



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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NOTICE OF ADOPTED AMENDMENT

03/01/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: Baker County Plan Amendment
DLCD File Number 001-10

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, March 16, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Holly Kerns, Baker County
Jon Jinings, DLCD Community Services Specialist
Amanda Punton, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

FEB 24 2011

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

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

Jurisdiction: **Baker County**

Local file number: **PA-10-001**

Date of Adoption: **December 8, 2010**

Date Mailed: **February 23, 2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 7/23/2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

This is a Post Acknowledgement Plan Amendment to add an aggregate site to the Mineral and Aggregate Inventory of the Baker County Comprehensive Land Use Plan. The site will occupy 1-acre. The site is needed to provide large diameter rock for restoration projects in the Pine Valley of Baker County.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved: **1 acre**

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-10 (18422) [16525]

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

DOGAMI, DEQ, Association of Soil and Water Conservation Districts

Local Contact: **Tara Andrews**

Phone: (541) 523-8219 Extension:

Address: **1995 Third Street**

Fax Number: **541-523-5925**

City: **Baker City, Oregon**

Zip: **97814**

E-mail Address: **tandrews@bakercounty.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 16, 2010

BEFORE THE BOARD OF COMMISSIONERS
OF BAKER COUNTY, OREGON

<p>IN THE MATTER OF PA-10-001 TO AMEND THE BAKER COUNTY COMPREHENSIVE LAND USE PLAN TO ADD THE MCLAIN CREEK ROCK PIT TO THE MINERAL AND AGGREGATE INVENTORY.</p> <p>THE ROCK PIT IS A ONE-ACRE PORTION OF A PARCEL DESCRIBED AS TAX LOT 1000 OF TOWNSHIP 7 SOUTH, RANGE 47 EAST, W.M., BAKER COUNTY, OREGON.</p>	<p>FINDINGS OF FACT, CONCLUSIONS, AND DECISION</p> <p>ORDER NO.</p> <p>2010-173</p>
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Property Owner: Pine Valley Land, LLC, 40117 Pine Town Lane, Halfway, OR 97834

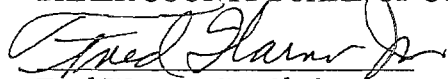
The Baker County Planning Commission recommended approval to the Baker County Board of Commissioners for an amendment to the Baker County Comprehensive Land Use Plan to add a 1-acre rock pit, known as the McLain Creek Rock Pit, to the Mineral and Aggregate Inventory of significant sites. The 1-acre rock pit site is located on a portion of tax lot 1000 of Township 7 South, Range 47 East.

A public hearing on the above-entitled matter was held before the Baker County Planning Commission on October 28, 2010. The Baker County Planning Commission closed the public hearing at the October 28, 2010 meeting, and recommended approval of the Plan Amendment request to the Board of Commissioners at the same meeting.

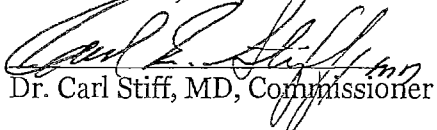
The Baker County Board of Commissioners conducted a public hearing on the Plan Amendment request on November 3, 2010 and December 8, 2010 and **APPROVED** the request to amend the Baker County Comprehensive Land Use Plan Mineral and Aggregate Inventory to include the McLain Creek Rock Pit based upon the applicable review criteria, findings of fact and conclusions as contained in the attached 'Exhibit A', and public testimony received. The site is approved under the 'small sites' criteria from the cited Oregon Administrative Rules, as well as the Baker County Zoning and Subdivision Ordinance requirements, all included in Exhibit 'A'. The language that will be added to the Comprehensive Land Use Plan is also attached in Exhibit 'A'.

DATED this 8th day of December, 2010.

BAKER COUNTY BOARD OF COMMISSIONERS


Fred Warner, Jr., Chair


Tim L. Kerns, Commissioner


Dr. Carl Stiff, MD, Commissioner

Baker County Mineral and Aggregate
Non Metallic Inventory

No.	1/4	Sec	Twp	Rge	RES 1	Acres	Yds	Status	Resource Owner	Land Owner	DOGAMI NUMBER	Comments
123		35	7S	47	Bg	1	10,000+ Total extraction not to exceed 500,000 tons/lifetime.	ACTIVE	Pine Valley Land, LLC	Pine Valley Land, LLC	N/A	Primary purpose is to supply rock for projects in Pine Valley

BAKER COUNTY COMPREHENSIVE PLAN

1993 NONMETALLIC MINERAL AND AGGREGATE SITE INVENTORY INDEX

<u>SITE #</u>	<u>SITE NAME</u>	<u>TWP</u>	<u>RNG</u>	<u>SEC</u>	<u>TAX LOT</u>	<u>DIR</u>
159	MCLAIN CREEK ROCK PIT	07S	47E	35	1000	N, NE

RECORD NUMBER: 159

CLASS:

SITE: MCLAIN CREEK ROCK PIT

COMMODITIES: ROCK (ANGULAR BASALT)

DEPOSIT TYPE:

LAND USE: LIVESTOCK GRAZING

ADJ LAND USE: LIVESTOCK GRAZING

LAND STATUS: PRIVATE

LAND OWNER: PINE VALLEY LAND, LLC

ADDRESS: 40117 PINE TOWN LANE

CITY ST: HALFWAY, OR 97834

ADDRESS 2:

LESSEE:

SPECIFIC LOCATION: APPROXIMATELY 11.5 MILES FROM THE TOWN OF HALFWAY, ON HIGHWAY 86, ABOVE MCLAIN CREEK. MILE POST 64.95 ON HIGHWAY 86; LATITUDE: 44.919, LONGITUDE: -116.9264.

ACTIVITY: 100-200 CUBIC YARDS PER YEAR, PROPOSED TO INCREASE TO >5,000 CUBIC YARDS PER YEAR

QUALITY:

QUANTITY: 10,000+ CUBIC YARDS

CONFLICTS:

HISTORY: PIT CREATED IN THE 1940'S BY OR. STATE HWY. DEPT. FOR LARGE ROCK MATERIAL SOURCE WHILE CONSTRUCTING OXBOW DAM. ROCK BECAME TOO LARGE TO BREAK OR HANDLE WITH MACHINERY AVAILABLE AT THE TIME, AND THE ROCK PIT WAS ABANDONED AND RETURNED TO THE LANDOWNER. OR. DEPT. OF TRANSPORTATION HAS USED THE PIT, INCLUDING HEAVILY IN 1996 DURING FLOODS FOR BANK STABILIZATION ROCK.

PD FILE: PA-10-001 IN TAX LOT FILE 07S47 TL 1000

NOTES:

TWN: 07 S.,	RG: 47 E.,	SEC: 35
TAX LOT: 1000	ZONING: EFU	
QUAD 1:	SCALE:	
QUAD 2:	SCALE:	
MINING DIST:		
*SEE ALSO:		

QUALITY REPORT
 Obtained From ODOT Laboratory Data
 Township 7 South Range 47 East Section 35 Tax lot 1000

- * Based on an average of information available for aggregate size(s)
- (x) County Standards
- (c) Course
- (f) Fine

SODIUM SULFATE TEST (SOUNDNESS):

ROCK TYPE	(x) AVERAGE % OF LOSS SHALL NOT EXCEED	* AVERAGE % WEIGHT LOSS
	%	%

DEGRADE TEST (OREGON AIR DEGRADATION):

ROCK TYPE	(x) MAXIMUM SEDIMENT HEIGHT "	(x) MAXIMUM VALUE PASSING #20 SIEVE	* SEDIMENT HEIGHT "	* PASSING #20 SIEVE
	"	%	"	%

ABRASION TEST (LA RATLER):

ROCK TYPE	(x) MAXIMUM VOLUME % LOSS	* SITE QUALITY % LOSS
	%	%

**Baker County Department of Planning and Community Development
FINAL REPORT AND BOARD OF COMMISSIONER DECISION
PLAN AMENDMENT PA-10-001**

STAFF REPORT DATE: January 7, 2011
REPORT PREPARED BY: Tara Andrews, Planner

PLANNING COMMISSION HEARING: October 28, 2010
BOARD OF COMMISSIONER HEARINGS: November 3, 2010 and December 8, 2010

I. GENERAL INFORMATION AND FACTS

Applicants/Owner: Pine Valley Land, LLC
40117 Pine Town Lane
Halfway, OR 97834

Land Use Review: Plan Amendment Request in an Exclusive Farm Use (EFU) Zone for a new Aggregate Site

Property Description: Tax Lot 1000 of Township 7 South, Range 47 East, W.M., Baker County, Oregon (07S47 TL 1000 Ref. 12274)

Location: Northeast of Halfway, Oregon, on Highway 86

Existing Development: None

Proposed Development: Aggregate Site

Zone: Exclusive Farm Use (EFU) Zone

Overlay Zone(s): The parcel is located within the Big Game Habitat Overlay.

A flood zone has been identified on the parcel according to Flood Insurance Rate Map (FIRM) #41001CO325, dated June 3, 1988. (This flood zone should not affect the aggregate site.)

Wetlands exist on the parcel according to National Wetlands Inventory Map for McLain Gulch, Oregon, dated August 1981, but none are present where the proposed aggregate site will be located.

Current Land Use: Agricultural Grazing

Size of Parcel: 2317.65+/- acres
A one-acre site is proposed for the requested use.

Parcel Legally Created: Yes, as evidenced by Deed 72-21-064, dated May 26, 1972.

Water Rights: There are approximately 96.8 acres of water rights on the parcel.

NRCS Soils Data:

Soil Class for 2317.65+/- acres

(Baker County GIS):

Class III	6.48%
Class IV	11.30%
Class VI	18.47%
Class VII	54.18% (location of proposed rock pit)
Class VIII	9.56%

Tax Status:

Farm Tax Deferral

II. REQUEST

The applicant, Pine Valley Land, LLC, requested a post acknowledged plan amendment to site an aggregate mining operation on a 1+/- acre portion of a 2317.65+/- acre parcel located in the Exclusive Farm Use and Timber-Grazing Zones known as Tax Lot 1000 of Township 7 South, Range 47 East, W.M., Baker County, Oregon. The site of the proposed aggregate mining operation is in the Exclusive Farm Use zone. The purpose of this proposed aggregate mining operation is to supply rock to the Pine Valley area when the need arises. This Plan Amendment request specifically seeks to amend the Baker County Comprehensive Land Use Plan to add an additional site to the Mineral and Aggregate Inventory.

III. APPLICABLE STATUTE AND ADMINISTRATIVE RULE PROVISIONS

Oregon Revised Statute (ORS) 215.298 requires that a site for aggregate mining be included on an inventory of an acknowledged comprehensive plan. Oregon Administrative Rule (OAR) 660 Division 18 contains the procedures for a comprehensive plan amendment. OAR 660 Division 23 contains the specific review criteria for amending a County's Comprehensive Plan to include additional sites on the Mineral and Aggregate Inventory. The post acknowledged plan amendment must also comply with Article 9 of the Baker County Zoning and Subdivision Ordinance (BCZSO) #83-3.

IV. FINDINGS OF FACT

- 1) The parcel is known as Tax Lot 1000 of Township 7 South, Range 47 East, W.M., Baker County, Oregon (07S47 TL 1000 Ref. 12274).
- 2) The parcel consists of 2317.65+/- acres. The proposal is for a 1+/- acre portion of the 2317.65+/- acre parcel.
- 3) According to the Baker County Assessor's office, Tax Lot 1000 is currently receiving farm tax deferral.
- 4) Tax Lot 1000 is located within the Exclusive Farm Use (EFU) and Timber-Grazing (TG) Zones. The portion of the parcel used for the rock pit site is zoned EFU, and the area around the pit is used for agricultural grazing.
- 5) Tax Lot 1000 is located in the Big Game Habitat Overlay.
- 6) A flood zone has been identified on the parcel according to Flood Insurance Rate Map #41001CO325C, dated June 3, 1988, which should not affect the aggregate site.

- 7) According to Baker County GIS Soil Data and the Natural Resources Conservation Service Soil Survey for Baker County, the parcel consists of 6.48% Class III, 11.30% Class IV, 18.47% Class VI, 54.18% Class VII (location of aggregate pit), and 9.56% Class VIII soils.
- 8) According to the Baker County Watermaster's Office, there are 96.8+/- acres of water rights on Tax Lot 1000.
- 9) The applicant submitted the appropriate application, maps, and site plan, accompanied by the required fee, to the Baker County Planning Department. The requirements of the application, as outlined in the Baker County Zoning and Subdivision Ordinance 83-3, Section 905, were completed on September 15, 2010.
- 10) The proposed aggregate mining site is approximately 100 feet from Highway 86, and is enclosed by a fence and access gate. The proposed aggregate mining site will be visible from the road. The access gate will be locked when the operation is inactive.
- 11) The internal drainage of the pit will be maintained and sloped back toward the high walls so that no water will flow off or away from the pit.
- 12) The application states that less than 500,000 tons of aggregate will be produced from this pit while the permit is operational. The main use of the pit will be for "restoration projects throughout Pine Valley."
- 13) The proposed mining operation plans to excavate more than 1,000 cubic yards of aggregate.
- 14) The proposed aggregate mining operation site is not included in the Baker County Comprehensive Plan Inventory of Mineral and Aggregate Sites.
- 15) Notice of County review of the proposed Plan Amendment was published in the Record Courier on October 7, 2010, and the Hells Canyon Journal on October 6, 2010, in accordance with ORS 197.763. Notice was also provided to the Department of Land Conservation and Development on July 23, 2010, in accordance with ORS 197.610. Notice was provided to property owners of record within 750 feet of the subject property boundary and the affected agencies on October 5, 2010, in accordance with OAR 660 Division 23, and ORS 197.763.
- 16) Required copies of the Environmental Review Checklist were circulated to the affected agencies on September 15, 2010. The deadline for comments from affected agencies was October 6, 2010. Arnie Grammon, Baker County Weed Master, expressed concern about the noxious weeds in and around the rock pit. *See Exhibit "D"*.
- 17) The main road access that will be used for hauling and transporting material to and from the pit is Highway 86.

V. ANALYSIS

POST ACKNOWLEDGED PLAN AMENDMENT

A. BAKER COUNTY ZONING AND SUBDIVISION ORDINANCE

BCZO Section 901 Authorization to Initiate Amendments

An Amendment to the text of this Ordinance or the Zoning Map may be initiated by the County Court, the County Planning Commission, or by application of a property owner. The request by a property owner for an Amendment shall be accomplished by filing an application with the Planning Department in a manner described in Section 905 or 907 of this Article at least by the first working day of the month during which the action is to be heard.

Findings: This Plan Amendment application was requested by the property owner of the proposed rock pit, Pine Valley Land, LLC. The applicant filed the application with the Planning Department on September 15, 2010, which was before the first working day of the month of October. The Planning Commission heard the request on October 28, 2010 and the Baker County Board of Commissioners heard the Plan Amendment request on both November 3 and December 8, 2010.

Conclusions: According to the findings above, the criterion is met.

BCZO Section 902 Authorization to Approve or Deny Proposed Amendments

The Planning Commission may approve, deny, or modify proposed Amendments to the Map or text of this Ordinance when such action is taken in accordance with the appropriate portions of Sections 903 through 907 of this Article.

Findings: The Planning Commission applied Sections 903-907 of this Article to the Plan Amendment application and recommended approval of the proposed Plan Amendment to the Baker County Board of Commissioners. At the Board of Commissioner's hearing on December 8, 2010, the Board accepted the recommendation of the Planning Commission to approve the Amendment request.

Conclusions: According to the findings above, the criterion is met.

BCZO Section 903 Standards for Granting an Amendment

To determine whether an Amendment shall be approved, denied or modified, the Commission shall find, in addition to the specific requirements in Sections 905, 906, and 907 of this Ordinance, that the proposal conforms with the County's Comprehensive Plan.

Note: In the Baker County Zoning and Subdivision Ordinance 83-3, Section 905 is titled Map Amendment Application Procedure, Section 906 is titled Environmental Impact Report Procedure, and Section 907 is titled Text Amendment Application Procedure.

Findings: The Planning Commission found that by applying the specific requirements in Sections 905, 906, and 907, the proposal complies with the Baker County Comprehensive Plan. The Board of Commissioners accepted the findings of the Planning Commission and found the proposal conforms with the County's Comprehensive Plan

Conclusions: According to the findings above, the criterion is met.

BCZO Section 904 Public Hearing on Amendment

The Planning Commission shall conduct a public hearing on a proposed Amendment within 60 days after the

Amendment is proposed and shall, within five working days after the hearing, recommend to the County Court approval, disapproval, or modified approval of the proposed Amendment. This hearing may be continued for just cause. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed Amendment within 30 days of Planning Commission action on the request. The Court shall announce its decision within 30 days of its public hearing. Amendments shall be subject to review by the State pursuant to ORS 197.610-630.

Findings: The Planning Commission held a public hearing on Thursday, October 28, 2010, to hear the Plan Amendment request. The applicant submitted his application on September 15, 2010. The Planning Commission recommended approval of the Plan Amendment to the Board of Commissioners at their hearing on October 28, 2010. The Board of Commissioners reviewed the recommendation for the Plan Amendment request on November 3 and December 8, 2010. At the Board of Commissioner's hearing on December 8, the Board accepted the recommendation of the Planning Commission and approved the Plan Amendment request.

Conclusions: According to the findings above, the criterion is met.

BCZO Section 905 Map Amendment Application Procedure

The following procedure shall be followed when initiating an action for Amendment to the Map of this Ordinance.

A. The applicant shall submit a site plan to the Planning Department and discuss the property involved in the action and the development to be placed on the property if the Amendment is approved. This discussion is to assist the applicant in understanding the Amendment process and to review the development proposal for conformance with the physical requirements of the Zoning and Subdivision Ordinance as early in the process as possible.

Planning Commission Findings: The applicant submitted a site plan to the Planning Department and discussed the proposed rock pit. The rock pit, identified as the McLain Creek Rock Pit, consists of 1 acre, which is described in Exhibit "B" attached to the end of this report.

Board of Commissioner's Findings: The Board of Commissioners clarified where the requested 1-acre site is to be located. The Board of Commissioners required that the 1-acre rock pit is to include the area of the existing pit.

Conclusions: According to the findings above, the criterion is met and will be required as a Condition of Approval.

B. The applicant and the Planning Department shall jointly complete an environmental review checklist provided by the Planning Department to survey environmental consequences of the proposed action. Copies of the completed environmental review checklist will be circulated to other departments and affected agencies. Department comments will be attached to the original and will remain in the application file.

Findings: The Planning Department and the applicant jointly completed an environmental review checklist and surveyed environmental consequences of the proposed rock pit. The checklist was distributed to affected agencies and departments on September 15, 2010. Original copies are included in the Planning Department's land use file.

Conclusions: According to the findings above, the criterion is met.

C. *Impact Report: After response from the other departments and agencies, the Site Plan Review advisory committee will recommend to the Planning Commission whether or not the project has a significant effect on the environment and hence whether an environmental impact report of a negative declaration is appropriate.*

Findings: The Site Plan Review advisory committee reviewed the Environmental Review Checklist and recommended the Planning Commission not require an environmental impact report. The advisory committee also submitted recommended Conditions of Approval which are included with this report in Exhibit ‘G’. The Planning Commission accepted the recommendation of the Site Plan Review advisory committee, which is attached to this report as Exhibit “G”. The Board of Commissioners accepted the findings of the Planning Commission.

Conclusions: According to the findings above, the criterion is met.

D. *If it is determined by the Planning Commission that an environmental impact report is required, the applicant shall be informed by mail that the report must be completed before the application can be considered. The applicant has 10 working days to appeal this requirement to the County Court. If the environmental impact report is required, the mandatory time limit for action on the application shall be extended for the period of time necessary to prepare and adopt a satisfactory report.*

Findings: The Planning Commission determined an environmental impact report is not required. The Board of Commissioners accepted the findings of the Planning Commission at their hearing on December 8, 2010.

Conclusions: According to the findings above, the criterion is met.

BCZO Section 908 Record of Amendments

After filing the Amendment(s) with the County Clerk, the County Planning Department shall maintain records of Amendments to the text of the Ordinance and the Zoning Map.

Information:

The Amendment shall read as follows:

Site #: 159 McLain Pit 7S 47E TL 1000 N

TWP. 7S	RNG. 47E	Sec. 35
Tax Lot: 1000	Zone: EFU	
Quad 1:	Scale:	
Quad 2:	Scale:	
Mining Dist: *See Also:		
Record Number:		
Site:		
Zoning:	EFU	
Class:		
Commodities:	Rock (Basalt)	
Deposit Type:		
Land Use:	Aggregate site in use since the 1940’s or before	
Adj. Land Use:	Primarily livestock grazing	

Land Status:	Private
Land Owner:	Pine Valley Land, LLC
Address:	40117 Pine Town Lane Halfway, Oregon 97834
Phone:	541-742-5410
Lessee/Operator:	
Specific Location:	Mile Post 64.95 on Highway 86; Latitude: 44.919, Longitude: -116.9264
Quality:	Untested
Quantity:	500,000 tons of material or less
Conflicts:	
History:	Livestock Grazing
Activity:	As needed
Planning File:	PA-10-001
ODOT File:	
DOGAMI File:	
Notes:	Approved under "Small Sites Rule" from OAR 660-023-0180(4) [2010]

Also non metallic inventory page V104 site #123 as follows:

NO.	1/4	Sec	Twp	Rge	RES 1	Acres	Yds	Status	Resource Owner	Land Owner	DOGAMI #	Comments
123		35	7S	47	Bg	1	10,000+ total extraction not to exceed 500,000 tons/lifetime	ACTIVE	Pine Valley Land, LLC	Pine Valley Land, LLC	N/A	

Findings: The County Clerk must record the Amendment and the Planning Department must maintain a record of the Amendment to the Baker County Comprehensive Plan.

Conclusions: The Board of Commissioners found that after the Amendment has been filed and recorded, the criterion will be met.

B. OREGON REVISED STATUTES

ORS 215.298 Mining in Exclusive Farm Use Zone; Land Use Permit.

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

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

(3) For purposes of ORS 215.213 (2) and 215.283 (2) and this section, "mining" includes all or any part of the process of mining by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits

except those constructed for use as access roads. "Mining" does not include excavations of sand, gravel, clay, rock or other similar materials conducted by a landowner or tenant on the landowner or tenant's property for the primary purpose of reconstruction or maintenance of access roads and excavation or grading operations conducted in the process of farming or cemetery operations, on-site road construction or other on-site construction or nonsurface impacts of underground mines. [1989 c.861 §7]

Findings:

- 1) The applicant proposes to mine more than 1,000 cubic yards of material; therefore, a land use permit is required.
- 2) The Baker County Board of Commissioners agreed to add the proposed McLain Creek Rock Pit to the Baker County Comprehensive Land Use Plan's Mineral and Aggregate Inventory; therefore, a land use permit may be issued.
- 3) The Planning Commission found the proposal meets the definition of mining according to Oregon Revised Statute 215.298 (3) above. The Board of Commissioners accepted the findings of the Planning Commission.

Conclusions: According to the findings above, the criteria are met.

C. OREGON ADMINISTRATIVE RULES

OAR 660-023-020 (1) Standard and Specific Rules

(1) The standard Goal 5 process, OAR 660-023-0030 through 660-023-0050, consists of procedures and requirements to guide local planning for all Goal 5 resource categories. This division also provides specific rules for each of the fifteen Goal 5 resource categories (see OAR 660-023-0090 through 660-023-0230). In some cases this division indicates that both the standard and the specific rules apply to Goal 5 decisions. In other cases, this division indicates that the specific rules supersede parts or all of the standard process rules (i.e., local governments must follow the specific rules rather than the standard Goal 5 process). In case of conflict, the resource-specific rules set forth in OAR 660-023-0090 through 660-023-0230 shall supersede the standard provisions in OAR 660-023-0030 through 660-023-0050.

OAR 660-023-0030 (1) Inventory Process

(1) Inventories provide the information necessary to locate and evaluate resources and develop programs to protect such resources. The purpose of the inventory process is to compile or update a list of significant Goal 5 resources in a jurisdiction. This rule divides the inventory process into four steps. However, all four steps are not necessarily applicable, depending on the type of Goal 5 resource and the scope of a particular PAPA or periodic review work task. For example, when proceeding under a quasi-judicial PAPA for a particular site, the initial inventory step in section (2) of this rule is not applicable in that a local government may rely on information submitted by applicants and other participants in the local process. The inventory process may be followed for a single site, for sites in a particular geographical area, or for the entire jurisdiction or urban growth boundary (UGB), and a single inventory process may be followed for multiple resource categories that are being considered simultaneously. The standard Goal 5 inventory process consists of the following steps, which are set out in detail in sections (2) through (5) of this rule and further explained in sections (6) and (7) of this rule: [Emphasis added]

(a) Collect information about Goal 5 resource sites;

- (b) Determine the adequacy of the information;*
- (c) Determine the significance of resource sites; and*
- (d) Adopt a list of significant resource sites.*

Findings of Fact:

The applicant and property owner for the proposed rock pit submitted a written statement explaining the uses and history of the proposed rock pit, which is located on Tax Lot 1000 of Township 7 South, Range 47 East, W.M., Baker County, Oregon. The Baker County Planning Department is relying on this information submitted by the applicant and property owner, which is included as Exhibit "B" of this report. The Planning Department also received additional information from ODOT regarding the type of rock in the pit and general geological information.

Findings: The Planning Commission & Board of Commissioners accepted the information submitted by the applicant and relied on this information to make their determination.

Conclusions: According to the findings above, the criteria are met.

OAR 660-023-0030 (5) Adopt a list of significant resource sites:

(5) Adopt a list of significant resource sites: When a local government determines that a particular resource site is significant, the local government shall include the site on a list of significant Goal 5 resources adopted as a part of the comprehensive plan or as a land use regulation. Local governments shall complete the Goal 5 process for all sites included on the resource list except as provided in OAR 660-023-0200(7) for historic resources, and OAR 660-023-0220(3) for open space acquisition areas.

Findings: The Planning Commission recommended the Board of Commissioners recognize the McLain Creek Rock Pit as a significant site and add the site to the Baker County Comprehensive Land Use Plan's Mineral and Aggregate Inventory. At their hearing on December 8, 2010, the Board of Commissioners adopted the Planning Commission findings and recognized the McLain Creek Rock Pit as a significant site and added the site to the Mineral and Aggregate Inventory of the Comprehensive Land Use plan.

Conclusions: According to the findings above, the Board of Commissioners found the criteria to recognize an aggregate site as significant are met.

OAR 660-023-0030 (6)

(6) Local governments may determine that a particular resource site is not significant, provided they maintain a record of that determination. Local governments shall not proceed with the Goal 5 process for such sites and shall not regulate land uses in order to protect such sites under Goal 5.

Findings: The Planning Commission recommended the Board of Commissioners recognize the proposed site as significant. The Board of Commissioners accepted the recommendation of the Planning Commission and found the proposed aggregate site meets all of the criteria recognizing the site as significant.

Conclusions: Based on the findings above, the Board of Commissioners determined all the criteria to recognize an aggregate site as significant are met.

OAR 660-023-0030 (7)

(7) Local governments may adopt limited interim protection measures for those sites that are determined to be significant, provided:

(a) The measures are determined to be necessary because existing development regulations are inadequate to prevent irrevocable harm to the resources on the site during the time necessary to complete the ESEE process and adopt a permanent program to achieve Goal 5; and

(b) The measures shall remain effective only for 120 days from the date they are adopted, or until adoption of a program to achieve Goal 5, whichever occurs first.

Findings: The Board of Commissioners adopted the findings of the Planning Commission and did not find it necessary to adopt limited protection measures for the rock pit.

Conclusions: The Board of Commissioners concluded limited interim protection measures for the significant site were not needed at this time and found the criteria are met.

OAR 660-023-0180 Mineral and Aggregate Resources

(1) For purposes of this rule, the following definitions apply:

(a) "**Aggregate resources**" are naturally occurring concentrations of stone, rock, sand gravel, decomposed granite, limestone, pumice, cinders, and other naturally occurring solid materials commonly used in road building or other construction.

(b) "**Conflicting use**" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site (as specified in subsection (5)(b) and section (7) of this rule).

(c) "**Existing site**" is an aggregate site that meets the requirements of subsection (3)(a) of this rule and was lawfully operating, or was included on an inventory of significant aggregate sites in an acknowledged plan, on September 1, 1996.

(d) "**Expansion area**" is an aggregate mining area contiguous to an existing site.

(e) "**Farmland**" means land planned and zoned for exclusive farm use pursuant to Goal 3 and OAR chapter 660, division 033.

(f) "**Mineral resources**" are those materials and substances described in ORS 517.750(7) but excluding materials and substances described as "aggregate resources" under subsection (a) of this section.

(g) "**Minimize a conflict**" means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels), to "minimize a conflict" means to ensure conformance to the applicable standard.

(h) "**Mining**" is the extraction and processing of mineral or aggregate resources, as defined in ORS 215.298(3) for farmland, and in ORS 517.750 for land other than farmland.

(i) "**Mining area**" is the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.

(j) "**Processing**" means the activities described in ORS 517.750(10).

(k) "**Protect**" means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site. For purposes of subsection (2)(d) of this rule, "protect" also means to limit or prohibit new conflicting uses within the impact area of the site.

(l) "**Thickness of the aggregate layer**" means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and nonaggregate overburden.

(m) "Willamette Valley" means Clackamas, Columbia, Linn, Marion, Multnomah, Polk, Washington, and Yamhill counties and the portions of Lane and Benton Counties east of the summit of the Coast Range.

(2) Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a post acknowledgment plan amendment (PAPA) or at periodic review as specified in section (9) of this rule. The requirements of this rule modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:

*(a) A local government may inventory mineral and aggregate resources throughout its jurisdiction, or in a portion of its jurisdiction. When a local government conducts an inventory (Periodic Review) of mineral and aggregate sites in all or a portion of its jurisdiction, it shall follow the requirements of OAR 660-023-0030 except as modified by subsection (b) of this section with respect to aggregate sites. **When a local government is following the inventory process for a mineral or aggregate resource site under a PAPA, it shall follow the applicable requirements of OAR 660-023-0030, except where those requirements are expanded or superceded for aggregate resources as provided in subsections (b) through (d) of this section and sections (3), (4) and (8) of this rule; [Emphasis Added]***

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

(c) Local governments shall follow the requirements of section (5) or (6) of this rule, whichever is applicable, in deciding whether to authorize the mining of a significant aggregate resource site, and OAR 660-023-0040 through 660-023-0050 in deciding whether to authorize mining of a significant mineral resource; and

(d) For significant mineral and aggregate sites where mining is allowed, except for aggregate sites that have been determined to be significant under section (4) of this rule, local governments shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses.

(4) Notwithstanding section (3) of this rule, a local government may also determine that an aggregate resource site on farmland is significant if subsections (a) and (b) of this section apply or if subsection (c) of this section applies:

(a) The quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley, or 500,000 tons or less for a site outside the Willamette Valley; and

(b) Not more than 35 percent of the proposed mining area consists of soil

(A) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or

(B) Classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in paragraph (B) of subsection (3)(d) of this rule; or

(c) A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination.

Finding of Fact:

The proposed rock pit is located entirely within Class VII soils.

Findings:

(4)(a) The property owner proposes to mine less than 500,000 tons of material.

b) The entire mining area consists of Class VII soils.

c) The Planning Commission found this criterion is not applicable because subsections (a) and (b) above are applicable.

Conclusions: The Planning Commission found subsections (a) and (b) of Section (4) are met and therefore, recommended the Board of Commissioners recognize the proposed site as significant. The Board of Commissioners accepted the recommendation of the Planning Commission, recognizing the proposed site as significant and found the criteria are met.

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

Findings: The applicant's reclamation proposal is located on page 5 of Exhibit "B", which is included at the end of this report. The Planning Commission accepted the reclamation proposal submitted by the applicant. After the rock has been utilized in the pit, the area will need to be returned to its original use, which is agricultural and cattle grazing.

Conclusions: The Board of Commissioners accepted the findings of the Planning Commission and found the criteria are met or may be met and will be required as a Condition of Approval.

(6) For an aggregate site on farmland that is determined to be significant under section (4) of this rule, the requirements of section (5) of this rule are not applicable, except for subsection (5)(f), and the requirements of OAR 660-023-0040 through 660-023-0050 are not applicable. Instead, local governments shall decide whether mining is permitted by applying subsections (a) through (d) of this section:

(a) The proposed aggregate mine shall satisfy discretionary conditional use permit approval standards adopted by the local government pursuant to applicable requirements of ORS 215.213(2) (marginal lands—does not apply) or 215.283(2) (non-marginal lands—applies), and the requirements of ORS 215.296 and 215.402 through 215.416; [Notes in parenthesis added]

Findings: The Planning Commission found the proposed aggregate site, which is located on farmland, is significant under section (4) above. The Planning Commission applied Conditional Use criteria from the Baker County Zoning and Subdivision Ordinance pursuant to ORS 215.283(2) and approved the Conditional Use Permit contingent upon approval by the Board of Commissioner's for the Plan Amendment. The Board of Commissioners accepted the findings of the Planning Commission, determined the site to be significant and approved the Plan Amendment request.

Conclusions: According to the findings above, the Board of Commissioners determined the criteria are met.

(b) The local government shall determine the post-mining use in accordance with subsection (5)(f) of this rule;

Findings: The Planning Commission requires the applicant to follow through with his reclamation plan included on page 5 of Exhibit "B" of this report, along with subsection (5)(f) above on page 11. After the rock has been utilized in the pit, the area will need to be returned to its original use, which is agricultural and cattle grazing.

Conclusions: The Board of Commissioners accepted the findings of the Planning Commission and found the criteria are met or may be met and will be required as a condition of approval.

(c) The local government shall issue a permit for mining aggregate only for a site included on an inventory of significant aggregate sites in the comprehensive plan in accordance with ORS 215.298(2); and

Findings: The Board of Commissioners found that the proposed aggregate site is significant and added the site to the Mineral and Aggregate Inventory of the Baker County Comprehensive Land Use Plan; therefore, a Conditional Use permit may be issued.

Conclusions: The proposed aggregate site was determined to be significant and was added to the Mineral and Aggregate Inventory of the Baker County Comprehensive Land Use Plan; therefore, a Conditional Use Permit may be issued contingent upon a 12-day appeal period. The Board of Commissioners found the criteria are met.

(d) The conditional use permit shall not allow mining of more than the maximum amount of aggregate material specified under subsection (4)(a) of this rule.

OAR 660-023-0180 (4)(a) The quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley, or 500,000 tons or less for a site outside the Willamette Valley;

Planning Commission Findings: The Planning Commission required that the aggregate site not be used to mine more than 500,000 tons of material.

Conclusions: The Board of Commissioners accepted the findings of the Planning Commission and found the criteria to be met and will be required as a Condition of Approval.

VI. SUMMARY CONCLUSIONS

A site proposed to be included in the Mineral and Aggregate Inventory of the Baker County Comprehensive Land Use Plan may be allowed through the Post Acknowledgment Plan Amendment process if the applicant demonstrates that the proposal meets, or is capable of meeting, all applicable review criteria and standards.

Therefore, based on the information contained in Sections I and II of this report, the above review criteria, findings of fact and conclusions, and public testimony received, the Baker County Board of Commissioners **APPROVED** this Plan Amendment request, PA-10-001, to amend the Baker County Comprehensive Land Use Plan's Mineral and Aggregate Inventory to include the McLain Creek Rock Pit, located in the EFU Zone on Tax Lot 1000 of Township 7 South, Range 47 East, W.M., Baker County, Oregon.

VII. CONDITIONS OF APPROVAL

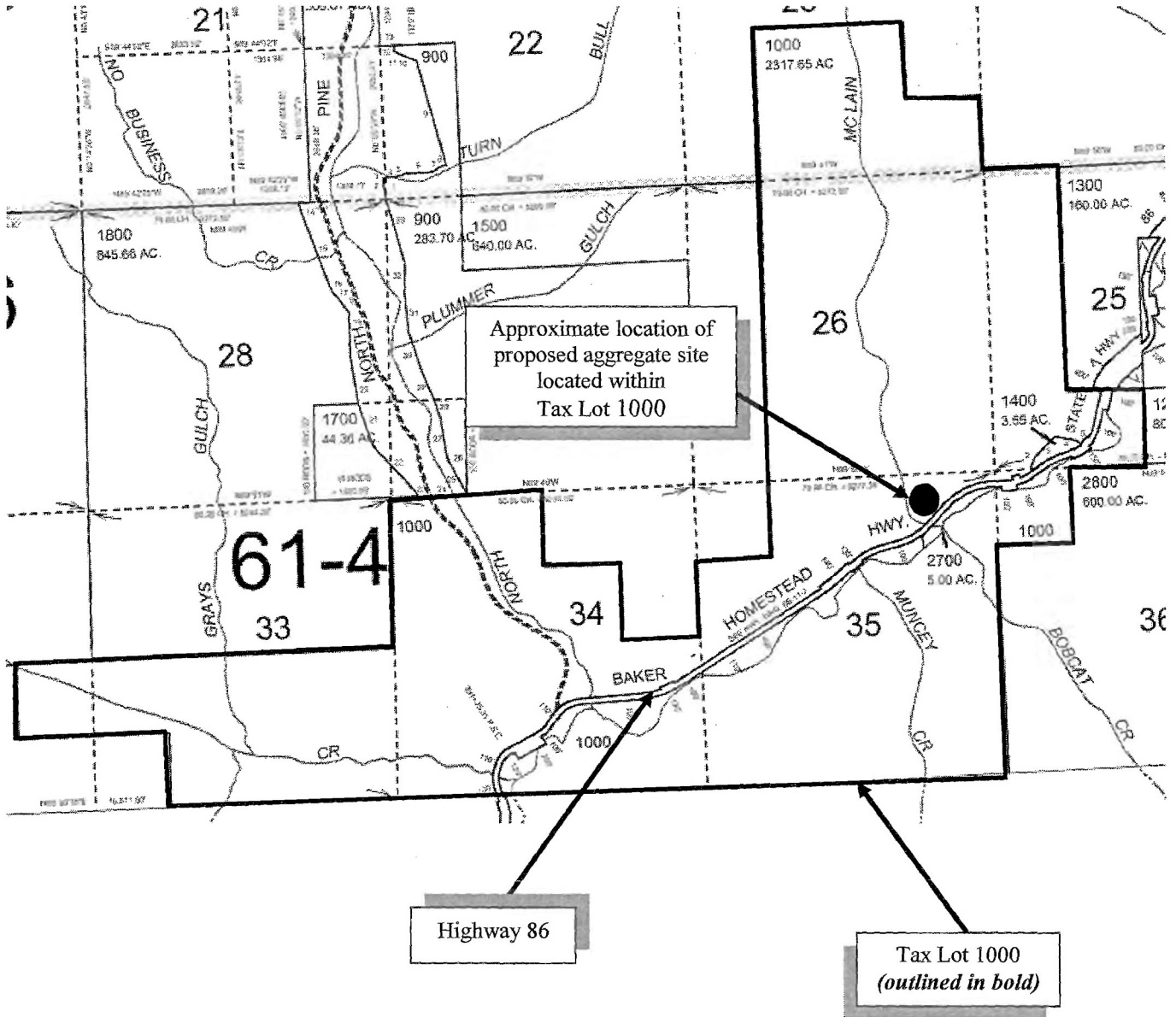
1. A record of all amendments must be filed with the Baker County Clerk.
2. The Planning Department shall maintain a record of the amendment to the zoning map, if approved.
3. The aggregate site shall not be used to mine more than 500,000 tons of material.
4. Reclamation of the proposed site will be in conformance with the standards and regulations of DOGAMI and DEQ, and the site shall be returned to its original use (agricultural use and grazing).
5. The McLain Creek Rock pit will be limited to 1 acre and must include the area of the existing pit.

VIII. EXHIBITS

- Exhibit "A" Assessor's Map of Area
- Exhibit "B" Copy of Pine Valley's Proposal
- Exhibit "C" Photographs of Proposed Rock Pit
- Exhibit "D" Environmental Review Checklist & Letter from Baker County Weed Department
- Exhibit "E" E-mail from Baker County Watermaster dated October 6, 2010
- Exhibit "F" Aerial Map of Surrounding Area (1-2 miles surrounding Rock Pit)
- Exhibit "G" Site Plan Review Advisory Committee Recommendation
- Exhibit "H" Letter Submitted by Kim Schultsmeier dated 10/22/2010
- Exhibit "I" E-mail Submitted by David Moore dated 10/27/2010
- Exhibit "J" E-mail Submitted by Kim and Ann Schultsmeier dated 10/27/2010
- Exhibit "K" E-mail Submitted by David Moore dated 10/28/2010
- Exhibit "L" Pictures Submitted by David Moore

EXHIBIT 'A'
Assessor's Map of Area

Tax Lot 1000
Township 7 South, Range 47 East, W.M.,
Baker County, Oregon



McClain Creek Rock Pit

Location

Tax Lot 1000 in Section 35 of Township 7 South, Range 47 East, W.M., Baker County, Oregon (07S47 Sec. 35 TL 1000 Ref. 12160), northeast of Halfway Oregon Hwy 86.

The proposed aggregate mining site is approximately 100 feet from Hwy 86, and is enclosed by a fence and access gate. The proposed aggregate mining site is visible from the road. The access gate is locked when the operation is not active.

Owner of the land is Pine Valley Ranch LLC.

This location of the rock pit is approximately 11.5 miles from the town of Halfway. The pit is located in a cutout on the hillside that lies above McClain Creek. When looking at the pits location it is surrounded from 7 o'clock to 2 o'clock with steep hillsides. From 2 o'clock to 7 o'clock is Hwy 86 and Pine Creek, then continuing up into steep hills on the other side of the creek's riparian area.

Currently, the beginning of the pit is set back approximately 175 ft. from the property line and roadway. There is a large berm between the pit and the roadway for the protection of pedestrians and vehicles, along with the 175 ft. setback. A locked gate is placed in the roadway to access the pit.

Size of Pit

This pit is currently approximately .8 of an acre in size. Even with blasting and removing material from this pit it is not projected that the pit will need to be greater than an acre in size.

It is estimated that less than 500,000 tons of material will be produced from this pit while the permit is operational, the main use of the pit will be for restoration projects throughout Pine Valley.

Soil

According to Baker County GIS Soil Data and the Natural Resources Conservation Service Soil Survey for Baker County, the pit is made up of -

Soil type: 59F Gwinly-Immig very cobbly silt loams, 50-70% south slopes

Class: VIIe

Current Land Use

Agricultural Grazing, zoned Exclusive Farm Use.

EXHIBIT B

History

This rock pit was opened, created and maintained in the 1940's by the Oregon State highway Department. The pit was used for a large rock material source while constructing Oxbow Dam. The rock in this pit became too large to break or handle with the machinery that was available in this era, the rock pit was then abandoned and reverted back to be controlled by the landowner. Currently, the Oregon Department of Transportation has used the McClain Creek pit for many of their rock purposes. It was heavily used in 1996 during the floods for bank stabilization rock. At this point ODOT uses the pit for smaller projects, when needed, keeping under the yardage limits set forth by DOGAMI and Baker County.

This pit was last drilled and shot about 5 years ago for a total of 10,000 CY. Currently, it is estimated that only a mere 100 – 200 CY are removed from the pit annually. The rock that is not being used as large diameter rip rap, which is not as sought after in this pit is being stockpiled in an area of the pit, ready for use if needed. At this point the rock is hammered out as needed, once a portion of a peninsula of rock in the pit has been used and there is a square edge, the pit will be drilled and shot again.

The Need for Large diameter rock

The public can benefit greatly from the permitting of this rock pit. The rock pit can be used for restoration and protection as shown below.

Restoration: Throughout the valley there are several needs for large diameter aggregate. For an example the Clear Creek Project, put on by the Eagle Valley SWCD, proposes to load and transport large boulders from the quarry site on Hwy 86 (McClain Creek pit) to the job sites on Clear Creek for the larger material. For this project the large rocks will be installed in an engineered rock weir cross vane structure fashion to help irrigators divert their allocated amount of water for irrigation while allowing a passageway for fish in this system. This large rock could be used for a variety of jobs; stream restoration/bank protection, bridge work, dam work, etc. In the realm of stream restoration/bank protection, large rocks are used to armor stream banks from the energy of the river, construct fish friendly structures for irrigation and passage and to make edifices that direct the water from erodible banks. There are other sites located throughout Pine Valley that could use this aggregate material for stream restoration. Most of these sites will be between 10 and 20 miles of hauling one way.

Protection: Due to recent flooding there are many residences that reside near Pine Creek, Clear Creek or one of their many branches, in jeopardy of falling into the creek because of massive bank erosion. To protect property for private landowners, homes and possibly lives, large rock is essential to armor many of these vulnerable banks, if and when another large flood passes through the valley. Placing these large rocks in proper locations will protect the remaining streambanks from receding and taking away the land beneath homes, bridges, crops and roadways. When working with roads, bridges and dams this large diameter rock is used for stability and strength. Large diameter rock is best used for these types of jobs because of the

EXHIBIT B

aggregate structure that these rocks possess. In cases such as armoring and directing water larger diameter rock is essential because of the force that many of these streams and rivers can possess, washing undersized rock downstream.

Distances to the project sites:

The mileages to the diversion sites in the Clear Creek Project include:

- 10.4 miles to the Schmidt diversion
- 10.6 miles to the Greener diversion
- 10.9 miles to the Melhourne Slough diversion
- 17.1 miles to the Drake Akers Crego diversion

By having this pit permitted there are multiple possibilities on other projects to provide rock for conservation and maintenance. The distance across Pine Valley is anywhere from 10 to 20 miles. Having a permit for this pit will allow the applicant to provide material for use by the public, providing the greatest good, to the greatest amount of people for a large rock source such as this. This material can be used throughout the Pine Valley area by a large number of people and this pit is not limited to only these areas. For a good rock source such as this the possibilities are endless

Road Access & Travel Routes

This rock pit is situated on the north side of Hwy 86 the Baker Copperfield highway. There is an existing road from the highway into the pit. The main roadway that will be used for hauling and transporting aggregate material to project sites is Hwy 86.

The location of the pit is located in the middle of a fairly straight stretch of road, there is approximately a ¼ mile straight stretch that enables a good line of vision for the drivers leaving and entering the rock pit and oncoming traffic coming from both directions. With this distance of vision any potential conflicts when entering and exiting this site should be minimal.

Nearest Residences Information:

Within a 1500 foot buffer/impact area, the nearest building is 900 feet away on Pine Creek. This property is owned by Kim Schultsmeier, P.O. Box 89 Kuna, Idaho 83634. This property is not lived in year round. Within a mile radius this is the only residence.

<u>Impact Area</u>					
Township	Range	Section	Tax Lot #	Existing Development	Approved Development
7S	47	35	2700	Yes	None

EXHIBIT B

This pit has been in place since the 1940's, before the existing development was in place. It has been in use throughout the years, the livability and value of the area will not be negatively affected and will remain as it has been since the 1940's. There is only this one development located within a mile buffer. The next development to the northeast is over 3 miles away and the next development to the southwest is 1.22 miles away near the 39 road.

This pit is isolated in a unique topographic area, noise, vibrations, air pollution, glare and odor will be minimal due to the remoteness of the aggregate site. This pit is in a hole in the hillside currently. The dwelling mentioned above, can be seen from the top of the pit.

According to the OWRD well log data base there are currently no wells logged within a 2 mile buffer from the rock pit.

Other nearby Rock Pits:

The pits that are located in the area include:

Gordon Summers pit off of Hwy 86 in Pine Valley T8S R46E Sec 12

Roger Gulick's pit off of Dry Creek Rd in Pine Valley T8S R46E Sec 2

BLM pit on Dead Cow Butte T8S R47E Sec 19

Ralph Graven's pit at the confluence of Eagle Creek & the Powder River T9S R45S Sec35

Rocky Randall's pit near Sparta T8S R44E Sections 13 & 24

Reason for Need:

The purpose of this proposed aggregate mining operation is to supply an OWEB Restoration Grant funded project on Clear Creek with large 3' to 4' boulders required to construct four fish-friendly diversion structures in nearby Clear Creek. It will also be used to help in flooding repairs on bridges and streambanks in the future. This rock pit is needed for a conditional use permit because currently it is the only source of large rock within a reasonable truck haul that exists in the area. Besides the Randall pit, the above rock sources are mostly made up of shale rock that cannot be effectively used for stabilization and long term structures. This type of rock does not have the proper aggregate form for this type of work. The Randall pit is not economical in terms of the price to haul the rock over the hill and into Pine Valley.

The Eagle Valley SWCD has talked with the Baker County Road Department, Baker County Planning Department and the Department of Geology and Mining about the locations of several of these rock pits. Samples were brought to the Department of Geology and Mining on May 20, 2010 from some of the pits in Pine Valley. Two of the samples were acquired from the Gulick Pit at T8S R46E Sec 2 and the Summers Pit at T8S R46E Sec 12 this rock was not the type that was needed for this type of work. The third sample was acquired from the McClain Creek pit

EXHIBIT B

and DOGAMI confirmed that this type of rock was what we were looking for to implement this type of stream restoration work. This rock is angular basalt.

Talking with the Road Department, landowners and rock pit operators in the area it was determined that the McClain Creek pit was the only real source of big rock besides Idaho Power Easements along the Snake River and Rocky Randall's pit near Sparta. These two sources would be far too expensive and unreasonable to haul rock into Pine Valley, when hauling such a large size of rock. Looking at other rock pit applications the SWCD has researched; the geologists from DOGAMI have confirmed that the boulders from Ralph Graven's pit in Eagle Valley were "ashflow tuff", can fall apart from abrasion, are not suitable for in-water structures and may last only a few years because it is too soft and too lightweight.

Permitting this rock pit would give conservationists in the proximate locale the ability to stabilize and protect areas with proper sized and the amount of rock needed for these types of projects. Currently, with the price of fuel and the ability to haul merely 2-3 rocks per truck load, other large rock pits in other valleys are not cost effective or reasonable to haul from. Hauling from these long distances is a danger to those on the road and a waste of fossil fuels for its ineffectiveness to haul a large amount of rock.

The rock quarry is for commercial rock to be sold on demand; however, its primary purpose is as a riprap source whereas the two known riprap sources are near Oxbow and at Randall's Pit near Sparta. Both sources would be cost prohibitive to haul rock from for projects in the Pine Valley Area with the price of fuel and hauling.

Information is not available to determine if the aggregate material meet ODOT specifications for base rock for air degradation, abrasion and soundness.

There are no dwellings or structures associated with this request.

Reclamation

If the landowner chooses to let the permit expire for conditional use, the pit will return to private use. Walls that are 40 ft vertical will need to be benched and a 1 ½ to 1 slope will be maintained for safety reasons. This pit will be left as an open area in a stable state. The internal drainage of the pit will be maintained and sloped back toward the high walls so that water will not flow off pit. Top soil will be stockpiled in an area for preservation. If the site is ever returned to non pit use this top soil can be spread and seeded to restore the site.



EXHIBIT C

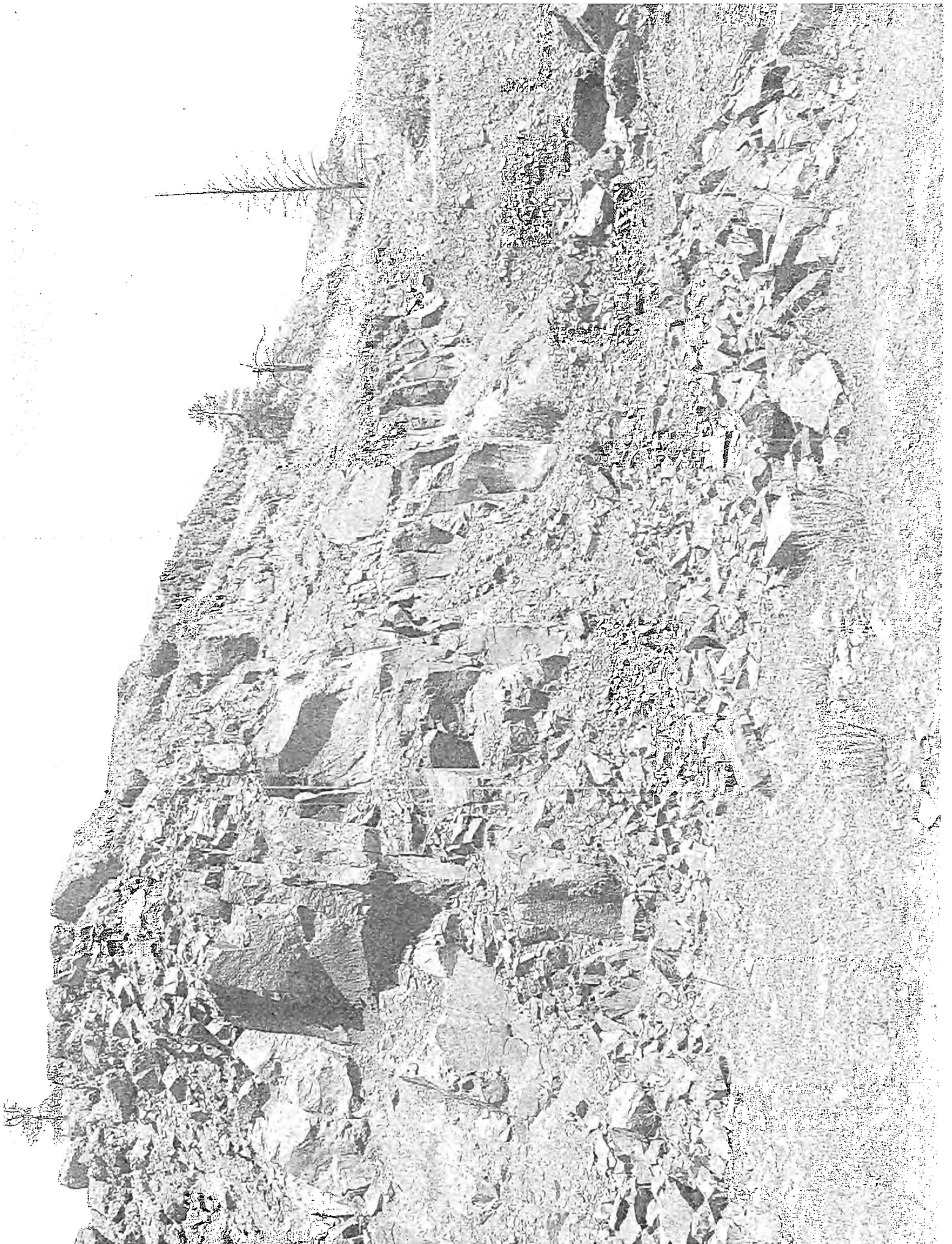


EXHIBIT D

Environmental Review Checklist

This checklist is to help planning officials, agency officials, and the Planning Commission determine what environmental impact a proposed change/development will have. Planning Department Staff and the Applicant complete the checklist jointly, in accordance with the provisions of the Baker County Zoning and Subdivision Ordinance.

Applicant: Pine Valley Land, LLC

Application Type: Plan Amendment and Conditional Use for an Aggregate Mining Operation at an Existing Aggregate Site

Application # PA-10-001 Proposed Development: Aggregate Mining Operation

Comments are due by: 5:00 p.m., Wednesday, October 6, 2010

Location: McClain Creek near Halfway. Tax Lot 1000 in Section 35 of Township 7 South, Range 47 East, W.M., Baker County, Oregon.

Impact Criteria	Yes	No	Uncertain	Not Applicable	Comments
Hydrology:					
Affect watershed?		X			The pit has been in place since the 40's and should not have additional affects on the watershed.
Alter storm water drainage pattern?		X			The pit is existing and should not have any additional drainage effects.
Affect downstream areas?		X			Floors are sloped toward the highwall and will not affect downstream area.
Change in the quality or quantity of groundwater supply?		X			
Alter surface water quality?			X		Floors are sloped toward the highwall to prevent offsite flows.
Potential for accidental spills of hazardous or toxic material near body of water?		X			
Construction in floodplains or wetlands?		X			This pit is situated in the uplands.

EXHIBIT D

Geologic:	Yes	No	Uncertain	Not Applicable	Comments
Affect erosion potential (either on or off site)?			X		This pit is located in an area that should not affect erosion potential because of pit shape and sloping.
Stability?			X		All standards for stability will be adhered to.
Bearing qualities of the soil?		X			
Geologic formation?		X			
Is the area suitable for septic system(s)? (A DEQ Site Evaluation may be necessary to show this.)				X	
Disturb more than one acre of land?		X			The pit is currently .8 acres and is not expected to be over 1 acre.
Alter, destroy or significantly impact environmentally sensitive areas? (i.e. wetlands, floodplains, critical habitat, prime farm land)		X			The pit is existing and is not considered to be in a significantly sensitive area and is located in the uplands.

Vegetation/Animal Life:	Yes	No	Uncertain	Not Applicable	Comments
Vegetation of high brush (on or near the site)?		X			Grasses
High or increased fire potential (on or near the site)?	X				During fire season, the risk will need to be mitigated with a water tanker on site.
Area of low revegetation potential on site?		X			If the area is properly restored, the re-vegetation potential is good.
Unique vegetation community (on or near site)?		X			None known
Rare or endangered animal species (on or near site)?		X			None known
Highly productive habitats for species of sport, commercial,		X			

EXHIBIT D

or educational value (on or near site)?					
Introduce new species of animals into the area, or result in a barrier to the migration or movement of animals?		X			
Significantly alter, deteriorate, or destroy fish or wildlife habitat?		X			

Atmospheric:	Yes	No	Uncertain	Not Applicable	Comments
Effect due to local circulation patterns?		X			
Prevailing winds?		X			
Condition up or down wind that could be impacted by the proposed development?		X			
Affect air quality?		X			
Create objectionable odors?		X			
Introduce smoke, dust, or suspended particles into the air?	X				Dust will be associated with excavating and blasting.
Particulate/dust migration beyond facility/property boundaries?	X				Dust could travel with the wind beyond property boundaries during excavation and blasting.
Increase noise levels?	X				During excavation and blasting.

Economic Considerations:	Yes	No	Uncertain	Not Applicable	Comments
Economic impact on schools?		X			
On Fire Districts?		X			
Water Districts?		X			
Sewer Districts?		X			
Law Enforcement?		X			
Emergency Services?		X			
Any other jurisdiction?		X			
Tax rate of the tax code?		X			

EXHIBIT D

Transportation:	Yes	No	Uncertain	Not Applicable	Comments
Increase traffic on roads?	X				While hauling materials.
Require road expansions or improvements?		X			
Require new access to existing roads?		X			
Generate new activity on roads?		X			There is a certain amount of yardage currently leaving the pit, so the activity will not be new, but may be increased.
Use unimproved roads?			X		Unimproved roads may need to be used to haul rock for repair work. It is uncertain of the areas that may be in need in the future.

Services:	Yes	No	Uncertain	Not Applicable	Comments
Close proximity to shopping, recreational, and employment centers? Give distances.		X			The closest location is Oxbow- 5 miles, or Halfway - 10 miles.
Will development cause a need for closer proximity to the above services?		X			
Will there be a need for new power systems?		X			There will be no need for power at this pit. All machinery is fuel operated.

Public Need:	Yes	No	Uncertain	Not Applicable	Comments
Public need for development?	X				There is a need for large diameter rock in proximity to project sites.
Alteration in location, distribution, density or growth rate of human population in an area?		X			The density of Halfway and Oxbow is not predicted to sprawl into this area.

EXHIBIT D

Infrastructure Impacts:

What method will be used to deliver the following services to the proposed development:

Water?

N/A

Sanitary Waste Treatment? *Porta-Potty*

Storm Water Collection? *Yes, if DOGAMI requires or recommends this. The slope of the floor is angled toward the highwall to collect the storm water and drainage.*

Please list here any additional impact the proposed development may have:

Conclusion:

1) Does the project have the potential to degrade the quality of the environment, or curtail the diversity in the environment?

Yes

No

Uncertain

2) Does the project have the potential for cumulative impacts on environmental quality?

Yes

No

Uncertain

3) Does the project have environmental effects which will cause substantial adverse effects to humans either directly or indirectly?

Yes

No

Uncertain

4) Is there potential for an already poor environment being further degraded?

Yes

No

Uncertain

5) Is there potential for an environment close to its natural condition being degraded?

Yes

No

Uncertain

6) Will this action adversely affect threatened or endangered species (or critical habitat), significant archeological resources, National Register eligible historical sites, or other statutorily protected resources?

Yes

No

Uncertain

7) Will this action adversely affect prime or unique farm lands, wetlands, wilderness areas, aquifers, flood plains, wild and scenic rivers, or other areas of critical concern?

Yes

No

Uncertain

Baker County Weed Control

2610 Grove
Mailing: 1995 3rd
Baker City, Oregon 97814

Weed Sure Appreciate Your Help

Arnie Grammon, Baker County Weed Supervisor

Office: 541-523-0618
Cell: 541-319-5157
Fax: 541-524-7666
agrammon@bakercounty.org

To Whom It May Concern

RE: Pine Valley Ranch Rock Pit Approval - Noxious Weeds

I understand that Pine Valley Ranch is seeking approval to commercially use a rock pit located in the lower Pine Creek area. The legal description for this site is: Tax Lot 1000 of Township 7 South, Range 47 East, W.M., Baker County, Oregon.

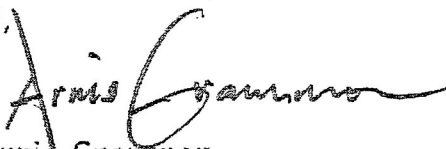
Baker County Weed Department inspected this site in mid-September. Rush skeletonweed, scotch thistle, and puncturevine were treated in and around the site.

To ensure that ORS statutes are addressed that prohibit the transport of noxious weed seed off-site, the applicant must proactively address future noxious weed populations in and around the pit.

If written assurances of compliance are provided by the owner, Baker County Weed Department will approve of the use of this rock pit for commercial purposes.

Thank you for your consideration in this matter.

Regards,



Arnie Grammon
Baker County Weed Supervisor

EXHIBIT E

Rick Lusk <luskrm@wrld.state.or.us>
10/06/2010 02:19 PM To
"tandrews@bakercounty.org" <tandrews@bakercounty.org>
cc

bcc

Subject
Pine Valley LLC (PA-10-001) and The Conditional Use (CU-10-005)

History:
This message has been replied to.

Tara,

The land and aggregate mining operation of the Pine Valley LLC has no water right for a commercial or industrial mineral aggregate use, either from surface water or groundwater. If the proposed mineral aggregate operation will use water, a permit, limited license, or authorization will need to be obtained. Please have Pine Valley LLC contact the Baker County Watermaster Office for information and advice.

Thanks,

Rick Lusk
Assistant Manager, ER
Watermaster District 8
1995 3rd Street, Suite 180
Baker City, OR 97814
541-523-8224
Rick.M.LUSK@wrld.state.or.us

From: tandrews@bakercounty.org [mailto:tandrews@bakercounty.org]
Sent: Tuesday, October 05, 2010 1:54 PM
To: Rick Lusk
Subject: RE: Pre Notice

Sorry, I forgot about that.

Tara Andrews
Planning Department
1995 Third Street, Suite 131
Baker City, Oregon 97814
541-523-8219, 541-523-5925 (fax)

Rick Lusk <luskrm@wrld.state.or.us>
10/05/2010 01:48 PM
To

"tandrews@bakercounty.org" <tandrews@bakercounty.org>
cc

Subject
RE: Pre Notice

Tara,

I can not open .docx files.

Thanks,

Rick Lusk

From: tandrews@bakercounty.org [mailto:tandrews@bakercounty.org]
Sent: Tuesday, October 05, 2010 1:17 PM
To: Rick Lusk
Subject: Pre Notice

Rick,

I've attached a Pre Notice below. Let me know if you have any questions.

Tara Andrews
Planning Department
1995 Third Street, Suite 131
Baker City, Oregon 97814
541-523-8219, 541-523-5925 (fax)

EXHIBIT G



*Baker County Department of Planning
& Community Development*
1995 Third Street, Ste. 131
Baker County, Oregon 97814
Phone: 541-523-8219; Fax: 541-523-5925

1995 Third Street
Baker City, Oregon 97814

October 19, 2010

**RE: Site Plan Review Advisory Committee Comments on Environmental Review Checklist
for application PA-10-001**

Dear Baker County Planning Commission,

The Site Plan Review Advisory Committee reviewed the Environmental Review Checklist for application PA-10-001 and found, based on information included in the checklist, comments received, and historic use of the site as a rock source, the proposal will not have a significant effect on the environment. The Advisory Committee recommends the Planning Commission does not require an environmental impact report, based on Baker County Zoning and Subdivision Ordinance 83-3, Section 905 (C). However, the Advisory Committee recommends including the following Conditions of Approval on the Conditional Use Permit to mitigate potential impacts identified in the checklist.

1. All blasting activities shall be coordinated with the Oregon Department of Transportation.
2. Access approval for entrance onto the highway must be obtained from Oregon Department of Transportation. Any Oregon Department of Transportation signage requirements must be complied with.
3. An Oregon Department of Forestry approved fire plan shall be submitted to the Planning Department before mining commences. All Oregon Department of Forestry standards and requirements shall be complied with.
4. A weed control plan approved by the Baker County Weedmaster shall be submitted to the Planning Department before mining commences. All provisions of the weed control plan shall be complied with.

If you have any questions or concerns regarding the preceding information, please contact the Baker County Planning Department at 541-523-8219.

Respectfully Submitted to the Baker County Planning Commission,

A handwritten signature in cursive script that reads "Tara Andrews".

Tara Andrews, Planner
On Behalf of the Site Plan Review Advisory Committee

Cc: Property Owner, Tax Lot File

EXHIBIT H

October 22, 2010

Sent:

via e-mail to Tara Andrews at tandrews@bakercounty.org (forwarded without signature to avoid delay)
signed copy via U.S. Mail - Certified Return Receipt.

Baker County Department of Planning & Community Development
1995 Third Street
Ste, 131
Baker City Or, 97814

Baker County Board of Commissioners
1995 Third Street
Baker City, Or 97814

To: Members of the Planning and Community Development Committee and Baker County Board of Commissioners,

Fm: Kim Schultsmeier - Affected Land Owner of Property Address 52250 Hwy 86.

RE: Pine Valley Land, LLC - Post Acknowledgement Plan Amendment and Conditional Use Permit (copy of notice attached to mailed responses)

I am writing to you to express my concerns about Pine Valley Land, LLC's application for a Post Acknowledgement Plan Amendment and Conditional Use Permit on Tax Lot 1000 of Township 7 South, Range 47 East, W.M., Baker County, Oregon, northeast of Halfway Oregon, on Highway 86.

I am currently the owner of the property directly across Hwy 86 from the parcel the Conditional Use Permit is being requested for. This property was purchased a number of decades ago by my now deceased father and mother, I am the second generation owner and it is my intention to have this property remain in my families ownership for the foreseeable future.

It is my understanding the property I own as well as the adjoining properties in the area are currently zoned for Exclusive Farm Use (EFU). I would like to formally address some of my concerns in permitting the rezoning of the Pine Valley site to allow an aggregate mining operation on 1+/- acre portion of a 2317.65+/- acre parcel.

1. Earlier this summer, while maintaining my property, I became aware of the heavy equipment working across road due to the noise and ground disruption. At that time I had not been made aware that Pine Valley Land, LLC had applied to Baker County or approved to operate this type of operation. Pine Valley Land, LLC has not contacted me directly regarding their intentions to begin a mining operation on property zoned for Exclusive Farm Use and what affects their actions would be on the enjoyment, property value or potential environmental hazards they would be creating for the me, my property or the other property owners in the area. I would like to address three concerns at this time:

Page | 1

Kim Schultsmeier - Response to Pine Valley Land, LLC Post Acknowledgement Plan Amendment and Conditional Use Permit

a. Enjoyment: This property has been used by my parents and family as a second home and retreat and it is my intention to continue to maintain and improve the property and residence and to continue to use this property as a second home for myself and my family to use for the foreseeable future. As part of the maintenance and improvement I have continued to keep the property mowed, repaired fencing, maintain structures and this last spring I planted approximately 74 pine trees to enhance the visual aesthetics of the property and reduce the road noise already caused by the highway. This property borders Pine Creek and McClain Gulch and with the zoning of Exclusive Farm Use in the area my property provided my family with a quiet retreat. This type of operation not only deteriorates the visual aesthetics of my property but increased heavy truck and equipment usage along with the noise and dust created by the operation are not conducive with the zoning of Exclusive Farm Use.

b. Property Value: It is my opinion that having a mining operation within visual site and the noise within hearing distance is a clear devaluation of property used for quiet enjoyment. I am certain that there are not many individuals that would welcome a mining operation in their backyard for the same reasons. It is also my understanding that Pine Valley Land, LLC. owns a great deal of land in the area and if they would like to operate this type of operation on their property they have numerous options that would not affect other land owners in the area. It has also been my experience that Pine Valley Land, LLC. has not been respectful of other land owners in the area with regards to their ranching operation, maintenance and improvements to their property on other occasions. I have had numerous incidents where I found cattle from the ranch on my property and I have had to remove them on more than one occasion. Although I have worked to maintain fences to prevent the cattle from entering my property, as a second home I am not always in the area. I have witnessed employees of Pine Valley that are driving by when 50 plus head of cattle are on my property, which is private land not owned by Pine Valley, and I am not aware that they are making any effort to remove them from my property. Pine Valley has also created roads, some that breach Pine Creek by driving through the water, and one of these roads parallels my property leaving a visual scar on the hillside. I am using these as examples where Pine Valley is not acting as a good neighbor and respecting the other property owners in the area.

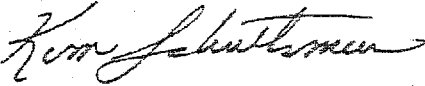
c. Environmental Hazards: The watershed in the area has been subject to catastrophic events in the recent past, flooding earlier this year, as well as within the past few years, the 1997 flood. In the 1997 flood McClain Gulch, which has drainage under Highway 86, had issues with the culvert not being able to accommodate the amount of water in the drainage due to debris damming up the highway culvert which diverted the water, soil and other debris across Highway 86 and on to my property. I have been working with the Highway department to install drainage and diversions on both sides of Highway 86 to address potential flooding in the future. I am concerned that any earth disturbing activities along McClain Gulch above Highway 86 will once again create sediment and debris damming of the culvert. I am also concerned that sediment containing toxic material from a mining operation could wash into Pine Creek in a high water event and potentially cause damage to Pine Creek, the fisheries and other animals that use it for water. I am also very aware that any earth disturbing activity provides a prime opportunity for noxious weed to establish in the area. I am concerned that the road Pine Valley developed across Pine Creek from my property has already provided a strong hold for noxious weeds in the area and I am also aware that there is great concern that in the Hell's Canyon Scenic byway and adjoining wilderness area noxious weeds are invading at an alarming rate without creating new areas for them to become established. I am continually working to remove noxious weeds from my properties in the area and have witnessed an ever increasing invasion of quantity and species.

I would also like to ask the members of the Baker County Planning and Community Development Committee and the Baker County Board of Commissioners to consider the visual resource management of the area when considering the approval of a mining operation directly on Highway 86, which has been advertised as the "Gateway to the Hells Canyon Recreation Area". I understand that the Bureau of Land Management has worked with Idaho Power to reduce the visual impact to the area and would expect that Pine Valley should have the same responsibility. I know that a great deal of time and money has been spent to attract visitors to the area to experience the Wild, Rural, and Natural Beauty and scenery of the area and would question whether or not a mining operation on the entrance to a recreation area is the right type of impression for visitors.

I am going to try to make the meeting on Thursday, October 28, 2010 to address these issues personally but due to a recent family medical issue I may not be able to be in Baker City that evening.

I appreciate the opportunity to express my concerns about Pine Valley Land, LLC beginning and operating a mining operation prior to obtaining a Conditional Use Permit or notifying affected individuals and agencies and address the issues I believe would be created by them being permitted to continue this type of operation:

Respectfully,



Kim Schultsmeier

EXHIBIT I



David Moore
<pvrancher@gmail.com>
10/27/2010 03:20 PM

To tandrews@bakercounty.org
cc "J. David Coughlin" <jdc@clmlaw.net>, Phil George
<philpvr@pinetel.com>
bcc

Subject Re: Plan Amendment and Conditional Use Comments

History: ↵ This message has been forwarded.

Tara --

Below are my couple of comments to the Schultsmeier letter:

1. The Schultsmeier property, although within the advisory range, is not directly across from the rock pit. The pit has been in operation for over 70 years, long before the property was purchased by the complainant. The complaint is a fairly classic NIMBY (not in my back yard) response. If the Schultsmeier's were concerned about the rock pit, one of 5 between Richland and Oxbow along highway 86, perhaps they might have made another choice in purchasing the property.
2. The complaint is correct, that if the property was visited this summer, they would have observed considerable heavy truck traffic along Highway 86 from all 5 of the rock pits. The traffic was the result of the massive storm damage from the 2010 spring flood. Repairs are being made to Highway 86 which is in danger of again washing out, North Pine Road (Hwy 39) which completely washed out in 4 places, three bridges that washed out in Pine Valley and numerous washed out irrigation diversion points in the Pine Valley water shed.
3. The rock pit in this request was, at the time of the application, the only hard, large rock pit in the valley. At the request of the NRCS, who actually prepared the application, the rock was needed for repairing several major irrigation diversion points. Subsequently, both ODOT (for Hwy 86, mile 66.5 repair) and the Forest Service contractor (Hwy 39 rebuilding) contacted Pine Valley Land to acquire the large, hard rock that was needed and available in the pit. Since neither ODOT or the FS could get straight answers as to how much more rock could be removed from the pit without additional permits, we were forced to refuse both requests. Subsequently, at considerable expense, ODOT vastly expanded their rock pit at the Richland-Halfway summit and the FS opened/expanded a pit near Duck Lake. The application now being made, prepared by NRCS to ensure a future supply of large hard rock, has continued in order to serve the public need. The private use of the pit is minor and does not require any additional permitting. We suspect part of the issue with the complaint is that somehow Pine Valley Land is making a huge profit on the rock pit. Actually the market price of rock does pay for the work and costs of operating a large scale pit. If the public agencies did not need the rock now and for any future flood event, we would not pursue the permit.
4. Pine Valley Land has a wide and highly respected reputation for land management. The complaint that Pine Valley Ranch has breached the Schultsmeier fences reflects on the poor state of repair of the property rather than as some fault of PVR. PVR is not responsible for other property owners fences. PV Land has had an aggressive pine bark beetle eradication program for over 6 years. Included in that program is the regular removal of diseased trees. If the complaint values the forested view they enjoy of the PV land across the creek they should be thankful for

the program, otherwise they would be looking at a forest of dead trees. ODOT has been supportive of our program and have granted us authority to remove dead and diseased trees on the highway 86 right of way.

5. We have never meet or heard from Kim Schultsmeier or any member of the family. In fact, the common belief in the valley is that the property has been abandoned since it is in such obvious disrepair. If the family has a complaint/concern about the operation of PVR, I would encourage them to contact the ranch manager, Phil George at 541-742-7217 or the undersigned at 541.742.7212

David Moore
Principal
Pine Valley Land, LLC

On Tue, Oct 26, 2010 at 10:12 AM, <tandrews@bakercounty.org> wrote:

Dear Mr. Moore,

Attached are comments we received from an adjoining property owner for your review. These comments will be given to the Planning Commission at the hearing scheduled for Thursday, October 28, 2010, at 7:00 p.m. Please let me know if you have any questions. We will continue to forward you any comments we receive regarding your application up until the Planning Commission hearing.

Tara Andrews
Planning Department
1995 Third Street, Suite 131
Baker City, Oregon 97814
541-523-8219, 541-523-5925 (fax)

EXHIBIT "J"

From: ann_richards44@hotmail.com
To: tandrews@bakercounty.org
Subject: RE: Plan Amendment and Conditional Use Comments
Date: Wed, 27 Oct 2010 21:00:06 -0600

Good evening Tara,

I thank you for forwarding these comments. My husband Kim and I will be able to attend tomorrow night's meeting.

Since we were unaware that Pine Valley has plans to use explosives as part of the mining operation. We contacted the Federal Department of Alcohol Tobacco and Firearms today, as they are the Federal Agency that regulates the use of explosives, and discussed the issues facing us as property owners with a residence within 900 feet of the proposed blasting zone. He provided us with some initial information regarding the Federal Regulation regarding the use of explosives i.e.: a federal license is required, the affected area for 10 lbs of explosives is approximately 1/2 mile, shock waves can damage a structures windows, walls, and foundations, as well as the integrity of local wells, etc. The gentleman's name at Federal Department of Alcohol Tobacco and Firearms is Ralph Lambrit and his phone number is 208-334-1160.

We will be addressing this issue personally as an additional concern.

Thank you again for keeping informed of this situation.

Kim and Ann Schultsmeier


EXHIBIT K



David Moore
<pvrancher@gmail.com>
10/28/2010 08:59 AM

To tandrews@bakercounty.org
cc "J. David Coughlin" <jdc@clmlaw.net>
bcc

Subject Re: New Comments Regarding PVL's PA-10-002 and
CU-10-005

History:  This message has been forwarded.

This getting crazy.

We do not, never have and never will use explosives on any PV land.

In the event that additional rock needs to be exposed, we hire fully licensed and highly qualified firms to do so. In fact, the pit in question has not been blasted since we have owned it and probably not in the life of the Schultsmeier's ownership.

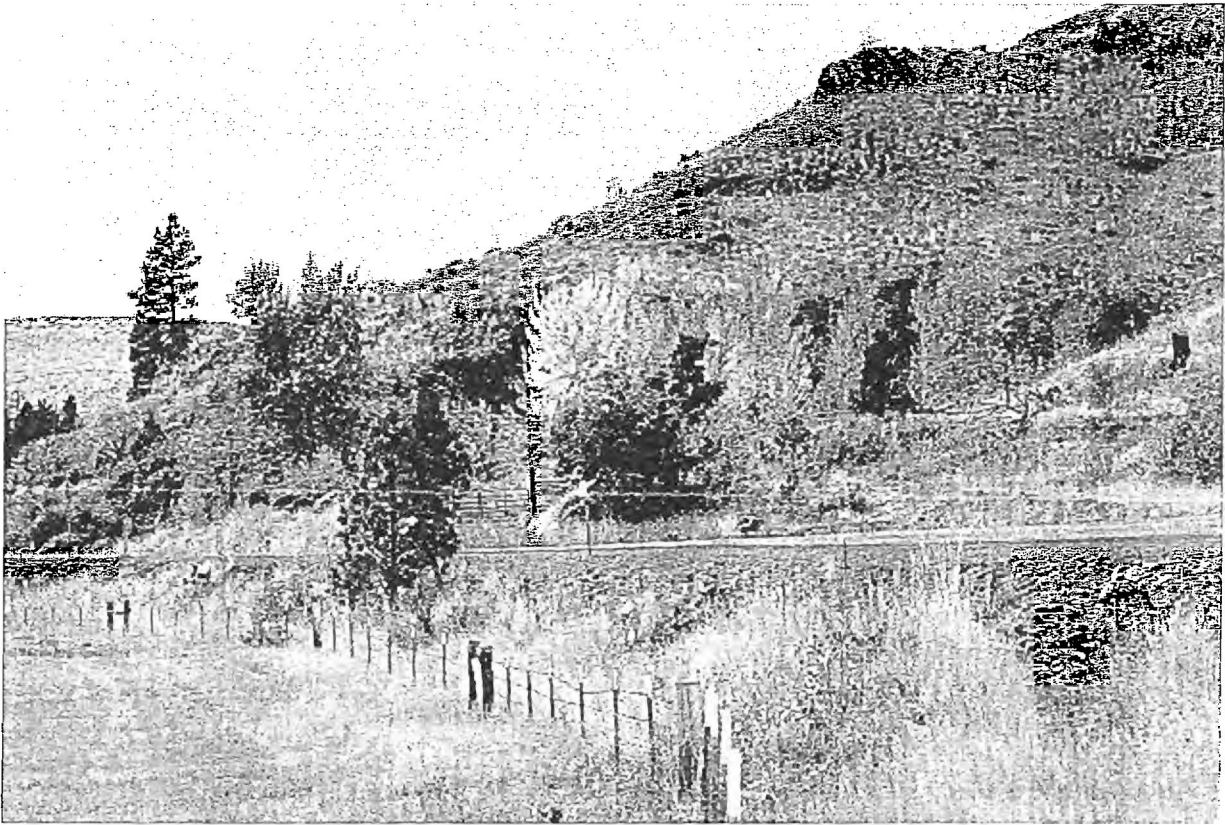
David Moore
PV Land

EXHIBIT L

This shows the house from the east , the rock pit is to the west of this building:



Shows the entrance to the rock pit taken from the front gate (80mm lens -- slight telephoto):



Shows the buffer strip between the rock pit and McLain Gulch (creek) which prevents any run off from the rock pit from entering the creek. The lower edge of the pit shows in the extreme upper right, the buffer strip is the center and the brush on the left is down in the creek itself, very deep at this point:



This photo taken from the gate of the rock pit looking east towards the house which can barely be seen through the dead tree in the front yard of the house:



This shows what is probably "the road" described in the complaint. It is not on our list of maintained trails and obviously has nearly eroded or filled in, blocked by downed trees. I suspect it is either a very old logging trail or more likely a fire break cut to prevent a forest fire (2007?) from crossing the creek and hitting the house. In any case, it is clearly on our property and is not material to the rock pit issue:





02/23/2011
Mailed From 97814
US POSTAGE

DEPT OF

FEB 24 2011

LAND CONSERVATION
AND DEVELOPMENT

Baker County Planning Department

Baker County Courthouse
1995 Third Street, Suite 131
Baker City, OR 97814
(541) 523-8219

Attn: Plan Amendment
Specialist

TO

DLCD
635 Capitol St. NE Ste. 150
Salem, OR 97301-2540