by the Land Conservation and Development Commission (LCDC) of the Transportation Planning Rule (TPR) pursuant to Goal 12. The Lane County Rural Transportation Plan of 1980 has previously existed as the transportation plan for Lane County and has been superseded by the Goal 12 Rule as the 1980 plan does not meet the requirements of the TPR. [See OAR 660-012-0055.]

The Board notes that, even if the 1980 Lane County Rural Transportation Plan continued in effect, it does not contain clear and objective standards as required by the new Goal 5 Rule. The Lane County Rural Transportation Plan is given the status of a guideline in Lane County Rural Comprehensive Plan Goal 12 Policies by the following statement:

"The 1980 Rural Transportation Plan, as amended, shall continue to be used as a primary guideline toward transportation matters. Goal and Objective statements within it are incorporated into the above County Policies, and Recommendations within it shall be applied where appropriate; these Recommendations shall be considered mandatory actions which are ultimately binding on the County."

The Board notes that it is argued that, among the plan Recommendations, is the following:

"AASHTO uniform standards for highway design along with typical section and right-of-way guidelines and local road design requirements should be utilized by Lane County Department of Public Works, unless excepted for substantial reason, in order to provide needed safety, capacity and uniformity of the highway system."

The Board finds that the language used is in the form of a general direction to the Lane County Department of Public Works and is not a statement of adoption of a particular standard to be applied. As held in Stotter v. City of Eugene, 18 Or LUBA 135, 167 (1989), such language is not applicable as criteria for a land use application. A number of cases have held that plan policies that are written in general nonmandatory language, while they might be a guide to a local jurisdiction, cannot be interpreted as land use regulations. Such language as "should be" is nonmandatory language and cannot be applied as such. See Bennett v. City of Dallas, 96 Or App 645, 648 (1989), 17 Or LUBA 450, 457 (1989), Urquhart v. LCOG and City of Eugene, 14 Or LUBA 335, 347, rev'd on other grounds, 80 Or App 176 (1986), and McCoy v. Tillamook County, 14 Or LUBA 108, 110-111 (1985).

The Board finds AASHTO standards are not applicable as criteria because plan language does not adopt them as criteria for approval of land use applications.

3. Clear and Objective Standards.

OAR 660-023-0180(4)(b)(B) requires, with respect to conflicts to roads:

**"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."**

OAR 660-023-0050(2) states, in part:

**“For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:**

**(a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;**

**(b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or**

**(c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance. Different performance standards may be needed for different resource sites. If performance standards are adopted, the local government shall at the same time adopt a process for their application (such as a conditional use, or design review ordinance provision).”**

The Lane County Transportation staff states in its April 6, 1999 memorandum in referencing the “standards” sought to be applied with respect to wear to pavement:

“ \* \* \* The AASHTO methodology in pavement design is specified in the AASHTO Guide for Design of Pavement Structures. \* \* \* ”

County staff developed a pavement design necessary to accommodate the increase in use of county roads by the quarry. The AASHTO pavement design guide was used in this assessment.  
\* \* \* ”

The “standards” referenced are pavement design standards. The remainder of that put forth by the staff is the result of assumptions and calculations. This is not the application of clear and objective standards.

4. Attempt to Apply a “Standard” to Only Trucks Associated with Mining Operation.

OAR 660-023-0180(4)(b)(B) provides with respect to any “clear and objective standards”:

**“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;”**

The attempt here is to not only adopt some requirement that is not a pre-existing standard but to apply it only to gravel trucks from the applicant's quarry. The Board finds this is not only contrary to the stated administrative rule but is contrary to the intent of the rule to prevent the creation and application of vague rules to prevent an aggregate operation.

If AASHTO standards are applicable and are clear and objective standards enforceable by special assessment, those standards must be applicable to other similar trucks. There simply are no such standards requiring special assessment of public road uses based on projected wear to public roads.

5. No Legal Basis for Special Assessment.

County roads are repaved from the County Road Fund utilizing the funds dedicated for that purpose. ORS 368.705. There is no legal basis to require a private party to be responsible for paving a public road beyond the portion abutting the party's property except pursuant to ORS 368.371, which provides for County Road Districts and Road Assessment Districts.

It is noted that the Transportation Planning staff “assumes” trucks account for only one percent of present traffic on Cedarcroft and Bear Creek Roads. Bear Creek Road has substantial log truck traffic several months per year. This is not reflected in the calculations nor has consideration been given to specially assessing such other truck traffic. There is also no consideration given to the regularly scheduled overlay that is part of County road maintenance.

6. Nearest Arterial.

The nearest “arterial” within the meaning of OAR 660-023-0180(4)(b)(B) is Cloverdale Highway. The reference in this administrative rule is to the definition of that term in the Transportation Planning Rule at OAR 660-012-0065(1)(C):

**“ ‘Arterials’ means state highways and other public roads that principally provide service to through traffic between cities and towns, state highways and major destinations or as specified in an acknowledged comprehensive plan;”**

Cloverdale Highway connects Pleasant Hill and Creswell and connects two state highways. The initial traffic analysis addresses connection to the nearest arterial and indicates acceptable impact levels.



The Board finds that if it could be said that Cloverdale Highway is, for some reason, not considered an arterial, the closest arterial is Interstate 5. A supplemental analysis by Branch Engineering, dated May 3, 1999, establishes that the use will not cause significant impacts on the operating characteristics of the existing roadways and intersections. This analysis is set forth as part of Exhibit C.

7. Sight Distance Issue.

The Board finds that, even if AASHTO standards were applicable, the only point of inadequate sight distance is at the intersection of South Bradford Road with Bear Creek Road. South Bradford Road will not be used for access to and from the site. The staff agrees that this pre-existing condition is unchanged by the aggregate use. The condition may be capable of correction within the existing public right-of-way.

In conclusion, the Board finds that there are no potential conflicts to local roads used for access and egress to the mining site as there are no clear and objective standards that are part of an existing ordinance or viable local transportation plan.

**OAR 660-023-0180(4)(b)(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 impact area.

**OAR 660-023-0180(4)(b)(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;"**

This portion of the rule references only "Goal 5 resource sites" within the impact area which are shown on an acknowledged list of significant resources. There are no such sites in or near the impact area that are on such a list which would have to be part of the Comprehensive Plan or adopted by a land use regulation. [See OAR 660-023-010(9).]

The Board notes that testimony was received pertaining to possible impact on elk within the major big game range within which the quarry site is located. The existence of the game range does not render the area a Goal 5 resource site as contemplated by the Administrative Rule. The same is true of

open space. There is no inventory or resource list identifying open space resources in Lane County.

**OAR 660-023-0180(4)(b)(E):**

**“Conflicts with agricultural practices;”**

The Board finds that no agricultural practices have been identified with which the proposed mining and processing activities would conflict.

OAR 660-023-0180 contains a particular provision with regard to the relationship of potential aggregate sites to agriculture. The rule specifically directs that local government consider specifically “conflicts with agricultural practices.” This provision contemplates conflicts with practices rather than conflicts with uses. No farming practices or mode of operations have been identified that would conflict with the aggregate extraction use nor have conflicts been identified in the form of farming practices that would impact the extraction use.

OAR 660-023-0180(4)(c) provides that, to determine whether proposed measures would minimize conflicts with agricultural practices, the requirements or ORS 215.296 shall be followed:

- “(a) The aggregate use will not force a significant change in accepted or farm or forest practices on surrounding lands devoted to farm or forest use; or
- (b) The aggregate use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm and forest use.”

The most likely use of the nearby EFU land is for pasture, given the character of the terrain and vegetation. With controls in place relative to discharge of water, particulate matter into the air, and the controlled nature of the blasting, no significant change will be caused to farm practices. This is also true with respect to forest practices. As discussed above, the sound from the operation, given the distances involved and the nature of the sound, will not adversely affect farm or forest use.

Even if it is assumed that “agricultural practices” includes farm uses such as raising sheep, chicken or horses as suggested by the opponents, no conflicts with those uses have been identified. It is suggested that those animals are sensitive to noise, vibration and similar disturbances. A “conflicting use” must be a use or activity that would interfere with or be adversely affected by the mining or processing activities. The mining activity will involve fairly constant sound at moderate levels as described in the acoustical engineer’s report. The acoustical engineer’s report also establishes

that with modern sequential blasting techniques, the sound will be practically inaudible at a distance of ¼ mile. There is no information submitted that would establish a significant potential impact upon livestock use.

In considering the issue of conflict of the extraction use with agriculture uses, it is worthwhile to note that ORS 215.213(2)(d)(B) allows mining, crushing or stockpiling of aggregate and other minerals on EFU land subject to ORS 215.298, which allows mining under our local land use permit on acknowledged sites. The fact that mining is allowed under statute on EFU lands is an indication of the consistency of the aggregate extraction use with agricultural practices.

There is no evidence to suggest that the aggregate use will significantly increase the cost of accepted farm or forest practices on the surrounding lands devoted to farm or forest use. Presently, the adjacent EFU land remains in primarily forest use, which will be unaffected by the mining operation.

**OAR 660-023-0180(4)(b)(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. There are no such Lane County ordinances that would, by these terms, supersede the DOGAMI regulations.

**OAR 660-023-0180(4)(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.”**

The Board finds that no conflicts have been identified within the impact area of 2100 feet from the quarry site, therefore, no measures are necessary to minimize conflicts. The Board further finds that to the extent that there are

any potential conflicts, they are minimized by the restrictions on the use that are set by state regulations and the conditions imposed in this approval. The evidence establishes that the use will meet state and LRAPA requirements, therefore, to the extent any conflicts can be said to exist, they will be minimized.

**Step 4: Weigh ESEE analysis.**

**OAR 660-023-0180(4)(d):**

**“The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local government 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.”**

The Board finds that no significant conflicts have been identified, therefore, an ESEE analysis is unnecessary.

**Step 5: Determine ESEE consequences of new uses.**

**OAR 660-023-0180(5):**

**“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) 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.)**

**(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))."**

The Board finds that no conflicting uses have been identified within the impact area. The Board further finds that under the acknowledged land use regulations in existence, conflicting uses would not be allowed within the impact area. This site and adjacent parcels sharing boundaries of the site on the west, east, and south sides are zoned F-1, Non-Impacted Forest Land. The Board finds that the uses permitted outright or conditionally in that zone are not such that they will conflict with mining. The uses found at LC 16.210(2) include primarily forest operations or practices and uses auxiliary to those uses, farm use, exploration for natural resources in the ground, and hunting and fishing operations. None of these uses will adversely impact the mining and process use.

LC 16.210(3) sets forth additional uses subject to Planning Director approval. Those uses include logging equipment repair and storage facilities, transmission towers, cemeteries, temporary asphalt and concrete batch plants and distribution lines. These uses do not have operating characteristics that would conflict with the mining and process use. The uses also include campground use but OAR 660-006-0025 restricts the development of campgrounds within Forest zones on a parcel located within three miles from an urban growth boundary. The entire proposed impact area is located within three miles of the Urban Growth Boundary of Creswell. All but one of the parcels are Forest zoned parcels.

The Board notes that the uses allowed in the F-1 and QM zoning districts are similar, with both districts having many permitted and conditionally permitted uses in common. The fact that forestry uses are allowed in the Quarry and Mining zone is an indication of the compatibility of mining and forestry uses. Furthermore, the F-1 district allows mining and processing of aggregate and mineral resources subject to hearings official approval pursuant to LC 16.210(4)(a). This is further confirmation of the absence of conflict between the mining use and the uses that can be allowed in the F-1 district.

The Board further notes that uses allowed in LC 16.210(4) are subject to the criterion requiring that they not significantly conflict with livability and appropriate uses on adjacent and nearby lands. Home occupations are subject to a similar criterion.

Tax Lot 700, north of the subject property is zoned Exclusive Farm Use with a 30-acre minimum parcel size. The uses allowed in the farm zone will not conflict with the quarry uses. It is also noted that in defining "conflicting use," the Goal 5 Rule provides that "[l]ocal governments are not required to regard agricultural practices as conflicting uses."

In summary, the Board finds that the acknowledged policies and land use regulations will assure the protection of the resource site.

**OAR 660-023-040(2)(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."**

The Board finds no significant Goal 5 resource sites have been identified by the acknowledged Rural Comprehensive Plan within the impact area. This being the case, the Board finds that the remainder of the ESEE analysis is not necessary.

**OAR 660-023-040(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 Board has found an impact area of 2100 feet from the resource site. The mining site is the only identified resource site in the area.

**OAR 660-023-040(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.”**

As stated above, the only identified resource site is the mining site itself. An ESEE analysis, therefore, is not warranted.

**OAR 660-023-040(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.”**



In summary, the Board finds that no conflicting uses have been identified within the impact area. The acknowledged policies and land use regulations are sufficient to protect the resource site.

**Step 6: Develop a program to allow mining.**

**OAR 660-023-0180(4)(e):**

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

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

The Board finds that the PAPA application is complete and finds no conflicts within the impact area.

**“(B) Not requested in the PAPA application;”**

Additional land use review is not required. Any new proposal other than that of the PAPA would be reviewed under the Site Review Provisions of LC 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.”**

A change in the operation from that reviewed under the PAPA application would be reviewed under site review provisions of LC 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 government 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 Board finds that the post-mining use will be forest use under the reclamation plan filed with DOGAMI. Forest uses are a permitted use within the Quarry and Mining operation zone as per LC 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 inapplicable to the proposal.

The above cited Administrative Rule requires that, where further land use review is required by a local government, it must contain special conditions and procedures regulating mining that are clear and objective. The site review standards found at LC 16.257 are not clear and objective but involve the exercise of discretion. While the mining is not subject to site review, it is subject to particular conditions that are clear and objective as those conditions are established by the Board.

The new Goal 5 Rule with respect to aggregate resources specifies the procedure and criteria for identifying and preserving a Goal 5 aggregate resource.

**OAR 660-023-0180(7) provides:**

**“Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for the consideration of PAPAs concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of PAPA concerning mining authorization, unless the local plan contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:**

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**(a) Such regulations were acknowledged subsequent to 1989; and**

**(b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review, except as provided under OAR 660-023-0250(7)."**

The Board finds that Lane County has not amended its comprehensive plan and land use regulations to include procedures and requirements consistent with the new Goal 5 Rule for consideration of PAPAs. All that exists in Lane County is the Mineral and Aggregate Resources Working Paper, which contains a list of significant sites at the time of its adoption. Neither the Working Paper nor any portion of the Lane County Rural Comprehensive Plan contain specific criteria for a plan amendment to add significant aggregate resource sites to an adopted list of those sites. This means that the criteria applicable to this application are only those in the revised Goal 5 Rule and consideration of the PAPA pursuant to the criteria for a Lane County Rural Comprehensive Plan amendment is not required.

The Board further finds that, if the LC criteria for amendment to the Comprehensive Plan are applicable to the application, the application does positively address those criteria and finds the application in compliance with the criteria of the Lane County Rural Comprehensive Plan. Those findings follow the Statewide Goal Findings.

**E. Statewide Planning Goals.**

In the event the requirements of OAR 660-023-0180 for a PAPA are not deemed exclusive, and it is determined the Statewide Planning Goals must be addressed, positive findings on goal compliance follows:

**Goal 1: Citizen Involvement**

**To provide for widespread citizen involvement.**

This goal requires that citizens and affected public agencies be provided an opportunity to comment on the proposed plan amendment and zone change. Public notification in the form of a mailed notice was sent by Lane County to affected public agencies, including Department of Land Conservation and Development (DLCD), Oregon Department of Fish and Wildlife (ODFW), Department of Forestry, Department of State Lands and DOGAMI. No negative responses have been received. All owners of record within 500 feet of the subject properties have been notified. Public hearings will be provided both at the Lane County Planning Commission level and before the Lane County Board of Commissioners.

**Goal 2: Planning**

**To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.**

This goal requires governmental units to adopt land use plans and implementation ordinances after public hearing as has been done in Lane County. The County legislation is required to provide for review and comment by citizens and affected governmental units during any revision of the adopted plans and implementation ordinances. Lane County's planning documents specifies certain criteria which must be met to justify an amendment to the comprehensive plan. The criteria are addressed in this application, therefore, the amendment is consistent with Goal 2.

The second part of Goal 2 relates to exceptions to Statewide Goals. An issue raised concerning the necessity of an exception to Goal 4 is discussed below.

**Goal 3: Agricultural Lands**

**To preserve and maintain agricultural lands.**

This goal recognizes the importance of maintaining agricultural lands as those are defined under the goal. In western Oregon, agricultural land consists of predominantly Class I through IV soils identified by the Soil Conservation Service and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm and irrigation purposes, existing land use patterns, technological and energy input required for accepted farm practices.

The Soil Conservation Service and Soil Survey identifies soil on the subject parcel as containing 1.126 acres being Class III soil and 7.954 acres being Class IV soil. This means that approximately 4.5 percent of the entire parcel is the Class II soil and 28.5 percent is the Class IV soil.

It should be noted that, while there are some amounts of Class III and IV soils on the 40-acre site, those soils are not in the immediate vicinity of the quarry operation itself. If there is long-term value to those soils, it will be unaffected by the mining use which will be followed by reclamation of the site for forest use.

The information submitted also establishes mineral resources on the site of the quantity and quality that, pursuant to Goal 5 and the Oregon Administrative Rules adopted thereunder, the site is a significant resource site

for aggregate purposes. The statutes and administrative rules recognize that such resources can be mined in the area of agricultural soils.

OAR 660-023-0180(4)(b)(E) specifically requires that conflicts with agricultural practices be addressed as part of a PAPA application. The potential of such conflicts has been addressed in the findings pertaining to the Goal 5 Rule and is incorporated herein by reference.

**Goal 4: Forest Lands**

**To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically-efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.**

Contained in the original application is a detailed "Timber Management Plan" addressing the timber production capability of the entire 256-acre site owned by Ross Bradford. Of particular note is Area 10, the area specifically involved in this application. The description of the area states: "[t]his is a cleared area consisting of rock." The timber "growth potential" is described as: "Rocky site. No growth potential."

A view of the site would bear out what is described in the report. The quarry site is located on a rocky knoll. While some soil covers the rock, particularly on the lower portions of the knoll, the poor conditions are demonstrated by existing small trees that are the result of replanting. Growth has been minimal. Additionally, under the conditions of the Department of Geology and Mineral Industries Permit, upon conclusion of the quarry operation, the reclamation plan must be put into effect which will require the replacement of soils.

The new Goal 5 Rule does not require that statewide goals be addressed in the PAPA process set out in the rule. While the new Goal 5 Rule does address issues of conflict with other Goal 5 resource sites and requires that possible conflicts with agricultural practices be addressed, it does not reference conflicts with forest uses.

The Board further finds that the administrative rules pertaining to Goal 4 Forest Lands demonstrate that an exception is not necessary. Those rules provide there are five general types of uses that may be allowed in the forest environment subject to the standards in Goal 4 and the administrative rules. Those include:

“(c) Locationally dependent uses, such as . . . mineral and aggregate resources, etc.,” [OAR 660-006-025(1).]

OAR 660-006-025(4) provides:

“The following uses may be allowed on forest lands subject to review standards in Section (5) of this rule:

- (f) Finding and processing of oil, gas, or other subsurface resources . . . and mining and processing of aggregate in mineral resources as defined in ORS Chapter 517;”

The referenced subparagraph (5) allows the uses as long as they do not force a significant change in forest practices, increased fire hazard and would allow forest operations on adjacent land.

The PAPA process assures that there will not be conflicts between the forest use and the aggregate use in that the PAPA process requires that the aggregate use does not adversely affect or conflict with the surrounding uses, including forest uses.

The Lane County Land Use Management staff has contacted the Department of Land Conservation and Development (DLCD) and the DLCD staff confirmed that it is their view that an exception is not necessary to allow mining on lands previously designated Forest Lands under the Goal 5 Rule. The Board adopts this position.

**Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces**

**To protect natural resources and conserve scenic and historic areas open spaces.**

As previously stated, the new Goal 5 Rule for mineral and aggregate resources specifically addresses the other Goal 5 resources and limits consideration to “Goal 5 resource sites” that have been identified in the County’s Comprehensive Plan.

Beyond the fact that the new Goal 5 Rule specifically limits the considerations regarding Goal 5 resources to identified sites, no conflicts have been identified. In response to the referral sent by Lane County, ODFW described its plan to reduce elk numbers in the area and expressed the conclusion that the rock quarry does not conflict with the department’s management objective of maintaining elk at low population densities in the area.

There are no wetlands identified on the 40-acre site nor will any wetlands offsite be affected by activity allowed by the new zoning district.

**Goal 6: Air, Water and Land Resources Quality**

**To maintain and improve the quality of the air, water and land resources of the state.**

As applied to this specific application, this goal would require adequate protection measures for preservation of air, water and land quality.

The Board finds that LRAPA rules and permit requirements regulate the release of particulate matter into the air and require water be used in processing material to control any dust emissions that might be associated with the operation of the equipment. The same is true with regard to wastewater discharge from the site. Such discharge is prohibited under administrative rules and the requirements of the specific permit held by the applicant. There are no onsite systems for domestic water or sewage disposal. As is noted above, a reclamation plan has been prepared and approved by DOGAMI with respect to restoring land quality.

The hydrologist's report, Exhibit E, establishes that groundwater will not be adversely affected by mining practices.

**Goal 7: Areas Subject to Natural Disasters and Hazards**

**To protect life and property from Natural Disasters and Hazards.**

Under this goal, areas of natural disasters and hazards are described as areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, groundwater, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.

The Board finds that this area is not subject to such hazards and the risk of such hazards are not increased by the activity allowed by the plan amendment and rezoning. A condition of the DOGAMI permit restricts areas of storage of materials so as to minimize any potential for landsliding.

The site is not subject to stream flooding, erosion or other particular natural hazards.

**Goal 8: Recreational Needs**

**To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including Destination Resorts.**

The inventories of state and local recreational facilities indicate no recreational facilities on the site. The site is not a likely one for the siting of a destination resort. As explained elsewhere, campgrounds cannot be located near the site.

**Goal 9: Economic Development**

**To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.**

The goal contemplates that comprehensive plans and policies will contribute to a stable and healthy economy in the state. The goal primarily addresses commercial and industrial development within urban areas. To the extent the goal is applicable to the application, the operation will contribute to the economy of the local area by its employment of persons and by providing the natural resource for construction of roads, which in turn facilitate the economy of the state.

**Goal 10: Housing**

**To provide for the housing needs of the citizens of the state.**

This application does not directly relate to the housing goal of the state except as the provision of necessary aggregate resource facilitates the construction of housing in the form of foundations, driveways, and streets and roads to provide access to such housing.

**Goal 11: Public Facilities and Services**

**To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.**

This application does not directly relate to this goal. The public facilities and services in the form of roads exist to provide access to and from the site. The approval does not result in the extension of public facilities and services beyond those existing.



## **Goal 12: Transportation**

### **To provide and encourage a safe, convenient and economic transportation system.**

The application contains both the traffic impact analysis and a supplemental analyses that addresses the sufficiency of the transportation system to accommodate traffic associated with this use. Cloverdale Road is a county road providing connection between Creswell and Pleasant Hill. The roadway is 32 feet wide and the project vicinity has a posted speed of 55 miles per hour.

Although designated a "collector" at LC 15.027, Cloverdale Road is an arterial under the Goal 5 Rule where the term "arterials" is defined as:

"... state highways and other public roads that principally provide service to through traffic between cities and towns, state highways and major destinations or as specified in an acknowledged comprehensive plan;" [OAR 660-012-0065(2)(b)(C).]

Bear Creek Road is a county roadway extending east from Cloverdale Road. That road is 24 feet wide in the project vicinity has a posted speed of 50 miles per hour and has been used by the timber industry as a haul road for many years. Cedarcroft Road is a rural county roadway extending south from Bear Creek Road. The roadway has a paved width of 24 feet for approximately 750 feet, followed by a 22-foot-wide gravel surface. Cedarcroft Road was originally constructed for the hauling of timber and rock from the area surrounding the site of the proposed quarry.

A stop sign is needed at the intersection of Cedarcroft Road with Bear Creek Road as no traffic control presently exists. The traffic impact analyses demonstrate that the level of service (LOS) will remain at LOS A for the affected roads and that sight distances are adequate to serve trucks entering the roadways relative to acknowledged standards. At the intersection of Bear Creek and Cloverdale Roads sight distance is 940 feet with the recommended distance being 550 feet. At the intersection of Cedarcroft and Bear Creek Roads, the northbound left turn measure distance is 580 feet compared to the recommended distance of 550 feet and for a northbound right turn, the sight distance is 680 feet relative to the 550 feet recommended distance. The sight distance evaluation indicates the intersections are expected to operate safely with large trucks entering the existing roadways. Adequate distance is required for vehicles on Bear Creek Road and Cloverdale Road to slow or stop as necessary allowing trucks to accelerate to travel speeds.

In conclusion, the report notes that the quarry and rock crushing operations is projected to generate a maximum of 86 trips per day and 11 trips

during the PM peak hour. The report indicates that additional trips are not expected to have significant adverse impact on the operating characteristics of the existing roadways and intersections. Further discussion is contained in the Goal 5 analysis herein.

The report does indicate the need to add a stop sign at the intersection of Cedarcroft Road and Bear Creek Road and recommends that vegetation along Bear Creek Road, particularly east of the Cedarcroft Road intersection, be regularly cut back as far as possible to provide the greatest available site distance for vehicles approaching from the east. The reports also indicate that the intersection of South Bradford and Bear Creek Roads has less than optimum sight distance. South Bradford will not be used for access to and from the site. This problem may be correctable by the County within the public right-of-way.

As noted in the report of the traffic engineer, Bear Creek Road and Cedarcroft Road have been used as timber and rock haul roads for many years. Sight distances, grades, and radii of curvature on these roads were found to be suitable for large trucks. The Board finds that there is substantial evidence that the existing road system will remain safe and adequate.

The Board finds that the new Goal 5 Rule has set forth the specific items to be evaluated in determining impact of traffic associated with the mining and processing operation on existing roads. The application addresses in a positive manner those standards, therefore, it is consistent with Goal 12.

**Goal 13: Energy Conservation**

**To conserve energy.**

This goal contemplates that land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

To the extent that this goal is relevant to this application, the application will make aggregate resource available close to an area where substantial road construction will take place in the near future, thus reducing fossil fuel use for transportation purposes.

**Goal 14: Urbanization**

**To provide for an orderly and efficient transition from rural to urban use.**

The subject property is not within an urban growth boundary and is not urbanizable, therefore, this goal does not have relevance to this application.

**Goal 15: Willamette River Greenway**

**To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.**

This property is not located within the Greenway boundary nor in proximity to the Willamette River, therefore, this goal is not applicable to this application.

**Goals 16, 17, 18 and 19.**

These goals are geographically oriented to coastal resources, therefore, are not applicable to this application.

**F. Lane County Rural Comprehensive Plan Amendment Criteria.**

As discussed under OAR 660-023-0180(7) above, the existing criteria for amendment of the Lane County Rural Comprehensive Plan do not comply with the new Goal 5 Rule, therefore, have been found by the Board as inapplicable. The Board does, however, choose to address the Plan to the extent the criteria do not directly conflict with those in the Administrative Rule.

**LC 16.400(6)(h)(iii)(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, of reasons briefly set forth in its decision, to be desirable, appropriate or proper.”**

Statewide Goal 5 requires that the location, quality and quantity of mineral and aggregate resources be inventoried. The Lane County “Working Paper: Mineral and Aggregate Resources,” identified the then known existing

aggregate resource sites in Lane County. That working paper and Lane County Rural Plan Policies recognized that not all significant mineral resource sites had been identified and inventoried. The subject site has now been identified and qualifies under the Oregon Administrative Rules as a significant resource site.

The plan amendment is in conformity with Section (iii-iii). The PAPA having met the applicable requirement of the Goal 5 Rule, Lane County is required by administrative rule [OAR 660-023-0180(2)] to amend the acknowledged mineral and aggregate inventory in response to the application. There is no requirement to address the quarry market area or public need for the resource under the applicable Oregon Administrative Rule.

**LC 16.400(6)(h)(iii)(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 applicable Lane County Rural Comprehensive Plan Policies are discussed below. Policies not discussed are not relevant or applicable to the application or, to the extent they are relevant, are addressed by the Board’s findings herein with respect to the corresponding Statewide Goals.

**Goal 1: Citizen Involvement**

Policy 2 of this goal states, in pertinent part:

“Plan implementation shall include participation by the general public through a citizen involvement program in the . . . application of codes and ordinances needed to carry out the County General Plan Requirements.”

The discussion of Statewide Goal 1 is also applicable to this Lane County Rural Comprehensive Plan policy. As indicated, there have been several hours of public hearings allowing public participation.

**Goal 2: Land Use Planning**

Policy 25 states:

“Outside of designated ‘community’ areas, all changes to Plan Diagram designations shall be evaluated through the county’s plan amendment procedure (LC 16.400) and approval based upon fulfillment of criteria therein.”

This change in designation is evaluated herein through the plan amendment procedure and satisfaction of the relevant criteria is demonstrated.

**Goal 3: Agricultural Lands**

Policy 15 of this Rural Comprehensive Plan goal states:

“Lane County recognizes ORS 215.253 shall apply on land zoned EFU.”

The Lane County Rural Comprehensive Plan policies recognize that aggregate use may take place on agricultural lands. Here, little of the subject site contains agricultural soils and those portions which do will not be utilized for the quarry use. This is consistent with Policy 5 which states:

“Use planning and implementation techniques that reflect appropriate uses and treatment of each of type of land.”

As found by the Board relative to OAR 660-023-0180(4)(b)(E) and Statewide Goal 3, the amendment will not result in adverse impact on agricultural practices.

**Goal 4: Forest Lands**

Policy 14 states:

“Lane County recognizes that the Oregon Forests Practices Act shall be the only mechanism regulating the growing and harvesting of forest tree species on commercial forest lands unless Goal No. 5 Resource Sites have been recognized and identified as being more important through analysis of ESEE consequences and conflict resolution as per Goal No. 5. No other findings, assumptions, goal policy or other planning regulation shall be construed as additional regulation of forest management activities.”

This policy recognizes that Goal 5 resource sites, such as aggregate sites, can occur on forest lands. Their identification is subject to Goal 5 analysis which is manifested presently in the Goal 5 administrative rule which is addressed herein.

**Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources**

The new Goal 5 Rule specifically limits consideration of Goal 5 resources to identified Goal 5 resource sites. The resource site at issue does not conflict

with any other Goal 5 resource sites. The Board, however, makes additional findings of consistency with the policies of the Rural Comprehensive Plan.

In the Mineral and Aggregate Resources portion of this policy element of the Plan, Policy 1 states:

“Known mineral sites within the county, which are limited to those identified in the Appendix ‘D’ of the ‘Mineral and Aggregate Resources Working Paper’, shall be conserved for both present and future uses through the application of plan designation and compatible land use regulation measures. Such designation and regulation is to take place after the requirements of the Goal 5 Rule (OAR 660-16-000 through 660-16-025), which is addressed in Appendix ‘J’ of the ‘Mineral and Aggregate Resources Working Paper’.”

Pursuant to administrative rule, the subject site is identified as a significant mineral resource site now identified as such in the county. It should, therefore, be preserved for future use through the application of the appropriate plan designation and zoning.

Policy 6 states:

“Protect aggregate deposits from encroachment of incompatible uses and insure that aggregate material in close proximity to its point of use will be available when needed.”

Identification of this significant aggregate resource site and its designation for that use will protect the deposits from encroachment of incompatible uses. Uses located in any proximity to the site will be required to be compatible or take measures to mitigate impact on the natural resource use.

This will insure that this aggregate material will remain available in close proximity to the surrounding area of use, which is a substantial distance from the largest aggregate deposits in Lane County, those adjacent to the Willamette and McKenzie Rivers.

Policy 7 states:

“Mineral and aggregate resource sites, which on the basis of substantial evidence, are considered for inclusion in Appendix ‘D’ of the ‘Mineral and Aggregate Resources Working Paper’ pursuant to the application of the Goal 5 Rule (OAR 660-16-000/025), shall also show evidence of substantial resource utility over time. Any site evaluation shall also address possible impacts on agricultural lands, forest lands and residential development (existing or planned) . . . .”

Pursuant to the present administrative rule, this has been identified as a significant resource site by means of meeting specific resource quality and quantity requirements of the rule, establishing that there will be resource utility over time. The present rule also requires consideration of the resource use relative to soils that exist on the site which would bear upon agricultural or forest use. The standards of the rule are met in that there is a minimal amount of high-grade soils on the entire site and none located in the quarry area itself.

Policy 8 states:

“Encourage farm and forestry use of aggregate land prior to extraction; minimize negative environmental impacts during extraction; require reclamation after extraction which is compatible with adjacent uses.”

This entire property has been utilized for forestry use prior to this extraction activity. Negative environmental impacts will be minimized during use by prohibition of discharge of water or dust from the processing activity and utilization of existing roads through the forest lands, as well as specific limitation on the extraction area. Reclamation after extraction is assured by the requirements of the DOGAMI permit.

The plan amendment and rezoning are consistent with Policy 9, which provides:

“Lane County shall apply the appropriate district (SG, SG/CP, /QM) to sites listed in Appendix ‘J’ of the ‘Mineral and Aggregate Resources Working Paper’. Those sites with potential conflict shall be placed in the SG/CP or QM/SR Districts.”

With identification of the site as a significant resource site, the equivalence of a listing on Appendix “D” is achieved and the appropriate plan designation should be put in place.

**Goal 6: Air, Water and Land Resources**

In the Air Quality portion of this Plan Element, Policy 2 states:

“The county shall encourage practices and developments which can meet air quality standards.”

The subject mining and processing activity is required to and can meet air quality standards established by LRAPA.

Policy 3 states:

“The county shall cooperate with state and federal agencies to achieve enforcement of existing noise control regulations.”

The mining and processing activity is also subject to noise regulations of LRAPA.

The Water Resources policies include the following:

“Adequacy of water supply, particularly those relying on groundwater sources, shall be a major concern in reviewing major land use changes. For the purpose of applying this policy, major land use change shall be any application reviewed by the Hearings Official or the Planning Commission.”

While this policy is not stated as a criterion, the Planning Commission and Board review includes review of the application to ascertain that groundwater sources will not be affected by the quarry use or the blasting use involved in the mining operation. The hydrologist’s report clearly establishes that groundwater will not be affected by the activity.

**Goal 7: Areas Subject to Natural Disasters and Hazards**

Policy 2 states:

“Development shall be commensurate with the type and degree of any natural hazard(s) present and appropriate safeguards against flooding, ponding, landslides, land slippage, erosion or other natural hazards applicable shall be assured . . . .”

The DOGAMI permit specifies areas for stockpiling of rock material to prevent hazard of land slippage.

**Goal 11: Public Facilities and Services**

This plan policy element discusses land designations and service levels and, at subparagraph (d) states:

“Natural Resource: Mineral (QM or SG)

Description: Lands that have an exploitable resource and are of sufficient significant size and/or duration to warrant designation on the plan diagram. Any mineral resource extraction activity such as surface or subterranean mining, quarries and excavation of alluvial aggregate (sand or gravel) is included in this category.



Service Level: No minimum level of services is established. Category is intended for resource management and not habitation.”

This plan policy language indicates clearly that, with the designation of land to Natural Resource, a showing of availability of public facilities is not necessary.

**Goal 12: Transportation**

The Rural Comprehensive Plan policies contain little language that is directly applicable to the PAPA before the Board. There is the following language that is a direction to Lane County government but not a criterion for individual land use applications:

“Lane County shall strive for a coordinated and balanced transportation system which complies with LCDC Goal 12 and is responsive to the economic, social and environmental considerations, and which will work toward the following objectives:

- (a) Safe, convenient and economical transportation for all people, materials and services.”

This language constitutes a direction to Lane County for its overall planning process. The same is true of nearly all of the statements under Goal 12 of the Rural Comprehensive Plan.

At paragraph 3.j, the policies state:

“Maintain County roads and bridges adequately to meet the needs of the trucking industry consistent with adopted land use plans for the area.”

Consistent with this policy, Lane County is to maintain the roads that will be used to meet the needs of this identified resource site.

To the extent relevant, additional findings have been made relative to transportation in addressing OAR 660-023-0180 and in addressing Statewide Planning Goal 12. Those findings are incorporated herein by reference.

**Goal 13: Energy Conservation**

This goal directs implementation of the Lane County Energy Task Force recommendations and other recommendations. There is no language in the goal that is directly applicable to this application.

**Goal 14: Urbanization**

While this goal encourages new residential, commercial and industrial development to locate within existing and incorporated cities or rural communities, it does not give that direction with regard to natural resource sites. The goal policies are not applicable to this application.

**Goal 15: Willamette River Greenway**

The Lane County Rural Comprehensive Plan policies under this goal are not applicable to this development as it is not located within or near the Willamette Greenway.

The Coastal Resources Management Plan Policies are not applicable.

Goals 16, 17, 18, and 19 are not, by their nature, applicable to this application.

**LC 16.400(6)(h)(iii)(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.”**

The proposed plan amendment follows the structure of the comprehensive plan in that it addresses the criteria for amendments to the diagram of the plan. The structure of the plan is unaffected by the plan amendment and zone change. The plan contemplated from its outset recognition of significant aggregate sites and their appropriate designation under the plan, as is accomplished here.

**LC 16.400(8)(a)(i):**

**“Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.”**

The application proposes an amendment to the Lane County Rural Comprehensive Plan by changing the plan designation in Plan Plot No. 440B from “Non-Impacted Forest” to “Natural Resources: Mineral.” The resource information for the county will be changed as well.

No exception to Statewide Planning Goals is required.

**LC 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)(ii[i]) 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.”**

This section is addressed but the Board notes that it does not contain criteria for approval but is only a requirement for information in an application.

The required description of the proposal has been set out above. The application contains a complete description of the proposal and addresses the policies and other applicable portions of the Plan.

**LC 16.400(8)(c)(ii):**

**“An analysis responding to each of the required findings of LC 16.400(6)(h)(ii) above.”**

The analysis responding to the criteria of the cited section is set forth above.

**LC 16.400(8)(c)(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;”**

A complete evaluation of the land use and ownership patterns of the area as well as possible impacts are discussed thoroughly above relative to the PAPA pursuant to the Goal 5 Rules.

**LC 16.400(8)(c)(iii)(bb):**

**“Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply and sewage disposal;”**

The only public facilities necessary for the proposed use is the roadway system, and its adequacy is addressed above. This being an area designated for resource management, no minimum level of service is set by county policy.

**LC 16.400(8)(c)(iii)(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;”**

The need for a Goal 5 ESEE analysis is addressed in findings pertinent to the applicable Oregon Administrative Rules as part of the PAPA Goal 5 process.

**LC 16.400(8)(c)(iii)(dd):**

**“Natural hazards affecting or affected by the proposal:”**

There are no identifiable natural hazards that might affect the property or which would be affected by the quarry use.

**LC 16.400(8)(c)(iii)(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;”**

The Board finds that the language of this section does not contain a criterion for approval of a plan amendment. By its terms it contemplates a comparison of certain matters and does not set a standard for approval. Additionally, as found above, such language is inconsistent with the requirement of the new Goal 5 Rule making exclusive the particular standards of the rule unless local standards have been applied. Nonetheless, the Board makes the comparison below.

1. Employment: The full operation at the proposed quarry site is expected to fluctuate between the employment of one and five employees depending on production demands. Gross annual revenue expected from the operation will exceed \$100,000. This revenue would include salaries, materials and other operating expenses, and income from the resource. The proposed

quarry is, by its nature, located on thin soils which are not considered as agricultural land and are poorly suited on timber production.

For purposes of comparison, a forestry operation would involve, on this site, some additional planting in some areas. Portions of the parcel have in recent years been replanted. There would be minimal employment in tree farm maintenance for the first six years after planting. At approximately 35 years from planting, there would be some employment in thinning the trees and at 50 years, a short, intense period of employment in harvesting the trees.

It should be noted that only about 12 acres of the 40-acre site will be actively involved in any aspect of the quarry and mining use. The remainder of this 40-acre site will continue to support the replanted trees, providing that employment source as well during the course of the mining operation. In any event, the number of hours of employment will be greater with the proposed mining and extraction use.

2. Tax Revenue Impacts: Use of the mining site for timber production will eventually yield timber severance taxes at the time of the timber harvest. Those taxes will be delayed with respect to the portion of the site that is put in mining use as timber production on that portion of the site and will not commence until the mining is completed.

The present assessed value of the land, as forest land, is \$2,304.00 resulting in property taxes in the amount of \$47.51 for this past fiscal year. The value of the property will significantly increase based upon market value as a quarry site. The net tax income increase to Lane County will be positive.

3. Public Service/Facility Costs: Both forestry and quarrying require a well-maintained highway system for the hauling of products. Neither of those activities require any other significant public services or facilities. The quarry use will put a source of product in proximity to an area in which it will be needed, i.e., the Highway 58 improvement project.

**LC 16.400(8)(c)(iii)(ff):**

**“For a proposed amendment to a nonresidential, nonagricultural or non-forest 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;”**

The Board finds that this provision calls for information but does not establish a criterion for approval of a plan amendment. The section does point up the conflict with and preemptive nature of the new Goal 5 Rule. Where, unlike previously required by the rule and required by the Mineral and

Aggregate Resources Working Paper of February 1982, an inventory of aggregate sites is not necessary in order to have a site designated as significant.

The original inventory of aggregate resources is set forth in the Mineral and Aggregate Resources Working Paper of February 1982. At Appendix D is a list of 30 identified aggregate sites as of 1982. Of those sites, only four are in the same township and only one is in the same range as the site identified here. The inventory lists both active and inactive sites as of the time of its adoption. The working paper projected adequate supplies for a 20-year planning period and we are now nearing the end of that planning period. No new inventory has been conducted. The proposed site will add to the inventory a site that has recently been examined and determined to have a resource that is, under the administrative rules, significant in its quality and quantity of product available.

**LC 16.400(8)(c)(iii)(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 criterion relates to redesignation to a Marginal Lands designation or Non-Resource lands designation so residences may be constructed. That is not proposed here.

**The plan amendment is consistent with all aspects of the Lane County Rural Comprehensive Plan.**

**G. Zone Change Criteria.**

The Board, as previously stated, finds that the criteria for a PAPA in OAR 660-023-0180 are the sole criteria applicable. If the existing Lane County zone change criteria are applicable, however, positive findings are set forth herein.

LC 16.400(6)(i) allows a change of zoning to implement a comprehensive plan amendment to be considered concurrently with the amendment. This allows the designation from F-1, Non-Impacted Forest Zone, to QM/SR, Quarry and Mining Zone with Site Review.

**LC 16.252(2):**

**“Zoning and Rezoning . . . shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to**

**the public interest. In addition . . . rezoning shall be consistent with a specific purpose of the zoning 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 Statewide Planning Goals by the Land Conservation and Development Commission.”**

LC 16.003 sets forth 14 statements of purpose for the land use and development code. Some of these statements reflect goals and policies previously addressed and a full discussion of those issues will not be repeated here. The Board finds the following to be relevant statements and addresses them as follows:

**“(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 public health, safety, convenience and welfare.”**

The application establishes that the site contains a significant aggregate resource and is suitable for the quarry and mining operation. The portion of the site that is to accommodate the quarry and mining operation is poorly suited for forestry use. The quarry and mining operation will not unnecessarily adversely impact surrounding forestry use on the same site.

Measures have and will be taken to assure the public health by restrictions on impacts of noise, dust or water from the site.

**“(6) Conserve all forms of energy through sound economical use of land and land uses developed on the land.”**

This mining operation will be close to the point of use of its products for construction of roads, therefore, resulting in energy savings.

**“(10) Protect the quality of the air, water and land resources of this County.”**

The mining operation is regulated by LRAPA for air quality and is prohibited from discharging waste water. Washwater and water used for dust control is kept onsite.

#### **LC 16.217 — Consistency with Zoning Classification**

**The purposes of the quarry and mining operation zone (QM-RCP) include the following:**

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(

**(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.**

Recognition of this site as a significant natural resource site and its plan and zoning designation for that purpose is consistent with paragraphs (a) and (b) above. This action will assure protection of the deposits and allow their extraction for the benefit of the economy, the County and the welfare of the people.

**(c) Provide for the utilization of this resource in a manner compatible with the other land uses in the area.**

The zoning district does establish certain restrictions to assure the protection of the public health and safety of the occupants of adjacent land in the form of notification requirements for blasting and other regulations. These findings contain a complete analysis of potential conflicts between the utilization of the resource and other land uses in the area.

**(h) Carry out these purposes with the recognition of a need for said resources and the right of each property owner to make a reasonable use of his or her land.**

This language of the LC is consistent with the intent of the new Goal 5 Rule to recognize the need for mineral resources and the right of the property owner to make reasonable use of his or her land to obtain the resources.

#### **H. Conclusion.**

The Board finds that the applicant seeks only appropriate recognition of a resource on his land and proposes to develop that resource in an appropriate manner. The proposed quarry is located on land that has been used for the forest resource and now will be used for another resource. The type of activity, including transportation of the resource, is consistent with the forestry use that took place on the site and the nature of the area.

It would be difficult to find an area more appropriate for the proposed use. The Board finds the criteria for a PAPA are met in the Rural Comprehensive Plan and shall be amended from "Forest" to "Natural Resource" plan designation and a rezoning be granted from "F-1 (Non-Impacted Forest Land)" to "QM (Quarry and Mine Operations)" for 40 acres, pursuant to LC



16.400 and 16.252 for property at Assessor's Map No. 19-02-00(30), Tax Lot 3500.

The Board adopts the following conditions of approval:

1. Mining, processing, and hauling 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 restrictions upon 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 notice of the time and date of blasting at the site to the all residents north of the mining site and south of that portion of Bear Creek Road between its intersection with Cedarcroft Road and Cloverdale Road by means of letter postmarked three business days prior to the blasting date and by posting a sign at a central location.
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 two nearest dwellings to the site to monitor all blasting operations.
8. The applicant shall apply a biodegradable substance to the unpaved portion of Cedarcroft Road at regular intervals 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 following 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.
  14. The applicant is required to restore the site to forest use consistent with the reclamation plan upon conclusion of the mining operation.

Attachments:

- Exhibit A: September 10, 1998 and the March 2, 1999 Reports of Century West Engineering Corporation
- Exhibit B: Site Reclamation Plan
- Exhibit C: Traffic Impact Analysis and addenda by Branch Engineering
- Exhibit D: Noise Impact Study by Art Noxon
- Exhibit E: Ralph Christensen Report
- Exhibit F: Zoning Map of general area
- Exhibit G: Map of existing residences and the subject property
- Exhibit H: Topography map
- Exhibit I: Soils map

GEOTECHNICAL INVESTIGATION

AGGREGATE RESOURCE  
QUALITY/QUANTITY  
EVALUATION

LANE COUNTY, OREGON

September 10, 1998

EXHIBIT A



**LEADING THROUGH EFFECTIVE SOLUTIONS**

September 10, 1998

Mr. Kristofer Jeremiah  
B J Equipment Company  
34964 Hwy 58  
Eugene, OR 97405  
(541)747-6261  
(541)988-4320 Fax

**AGGREGATE RESOURCE QUALITY/QUANTITY EVALUATION  
40 ACRE PARCEL DESIGNATED AS 19 02 30 TAX LOT 3500  
LANE COUNTY, OREGON  
Project NO.: 12327.001.01**

Dear Mr. Jeremiah:

As requested, personnel from Century West Engineering observed, logged and sampled 6 test borings at the above referenced site. The site is within Section 30, Township 19S, Range 2W and is located south of Bear Creek Road, directly south-west of Cedarcroft Road. See vicinity map, figure 1, for project location.

The subject site consists of 40 total acres of which approximately 20 acres will be permitted for the mining operation. The mining will be a hill top removal located in the south west quadrant of the subject 40 acres parcel with scales, stockpiles and loading areas located at the north east quadrant of the 40 acre parcel. An existing excavation, known as Bradford Quarry, now exists on the hill top with stockpiled crushed material located south and east of the existing excavation. Some overburden materials have been graded and stockpiled north-east and west of the existing quarry. Our evaluation includes laboratory testing of on site materials to be used as construction aggregate material. The laboratory testing is per the requirements of the Statewide Planning Goal 5 for Aggregate Resources and includes Oregon Air Degradation, Soundness and L. A. Rattler(LAR) tests.

## **SUB-SURFACE CONDITIONS**

The site sub-surface soil and rock conditions were investigated using 6 test borings done in the south-west quadrant of the subject site. See site map, Figure 2, for boring locations. The borings were excavated by BJ Equipment Company using a Gardner-Denver SCH 5000C rock drill unit. Borings 1, 2 and 3 were done in the area of the existing quarry where the overburden materials had been removed and stockpiled. Borings 4 and 5 were done in relatively undisturbed areas and indicated overburden soil materials of approximately 10 feet. Boring 6 was done north of the proposed mining area and indicated overburden material to a depth of 35 feet below existing surface. The overburden soils consist of a silty sand material with a mixture of gravels, cobbles and boulders. The site rock is of an Igneous-Volcanic configuration which was formed directly from molten rock that cooled quickly on or near the earth's surface. The rock is gray brown in color and of basaltic composition and is low to non vesicular. Borings 1 through 5 were excavated to a depth of 70 feet

below the existing elevation at each boring. The boring logs can be found in the appendix of this report.

## LABORATORY TESTING

Per the Goal 5 Rules the site rock was tested for the following:

Los Angeles Rattler (LAR) ASTM C-131, OAHDM 211

Test Result	Percent Loss 18.8%	Specification <30.0%
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Oregon Air Degradation OSHD TM 208

Test Result	Percent Passing #20 17.8%	Specification <30.0%
	Sediment Height 1.5"	Specification <3.0"

Soundness ASTM C-88, OSHD TM 206

Test Result	Total Coarse Loss 5.7%	Specification 12.0% Max
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The test results indicate the site rock meets requirements as a high quality rock source. Test data results can be found in the appendix of this report.

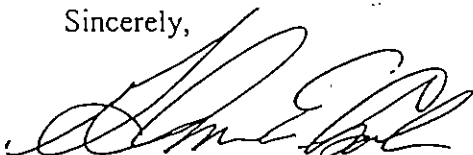
## CONCLUSIONS

In reviewing a "Report of Onsite Inspection" dated July 23, 1998, by Mr. Peter J. Wampler of the Oregon Department of Geology & Mineral Industries, the mining operation will cover an area of approximately 12 acres located in the south-west quadrant of the subject site with the total permitted area consisting of 20 acres. Our field investigation and site observation indicates that the subject site has varied depths of overburden soil material that range from 0 to 10 feet below existing surface. Below the overburden material is a basaltic rock that extends to a depth in excess of 70 feet below existing surface.

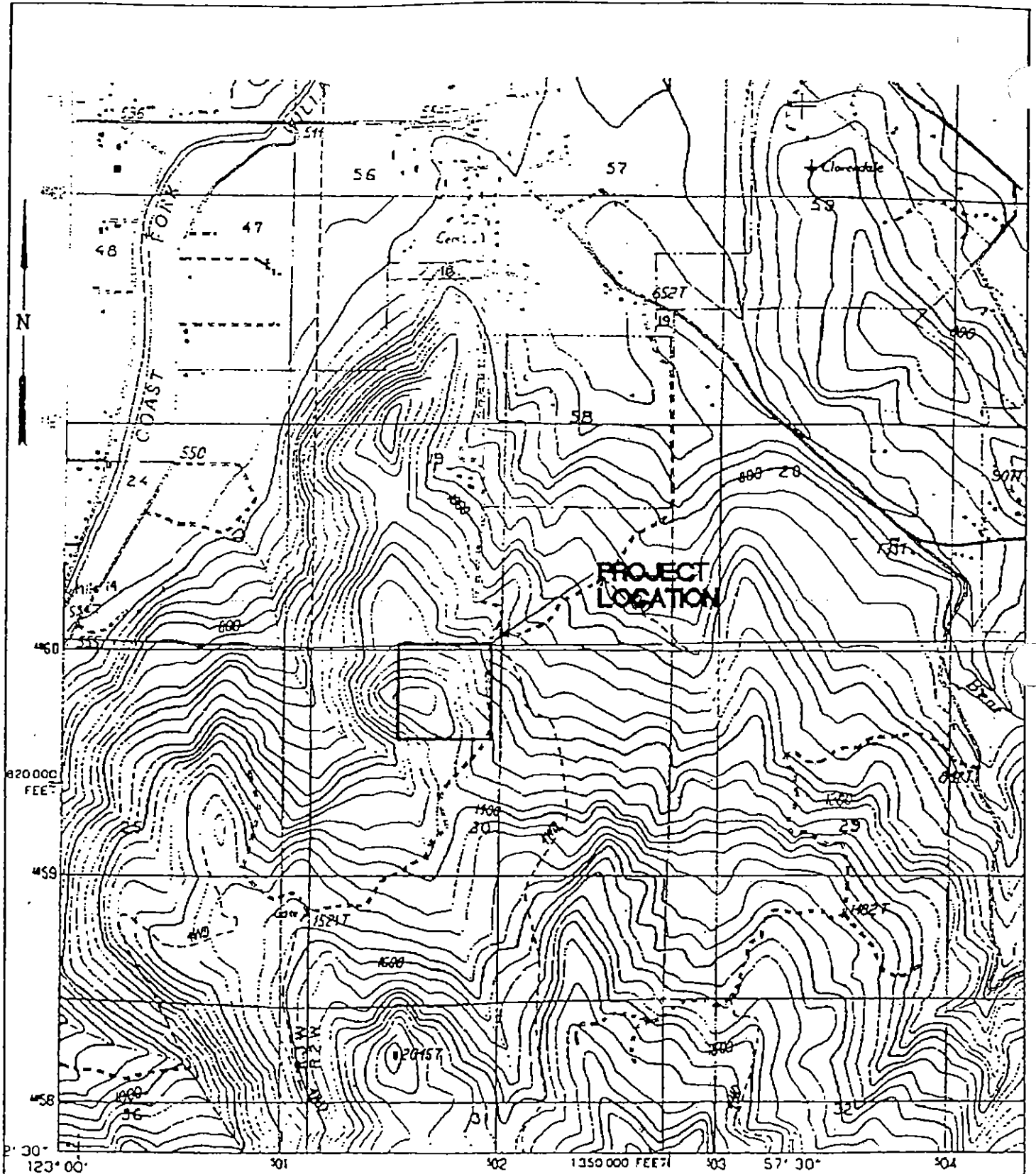
The proposed mining operation will consist of removing and stockpiling the top soil and excavating and processing the basaltic rock material for use as construction aggregate. It is estimated that approximately 120,000 cubic yards of overburden material will be generated in the stripping operation and approximately 2,560,000 tons of high quality rock is available for construction aggregate processing. These calculations have assumed an average of a 6 foot depth of overburden and 70 feet of rock excavation. It is most likely that the rock extends to depths greater than the 70 foot depth used for the quantity calculation.

If you have any questions concerning this report or the exploration, do not hesitate to contact our office at (541) 388-3500.

Sincerely,




Glenn E. Cook, P.E.  
Geotechnical Engineer

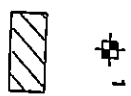
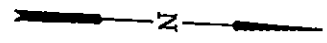


FROM "JASPER, OREGON"  
U.S.G.S. QUAD SHEET, 1986

**VICINITY MAP**

1" = 2000'

DESIGNED BY: GEC	CHECKED BY: GEC	VICINITY MAP AGGREGATE RESOURCE B. J. EQUIPMENT EUGENE, OREGON	DATE: 7/22/98	FIGURE: 1
DRAWN BY: GGW	SCALE: 1"=2000'		 <b>century west</b> ENGINEERING CORPORATION 1444 NW COLLEGE WAY, BEND, OR 97701 (541)388-3500 (541)388-5062 FAX	
PROJECT NO.: 12327001				



**LEGEND**

1  
APPROXIMATE BORING LOCATION

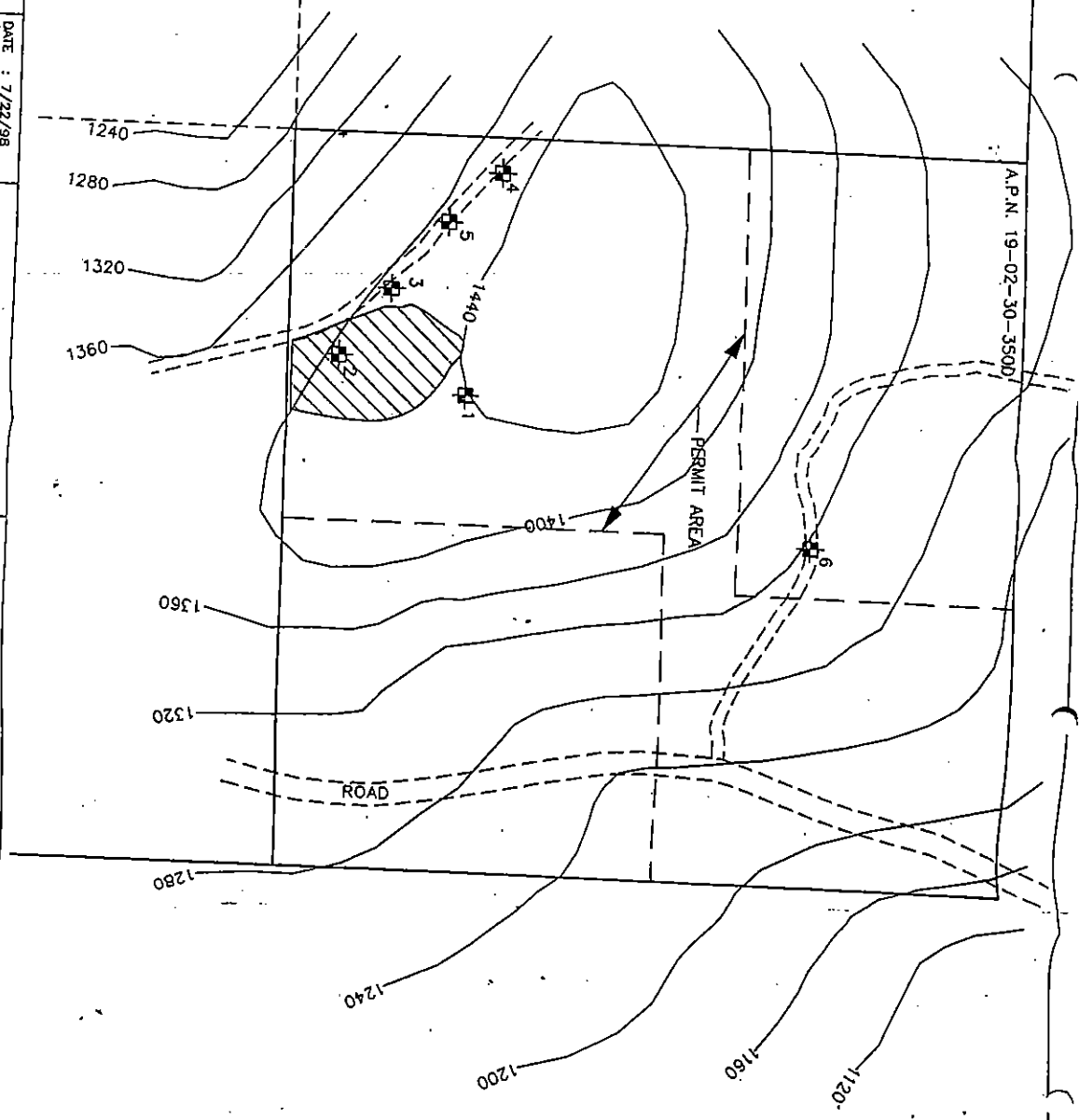
APPROX. EXISTING DISTURBANCE LIMITS

DESIGNED BY: GEC	DATE: 7/22/98
DRAWN BY: CGW	SCALE: 1"=200'
CHECKED BY: GEC	SEC.: C:\DWG
PROJECT NO.: 12327001	



**SITE MAP**  
**AGGREGATE RESOURCE**  
**B. J. EQUIPMENT**  
**EUGENE, OREGON**

FIGURE  
**2**



A.P.N. 19-02-30-3500