

May 9, 2001

James W. Spickerman
975 Oak Street
Suite 800
Eugene, OR 97401-3156

Re: Bradford Quarry

Dear Jim:

Enclosed find a copy of the approved road construction plans for Cedarcroft Road. A copy has also been placed in the record for the Bradford Quarry application PA 98-5144.

Please call if I can be of further assistance.

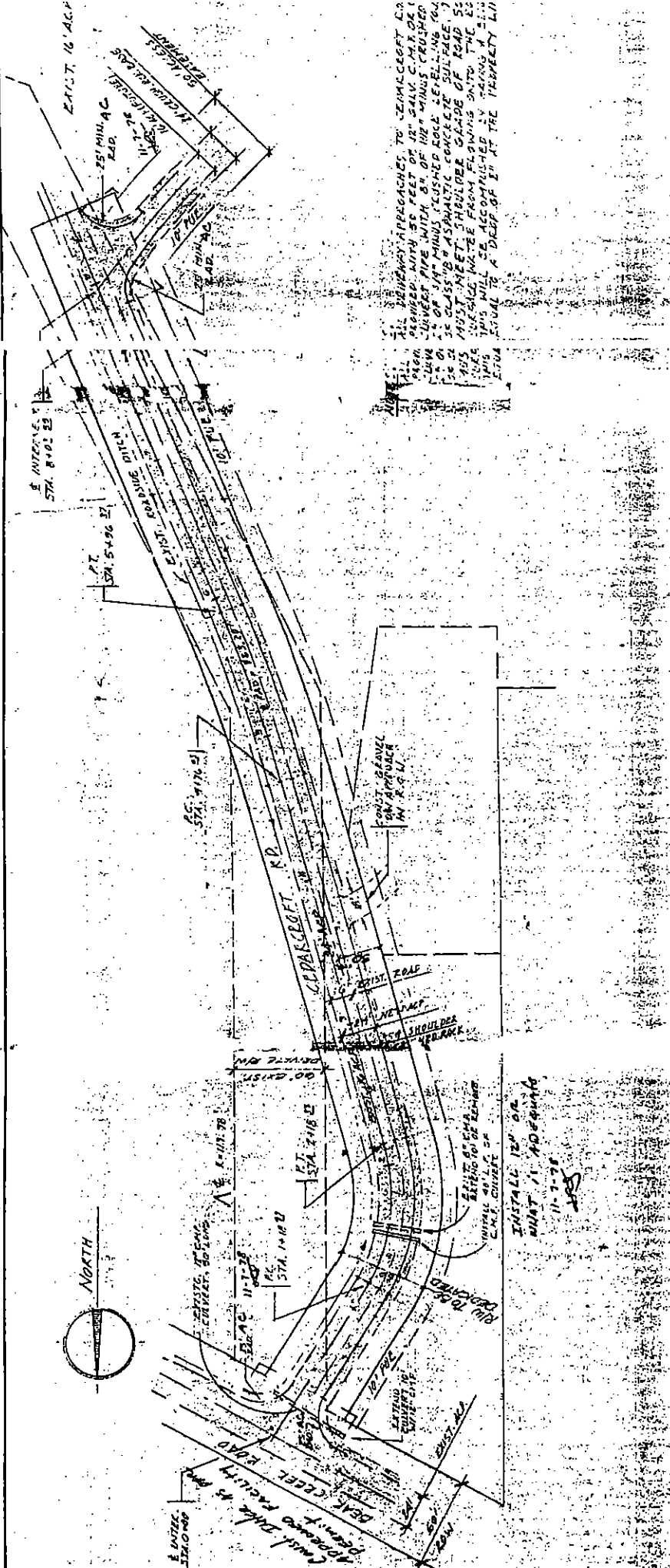
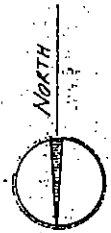
Sincerely,

TV
Thom Lanfear
Associate Planner
Lane Management Division
(541) 682-4054
(541) 682-3947 (FAX)
Thom.Lanfear@co.lane.or.us

PA 98-5144

130





ALL DRIVEWAYS APPROACHED TO CEDAR CROFT CR
SHOULD BE WITH 50 FEET OF 12" GALV. COR. OR
LARGER PIPE WITH 8" OF 10" MINUS CRUSHED
GRAVEL UNDER. ALL DRIVEWAYS SHOULD BE SET-
BACK 5' FROM ASPHALTIC CONCRETE PAVEMENT
AND 10' FROM CONCRETE DRIVEWAYS. ALL
DRIVEWAYS SHOULD BE 12" DEEP FROM DRIVEWAY
TO CURB AND A DEPTH OF 2" AT THE PROPERTY LINE.

INSTALL 12" OR
WHAT IS NEAREST
11-7-78
JCS

EXISTING 11-7-78
K=112.78
STA 1+10.2

EXISTING 11-7-78
K=112.78
STA 1+10.2

INTERSECTION
STA 8+02.53

INTERSECTION
STA 5+496.27

INTERSECTION
STA 7+176.51

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

EXISTING 16' AC

PLANES 60' FROM VAN REE

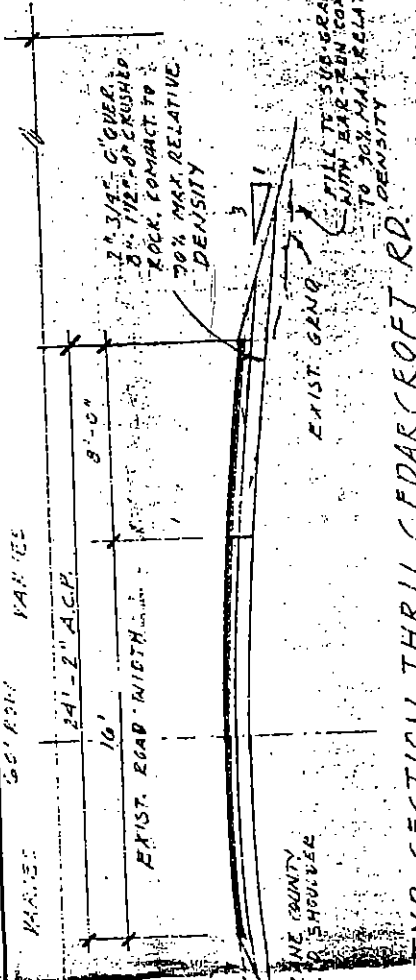
241-2" A.C.P.

16'

EXIST. ROAD WIDTH

EXIST. SHOULDER

MIN. 1' DITCH



2 1/4" COVER
8" 1/2" CRUSHED
ROCK, COMPACT TO
90% MAX. RELATIVE
DENSITY

FILL TO SUB-GRADE
WITH 2" CRUSHED
ROCK, COMPACT TO
90% MAX. RELATIVE
DENSITY

TYP. SECTION THRU CEDAR CROFT RD.
1" = 5'

Lane County

APPROVED
for
CONSTRUCTION

JACK THOMAS
SUBDIVISION ENGINEER 11-7-78
Name and Title Date



1496 65 9

ROAD IMPROVEMENTS FOR... DEVELOPMENT... ROAD IMPROVEMENTS FOR... DEVELOPMENT...

SHALL BE
CONCRETE
AND 2" AFFLAGGAGE
SURFACE
FOR NOISE

17 2001
10

June 4, 2001

Mr. Thom Lanfear
Department of Public Works
Land Management Division
125 E 8th Avenue
Eugene, Oregon

Re: Bradford Quarry

Dear Mr. Lanfear,

Attached is a report prepared by Arthur Noxon, PE, Accoustical Engineer. Mr. Noxon applied the ambient degradation section of the DEQ noise code to the noise level of the gravel trucks leaving the Bradford Quarry down Cedarcroft Road.

According to Noxon's data, the legal limit to haul gravel on Cedarcroft should be "limited to not exceed one haul truck round trip per hour." The Planning Commission has approved the movement of 86 trucks per day driving through the Bear Creek neighborhood. Clearly, this decision is in violation of the DEQ regulation.

Sincerely,

Linda and Jerry Fleischli

Attachment

cc: County Commissioners

PA98-5144
131A

ACOUSTICAL ENGINEER

Arthur M. Noxon, PE

FOR ACOUSTICS, NOISE AND VIBRATION CONTROL
engineering survey, analysis, design and project management

Linda and Jerry Fleischli
34977 Meadow Lane
Creswell, OR 97426

RE: Noise Pollution from Rock Quarry Trucks

May 25, 2001

Oregon DEQ has regulations OAR 340-35-035 that are intended to help maintain the health and welfare of the public in regards to noise pollution. Whenever there is a new commercial/industrial use of land, the ambient degradation section -035 (1) (b)(B) (i) & (ii) of the noise code applies to the noise source in addition to the standard maximum allowed noise levels -035 (1)(a).

Background

The Bradford Quarry has been allowed by the county to open up and operate above your property. The haul trucks travel up and down Cedarcroft road, alongside your property and the residence across the street from you. This quarry is a "new use" according to the definition in the DEQ noise regulations, OAR 340-035-015-(24) & (33). As such, the noise from the haul trucks, both on site and off site including travel on public roads, is included into the evaluation of the ambient degradation part of the noise pollution regulations.

The noise regulation limits the ambience degradation to not exceed 10 dB,A for either the L10 or L50 of any hour. The L10 means the noise level exceeded during 10% of the time, the loudest 6 minutes of the hour, and L50 means the noise exceeded during 50% of the time, the loudest 30 minutes of any given hour. The neighborhood L10 was measured in the morning and again in the afternoon to hold steady at 43 dB,A and the L50 likewise at 38 dB,A. The ambience degradation limits mean that the ambience of the neighborhood, including the presence of quarry truck traffic, should not exceed an L10 of 53 dB,A and an L50 of 48 dB,A. Generally this means that the noise introduced by the quarry haul trucks should not exceed 53 dB for any longer than an accumulation of 6 minutes in any hour and likewise 48 dB,A for 30 minutes of the hour.

Measurements

A detailed noise study was made to record out the noise emitted by the truck pass-by event. This was done with a strip chart recorder which traces out the sound level vs time of noise events. By this the amount of time that the truck pass-by event makes noise above 48 and 53 dB,A can be clearly seen and measured. A total of 5 events were monitored, 3 uphill and 2 down hill events. The time for each noise exceeding event depends on the loudness of the truck and it's speed. There was only one truck running in the morning and two trucks in the afternoon. The white truck/trailer ran all day at one hour intervals while the purple truck trailer unit ran in the afternoon at half hour intervals. The white truck operated at typical speeds and loudness and the purple

truck was more quiet and drove very slowly. The data taken off the two trucks reflected their loudness and speed differences.

The purple truck was driving slower than the white truck. The first time the purple truck went down hill it was 4 dB quieter than the white truck but after seeing the noise testing the second time the purple truck went down hill it went even slower and more quietly, lugging the engine instead of keeping the engine in lower gears to rev the engine. The second downhill register a full 8 dB more quiet than the white truck, which was a full 4 dB lower than the purple truck's prior reading.

The purple truck did not use the jake break on its downhill run while the white truck did. The purple truck demonstrated how quiet the quarry haul operation could be. The white truck demonstrates how noisy the quarry truck part of the operation usually is. For evaluation purposes, the good condition and good will demonstrated by the purple truck cannot be depended upon. Average noisy and speed trucks is what the calculation is made upon, the white truck.

Analysis

Both the L10 and L50 was analyzed and only the L10 significantly impacts the truck traffic. Downhill the white truck exceeds 53 dB,A for 50 seconds. Uphill, it travels faster and exceeds 53 dB,A for 40 seconds. One round trip exceeds 53 dB,A for 90 seconds, 1 1/2 minutes. According to the ambient L10 degradation limit, the quarry is limited to no more than 6 minutes of exceeding 53 dB,A each hour. That means no more than 4 round trips are allowed each hour. With an 8 hour day, no more than 32 truck round trips are allowed each day.

However, the DEQ information packet contains the recommendation that communities who are interested in adopting their own noise regulations use the much more acceptable ambient degradation value of 5 dB,A, not the 10 dB,A legislated back in the 70's. If this is used as a guide for managing the haul truck traffic, the number of round trips are reduced. Downhill noise levels exceed 48 dB,A for 68 seconds and uphill noise levels exceed it for 60 seconds. The overall time is 2 1/8 minutes. This would reduce the haul truck round trips to not exceed 3 per hour, 24 round trips per day.

If the 5 dB rule is assigned to the L50 figure, the round trip time that the haul truck noise exceeds 38 dB,A would be about 5 minutes. The L50 regulates the noisiest 30 minutes per hour and limits travel to 6 round trips per hour, more than the L10 restriction.

It must be mentioned here that the downhill haul truck noise reached 70 dB,A and holds steady there for a solid 10 seconds as the truck passes close by. On the uphill, it registers 76 dB,A and holds that for about 4 seconds. DEQ regulates the L1, the sound level exceeded 1% of the time, 36 seconds per hour, to not exceed 75 dB,A. This is not an ambient regulation but a fixed maximum level regulation and it would limit haul truck uphill runs to not exceed 9 per hour. This is mentioned not as a limiting regulation but to illustrate that the truck drive by is actually so noisy that it exceeds the maximum noise level allowed to be imposed on any residential setting.

Discussion

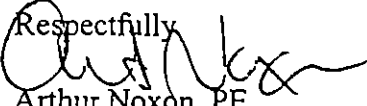
This report contains the results of measuring only certain haul trucks, the white one and the purple one, the ones on the road on this particular day. The maximum noise level registered at the measurement point, about 50 ' off the side of the road was for the purple truck, 68 dB,A and for the white truck, 76 dB,A. However, state law allows much more noisy trucks to haul rock. Trucks that register 85 dB,A at this measurement position are legal. Land use decisions that regulate the number of trucks work best if based on enforceable regulations. In this case, a quiet haul truck is nice and neighborly especially how quiet the neighborhood is. But the regulation of truck traffic might better be based on the noisiest legal truck, 85 dB,A, a full 9 dB,A louder than the white truck and 17 dB,A louder than the purple truck. Reference on this figure is in Table 3 of DEQ noise regulations, OAR 340-35-030 for trucks slower than 45 mph under any load, acceleration or grade.

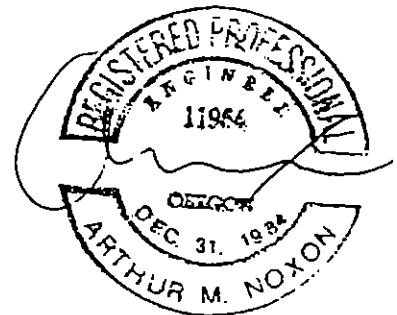
If the strip chart of the white truck is raised 9 dB to reproduce the levels of a legal but noisy haul truck, the allowed number of truck pass-by events per hour are reduced to 5 ½ minutes per round trip, that limits a road legal haul truck to one round trip per hour. This means that the quarry is limited to not exceed 8 round trips per day.

Conclusion

If quiet gravel trucks used on the road some of the time or even all of the time, quieter than that which is legally allowed, then this extra measure of quiet is of great benefit to the community. It can be considered a good neighbor policy of the quarry to encourage slow driving and quiet trucks to reduce the amount in noise pollution they impose onto the community in order to transport their rock to market.

However, the formal conditions of approval are not about good will and good intentions. They have to be based on legally allowed noise limits for trucks traveling on that road, and that is 85 dB,A at 50 feet to the side of the road. Considering what type of truck is legally allowed to haul gravel on the roads, the quarry up Cedarcroft should be limited to not exceed one haul truck round trip per hour.

Respectfully

Arthur Noxon, PE
Acoustical Engineer



November 8, 2001

HAND DELIVERED

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

Re: Proposed Findings of Fact and Conclusions of Law and
Conditions in the Matter of PA 98-5144

Dear Thom:

Enclosed please find the proposed findings herein. I understand that with this submission and your review, this plan amendment can be placed before the Board in the near future.

As you know, the applicant disagrees with the staff position that there is authority under the 1996 Goal 5 rule to require conditions intended to mitigate wear and tear on county roads. The findings submitted herewith do contemplate requirements that the applicant pay for paving and repaving county roads. This submission is made without a waiver of right to challenge those conditions of approval pursuant to ORS 197.796 in subsequent proceedings before LUBA or in Lane County Circuit Court.

We have met with County staff a number of times subsequent to the Lane County Planning Commission's recommendation of approval of this application in April of 1999. Together with staff, we have attempted to determine, if impact to road surfaces can be required to be mitigated under the Goal 5 rule, the proper measure of the applicant's responsibilities in that regard. I have placed in the findings what I thought after those meetings was acceptable to the staff. Subsequent to the last of those meetings, Lane County Transportation Planning has submitted additional comments of April 14, 2001 contemplating much more onerous burdens upon the applicant. As pointed out in my letter of April 24, 2001, those conditions proposed by Transportation

**Gleaves
Swearingen
Potter &
Scott 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

Frederick A. Baisson
Jon V. Buerstatte
H. Andrew Clark
Joshua A. Clark
A. J. Giustina
Vernon D. Gleaves
Thomas P. E. Herrmann
Todd R. Johnston
Kristin E. Kernutt
Stephen O. Lane
William H. Martin
Laura T. Z. Montgomery
Sandlee G. Potter
Ian T. Richardson
Martha J. Rodman
Douglas R. Schultz
Malcolm H. Scott
James V. Shepherd
James W. Spickerman
Arlen C. Swearingen
Triavis L. Sydow
Kate A. Thompson
Renée Wyser-Pratte

PA 98-5144
132

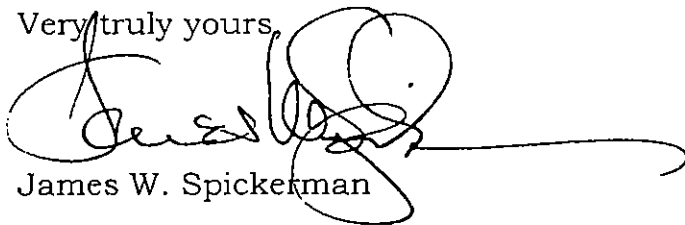
Thom Lanfear
November 8, 2001
Page 2

Planning would require an exaction far exceeding the impact of the proposed use.

On the issue of the requirement of the applicant that wear on roads be mitigated, I have not received a reply to my letter of October 23, 2000 as to the language of OAR 660-023-0180(4)(b)(B) that is the basis for the requirement of mitigation. If the County's position in that regard is further developed during the course of the proceedings before the Commissioners, the proposed findings can be additionally refined.

Please let me know if you have any questions or comments. I appreciate your efforts in moving this matter forward.

Very truly yours,

A handwritten signature in black ink, appearing to read "James W. Spickerman", with a long horizontal flourish extending to the right.

James W. Spickerman

jca

Enclosure

cc: BJ Equipment Company (w/enc)
Stephen Vorhes (w/enc)

**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 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 5-2 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 Manual 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 NRCS 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, which addresses conflicts with mining and processing activities, 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. (Impact to roads, pursuant to subsection (4)(b)(B), is addressed separately under the Goal 5 rule.)

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 19-03-25 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 residentially 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.

With respect to the impacts of the mining and processing activities, in summary, the Board finds there are no conflicts with existing and approved uses and associated activities.

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 standards for assessing projected traffic impacts on roads are AASHTO standards adopted in the 1980 Lane County Transportation Plan (adopted by Ordinance 3-80), which was subsequently amended by the 1984 Lane County Rural Comprehensive Plan.

The 1980 Lane County Master Road Plan includes among the plan recommendations the following:

"Road System.

14. AASHTO uniform standards for highway design along with typical section and right of way guidelines in 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."

Item 4 of Goal 12 in Ordinance No. 883 states:

"The adopted Lane County Rural Transportation Plan is a special-function Plan concerned with Goal 12 requirements, and containing a number of Goals, Objectives and Recommendations on various components of the County's transportation systems and Goal 12 requirements. The 1980 Rural Transportation Plan, as amended, shall continue to be used as the primary guideline toward transportation matters. Goal and Objective statements within it are incorporated into the above County Policies, and Recommendation within it shall be applied where appropriate. These Recommendations shall be considered mandatory actions which are ultimately binding on the County."

The application addresses potential conflicts to local roads used for access and egress to the mining site within the area to include the intersection with the nearest arterial identified in the local transportation plan. The nearest arterial identified by Lane County Transportation Planning staff is Interstate 5. In the 1980 Lane County Transportation Plan, Cedarcroft Road (County) is identified as a local road (LC 15.030). Bear Creek Road (County) is classified as a minor collector and Cloverdale Road (State) is classified as a major collector. The applicant's initial traffic analysis addresses connection to the nearest arterial and establishes that acceptable impact levels and levels of service are maintained assuming maximum traffic generation by the use.

The evidence establishes that there are no conflicts pertaining to road capacity, horizontal and vertical alignment of affected roads or similar items that would conflict with the AASHTO standards.

The report of Branch Engineering establishes that sight distances at the intersection of Cedarcroft Road and Bear Creek Road exceed AASHTO standards. The record reflects that since the time of the Planning Commission hearing, a stop sign has been placed on Cedarcroft Road at its intersection with Bear Creek Road. The Branch Engineering report also establishes that the sight distances at the Bear Creek Road/Cloverdale Road intersection exceed AASHTO standards.

The Board acknowledges that the sight distance for vehicles turning from Bradford Road to the right on Bear Creek Road is less than would be indicated in the AASHTO standards. Bradford Road, however, is not a road used for access or egress to the mining site, therefore, is not subject to the above stated administrative rule. The situation at this intersection represents a pre-existing condition that is unchanged by the aggregate use of the subject site. The Board notes that Bear Creek Road has long been used by log trucks and other loaded trucks and no evidence has been received of a notable accident history at this intersection.

As stated above, the Lane County Transportation Plan adopted in 1980 and amended in the 1984 Lane County Rural Comprehensive Plan indicates AASHTO standards shall be used for highway design issues. The AASHTO methodology and development of pavement design is specified in the AASHTO Guide for Design of Pavement Structures. The Lane County staff has developed a pavement design necessary to accommodate the increased use of county roads by trucks removing aggregate from the subject quarry. The AASHTO pavement design guide was used in this assessment. The design was based on loaded truck usage and its effects on roads traveled from the site. The staff has determined that a 2.5 inch structural AC overlay is immediately needed to accommodate truck traffic on Cedarcroft Road. The use of the road for quarry access will result in a conflict to that road requiring mitigation by the applicant. A condition is imposed requiring the applicant to pay for and construct a 2.5-inch full street width asphalt overlay on Cedarcroft Road prior to commencement of quarry operations.

The County staff has prepared an analysis of possible impact of quarry traffic on Bear Creek Road and in the process of doing so has projected the probable life of the present pavement design on Bear Creek Road. The County has no record of the present mix of trucks and cars on that road or the type of trucks used on that road. Using as part of the analysis the assumption that the full maximum allowable 40 trucks per day will exit the quarry each day for 20 years, the staff has determined that Bear Creek Road will need an asphalt overlay sometime within 5 to 10 years. The projected cost of that overlay is \$34,000. The staff's computations are based upon the effects of loaded trucks on Bear Creek Road. In consideration of the applicant bearing full costs of paving of Cedarcroft Road and the reduced impact of empty returning trucks on Bear Creek Road, the Board finds that contribution of \$17,000 within 5 years to the County for the cost of improvement of Bear Creek Road will mitigate the impacts to the road.

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 of 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 agricultural 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 pursuant to local land use permit on acknowledged sites.

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 mining and processing activity, therefore, no measures are necessary to minimize conflicts with that activity.

The Board finds that there are conflicts to local roads as a result of the impact of loaded aggregate trucks using those roads to exit the site. The Transportation Planning staff has determined that the existing roadbed of Cedarcroft Road is inadequate to support the truck traffic proposed and that the existing roadbed of Bear Creek Road will need improving at an earlier time due to the anticipated quarry use.

The impact to these roads will be minimized by the previously discussed measures requiring contribution to the County for road costs. Those measures will be conditions of this approval and part of the ordinance adopted approving this PAPA.

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 the only conflict identified, that pertaining to conflict to local roads, has been minimized, therefore, an ESEE analysis is unnecessary.

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 sufficient information was provided in the PAPA application and that the application is complete. The Board’s action herein sets forth clear and objective measures to address the only identified conflict, that pertaining to roads.

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

Additional land use review is not required. Any new proposal other than that requested in the PAPA application would be reviewed under the Site

Review Provisions of LC 16.257 as required by the quarry and mine operations zone.

“(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 as required by the quarry and mine operations zone.

“(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.

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:

- (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. The Lane County Rural Comprehensive Plan does contain specific criteria for plan amendments, therefore, criteria applicable to this application.

The Board further finds that the application does positively address the Lane County Rural Comprehensive Plan amendment criteria. Those findings follow the statewide goal findings set forth below.

E. Statewide Planning Goals.

Positive findings are made on the Statewide Planning Goals as 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 were 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.

A concern was expressed by the Creswell School District pertaining to possible conflict between school buses and trucks hauling aggregate from the site. A condition was adopted by the Planning Commission and is adopted by the Board restricting hours of operation in order to accommodate, to the extent possible, the interest of the School District in this regard. It is noted, however, that Bear Creek Road has been used for many years for such vehicles as loaded logging trucks and school buses have operated on these roads safely.

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 soils on the subject parcel as containing only 1.126 acres Class III soil and 7.954 acres 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 with the remainder of the site not being agricultural soils.

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 bears 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 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 use of this site for aggregate extraction will not force a significant change in forest practices or increase fire danger. Forest operations on adjacent lands will be unaffected.

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 Management staff has contacted 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 on forest land 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 to the extent an adequate supply of aggregate 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 initial traffic impact analysis and a supplemental analysis that addresses the sufficiency of the transportation system to accommodate traffic associated with this use. The traffic impact analysis establishes that the plan amendment will not "significantly affect" any transportation facility within the meaning of OAR 660-12-0060.

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. Cloverdale Road at its intersection with Bear Creek Road is a State highway. Lane County does have jurisdiction of Cloverdale Road in the section north of Hendricks Road to Highway 58.

Lane County Ordinance No. 3-80 adopted the 1980 Rural Transportation Plan as a component of the County comprehensive plan. The Transportation Plan designated Cloverdale Road a major collector from Hendricks Road to Highway 99.

Interstate 5 is not functionally classified in the 1980 Rural Transportation Plan. It does meet the criteria of an "arterial" as defined in LCDC Goal 12, OAR 660-012-0065(2)(b)(C).

The Board finds Interstate 5 is an arterial for the purposes of the Goal 12 analysis.

Bear Creek Road is a county roadway extending east from Cloverdale Road. The road is paved with a 24-foot width in the project vicinity. There is no posted speed. State "basic rule" provisions with a 55 mph maximum are in force. Land surrounding Bear Creek Road is zoned for residential, agricultural and forest uses. 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. The paved 24-foot-wide portion of Cedarcroft Road was established as a public road in conjunction with the approval of Cedarcroft PUD, a residential subdivision. The record shows the road was constructed of two inches of asphaltic concrete over ten inches of crushed aggregate base. This construction is typical of the minimum County requirements for a public road to serve light residential passenger vehicle loads unless a greater structure is indicated by the subdivision designer's engineer to accommodate greater vehicle loads or compensate for poor soil conditions.

A stop sign has been placed at the intersection of Cedarcroft Road and Bear Creek Road. 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, the sight distance is 940 feet. The AASHTO street design manual indicates a minimum 550 feet is needed for a 55 mph design speed on wet pavements. Sight distance at the intersection of Cedarcroft and Bear Creek Roads were measured at 580 feet to the west and 680 feet to the east. Again, these distances exceed AASHTO minimum 550-foot distance for a 55 mph design speed.

In conclusion, the Branch Engineer traffic impact analysis report notes that the quarry and rock crushing operations is projected to generate a maximum of 86 roundtrips per day and 11 trips during the PM peak hour. The traffic analysis indicates the additional vehicle trips would not reduce the performance standards below those identified in the County Transportation System Plan.

As above stated, sight distance to the right for traffic exiting South Bradford Road to Bear Creek Road has less than optimum sight distance. South Bradford Road, however, will not be used for access to and from the site by aggregate trucks. It is further noted that there is posted an "intersection ahead" symbol sign warning drivers approaching Bradford Road on Bear Creek Road.

As noted in the report of the applicant's 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 new Goal 5 Rule also has set forth specific items to be evaluated in determining impact of traffic associated with the mining and processing operation on existing roads. The findings which address OAR 660-023-0180(4)(b)(B) are incorporated herein by reference. The Board finds that there is substantial evidence that the existing road system is suitable provided the identified conflicts are minimized as described above. The Board further finds that the application is also 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.

The existing criteria for amendment of the Lane County Rural Comprehensive Plan are applicable to this PAPA to the extent that those plan amendment criteria are consistent with the administrative rule. The plan amendment criteria are addressed below.

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). In that the PAPA meets the applicable requirements of the Goal 5 Rule, Lane County approval to amend the acknowledged mineral and aggregate inventory in response to the application achieves compliance with the Goal 5 rule and the applicable Lane County Rural Comprehensive Plan Policies as 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 and by approval of this application is identified as such in the county by inclusion on Appendix “D”. 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."

The action herein identifies this site as a significant resource site within the meaning of Goal 5. The action adds the site to Appendix "D", which is the Lane County inventory of significant aggregate sites to be preserved for aggregate resource use. Consistent with the Rural Comprehensive Plan policies, this site is designated Quarry Mining (QM) District.

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 Goal 12 states as part of the first policy:

“1. 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.”

At paragraph 4 of the policies, more specific direction is given:

“4. The adopted Lane County Rural Transportation Plan is a special-function Plan concerned with Goal 12 requirements, and containing a number of Goals, Objectives and Recommendations on various components of the County’s transportation system and Goal 12 requirements. The 1980 Rural Transportation Plan, as amended shall be applied where appropriate; these Recommendations shall be considered to be mandatory actions which are ultimately binding on this County.”

As directed by Goal 12 of the Rural Comprehensive Plan Policies, the AASHTO standards recommended by the Lane County Rural Transportation Plan have been applied and where “conflicts” have been found to exist, those conflicts have been minimized by conditions imposed upon the approval. With

these conditions, the cited policies of the Rural Comprehensive Plan are addressed.

Policy 3.j of Goal 12 of the Rural Comprehensive Plan Policies states:

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

While this language is primarily a direction to the County to adequately maintain the public infrastructure, conditions have been imposed on the applicant to assist in maintaining the particular county roads affected by this use. The mitigation measures adopted are consistent with this policy.

To the extent relevant, additional findings have been made pertaining to transportation considerations as a part of the findings required by the Goal 5 rule (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.

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.

(ii) Major Amendment. Any amendment that is not classified as a minor amendment.”

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 inventory of aggregate sites for the County will be changed as well. The amendment is classified as a “Major Amendment.”

No exception to Statewide Planning Goals is required.

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

G. Zone Change Criteria.

The Board makes the following positive findings on the Lane County zone change criteria.

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, Quarry and Mining Zone.

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:

(a) Recognize that minerals and materials within the County are an unrennewable 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 Lane Code 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 the criteria for a PAPA are met and the Rural Comprehensive Plan designation for the subject site shall be amended from "Forest" to "Natural Resource" plan designation and the subject site rezoned from "F-1 (Non-Impacted Forest Land)" to "QM (Quarry and Mine Operations)" pursuant to LC 16.400 and 16.252 for property at Assessor's Map 19-02-00(30), tax lot 3500.

The Board adopts the following mitigating measures:

1. Mining, processing, and hauling shall be limited to Monday through Friday, 7:30 A.M. to 5:00 P.M. during the school year, and 7:00 A.M. to 5:00 P.M. during the summer months (June 15 to the day after Labor Day).
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 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, visually prominent 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 (82452 and 82704 Bradford Road) to monitor all blasting operations.
8. The applicant shall apply a dust abatement substance which meets Federal, State and local laws and standards for use and application procedures 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 LC 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.

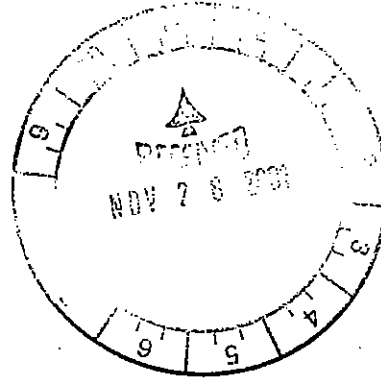
- (vii) Nominal explosive weight per hole.
 - (viii) Total explosive weight per delay.
 - (ix) Total weight of explosives per blast.
 - (x) Blast hole diameter, depth, spacing and stemming height.
11. The applicant shall maintain a 50-foot setback from adjacent properties for all mining and processing operations.
 12. The applicant is required to restore the site to forest use consistent with the reclamation plan upon conclusion of the mining operation.
 13. To mitigate impact on Cedarcroft Road, the applicant will pay to Lane County the sum of \$12,500.00 no later than one year after commencement of operation. The applicant shall pay the sum of \$17,000 to Lane County to mitigate impact to Bear Creek Road within 5 years of commencement of operation.
 14. Any aspect of operation of the subject site at variance with the use proposed as allowed by this ordinance is subject to enforcement pursuant to LC 16.262.
 15. Any proposal for modification to any mitigation measures or other physical aspects or operational characteristics of the use shall be subject to site review procedures as set forth at LC 16.257.

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

HAND DELIVERED

November 27, 2001



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

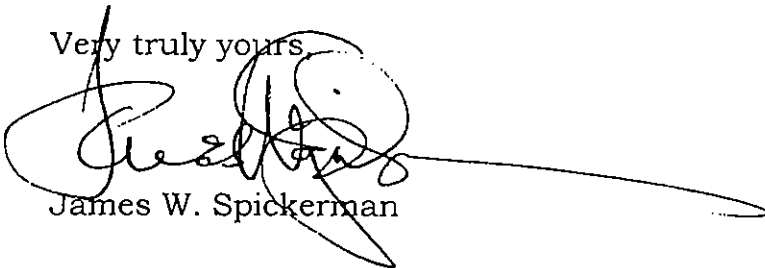
Re: Proposed Findings for Bradford Quarry (PA 98-5144)

Dear Thom:

Enclosed please find a corrected page 10 of the proposed Findings of Fact and Conclusions of Law herein. Please insert this page in place of the previous version of page 10.

Thank you for your assistance.

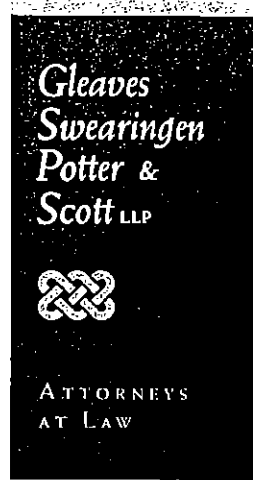
Very truly yours,


James W. Spickerman

jca

Enclosure

cc: BJ Equipment Company (w/enc)
Stephen Vorhes (w/enc)



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

Frederick A. Batson
Jon V. Buerstatte
H. Andrew Clark
Joshua A. Clark
A. J. Ciustina
Vernon D. Gleaves
Thomas P. E. Herrmann
Todd R. Johnston
Kristin E. Kernutt
Stephen O. Lane
William H. Martin
Laura T. Z. Montgomery
Standlee C. Potter
Ian T. Richardson
Martha J. Rodman
Douglas R. Schultz
Malcolm H. Scott
James V. Shepherd
James W. Spickerman
Arlen C. Swearingen
Travis L. Sydow
Kate A. Thompson
Renée Wyser-Pratte

PA 98-5144
133

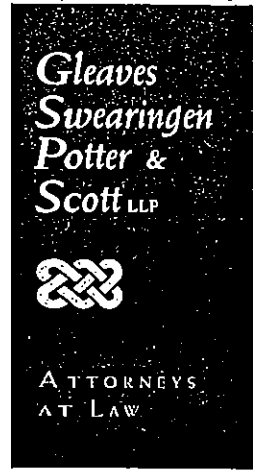
The Board acknowledges that the sight distance for vehicles turning from Bradford Road to the right on Bear Creek Road is less than would be indicated in the AASHTO standards. Bradford Road, however, is not a road used for access or egress to the mining site, therefore, is not subject to the above stated administrative rule. The situation at this intersection represents a pre-existing condition that is unchanged by the aggregate use of the subject site. The Board notes that Bear Creek Road has long been used by log trucks and other loaded trucks and no evidence has been received of a notable accident history at this intersection.

As stated above, the Lane County Transportation Plan adopted in 1980 and amended in the 1984 Lane County Rural Comprehensive Plan indicates AASHTO standards shall be used for highway design issues. The AASHTO methodology and development of pavement design is specified in the AASHTO Guide for Design of Pavement Structures. The Lane County staff has developed a pavement design necessary to accommodate the increased use of county roads by trucks removing aggregate from the subject quarry. The AASHTO pavement design guide was used in this assessment. The design was based on loaded truck usage and its effects on roads traveled from the site. The staff has determined that a 2.5 inch structural AC overlay is needed to accommodate truck traffic on Cedarcroft Road. The use of the road for quarry access will result in a conflict to that road requiring mitigation by the applicant. A condition is imposed requiring the applicant to pay \$12,500 for a 2.5-inch full street width asphalt overlay on Cedarcroft Road within one year of the commencement of quarry operations.

The County staff has prepared an analysis of possible impact of quarry traffic on Bear Creek Road and in the process of doing so has projected the probable life of the present pavement design on Bear Creek Road. The County has no record of the present mix of trucks and cars on that road or the type of trucks used on that road. Using as part of the analysis the assumption that the full maximum allowable 40 trucks per day will exit the quarry each day for 20 years, the staff has determined that Bear Creek Road will need an asphalt overlay sometime within 5 to 10 years. The projected cost of that overlay is \$34,000. The staff's computations are based upon the effects of loaded trucks on Bear Creek Road. In consideration of the applicant bearing full costs of paving of Cedarcroft Road and the reduced impact of empty returning trucks on Bear Creek Road, the Board finds that contribution of \$17,000 within 5 years to the County for the cost of improvement of Bear Creek Road will mitigate the impacts to the road.

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

“Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments. This paragraph



May 6, 2002

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

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

975 Oak Street
Suite 800
Eugene, Oregon
97401-3156

Re: Bradford Quarry Plan Amendment Application (PA 98-5144)
Truck Noise Issue

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

Dear Thom:

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

I would like to respond to the letter of Arthur Noxon of May 25, 2001 submitted into the record pertaining to "noise pollution from rock quarry trucks." We have no quarrel with any sound measurements Mr. Noxon might have taken but he has inaccurately applied the Oregon Administrative Rules as they would pertain to a quarry operation and motor vehicles associated with that use.

Frederick A. Batson
Jon V. Buerstatte
H. Andrew Clark
Joshua A. Clark
A. J. Ciustina
Vernon D. Gleaves
Thomas P. E. Herrmann
Todd R. Johnston
Kristin E. Kernutt
Stephen O. Lane
William H. Martin
Laura T. Z. Montgomery
Standlee G. Potter
Ian T. Richardson
Martha J. Rodman
Douglas R. Schultz
Malcolm H. Scott
James V. Shepherd
James W. Spickerman
Arlen C. Swearingen

The basis for Mr. Noxon's findings is the assumption that the Bradford Quarry is an industrial use subject to OAR 340-035 Noise Control Regulations for Industry and Commerce. Mr. Noxon deems the use a "new industrial or commercial noise source" within the meaning of the administrative rule. This is an incorrect assumption or assertion.

OAR 340-035-0015(33) defines the term:

" 'New Industrial or Commercial Noise Source' means any industrial or commercial noise source for which installation or construction was commenced after January 1, 1975 on a site not previously occupied by the industrial or commercial noise source in question."

Beyond the fact that a quarry operated on the site prior to 1975, the definition plainly contemplates the installation or construction of an industrial or commercial noise source. There is no installation or construction involved in the commencement of a quarry operation.

RECEIVED BY
LAND MANAGEMENT

MAY 07 2002

PA 98-5144
134

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

The quarry use is a resource use under the Lane Code as contemplated by LC 16.216 Quarry and Mine Operations Zone (QM/RCP). A quarry use is not listed as a use in any of the Lane County industrial zones (see LC 16.224, 16.225 and 16.226).

In the Oregon Administrative Rules at OAR 660-023-0180, specific provision is made for the mining of aggregate resources and the controls on noise associated with the extraction of those resources. This division of the administrative rules will be discussed further below.

If, for purposes of argument it was assumed that the proposed use was an industrial use, the sounds of truck tires and motors described by Mr. Noxon are not a violation of the administrative rule regulating industry and commerce. OAR 340-035-0035(5)(c) exempts from operation of the rule:

“Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles;”

The administrative rules do have some specific provisions pertaining to road vehicles, OAR 340-035-0030 Noise Control Regulations For In-Use Motor Vehicles. If the administrative rules pertain to the vehicle noise of concern to Mr. Noxon, it would be under this portion of the administrative rules. Under the administrative rules, however, the noise that is of concern to Mr. Noxon is exempt from administrative rule. OAR 340-035-0030(1)(d)(B) exempts certain motor vehicles from regulations restricting increase in ambient noise level. Those include:

“(ii) Motor vehicles initially entering or leaving property which is more than 1,000 feet (305 meters) from the nearest noise sensitive property or quiet area;

(iii) Motor vehicles operating on public roads;”

The subject trucks are leaving the Bradford mining site, which is more than 1,000 feet from the noise sensitive property. Moreover, the complaint is of motor vehicles that are operating on a public road, Cedarcroft Road.

The applicant has no objection to a condition that motor vehicles comply with DEQ requirements. Obviously, whether or not a condition is in place, the operation would be subject to DEQ requirements, if

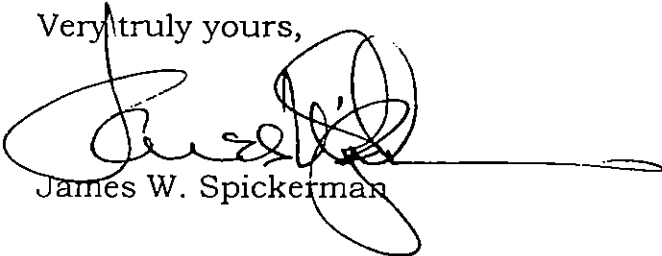
Thom Lanfear

May 6, 2002

Page 3

applicable. It is not, however, appropriate under the Goal 5 rule for a condition to be imposed that would require mitigation of noise from trucks associated with the gravel extraction use. The Goal 5 rule specifies the conflicts that are at issue in plan amendments to designate a resource site and limits that analysis pertaining to sound to only the sound of mining and processing activity. The Lane County Planning Commission recognized this and made its recommendation accordingly.

Very truly yours,

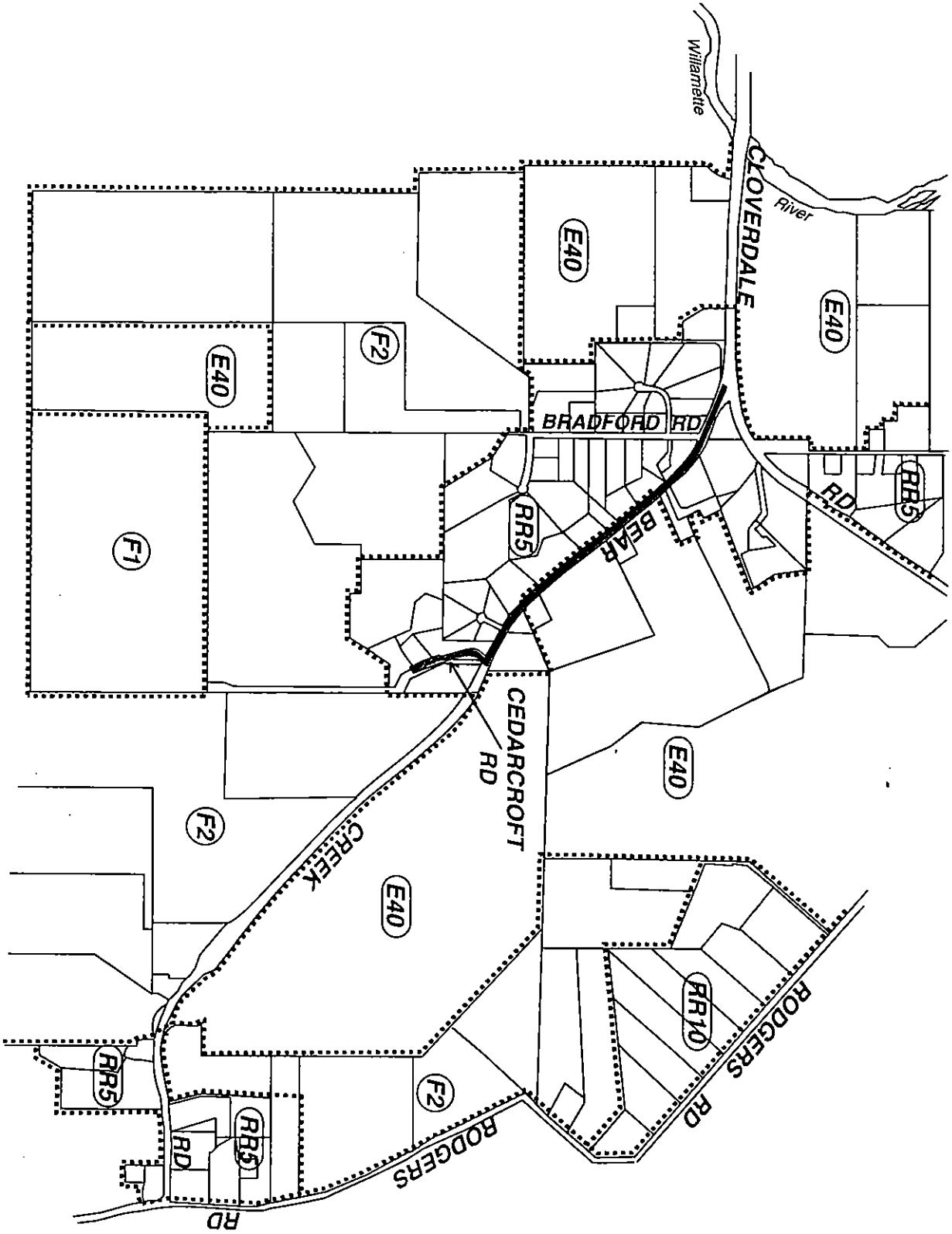
A handwritten signature in black ink, appearing to read "James W. Spickerman", with a long horizontal line extending to the right.

James W. Spickerman

jca

cc: BJ Equipment Company

B.J. Quarry Plan Amendment
PA88-5144



PA 98-5144
135

LANFEAR Thom

From: HOLTSCAMP Lloyd G
Sent: Thursday, June 20, 2002 11:15 AM
To: LANFEAR Thom
Subject: RE: Bradford Quarry Findings

Thanks. I forwarded Vorhes my Jan 11, 2002 email to him with my comments on the Spickerman findings. Hopefully, he'll get a chance to review and get back to me with his comments before July 3, 2002.

-----Original Message-----

From: LANFEAR Thom
Sent: Friday, June 14, 2002 10:52 AM
To: VORHES Stephen L; HOLTSCAMP Lloyd G
Subject: Bradford Quarry Findings

I am sending a hard copy of the proposed Bradford Quarry findings PA 98-5144 in the courier for both of you. I believe I have sent them over back in November when they were submitted, but here is another copy just in case. I am trying to get this to the Board for hearing on August 21 (this year). I will need to get the Board packet done by July 9 but would like to get it written up by July 3. Lloyd, could you review the roads piece of the findings by the end of next week? If you can then I would like to suggest a meeting early the following week to discuss them briefly so I can write it all up. I realize that both of you are very busy and it is also vacation time, so let me know if any of these timelines presents a problem.

Thom Lanfear
Associate Planner
Lane County Land Management Division
125 E. 8th Avenue
Eugene, OR 97401
Thom.Lanfear@co.lane.or.us
Phone: 541/682-4054
Fax: 541/682-3947

PA 98-5144
136

FORM 1

D L C D NOTICE OF PROPOSED AMENDMENT

This form must be received by DLCD at least 45 days prior to the first evidentiary hearing per ORS 197.610, OAR Chapter 660 - Division 18 and Senate Bill 543 and effective on June 30, 1999. (See reverse side for submittal requirements)

Jurisdiction: Lane County Local File No.: ORD PA 1188
(If no number, use none)

Date of First Evidentiary Hearing: April 2, 2003 Date of Final Hearing: April 2, 2003
(Must be filled in) (Must be filled in)

Date this proposal was sent or mailed: February 14, 2003
(Date mailed or sent to DLCD)

Has this proposal previously been submitted to DLCD? Yes: No: X Date:

- Comprehensive Plan Text Amendment X Comprehensive Plan Map Amendment
 - Land Use Regulation Amendment X Zoning Map Amendment
 - New Land Use Regulation X Other: Mineral & Aggregate Inventory Amendment
- (Please Specify Type of Action)

Briefly summarize the proposal. Do not use technical terms. Do not write "See Attached."

Goal 5 Plan Amendment to allow mining pursuant to
OAR 660-023; Revise Significant Mineral & Aggregate Inventory;
Apply appropriate Plan & Zone designations

Plan Map Changed from: Forest to Natural Resource: Mineral

Zone Map Changed from: F-1 to QM

Location: Map 19-02-00 Taxlot 3500 Acres Involved: 40

Specified Change in Density: Current: N/A Proposed:

Applicable Statewide Planning Goals: Goal 5, Goal 12

Is an Exception Proposed? Yes: No: X

Affected State or Federal Agencies, Local Governments or Special Districts:
Dept. of Geology & Mineral Industries

Local Contact: Thom Lanfear Area Code + Phone Number: 541-682-4054

Address: 125 East 8th Ave.

City: Eugene, OR Zip Code + 4: 97401-2926

DLCD No.:

SUBMITTAL REQUIREMENTS

This form must be received by DLCD at least 45 days prior to the first evidentiary hearing per ORS 197.610, OAR Chapter 660 - Division 18 and Senate Bill 543 and effective on June 30, 1999.

1. Send this Form and TWO (2) Copies of the Proposed Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Unless exempt by ORS 197.610 (2), proposed amendments must be received at the DLCD's SALEM OFFICE at least FORTY-FIVE (45) days before the first evidentiary hearing on the proposal. The first evidentiary hearing is usually the first public hearing held by the jurisdiction's planning commission on the proposal.
3. Submittal of proposed amendments shall include the text of the amendment and any other information the local government believes is necessary to advise DLCD of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal is not adequate.
4. Submittal of proposed "map" amendments must include a map of the affected area showing existing and proposed plan and zone designations. The map should be on 8-1/2 x 11 inch paper. A legal description, tax account number, address or general description is not adequate.
5. Submittal of proposed amendments which involve a goal exception must include the proposed language of the exception.
6. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

