



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/24/2012

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 001-11

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: Friday, March 09, 2012

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: Lauri Hoopes, Baker County
Jon Jinings, DLCD Community Services Specialist
Amanda Punton, DLCD Natural Resources Specialist
Grant Young, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

FEB 21 2012 *alt*

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-11-001**

Date of Adoption: **2/15/2012**

Date Mailed: **2/17/2012**

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

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".

The Board of Commissioners have approved Harney Rock & Paving Co.'s request to modify the mining boundary of Site #3 in the Baker County Comprehensive Plan Significant Aggregate Inventory. The site is located on TL 801 (07S39E), north of Haines, Oregon. The mining area will be reduced from 2,513+/- acres to 215+/- acres. 35+/- acres from TL 600 (07S39E) and TL 801 will comprise the new mining area.

Does the Adoption differ from proposal? Yes, Please explain below:

The proposed boundary modification will reduce the original approved mining area from 2,513+/- acres to 215+/- acres, instead of 213+/- acres as originally proposed.

Plan Map Changed from: **EFU**

to: **EFU with Significant Aggregate Site**

Zone Map Changed from:

to:

Location: **07S39E TL 801--180+/- acres; 07S39E--35+/- acres**

Acres Involved: **215**

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 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-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. 001-11 (19028) [16944]

DLCD file No. _____

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

ODOT, DOGAMI, DSL, Baker Co. Agencies, North Powder Rural Fire Dist., Haines Rural Fire Dist., State Fire Marshall, OTEC, PV Water Control, ODA, ODFW, Baker Co. Sheriff, North Powder & 5-J School Dist.

Local Contact: **Lauri Hoopes, Planner**

Phone: **(541) 523-8219** Extension:

Address: **1995 Third Street**

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

City: **Baker City, OR**

Zip: **97814**

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

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working 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) by DLCD of the 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.

**BOARD OF COMMISSIONERS
FOR BAKER COUNTY, OREGON**

IN THE MATTER OF:

APPROVING A POST ACKNOWLEDGED PLAN AMENDMENT TO THE BAKER COUNTY COMPREHENSIVE LAND USE PLAN FOR THE PURPOSE OF MODIFYING THE MINING BOUNDARY OF A SIGNIFICANT AGGREGATE SITE (SITE #3) IN THE EFU ZONE FROM 2,513+/- ACRES TO 215+/- ACRES, LOCATED IN PARCEL 1 (TAX LOT 801) OF PARTITION PLAT P2010-014, IN TOWNSHIP 7 SOUTH, RANGE 39 EAST, W.M., BAKER COUNTY, OREGON (07S39 TL 801, REF. 18179).

ORDINANCE NO.: 2012-01

AMENDING ORDINANCE NO. 84-1

BE IT ORDAINED BY THE COUNTY COMMISSION OF BAKER COUNTY, OREGON:

WHEREAS, Baker County received an application for a Post Acknowledgement Plan Amendment (PAPA) to amend the Baker County Comprehensive Land Use Plan for the purpose of modifying the mining boundary of an existing significant aggregate site located on Parcel 1 (Tax Lot 801) of Partition Plat P2010-014, recorded December 21, 2010, to reduce the existing area approved for mining from 2,513+/- acres to 215+/- acres. As part of the boundary modification, thirty-five acres from Parcel 2 (Tax Lot 600), will be added to the approved mining area on Parcel 1 (Tax Lot 801).

WHEREAS, Parcel 1(Tax Lot 801) is located in the Exclusive Farm Use (EFU) Zone, north of Haines, Oregon; and

WHEREAS, Parcel 1(Tax Lot 801) is located near and accessed from State Highway 30; and

WHEREAS, the Department of Land Conservation and Development (DLCD), property owners within 750 feet of the property boundaries of Parcel 1 (Tax Lot 801) and Parcel 2 (Tax Lot 600), as well as affected agencies or departments, were sent notice of the public hearings regarding this matter and were provided an opportunity to comment; and

WHEREAS, Parcel 1(Tax Lot 801), is described herein:

Parcel 1 of Partition Plat P2010-014: 180+/- acres: Tax Lot 801 in Township 8 South, Range 39 East, W.M., Baker County, Oregon (08S39 TL 801, Ref. 18179)

WHEREAS, the Baker County Planning Department and the Baker County Planning Commission have completed a review of the Post Acknowledgement Plan Amendment (PAPA) request; and

WHEREAS, the Baker County Planning Commission recommended the Board of Commissioners adopt the Conditions of Approval, as shown in Exhibit A, for the Plan Amendment and Exhibit B, the map of the proposed boundary modification, and;

WHEREAS, the Board of Commissioners have determined the proposed boundary modification to an existing Significant Aggregate Site, identified as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites, will meet the requirements necessary to expand the existing significant aggregate site; and

WHEREAS, a public hearing was held before the Baker County Planning Commission on December 15, 2011, and two public hearings were held before the Baker County Board of Commissioners on January 18, 2012, and February 1, 2012, and testimony was received regarding the matter. On February 1, 2012, the Baker County Board of Commissioners then closed the public hearing, findings and conclusions were made and a decision of **APPROVAL** was rendered regarding Plan Amendment PA-11-001.

NOW, THEREFORE, THE BAKER COUNTY BOARD OF COMMISSIONERS ORDAIN the Conditions of Approval attached hereto as Exhibit A, and the decision for PA-11-001, a Post Acknowledgment Plan Amendment (PAPA) to amend the Baker County Comprehensive Land Use Plan for the purpose of modifying the aggregate mining boundary of Site #3 on Parcel 1 (Tax Lot 801) in the EFU Zone from 2,513+/- acres to 215+/- acres for Harney Rock and Paving Company, are hereby approved.

DONE AND DATED this 15th day of February, 2012

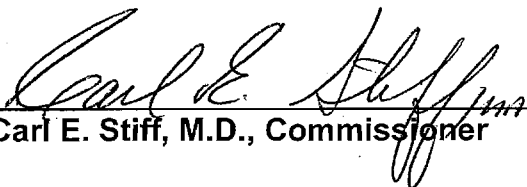
BAKER COUNTY BOARD OF COMMISSIONERS



Fred Warner, Jr., Chair



Tim L. Kerns, Commissioner



Carl E. Stiff, M.D., Commissioner

EXHIBIT A

PA-11-001

CONDITIONS OF APPROVAL

1. If approved, 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. Post-mining reclamation shall be coordinated with DOGAMI. A copy of the most recent DOGAMI permit for the operation shall be kept on file with the Planning Department.
4. Harney Rock and Paving Company will apply for a Conditional Use Permit to mine the aggregate pit on Tax Lot 801 that will consist of 215+/- acres once the boundary modification is completed. Approval of this Conditional Use Permit is required prior to any mining activity commencing within the boundary expansion area.

**Baker County Mineral and Aggregate
Non Metallic Inventory**

No.	1/4	Sec	Twp	Rge	Res 1	Acres	Yards	Status	Resource Owner	Land Owner	DOG-AMI #	Comment
3	NE	04/ 05	7S	39	Bg	215 +/-	1.1 million solid cubic yards on 215+/- acres	Active	Harney Rock & Paving Company	Harney Rock & Paving Company	01-072- 5	Primary purpose is to supply ballast for Union Pacific, and gravel products for local community.

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>
#3	HUTCHINSON/HELLBERG/ HARNEY ROCK	07S	39E	04/05	801	

RECORD NUMBER: SITE # 3 **DOGAMI #:** 01-072-5

CLASS:

SITE: HUTCHINSON/HELLBERG/ HARNEY ROCK

COMMODITIES: ROCK (BALLAST) GABBRO

DEPOSIT TYPE:

LAND USE: COMMERCIAL AGGREGATE MINING

ADJ LAND USE: EXCLUSIVE FARM USE (EFU)

LAND STATUS: PRIVATE

LAND OWNER: HARNEY ROCK AND PAVING COMPANY
ADDRESS: 48874 HIGHWAY 30
CITY ST: NORTH POWDER, OREGON 97867

ADDRESS 2: PO BOX 800, HINES, OREGON 97738

LESSEE/OPERATOR: HARNEY ROCK AND PAVING COMPANY

SPECIFIC LOCATION: APPROXIMATELY 1.5 MILES WEST OF HIGHWAY 30/ MILE POST 35.2

ACTIVITY: *DAVE BROOKS—ODOT 1993; CONTINUOUS USE BY HARNEY ROCK AND PAVING COMPANY SINCE 1993

QUALITY: UNION PACIFIC RESOURCES LETTER:

AREA A=QUARTZ DIORITE
AREA B=HARD, DENSE MEDIUM TO FINE GRAINED GABBRO
AREA C=FINE GRAINED GABBRO
*DRILL HOLE TEST SAMPLES AVAILABLE IN FILE

QUANTITY: 1.1 MILLION SOLID CUBIC YARDS ON 215+/- ACRES

CONFLICTS:

HISTORY:

PD FILE: PA-11-001 IN TAX LOT FILE 07S39 SECTION 04/05 TL 801

NOTES:

TWN: 07 S.,	RG: 39 E.,	SEC: 04/05
TAX LOT: 801	ZONING: EFU	
QUAD 1:	SCALE:	
QUAD 2:	SCALE:	
MINING DIST:		
*SEE ALSO:		

QUALITY REPORT
Obtained From ODOT Laboratory Data
Township 7 South, Range 39 East, Section 04/05, Tax Lot 801

- * 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
	%	%

Contract No.: C14161 EA No.: CON02908 Lab No.: 10-003794
 Project: WINGVILLE LANE #1122: MP 0.0 - MP 4.76
 Highway: WINGVILLE LANE County: BAKER Data Sheet No.: F0233 665
 Contractor: GRANITE NORTHWEST, INC FA No.: X-STP-C001(011)
 Project Manager: JEREMY MORRIS Org Unit: A-PA Bid Item No.: 110
 Submitted By: GARY OLSON Org Unit: APA Sample No.: 1
 Material Source: 01-072-5 HARNEY PIT Qty Represented:
 Sampled At: SOURCE Sampled By: Witnessed By:
 DATE-Sampled: 10/ 8/30 Received: 10/ 9/13 Tested: 10/10/ 5 Date Reported: 10/10/ 6
 Class/Type: COMPLIANCE Use: CHIP SEAL CHIP SEAL AGGR

Q or G: QUARRY

AGGREGATE LABORATORY REPORT - CHIPAG

Size: 3/8-#8

Test	Field	Lab	T 84 F. Grav.	T 85 C. Grav.
T 176 S.E.			Bulk:	Bulk: 2.817
T 89 L.L.			S.S.D.:	S.S.D.: 2.841
T 90 P.I.			Appar.:	Appar.: 2.886
TP 61 Ttl Frac.			Absorp.:	Absorp.: 0.84 %
TM 226 Dust/Clay			T 104 Soundness	TM 208 Degrade
TM 227 Cleanness			C A: 8% F A:	
TM 229 Elong pcs			1.5-3/4:	
T 19 Unit Wt.			3/4-3/8: 0.0 %	
			3/8- #4: 7.9 %	Crse Ht: 1.1 in
			#4- #8:	P20: 13.1 %
T 329 Moisture			#8-#16:	Fine Ht:
T 27/11			#16-#30:	P20:
Sieve	Passing	Passing	#30-#50:	
2.5			T 96 Abrasion	T 21 Impurity
2			14.3 %	Plate #:
1.5			Type C	
1			TP 61 Fracture	TM 221 Friables
3/4			1.5:	Wt'd Avg :
1/2		100 %	1.0:	1.5-3/4:
3/8		100 %	3/4:	3/4-3/8:
1/4		77 %	1/2:	3/8- #4:
# 4		44 %	3/8:	#4-#16:
# 8		7 %	T 113 Lightweight	TM 225 Woodwaste
# 10			Coarse: 0.0 %	Lab:
# 16		2 %	Fine:	Field:
# 30		1 %	AASHTO T 288/289	AASHTO T 267
# 40			Resist: Ω	Organic:
# 50		1 %	pH:	
#100			AASHTO T 291	AASHTO T 290
#200		0.3 %	Chloride:	Sulfate:

1 @ T27	= \$ 47.00
1 @ T85	= 45.00
1 @ T96	= 97.00
1 @ T104	= 29.00
1 @ T113	= 34.00
1 @ 208A	= 74.00

NSM = Not Sufficient Material
 REMARKS: Material represented by sample DOES comply with specifications.
 TOTAL CHARGES: \$ 0.00

KEVIN BROPHY - LABORATORY SERVICES MANAGER

REPORT SHALL NOT BE REPRODUCED, EXCEPT IN FULL, WITHOUT WRITTEN APPROVAL OF THIS LABORATORY.

**Baker County Department of Planning and Community Development
PLANNING COMMISSION RECOMMENDATION
to the BOARD OF COMMISSIONERS
PLAN AMENDMENT PA-11-001**

BOARD OF COMMISSIONERS HEARINGS: January 18, 2012, and February 1, 2012
PLANNING COMMISSION HEARING: December 15, 2011
STAFF REPORT DATE: February 8, 2012
REPORT PREPARED BY: Lauri Hoopes, Planner

I. GENERAL INFORMATION AND FACTS

APPLICANT: Harney Rock & Paving Company
Troy Hooker, Vice President
457 S. Date Avenue
P.O. Box 800
Hines, Oregon 97738

PROPERTY OWNERS: **Parcel 1 (Tax Lot 801):**
Harney Rock & Paving Company
457 S. Date Avenue
P.O. Box 800
Hines, Oregon 97738

Parcel 2 (Tax Lot 600):
William & Sandra McGinn
P.O. Box 73
Haines, Oregon 97833

LAND USE REVIEW: Plan Amendment

PROPERTY DESCRIPTION: **Parcel 1—180+/- acres:** Tax Lot 801 in Township 7 South, Range 39 East, W.M., Baker County, Oregon (07S39 TL 801, Ref. 18179)

Parcel 2—370.41+/- acres: Tax Lot 600 in Township 7 South, Range 39 East, W.M., Baker County, Oregon (07S39 TL 600, Ref. 15211)

LOCATION: North of Haines, Oregon, near State Highway 30

EXISTING DEVELOPMENT: **Parcel 1 (Tax Lot 801):** Existing Aggregate Mining Operation

Parcel 2 (Tax Lot 600): None

PROPOSED DEVELOPMENT: To modify the mining boundary of an existing significant aggregate site located on Tax Lot 801.

ZONE: Exclusive Farm Use (EFU) Zone

OVERLAY ZONE(S):

Big Game Habitat:

Parcel 1 and Parcel 2 are not located in the Big Game Habitat Overlay.

Flood Zone:

Parcel 1 (Tax Lot 801): A small portion of the parcel is in a flood zone according to Flood Insurance Rate Map (FIRM) #41001CO040C, dated June 3, 1988. (The front of the pit is partially included within this flood zone.)

Parcel 2 (Tax Lot 600): A flood zone was not identified on the parcel according to Flood Insurance Rate Map (FIRM) #41001CO040C, dated June 3, 1988.

Wetlands:

Parcel 1 (Tax Lot 801): There are no wetlands identified on the parcel according to National Wetlands Inventory Map for Haines, Oregon, dated July 1981.

Parcel 2 (Tax Lot 600): Wetlands were identified on the parcel according to National Wetlands Inventory Map for Haines, Oregon, dated August 1981.

Fire District:

Parcel 1 (Tax Lot 801) and Parcel 2 (Tax Lot 600) are located in the North Powder Rural Fire Protection District.

CURRENT LAND USE:

Parcel 1 (Tax Lot 801): Aggregate Mining

Parcel 2 (Tax Lot 600): Agriculture-Grazing

PARCELS LEGALLY CREATED:

Parcel 1 (Tax Lot 801) was created by Partition Plat P2010-014, recorded with the Baker County Clerk on December 21, 2010.

Parcel 2 (Tax Lot 600) was lawfully created as evidenced by Deed 89-30-033, dated June 30, 1989.

WATER RIGHTS:

Parcel 1 (Tax Lot 801): According to the Baker County Watermasters Office, there are no water rights on this parcel.

Parcel 2 (Tax Lot 600): According to the Baker County Watermasters Office, there are approximately 258.1+/- acres of primary water rights on this parcel and the NE1/4 SE1/4 is covered.

NRCS SOILS DATA:

Tax Lot 801
Class VI

Tax Lot 600
Class VI

TAX STATUS:

Parcel 1 (Tax Lot 801): Industrial Status

Parcel 2 (Tax Lot 600): Farm Use

II. REQUEST

Harney Rock and Paving Company, applicant and property owner, requests a Post Acknowledgement Plan Amendment to modify the mining boundary of an existing significant aggregate operation located on Parcel 1 (Tax Lot 801) of Partition Plat P2010-014, recorded with the Baker County Clerk on December 21, 2010. Parcel 1 (Tax Lot 801) is located north of Haines, Oregon, near State Highway 30. The existing area approved for mining will be reduced from 2,513+/- acres to 215+/- acres. Thirty-five acres from Parcel 2 (Tax Lot 600) will be added to the approved mining area on Parcel 1 (Tax Lot 801). Parcel 1 (Tax Lot 801) is listed as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites and is located in the Exclusive Farm Use (EFU) Zone.

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 acknowledgment plan amendment must also comply with Article 9 of the Baker County Zoning and Subdivision Ordinance (BCZSO) #83-3. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning and Subdivision Ordinance it is considered to be consistent with the Comprehensive Plan.

IV. FINDINGS OF FACT

A. BAKER COUNTY COMPREHENSIVE LAND USE PLAN GOAL V

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F. Mineral and Aggregate Resources Findings

6. The governing body finds that the most efficient and environmentally sound means to encourage extraction activities is to expand existing pits in preference to opening new ones.

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G. Mineral and Aggregate Resources Protection Policies

4. The County will consider gravel resources significant if the resource meets Oregon Department of Transportation aggregate specifications and the site contains a minimum of 100,000 cubic yards of minable reserves.
7. The County shall allow continued mining at existing significant resource sites. Expansion beyond the limits of existing site shall comply with county zoning regulations.
8. The County shall review applications for extraction to implement the policy to expand existing commercial gravel pits in preference to creating new pits.

10. The County will protect the right to continue an existing surface mining operation. A decision whether to protect the site from additional conflicts shall be based on the analysis of economic, social, environmental and energy (ESEE) consequences of conflict. The ESEE analysis for existing sites shall only consider the consequences of potential conflicts with mining activities, and the consequences of mine expansion on existing or potential conflicting uses.
13. For each site determined to be significant, the County shall complete the remainder of the Goal 5 process of identifying conflicting uses, analyzing the ESEE consequences of the conflicting use(s), and designating a level of protection from conflicting uses. If the final decision concerning the site is to preserve fully or partially protect the resource from conflicting uses, the County shall zone the site appropriately.
15. To approve surface mining at a site zoned for exclusive farm or forestry use, the County shall find, as part of the ESEE analysis that the proposed activity will not:
 - a. Force a significant change in, or significantly increase the cost of, accepted farming or forestry practices on surrounding lands, and
 - b. Will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

This analysis shall be conducted as part of a public hearing for a conditional use permit for mineral extraction activities occurring. These criteria may be satisfied through imposition of clear and objective conditions.

20. As part of the Goal 5 process to determine the amount of protection given a significant gravel and mineral resource site, the County shall determine the appropriate post mining use of the site.
22. Unless specifically determined on a case-by-case basis, it shall be the policy of the County, pursuant to ORS 517.830(3), to request that DOGAMI delay its final decision on approval of a reclamation plan and issuance of an operating permit until the County decides all comprehensive plan amendments or site plan approvals.
23. No surface mining or processing activity, as defined by the zoning ordinance, shall begin without land use approval from the County, and approval of a reclamation plan and issuance of an operating permit by DOGAMI.

V. ANALYSIS

POST ACKNOWLEDGMENT 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.

Planning Commission Findings: The application for a Plan Amendment, along with a site map, required fee and the justification for the amendment was submitted by the applicant, Harney Rock and Paving Company, on October 21, 2011, in accordance with Section 905 of this Article. The DLCDC Notice of Proposed Amendment was submitted by the Planning Department on October 21, 2011, 45 days prior to the first evidentiary hearing, which was held on December 15, 2011. The Planning Commission reviewed the applicant's request on December 15, 2011, and concurred to make a recommendation of approval to the Board of Commissioners at that time.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners accepted the findings of the Planning Commission as listed above. The Board of Commissioners reviewed the Plan Amendment application on January 18, 2012, and February 1, 2012.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Baker County Board of Commissioners found the criteria to be 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.

Planning Commission Findings: On October 21, 2011, the applicant, Harney Rock and Paving Company, submitted an application for a Post Acknowledgment Plan Amendment (PAPA) for a map amendment to expand an existing significant aggregate site located on Tax Lot 801 (07S39E), north of Haines, Oregon. On December 15, 2011, the Planning Commission reviewed the proposed Plan Amendment with the appropriate portions of Sections 903 through 907 of this Article, and recommended approval of the PAPA to the Board of Commissioners at that time.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS 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 Board of Commissioners. The Board of Commissioners reviewed the Planning Commission's recommendation to approve the Amendment request on January 18, 2012, and February 1, 2012.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Baker County Board of Commissioners found the criteria to be 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.

Planning Commission Findings: The Baker County Planning Commission reviewed the proposed Plan Amendment on December 15, 2011, according to the specific requirements listed in Sections 905, 906 and 907, the Baker County Zoning and Subdivision Ordinance, and the Baker County Comprehensive Land Use Plan and concurred to make a recommendation of approval to the Board of Commissioners at that time. (For more information regarding the Baker County Comprehensive Land Use Plan, please see *Section IV, Findings of Fact*, on pages 3 and 4 of this report.)

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners found the criteria to be 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.

Planning Commission Findings: On October 21, 2011, the applicant, Harney Rock and Paving Company, submitted an application for a Post Acknowledgment Plan Amendment (PAPA) for a map amendment to expand an existing significant aggregate site located on Tax Lot 801 (07S39E), north of Haines, Oregon. The Baker County Planning Commission conducted a public review hearing on December 15, 2011, within 60 days after the Amendment was proposed, and made a recommendation to the Baker County Board of Commissioners to approve the proposed Amendment. The Baker County Board of Commissioners (County Court) will tentatively review the Planning Commission's recommendation of approval in a public hearing on January 18, 2012. The second Board of Commissioners (County Court) public review hearing is tentatively scheduled for February 1, 2012.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners held a public hearing on January 18, 2012, and concurred with the Planning Commission's findings listed above. The Board of Commissioners adopted the Plan Amendment Ordinance on February 1, 2012.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria to be 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, Harney Rock and Paving Company, submitted a site plan, included as Exhibit B of this report, which depicts the proposal to modify the aggregate mining boundary on Parcel 1 (Tax Lot 801) from 2,513+/- acres to 215+/- acres. The modification will reduce the original 1989 approved parcel size of 2,513+/- acres to 180+/- acres (the current size of Tax Lot 801), as well as include a new 35+/- acre portion of Tax Lot 600 to be conveyed to Tax Lot 801 [180+/- acres (Tax Lot 801) + 35+/- acres (adjusted from Tax Lot 600) = 215+/- acres]. The purpose of this Plan Amendment is to amend the site plan map for the purpose of modifying the aggregate mining boundary to "soften" the final contours of the quarry, streamline their current reclamation plan and increase aggregate reserves.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings listed above, the Board of Commissioners determined the criteria to be met.

- 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.*

Planning Commission Findings: On November 4, 2011, the applicant and the Baker County Planning Department jointly completed the Environmental Review Checklist, included as Exhibit G of this report, to survey environmental consequences of the proposed action. The Environmental Review Checklist was circulated to other departments and affected agencies on November 8, 2011. No comments were submitted to the Baker County Planning Department within the 21-day comment period in response to

the Environmental Review Checklist, which ended on November 30, 2011. On December 9, 2011, the Environmental Review Committee recommended no negative declaration would be needed.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission found the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners found the criteria to be 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.

Planning Commission Findings: No agency comments were received by the Baker County Planning Department in response to the Environmental Review Checklist, which is included as Exhibit G of this report. The Baker County Planning Commission concurred with the Environmental Review Committee that an Environmental Impact Review was not necessary and no negative declaration would be required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners accepted the findings of the Planning Commission listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners found the criteria to be 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.

Planning Commission Findings: The Baker County Planning Commission determined an environmental impact report was not required.

Planning Commission Conclusion: Criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners found the criteria to be 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 #:3 **Harney Rock** **7S** **39E** **04 / 05** **TL 801**

TWP. 7S	RNG. 39E	Sec. 04 / 05
Tax Lot: 801	Zone: EFU	
Quad 1:	Scale:	
Quad 2:	Scale:	
Mining Dist: *See Also:		Inventory Consolidation
Record Number:		
Site:	Hutchinson / Hellberg / Harney Rock	
Zoning:	EFU	
Class:		
Commodities:	Rock (Ballast) Gabbro	
Deposit Type:		
Land Use:	Commercial Aggregate Mining	
Adj. Land Use:	EFU	
Land Status:	Private	
Land Owner:	Harney Rock & Paving Company	
Address:	PO Box 800, Hines, Oregon 97738	
Phone:	541-573-7855	
Lessee/Operator:	Harney Rock & Paving	
Specific Location:	1.5 miles west of Hwy 30 / mile post 35.2	
Quality:	Union Pacific resources letter Area B= Hard, Dense Medium –to- Fine Grained Gabbro Area A= Quartz Diorite Area C= Fine-Grained Gabbro *Drill Hole Test Samples Available in File	
Quantity:	1.1 million solid cubic yards on 215+/- acres	
History:	N/A	
Activity:	(*Dave Brooks—ODOT 1993), Continuous Use by Harney Rock and Paving Company since 1993.	
Planning File:	CU-89-03-004, dated March 2, 1989; PA-11-001, dated February 1, 2012	
ODOT File:	01-072-5	
DOGAMI File:	DOGAMI ON-SITE INSPECTION (SEPT. 1993)	
Notes:	N/A	

Also non metallic inventory page V104 site #3 as follows:

No.	1/4	Sec	Twp	Rge	Res 1	Acres	Yards	Status	Resource Owner	Land Owner	DOG- AMI #	Comment
3	NE	04/ 05	7S	39	Bg	215 +/-	1.1 million solid cubic yards on 215+/- acres	Active	Harney Rock & Paving Company	Harney Rock & Paving Company	01-072- 5	Primary purpose is to supply ballast for Union Pacific, and gravel products for local community.

Planning Commission Findings: The County Clerk shall record the Amendment and the Planning Department shall maintain a record of the Amendment to the Baker County Comprehensive Land Use Plan. The original information from the Comprehensive Land Use Plan Inventory of Significant Aggregate Sites, dated 1993, is included above and as Exhibit I of this report. A 2010 ODOT test report for Tax Lot 801, dated December 5, 2011, is included as Exhibit J of this report.

Planning Commission Conclusion: The Planning Commission found that after the Amendment has been filed and recorded, the criteria will be met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings as listed above. The Board of Commissioners required that the Amendment be recorded with the Baker County Clerk as Condition of Approval #1.

BOARD OF COMMISSIONERS CONCLUSION: The Board of Commissioners determined after the Amendment has been filed and recorded with the Baker County Clerk, the criteria 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)(marginal lands) and 215.283 (2)(Uses in the EFU Zone for non-marginal lands), 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.

Planning Commission Findings: A Conditional Use Permit for Harney Rock and Paving Company was issued in 1989 for the purpose of conducting an aggregate mining operation on Tax Lots 800 and 900 in Township 7 South, Range 39 East, W.M., and Baker County, Oregon, which, at that time, consisted of approximately 2,513 +/- acres. As part of the Plan Amendment proposal, the aggregate mining boundary on Parcel 1 (Tax Lot 801) will be reduced from 2,513 +/- acres to 215 +/- acres. The modification will reduce the original 1989 approved parcel size of 2,513 +/- acres to 180 +/- acres (the current size of Tax Lot 801) and include the 35 +/- acre portion of Tax Lot 600 to be conveyed to Tax Lot 801 as part of the proposed property line adjustment and boundary modification proposal [180 +/- acres (Tax Lot 801) + 35 +/- acres (adjusted from Tax Lot 600) = 215 +/- acres].

The purpose of this Plan Amendment is to modify the existing mining boundaries. If the Plan Amendment is approved, Harney rock and Paving Company will apply for a Conditional Use Permit to

mine the 215+/- acres, which will include 180+/- acres on Tax Lot 801 and the 35+/- acre expansion area to be conveyed from Tax Lot 600. Approval of this Conditional Use Permit is required prior to any mining activity commencing in the area, as listed in Condition of Approval # 4. The applicant stated in Exhibit C, titled *Conditional Use Permit Modification Additional Information*, submitted October 14, 2011, "There is less than 2 million ton remaining on TL 801 (180 acres) and less than 1 million ton on the 35+/- acres. There are many variables which determine the actual amount, including overburden depth and quality of the rock." The applicant stated in Exhibit K, dated December 5, 2011, "Our purchase agreement with the McGinns is for 340,000 solid cubic yards. This is equal to about 780,000 ton."

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met, or can be met, and will be required as Condition of Approval #4.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

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

Planning Commission Findings: The existing significant aggregate site located on Tax Lot 801 is listed as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites and was approved for a Conditional Use Permit, CU-89-03-004, on March 2, 1989. Harney Rock and Paving Company will apply for a Conditional Use Permit to mine the 215+/- acres which includes the 180+/- acres located on Tax Lot 801 and the 35+/- acre boundary expansion area conveyed from Tax Lot 600 [180+/- acres (Tax Lot 801) + 35+/- acres (adjusted from Tax Lot 600) = 215+/- acres]. Approval of this Conditional Use Permit is required prior to any mining activity commencing within the boundary expansion area, as listed in Condition of Approval #4.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria can be met, and will be required, as Condition of Approval #4 of this report.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: The Board of Commissioners determined that approval of a Conditional Use Permit is required prior to any mining activity commencing within the boundary expansion area. The Board of Commissioners determined the criteria can be met, and will be required as Condition of Approval #4 of this report.

(3) For purposes of ORS 215.213 (2) (marginal lands) and 215.283 (2) (non-marginal lands) 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]

Planning Commission Findings: Since 1989, Harney Rock and Paving Company has conducted a commercial aggregate mining operation on Tax Lot 801 (07S39) under Conditional Use Permit CU-89-03-004, dated March 2, 1989, providing ballast for Union Pacific Railroad, as well as other aggregate products for the local community. Through this Plan Amendment, the applicant intends to modify the mining boundary from 2,513+/- acres to 215+/- acres.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

C. **OREGON ADMINISTRATIVE RULES**

OAR 660-023-0030 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.*

Planning Commission Findings: The applicant, Harney Rock and Paving Company, submitted an application for a Post Acknowledgment Plan Amendment (PAPA) on October 21, 2011, to modify the boundary of Site #3 listed in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Baker Board of Commissioners found the criteria to be met.

(2) Collect information about Goal 5 resource sites: The inventory process begins with the collection of existing and available information, including inventories, surveys, and other applicable data about potential Goal 5 resource sites. If a PAPA or periodic review work task pertains to certain specified sites, the local government is not required to collect information regarding other resource sites in the jurisdiction. When collecting information about potential Goal 5 sites, local governments shall, at a minimum:

(a) Notify state and federal resource management agencies and request current resource information; and

(b) Consider other information submitted in the local process.

Planning Commission Findings: The DLCD 45-day Notice of Proposed Amendment was sent on October 21, 2011. The Environmental Review Checklist, included as Exhibit G of this report, was completed by the applicant and the Baker County Planning Department on November 4, 2011, and circulated to other departments and affected agencies on November 8, 2011. No comments were submitted to the Baker County Planning Department within the 21-day comment period in response to the Environmental Review Checklist, which ended on November 30, 2011. The Planning Commission reviewed the applicant's proposal in the local process on December 15, 2011, and concurred that there was enough information presented to make a recommendation of approval to the Board of Commissioners at that time.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

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

information about a particular Goal 5 resource site shall be deemed adequate if it provides the location, quality and quantity of the resource, as follows:

(a) Information about **location** shall include a description or map of the resource area for each site. The information must be sufficient to determine whether a resource exists on a particular site. However, a precise location of the resource for a particular site, such as would be required for building permits, is not necessary at this stage in the process.

Planning Commission Findings: Site #3 is located in the Exclusive Farm Use (EFU) Zone. The applicant, Harney Rock and Paving Company, submitted a site map (included as Exhibit B of this report) identifying the proposed mining boundary that will be reduced from 2,513+/- acres to 215+/- acres. The modification will reduce the original 1989 approved parcel size of 2,513+/- acres to 180+/- acres (the current size of Tax Lot 801) and will include the 35+/- acre portion of Tax Lot 600 to be conveyed to Tax Lot 801 as part of the proposed property line adjustment and boundary modification procedure [180+/- acres (Tax Lot 801) + 35+/- acres (adjusted from Tax Lot 600) = 215+/- acres]. In addition, the Baker County Planning Commission received testimony from the applicant about the quality, quantity and use of the rock extracted from the existing significant aggregate site (Site #3) located on Tax Lot 801 (please see Exhibits I, J and K).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commissioners findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: The Board of Commissioners determined the criteria are met.

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

Planning Commission Findings: The existing aggregate site located on Tax Lot 801 is identified as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of significant Aggregate Sites. The applicant, Harney Rock and Paving Company, submitted a site map (included as Exhibit B of this report) identifying the mining boundary on Parcel 1 (Tax Lot 801), that will be reduced from 2,513+/- acres to 215+/- acres. This reduction will include the 35+/- acre portion of Tax Lot 600 to be conveyed to Tax Lot 801 as part of the boundary modification [180+/- acres (Tax Lot 801) + 35+/- acres (adjusted from Tax Lot 600) = 215+/- acres], to "soften" the final contours of the quarry, streamline Harney Rock and Paving Company's current reclamation plan and increase aggregate reserves.

The Baker County Planning Commission accepted testimony from the applicant, Troy Hooker, Vice President of Harney Rock and Paving Company, on December 15, 2011, regarding the quality and use of the rock that is currently extracted from Site #3. The applicant stated the quality of the material in the proposed 35+/- acre boundary expansion area is similar to the material currently extracted from the existing pit on Tax Lot 801, and consists of a Basalt / Gabbro, which is primarily used for rail road ballast. An ODOT report for the 35+/- acre expansion area was not available.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Baker County Board of Commissioners concurred with the Planning Commission's findings as listed above.

The applicant stated to the Planning Commission on December 15, 2011, that the adjacent hilltop to the south of the existing aggregate pit was tested as part of an exploration test done for UPRR. The type of rock found was described as Quartz Diorite and did not meet the absorption level UPRR requires. Because of this, the 35+/- acre portion of Tax Lot 600 (McGinn parcel) was considered.

According to Exhibit K, the 2010 ODOT test report was done for Tax Lot 801 and is representative of the rock on the 35+/- acre expansion area. The applicant stated in Exhibit K that "*We have a third party do (a) quality test twice a year for Union Pacific, but these are somewhat different than the tests listed in the OAR.*" A copy of the Comprehensive Land Use Plan Inventory 1993 ODOT Quality Report for Tax Lot 801 is included as Exhibit I of this report. A 2010 ODOT Quality Report for Tax Lot 801 is included as Exhibit J. Exhibit J is a 2010 ODOT test report for the Harney Pit (#01-072-5).

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

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

Planning Commission Findings: A copy of the Comprehensive Land Use Plan Inventory 1993 ODOT Quality Report for Tax Lot 801 is included as Exhibit I of this report. A 2010 ODOT Quality Report for Tax Lot 801 is included as Exhibit J. According to Exhibit C, the applicant's *Conditional Use Permit Modification Additional Information*, dated October 14, 2011, there is less than 2 million ton remaining on Tax Lot 801 and less than 1 million ton remaining on the 35+/- acres. The applicant states there are many variables which determine the actual amount, including overburden, depth and quality of the rock. The applicant stated in Exhibit K, dated December 5, 2011, "*Our purchase agreement with the McGinns is for 340,000 solid cubic yards. This is equal to about 780,000 ton.*" On December 15, 2011, the applicant testified that the combined quantity on both sites to be 1.1 million solid cubic yards (more or less) on 215+/- acres.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(4) Superseded below by OAR 660-023-0180 2(b) below

(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.

Planning Commission Findings: The Baker County Planning Commission determined that the existing aggregate site on Tax Lot 801, identified as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites, is a large significant site with approximately 1.1 million solid cubic yards (or 2.2 million ton) on 215+/- acres.

Planning Commission Conclusion: According to the criteria above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commission's findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(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.

Planning Commission Findings: The Baker County Planning Commission determined the criteria are not applicable.

Planning Commission Conclusion: The Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners determined the criteria are not applicable.

BOARD OF COMMISSIONERS CONCLUSION: Criteria are not applicable.

(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

Planning Commission Findings: The Baker County Planning Commission determined the applicant's proposal for a boundary modification from 2,513+/- acres to 215+/- acres is for an existing significant aggregate pit that is currently in operation. The Baker County Planning Commission determined the existing regulations to be adequate, and based on testimony provided by the applicant and no agency comments submitted regarding the proposal; the Planning Commission did not identify any conflicting uses.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commissioners' findings as listed above, and found interim protection measures were not needed and the criteria are not applicable.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(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.

Planning Commission Findings: The Baker County Planning Commission determined the ESEE process was not applicable because no conflicting uses were found.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings as listed above, and determined interim protection measures were not needed because no conflicting uses were found.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

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 acknowledgement 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: ~~[strikethrough added]~~

(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 superseded for aggregate resources as provided in subsections (b) through (d) of this section and sections (3), (4) and (8) of this rule; [emphasis and strikethrough added]**

Planning Commission Findings: The application, PA-11-001, is for a Post Acknowledgement Plan Amendment to expand the boundary of a significant aggregate site. OAR-660-023-0030 includes the requirements for an Inventory Process necessary for Periodic Review, which is not part of this application request.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Planning Commissioners' findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(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; ~~[strikethrough added]~~

Planning Commission Findings: A review of this application found Section (3) of this rule to be applicable because the applicant is proposing to mine more than 500,000 ton of material from the 35+/- acre expansion area as shown in Exhibit C of this report.

Planning Commission Conclusion: According to the criteria above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commissioners' findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(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 [strikethrough added]

Planning Commission Findings: The applicant's proposal for a Post Acknowledgment Plan Amendment (PAPA), PA-11-001, will be reviewed under the requirements of Section 5 of this rule because the applicant's aggregate mining proposal will exceed 500,000 ton outside the Willamette Valley. The requirements under Section 6 are not applicable to this Post Acknowledgement Plan Amendment (PAPA) request because the 35+/- acre site was not found to be significant under section 4 of this rule as the applicant's proposal will exceed 500,000 ton of material to be extracted.

Planning Commission Conclusion: According to the criteria above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commissioners' findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the criteria above, the Board of Commissioners determined the criteria are met.

(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. [strikethrough added]

Planning Commission Findings: No conflicting uses were identified, therefore a protection program was determined not to be warranted.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

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

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

Planning Commission Findings: According to the applicant's *Conditional Use Permit Modification Additional Information*, dated October 14, 2011 (Exhibit C), there is less than 2 million ton remaining on Tax Lot 801 and less than 1 million ton remaining on the 35+/- acres. The applicant states there are many variables which determine the actual amount, including overburden, depth and quality of the rock. The applicant stated in Exhibit K, dated December 5, 2011, "Our purchase agreement with the McGinns is for 340,000 solid cubic yards. This is equal to about 780,000 ton." The existing aggregate site on Tax Lot 801, identified as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites, and based on applicant's testimony, is a large significant site with approximately 1.1 million solid cubic yards on 215+/- acres. An ODOT report for the 35+/- acre expansion area was not available. The applicant testified to the Planning Commission on December 15, 2011, that the adjacent hilltop to the south of the existing aggregate pit was tested as part of an exploration test done for UPRR. The type of rock found was described as Quartz Diorite and did not meet the absorption level UPRR requires. Because of this, the 35+/- acre portion of Tax Lot 600 (McGinn parcel) was considered.

According to Exhibit K, the 2010 ODOT test report was done for Tax Lot 801 and is representative of the rock on the 35+/- acre expansion area. The applicant stated in Exhibit K that "We have a third party do (a) quality test twice a year for Union Pacific, but these are somewhat different than the tests listed in the OAR." A copy of the Comprehensive Land Use Plan Inventory 1993 ODOT Quality Report for Tax Lot 801 is included as Exhibit I of this report. A 2010 ODOT Quality Report for Tax Lot 801 is included as Exhibit J. Exhibit J is a 2010 ODOT test report for the Harney Pit (#01-072-5).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met

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

Planning Commission Findings: Baker County has not established a lower threshold for determining significance, relying on the standards set forth in this rule.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings and found that the criteria are not applicable.

BOARD OF COMMISSIONERS CONCLUSION: According to the criteria above, the Board of Commissioners determined the criteria are not applicable.

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

Planning Commission Findings: The proposed 35 acre expansion was not included as part of the original 1989 aggregate site proposal for Tax Lot 801, and therefore, is not included in the Baker County Inventory of Significant Sites. However, Tax Lot 801 was included on the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites on March 2, 1989, as Site #3 and approved for mining under Conditional Use Permit CU-89-03-004. This significant aggregate site (Site #3) has been in continuous operation by Harney Rock and Paving Company since 1989.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria to be met.

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

Planning Commission Findings: Site #3 has already been determined to be significant, and is listed in the Baker County Comprehensive Land Use Plan of Significant Aggregate Sites.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings.

BOARD OF COMMISSIONERS CONCLUSION: According to the criteria above, the Board of Commissioners determined the criteria are not applicable.

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

Planning Commission Findings: According to the NRCS map for Baker County, the soils on Tax Lot 801 and the 35+/- acre expansion area consist of Class VI soil.

Planning Commission Conclusion: Based on the findings above, the Baker County Planning Commission determined the criterion is not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings, as listed above, and determined the criteria are not applicable because the proposed amended mining area consists of Class VI soil.

BOARD OF COMMISSIONERS CONCLUSION: Based on the findings above, the Board of Commissioners determined the criterion is not applicable.

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

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

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

(iii) 17 feet in Linn and Benton counties.

Planning Commission Findings: According to the NRCS map for Baker County, the soils on the proposed mining area consist of Class VI soil.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings, as listed above, and determined the criteria are not applicable because Tax Lot 801 and the 35+/- expansion area consist of Class VI soil.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(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 [strikethrough added]

Planning Commission Findings: This section does not apply because the applicant's aggregate mining proposal exceeds the 500,000 ton of material to be extracted for a site outside the Willamette Valley.

Planning Commission Conclusion: Based on the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings, as listed above, and determined the criteria are not applicable because the mining proposal exceeds the 500,000 ton of material to be extracted for a site outside the Willamette Valley.

BOARD OF COMMISSIONERS CONCLUSION: Based on the findings above, the Board of Commissioners determined the criteria are not applicable.

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

Planning Commission Findings: Application for a Post Acknowledgment Plan Amendment (PAPA) was submitted by Harney Rock and Paving Company on October 21, 2011. The Planning Commission reviewed the Post Acknowledgment Plan Amendment and submitted a recommendation of approval to the Board of Commissioners on December 15, 2011. The Board of Commissioners reviewed the Planning Commission's recommendation on January 18, 2012, and February 1, 2012. The process was completed in accordance with section (8) of this rule (*see below*).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

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

Planning Commission Findings: Exhibit E is a GIS Map of the 1500-foot impact area of the 35+/- acre expansion area on Tax Lot 600, and Tax Lot 801 where the existing aggregate pit is located in the EFU Zone. The impact area is measured from the perimeter of the proposed expansion area and does not include the existing aggregate site. There were no identifying conflicts within the 1500-foot impact area.

The following distances were measured as part of the impact area review:

Impact boundary to nearest dwellings	McGinn Residence	1 mile
	McElligott Residence	.94 mile
	Williams' Residence	.89 miles
Impact boundary to Rural Residential Zone	@ Mc Carty Bridge Road	1.72 miles
Impact boundary to Interstate 84		1.99 miles
Impact boundary to Anthony Lakes Highway		2.05 miles
Driveway access to existing aggregate pit on TL 801		1.5 miles

The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission also stated that the boundary modification area is zoned EFU and there is no housing potential in the proposed expansion area.

Planning Commission Conclusion: According to their findings above, the Baker County Planning Commission determined no conflicts exist. Criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the Baker County Planning Commission's findings, as listed above. In addition to the Planning Commission's findings, the Board of Commissioners considered the following:

- Site #3 and the proposed boundary expansion area are located in the EFU Zone.
- According to Exhibit E, the 35+/- acre expansion area is located adjacent to the existing aggregate pit located on Tax Lot 801. Currently, the 35+/- acre expansion area consists of a hillside area buffer for the existing operation that would be removed when the area is mined to the northern expansion boundary line.
- Impacts of consideration within the 1500-foot impact area included:
 - Impacts such as a loss of agricultural grazing and vegetation with the removal of the 35+/- acres from agricultural use. The post mining use for Site #3 is grazing;
 - Impacts such as noise, dust and other discharges to the surrounding area. As of the date of this application review, there are no applications pending or home site approvals for areas within the 1500-foot impact area. The existing home sites are beyond the 1500-foot impact boundary;
 - Perimeter Safety to humans and animals;
 - Visual impacts to the surrounding area—the view from the east and south will not be impacted, but Site #3 and the expansion area are visible to the areas north and west of the site. Further expansion of the existing site, and the loss of the 35+/- acre expansion area, which currently acts as a buffer to the north, may increase the visibility of the mining operation to the surrounding area. The Comprehensive Plan does not offer Goal 5 protection for this area as a visual resource;
 - Impact to water—the Baker County Watermaster's Office did not have any concerns regarding the possible effect to ground water. There are no adjacent waterways that could be affected by the proposal. *Any possible effect to the Kelsey Wilson Ditch will be considered by the Planning Commission at the time a Conditional Use Permit is reviewed;*
 - Traffic impacts—the applicant proposes to utilize the existing access easement onto State Highway 30 for truck travel, as well as the existing rail system which is utilized for

shipping ballast for Union Pacific Railroad. The applicant stated in Exhibit C that the truck traffic will remain at the current level, which is approximately 25 trucks per week, based on demand. Additional signs may be necessary at the Highway 30 entry way and along the existing easement. *The Planning Commission will review traffic impacts at the time a Conditional Use Permit is reviewed;*

- Home Site Approvals--there are no applications pending or home site approvals for areas within the 1500-foot impact area.

BOARD OF COMMISSIONERS CONCLUSION: Based on the findings above, the Board of Commissioners determined the any potential impacts can be minimized through Conditions of Approval to be applied during the Conditional Use Permit review process. The Board of Commissioners determined the criteria are met.

(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.

Planning Commission Findings: The applicant's proposal is located within the Exclusive Farm Use (EFU) Zone. There are no residential zones located within the impact area of the applicant's proposed boundary modification and there are no pending applications for which conditional or final approvals have been granted by the Baker County Planning Department. According to Exhibit E and the table above, the nearest dwelling is located approximately 1 mile away. The impact boundary is approximately 1.72 miles from the Rural Residential (RR-5) Zone located near McCarty Bridge Road. The applicant confirmed that the 35+/- acre expansion area boundary will be approximately 300-feet above the Kelsey Wilson Ditch and will not cross the ditch.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined there are no existing or approved land uses within the impact area that will be adversely affected by the proposed mining operations.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above. In addition to the Planning Commission's findings, the Board of Commissioners reviewed the potential impacts (see OAR 660-023-0180 (5)(a) on pages 24 and 25 of this report), and determined that any potential impacts are minimal and can be addressed through Conditions of Approval to be applied during the Conditional Use Permit review process.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined there are no existing or approved land uses within the impact area that will be adversely affected by the proposed mining operations.

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;

Planning Commission Findings: The Baker County Planning Commission determined that the proposed mining operation that will take place within the 35+/- acre boundary expansion area is an extension to the current operation on Tax Lot 801 where the significant aggregate site (Site #3) and mining operation has existed since 1989. The Baker County Planning Commission determined there were no new conflicts due to noise, dust, or other discharges.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above. In addition to the Planning Commission's findings, the Board of Commissioners reviewed the potential impacts (see OAR 660-023-0180 (5)(a) on pages 24 and 25 of this report), and determined that any potential impacts are minimal can be addressed through Conditions of Approval to be applied during the Conditional Use Permit review process.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Baker County Board of Commissioners determined the criteria are met.

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

Planning Commission Findings: According to Exhibits B and C of this report, the existing private easement utilized to access the aggregate operation located on Tax Lot 801 will be used to access the 35+/- acre expansion area.

According to Exhibit C, the applicant states the number of truck trips per week will remain the same (the current average is approximately 25), as most of the aggregate is shipped by rail. The applicant states that this haul route is a private unnamed road that heads east from the existing quarry on Tax Lot 801 to Highway 30, which Harney Rock and Paving Company maintains. This existing access point onto Highway 30 is approximately .60 miles from the McCarty Bridge Road intersection, 2.99 miles from the Maxwell Lane intersection and approximately 2.4 miles from the 1-84 intersection. Highway 30 (La Grande-Baker Highway) is maintained by the Oregon Department of Transportation (ODOT), and according to the Baker County Transportation System Plan, is considered a district highway, which extends north-south through the north-central portion of Baker County. The highway does not have any passing lanes within rural Baker County, but does have intermittent vehicle shoulder pull-outs. There are roadway shoulders on both sides of the highway that are typically two to eight feet wide and partially paved, with intermittent sections of the highway which are adequate enough to support bicycle use. (Exhibit L) There were no responses submitted by ODOT, or any other agency, as part of the Environmental Impact Review procedure regarding access and the applicant's proposal.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined this proposal will not create a transportation system conflict.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above. In addition to the Planning Commission findings, the Board of Commissioners determined the applicant proposes to utilize the existing access easement onto State Highway 30 for truck travel, as well as the existing rail system which is utilized for shipping ballast for Union Pacific Railroad. The applicant stated in Exhibit C that the truck traffic will remain at the current level, which is approximately 25 trucks per week, based on demand. Additional signs may be necessary at the Highway 30 entry way and along the existing easement. *Any need for additional signs will be addressed by the Planning Commission and minimized by the means of a Condition of Approval at the time a Conditional Use Permit is reviewed.*

BOARD OF COMMISSIONERS CONCLUSION: **According to the findings above, the Board of Commissioners determined this proposal will not create a transportation system conflict and any need for additional signs will be addressed as a Condition of Approval at the time a Conditional Use Permit is reviewed.**

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

Planning Commission Findings: There are no airports near the existing aggregate pit located on Tax Lot 801 or the proposed 35+/- acre expansion area. The Baker County Planning Commission determined no new testimony was received and no information was submitted, therefore, no safety conflicts were identified. The Baker County Planning Commission determined the nearest airport was approximately 10 to 15 miles from the applicant's proposal.

Planning Commission Conclusion: **According to the findings above, the Baker County Planning Commission determined the proposal will not create any safety conflicts with existing public airports due to bird attractants.**

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: **According to the findings above, the Board of Commissioners determined the proposal will not create any safety conflicts with existing public airports due to bird attractants.**

(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;

Planning Commission Findings: The existing aggregate site located on Tax Lot 801 is identified as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites. The 35+/- acre expansion area will be added to the existing aggregate operation on Tax Lot 801 as part of this proposal. According to the Baker County Comprehensive Land Use Plan 1993 Non-metallic Mineral and Aggregate Site Inventory Index, there are no aggregate sites located within Site #3, the 35+/- acre expansion area, or within the 1500 foot impact area. The Baker County Planning Commission determined no testimony was submitted and no conflicts were identified.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined there are no conflicts with other Goal 5 resource sites.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined there are no conflicts with other Goal 5 resource sites.

(E) Conflicts with agricultural practices; and

Planning Commission Findings: According to Exhibit F, light grazing will still be possible, except in the quarry area. No dwellings are proposed as part of this request, and the proposed aggregate mining activities will not force any known changes to farming or forest practices on nearby lands.

The Baker County Planning Commission determined no new conflicts with agricultural practices exist as the existing aggregate area has co-existed with agricultural practices for 20+/- years, and according to the applicant's testimony, the post-reclamation use for the area will be grazing.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined no new conflicts with agricultural practices will be created by this proposal.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined no new conflicts with agricultural practices will be created by this proposal.

(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;

Planning Commission Findings: The Baker County Planning Commission determined no other conflicts exist as the boundary modification will help satisfy the DOGAMI requirements.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(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.

Planning Commission Findings: The Baker County Planning Commission determined the criteria under this subsection are not applicable, as no conflicts were identified.

Planning Commission Conclusion: Criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: The Board of Commissioners determined the criteria under this subsection are not applicable.

*****ORS 215.296 Standards for approval of certain uses in exclusive farm use zones;**

(1) A use allowed under ORS 215.213 (2)(marginal) or 215.283 (2)(uses permitted in the EFU Zone on non-marginal lands) may be approved only where the local governing body or its designee finds that the use will not:

(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

Planning Commission Findings: The Baker County Planning Commission determined the proposed boundary expansion will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use. The soils on Tax Lot 801 and the 35+/- acre expansion area consist of Class VI soil, and the proposed use is an existing significant aggregate site that has been in operation on Tax Lot 801 since 1989, and will conduct similar activities within the 35+/- acre expansion area as part of the boundary modification proposal.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Planning Commission Findings: The Baker County Planning Commission determined that the applicant's proposal for a boundary modification will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use because proposed use is an existing significant aggregate site on Class VI soil that has been in operation on Tax Lot 801 since 1989, and will conduct similar activities within the 35+/- acre expansion area as part of the boundary modification proposal. In addition, as part of the existing operation within the boundary expansion area, the applicant proposes to utilize the existing aggregate mining operation and road system currently in place on Tax Lot 801, which has been in place since 1989. The Baker County Planning Commission determined that according to testimony received and because there were no agency comments submitted, there were no conflicts with the applicant's proposal.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(2) An applicant for a use allowed under ORS 215.213 (2) or 215.283 (2) may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

Planning Commission Findings: The Baker County Planning Commission determined that no additional conditions were required.

Planning Commission Conclusion: No additional conditions are required. Criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined no additional conditions are required, therefore, the criteria are met.

For informational purposes only:

ORS 215.213 (marginal lands—does not apply)

ORS 215.283 (2)(non-marginal lands) *The following nonfarm uses may be established, subject to the approval of the governing body or its designee in any area zoned for exclusive farm use subject to ORS 215.296:*

(A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under subsection (1)(f) of this section;

(B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298;

(d) N/A

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

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

(B) Not requested in the PAPA application; or

(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.

Planning Commission Findings: The applicant, Harney Rock and Paving Company submitted an application for a Plan Amendment, PA-11-001, on October 21, 2011. Mining is currently permitted on Tax Lot 801, where the existing aggregate operation has existed since 1989, under Conditional Use Permit CU-89-03-004, dated March 2, 1989. This site is included as Site #3 in the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites. No comments were submitted to the Baker County Planning Department within the 21-day comment period in response to the Environmental Review Checklist, which ended on November 30, 2011. The Environmental Review Checklist is included as Exhibit G of this report. No conflicts were identified within the Impact Area shown in Exhibit E. On December 15, 2011, no public testimony was submitted regarding the applicant's proposal.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(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. [strikethrough added]

Planning Commission Findings: Tax Lot 801 and the 35+/- acre portion to be conveyed as part of the boundary modification consist of Class VI soil and is not considered unique farmland. Post-mining reclamation shall be coordinated with DOGAMI as a Condition of Approval and a copy of the most recent DOGAMI permit for the operation shall be kept on file with the Planning Department. According to the applicant, the post-mining use for the operation as stated in the DOGAMI permit is grazing.

The Baker County Planning Commission determined that according to Exhibit G and the applicant's testimony, the post mining use is grazing.

Planning Commission Conclusion: According to the criteria above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(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.

Planning Commission Findings: The significant aggregate site (Site #3) located on Tax Lot 801 was approved on March 2, 1989, under Conditional Use Permit CU-89-03-004, and has been in continuous operation since that time. Limits on processing were not identified in the original approval.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(6) For an aggregate site on farmland that is determined to be significant under section (4) of this rule...

Planning Commission Findings: The proposal is to expand an existing significant site; therefore, this criterion is not applicable.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(7) ~~Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.) ***Please see page 25 for the ESEE process in OAR 660-023-040 through 0050. [strikethrough added]~~

Planning Commission Findings: The Baker County Planning Commission applied the criteria of OAR 660-023-040 through 0050 (see pages 37 through 44 of this report), and did not identify any conflicting uses.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are met.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined that the criteria are not applicable.

(8) ~~In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, local government shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for approval of an aggregate site following sections (4) and (6) of this rule shall be adequate if it provides sufficient information to determine whether the requirements in those sections are satisfied. An application for a PAPA concerning a significant aggregate site following sections (3) and (5) of this rule shall be adequate if it includes: [strikethrough added]~~

(a) ~~Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of this rule are satisfied;~~

Planning Commission Findings:

QUANTITY: Please see OAR-660-023-0030 3(a) on page 14 of this report.

Planning Commission Conclusion: According to the findings addressed above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined that the criteria are met.

Planning Commission Findings:

QUALITY: *Please see OAR-660-023-0030 3(b), on pages 14 and 15 of this report.*

Planning Commission Conclusion: According to the findings addressed above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

Planning Commission Findings:

LOCATION: *Please see OAR-660-023-0030 3(c), on page 15 of this report.*

Planning Commission Conclusion: According to the findings addressed above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(b) A conceptual site reclamation plan;

(NOTE: Final approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780)

Planning Commission Findings: Please see Exhibit D, DOGAMI Permit. The Baker County Planning Commission determined that according to Exhibit G and the applicant's testimony, the post mining use for the aggregate operation is grazing. The Baker County Planning Commission agreed to accept the DOGAMI procedure and requirements as an adequate method for the conceptual site reclamation requirement.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(c) A **traffic impact assessment** within one mile of the entrance to the mining area pursuant to section (5)(b)(B) of this rule;

Planning Commission Findings: See OAR 660-023-0180 (5)(b)(B) on page 25 of this report. The Baker County Planning Commission determined that no new roads would be developed as part of the applicant's proposal, and according to the applicant's site plan, the existing road system would be utilized as part of the boundary modification proposal. According to Exhibit C and the applicant's testimony, there would be no increased traffic as a result of the proposal as most of the aggregate is shipped by rail.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

(d) *Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and*

Planning Commission Findings: See OAR 660-023-0180 (5)(a) on page 24 of this report. The Baker County Planning Commission found no new conflicts with existing uses within the 1,500 foot impact area.

Planning Commission Conclusion: The Baker County Planning Commission determined there are no conflicting uses within the 1,500 foot impact area. Criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined there are no conflicting uses, therefore, the criteria are met.

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

Planning Commission Findings: According to Exhibit C (*Conditional Use Permit Modification Additional Information, dated October 14, 2011*), regarding the existing mining operation and the proposed boundary modification includes the following:

- 1) **Location:** The location of the existing aggregate mining operation will remain the same. The purpose of the boundary modification, Harney Rock and Paving Company will be able to "soften" the final contours of the quarry, streamline their current reclamation plan and increase aggregate reserves.
- 2) **Access:** The existing haul route will be utilized. This route is an unnamed private road which heads east from the quarry to Highway 30 and will remain unchanged as part of the modification

proposal. Harney Rock and Paving Company provide the maintenance for this existing haul route. Harney Rock and Paving Company states the easements for the haul route do not specify maintenance responsibility.

- 3) **Hours of Operation:** The hours of operation for the existing operation, which are 6:00 a.m. to 4:00 p.m., Monday through Friday, will remain unchanged; however, the hours of operation and days of the week are variable as dictated by demand, daylight hours and weather.
- 4) **Blasting:** Blasting occurs as part of the existing aggregate operation and will remain generally unchanged. Currently, blasting occurs about 10 times per year on a variable schedule.
- 5) **Buffers:** There will be a 30-foot buffer between the property line and any cuts or fills at the quarry. Berms and stockpiles are located around equipment to mitigate noise.
- 6) **Life of Operation:** The life of the operation will depend upon demand of Union Pacific Railroad and the amount of minable reserves; approximately 10 – 20 years.
- 7) **Signs:** No signs are proposed as part of the boundary modification proposal.

The applicant, Harney Rock and Paving Company, submitted a site plan, included as Exhibit B of this report, which demonstrates the modified aggregate mining boundary on Parcel 1 (Tax Lot 801) from 2,513+/- acres to 215+/- acres. The modification will reduce the original 1989 approved parcel size of 2,513+/- acres to 180+/- acres (the current size of Tax Lot 801) and include the 35+/- acre portion of Tax Lot 600 to be conveyed to Tax Lot 801 as part of the proposed property line adjustment [180+/- acres (Tax Lot 801) + 35+/- acres (adjusted from Tax Lot 600) = 215+/- acres]. On December 15, 2011, the applicant testified that the quantity on both sites to be approximately 1.1 million solid cubic yards (more or less) on 215+/- acres.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are met.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met.

The following information should be addressed only if conflicting uses are identified in OAR 660-023-0180 (7).

660-023-0040 ESEE Decision Process

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

- (a) Identify conflicting uses;*
- (b) Determine the impact area;*

- (c) Analyze the ESEE consequences; and
- (d) Develop a program to achieve Goal 5.

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

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above. In addition to the Planning Commission's findings, the Board of Commissioners reviewed the potential impacts (see OAR 660-023-0180 (5)(a) on pages 24 and 25 of this report), and determined that any potential impacts are minimal and can be addressed through Conditions of Approval to be applied during the Conditional Use Permit review process.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are met, or can be met as Conditions of Approval to be applied during the Conditional Use Permit review process.

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

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined there were no potential conflicts.

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

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined there were no potential conflicts.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above. In addition to the Planning Commission's findings, the Baker County Board of Commissioners determined the Baker County Comprehensive Land Use Plan Inventory of Significant Aggregate Sites, page 1, identifies that there are two aggregate sites located relatively near Site #3 (07S39 Sec 04/05 TL 801). Site #2 is located in 07S39E Sec 01 TL 100 and is identified as the Hart Estate (Powell) site. Site #2 was approved for a Conditional Use Permit in 1971 (commodities-rock). Site #4 is located in 07S39E Sec 02 TL 700 and is identified as the Orr site (commodities-gravel). There is no information in the Planning file regarding Site #4. While Site #2 and Site #4 are located in the same vicinity as Site #3, based on the information above, the Board of Commissioners found no conflicting uses between the three sites. (Please see Exhibit M)

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

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

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above. In addition to the Baker County Planning Commission's findings, the Board of Commissioners determined that the impact area, as shown in Exhibit E, is an area that extends 1500-feet beyond the 35+/- acre expansion area boundary and does not include the existing aggregate site. The 35+/- acre expansion area is adjacent to Tax Lot 801,

north of the existing aggregate pit (Site #3). This area is located in the EFU Zone and consists of a sagebrush hillside, currently utilized for agricultural grazing. After careful review of the potential impacts (see pages 24-25 of this report), the Board of Commissioners determined any potential impacts can be minimized through Conditions of Approval to be applied during the Conditional Use Permit review process. The Board of Commissioners determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, Board of Commissioners determined the criteria are not applicable.

(4) Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above. In addition to the Planning Commission's findings, the Board of Commissioners reviewed the potential impacts (see OAR 660-023-0180 (5)(a) on pages 24 and 25 of this report), and determined that any potential impacts are minimal and can be addressed through Conditions of Approval to be applied during the Conditional Use Permit review process. The Board of Commissioners determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(5) Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

Planning Commission Findings: The Baker County Planning Commission determined that there were no potential conflicts based on the fact Harney Rock and Paving Company has been sited and in operation at the aggregate pit located on Tax Lot 801 since 1989, and there was no new testimony submitted in opposition to the boundary modification proposal. The Baker County Planning Commission determined the ESEE was not required.

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

OAR 660-023-0050 Programs to Achieve Goal 5

(1) For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5)(b) and (c)).

Planning Commission Findings: There were no comprehensive plan provisions and land use regulations to implement the decision made pursuant to OAR 660-023-0040(5), because there were no conflicting uses identified in OAR 660-023-0180(7).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(2) When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

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

Planning Commission Findings: There were no comprehensive plan provisions and land use regulations to implement the decision made pursuant to OAR 660-023-0040(5)(b), because there were no conflicting uses identified in OAR 660-023-0180(7).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

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

Planning Commission Findings: There were no comprehensive plan provisions and land use regulations to implement the decision made pursuant to OAR 660-023-0040(5), because there were no conflicting uses identified in OAR 660-023-0180(7).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

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

Planning Commission Findings: There were no comprehensive plan provisions and land use regulations to implement the decision made pursuant to OAR 660-023-0040(5), because there were no conflicting uses identified in OAR 660-023-0180(7).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(3) In addition to the clear and objective regulations required by section (2) of this rule, except for aggregate resources, local governments may adopt an alternative approval process that includes land use regulations that are not clear and objective (such as a planned unit development ordinance with discretionary performance standards), provided such regulations:

(a) Specify that landowners have the choice of proceeding under either the clear and objective approval process or the alternative regulations; and

Planning Commission Findings: There were no comprehensive plan provisions and land use regulations to implement the decision made pursuant to OAR 660-023-0040(5), because there were no conflicting uses identified in OAR 660-023-0180(7).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

(b) Require a level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040(5) and 660-023-0050(1).

Planning Commission Findings: There were no comprehensive plan provisions and land use regulations to implement the decision made pursuant to OAR 660-023-0040(5), because there were no conflicting uses identified in OAR 660-023-0180(7).

Planning Commission Conclusion: According to the findings above, the Baker County Planning Commission determined the criteria are not applicable.

BOARD OF COMMISSIONERS FINDINGS: The Board of Commissioners concurred with the findings of the Baker County Planning Commission, as listed above, and determined the criteria are not applicable as the ESEE was not required.

BOARD OF COMMISSIONERS CONCLUSION: According to the findings above, the Board of Commissioners determined the criteria are not applicable.

D. SUMMARY CONCLUSION

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 PAPA process if the applicant demonstrates that the proposal meets, or is capable of meeting, all applicable review criteria and standards.

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 Planning Commission recommends **APPROVAL** to the Baker County Board of Commissioners of this Plan Amendment request, PA-11-001, to amend the Baker County Comprehensive Land Use Plan Aggregate Inventory to include one aggregate site on property located in the EFU Zone.

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 **APPROVES** this Plan Amendment request, PA-11-001, to amend the Baker County Comprehensive Land Use Plan's Mineral and Aggregate Inventory to modify the mining boundary of an existing significant aggregate operation (Site #3) in the EFU Zone located on Parcel 1 (Tax Lot 801) of Partition Plat P2010-014, recorded with the Baker County Clerk on December 21, 2010, from 2,513+/- acres to 215+/- acres.

E. 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. Post-mining reclamation shall be coordinated with DOGAMI. A copy of the most recent DOGAMI permit for the operation shall be kept on file with the Planning Department.
4. Harney Rock and Paving Company will apply for a Conditional Use Permit to mine the aggregate pit on Tax Lot 801 that will consist of 215+/- acres once the boundary modification is completed. Approval of this Conditional Use Permit is required prior to any mining activity commencing within the boundary expansion area.

VI. EXHIBITS (Attached as included as part of this report)

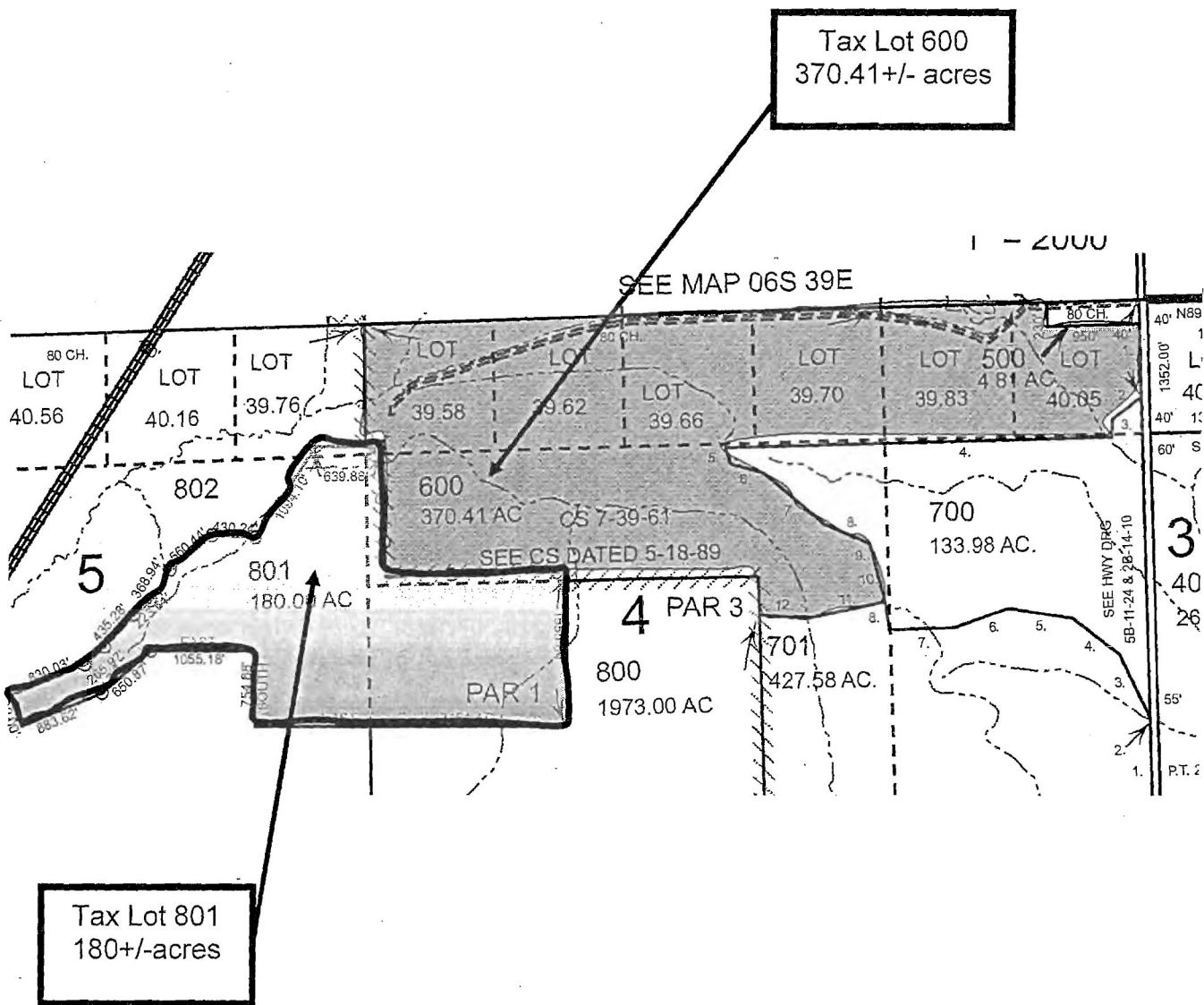
- Exhibit "A" Assessor's Map of Area
- Exhibit "B" Applicant's Site Map—Tentative Plan for Preliminary Lot Line Adjustment
- Exhibit "C" Conditional Use Permit Modification Additional Information, dated October 14, 2011
- Exhibit "D" DOGAMI Operating Permit #01-0160, dated March 28, 2011
- Exhibit "E" Site Map showing 1500-foot impact area
- Exhibit "F" Conditional Use Permit Modification Criteria Information, October 14, 2011
- Exhibit "G" Environmental Review Checklist, dated November 4, 2011
- Exhibit "H" Conditional Use Permit #CU-89-03-004, dated March 2, 1989
- Exhibit "I" Comprehensive Land Use Plan Inventory of Significant Sites, Site #3 Information
- Exhibit "J" ODOT Lab Test for Harney Rock Pit, dated October 2010
- Exhibit "K" Email from Troy Hooker, dated December 5, 2011
- Exhibit "L" TSP, page 3-7 (June 30, 2005)
- Exhibit "M" Comprehensive Land Use Plan information for Site #2 and Site #4

Cc: Applicants/Property Owners, Office File

EXHIBIT 'A'

Assessor's Map of Area

Tax Lots 801 and 600 in Township 7 South,
Range 39 East, W.M., Baker County, Oregon



TENTATIVE PLAN PRELIMINARY LOT LINE ADJUSTMENT

Situated in Sections 31 and 32, Township 6 South, Range 39 East, and Sections 4, 5, 6, 8, 9, 16 and 17 of Township 7 South, Range 39 East of the Willamette Meridian

SCALE: 1"=1000'

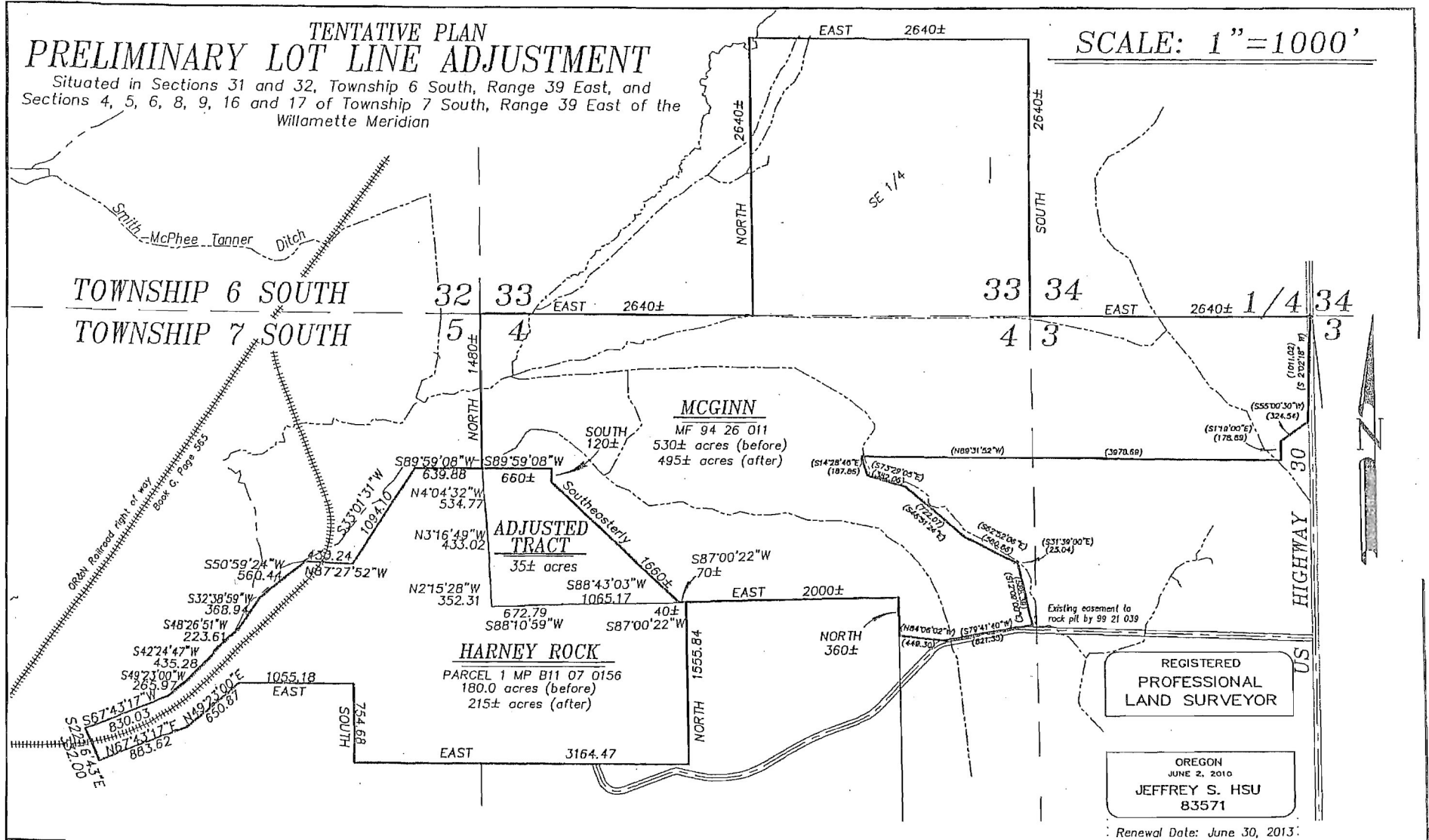


EXHIBIT C

H HARNEY R ROCK & P PAVING CO.

HARNEY ROCK & PAVING CO.
P.O. Box 800
HINES, OR 97738

CONTACT : TROY HOOKER
541-573-7855

CONDITIONAL USE PERMIT MODIFICATION ADDITIONAL INFORMATION October 14, 2011

Here is the requested additional information:

- A Weed Control Plan See the attached Plan
- A Fire Control Plan See the attached Plan
- An Emergency Services Plan See the attached Plan
- A detailed Site Plan which shows the location of all access points, roads, loading areas, batch plants and equipment. Please demonstrate on the Site Plan that the setback requirements will be met. See the attached Site Plan (3 pages)
- Please describe the current operation and the types of activities conducted as part of the proposal. First the rock is drilled and blasted by a third party. The shot rock is pushed up by a large dozer. The rock is then deposited in a vibrating grizzly feeder by a large front end loader. The feeder meters the rock larger than 6" into a jaw crusher. The crushed rock then goes up a series of conveyor belts out of the quarry to the processing area. The rock is scalped on ¾" screen. The rock larger than 2" goes into a cone crusher. The rock is screened on two additional screens to clean it up and size it. Then the rock goes to a fourth screen which washes it. The washed ballast then travels down a 2000' overland conveyor to the loading area. The rock is dumped into a rock truck which distributes the ballast along both sides of a 2500' loading area. The ballast is loaded into the ballast rail cars using up to 4 front end loaders. The basics of the operation will not change as a result of the CUP Modification.
- The proposed quantity (number in tons) of aggregate to be extracted. There is less than 2 million ton remaining on TL 801 (180 acres) and less than 1 million ton on the +/-35 acres. There are many variables which determine the actual amount, including overburden depth and quality of the rock.
- The estimated number of truck trips per day, week etc... This will remain roughly the same, depending on demand. The current average is about 25 trucks per week. Most of the aggregate is shipped by rail.

EXHIBIT C

- Please identify the proposed haul route(s) for the operation. This is an unnamed road heading east from the quarry to Highway 30 and remains unchanged. See the attached Site Plan
- Is there a road maintenance agreement for any current or proposed haul route? Harney Rock maintains the existing haul route to Highway 30. The easement agreements do not specify maintenance responsibility.
- Proposed hours and days of week of operation. The hours of operation will remain unchanged. They are generally 6:00 a.m. to 4:00 p.m. Monday through Friday. However, the hours and days are variable as dictated by demand, daylight hours, and weather.
- If blasting will occur, how often and when? The blasting frequency will remain generally unchanged. We currently blast about 10 times per year on a variable schedule.
- Buffers—please identify any buffers for the proposed area. There will be a 30 foot buffer between the property line and any cuts or fills at the quarry. We locate berms and stockpiles around equipment to mitigate noise.
- What is the proposed time frame for completion? The life of the operation will depend upon demand of Union Pacific Railroad and the amount of minable reserves. We would guess that this will be in the range of 10 to 20 years.
- Are there any structures proposed as part of the modification proposal? No.
- Please identify the size and location of any signs. No signs are part of this Modification.
- Please provide copies of current DOGAMI Permits. See the attached Permit.

EXHIBIT D

Oregon Dept. of Geology & Mineral Industries
Mineral Land Regulation & Reclamation Program
229 Broadalbin St. SW
Albany OR 97321-2246
(541) 967-2039

OPERATING PERMIT -- Renewal
ISSUED SUBJECT TO ANY LISTED CONDITIONS

|||||

Harney Rock & Paving Company
PO Box 800
Hines OR 97738

ID No.: 01-0160
County: Baker
Section: 4 5
Twp: 7S
Range: 39E
Tax Lot: 800, 900
Site Name: North Powder Quarry

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.750 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit.

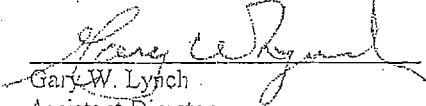
NOTE: Reclamation plans may be modified per ORS 517.830(4) and OAR 632-(030) and (035)-035.

CONDITIONS: (Conditions may be appealed per OAR 632-030-0056. If an appeal is made, this permit is invalid until the condition(s) appealed is/are resolved and the permit reissued.)

The Permittee must:

1. create final slopes at 1.5:1 (H:V) or flatter unless the stability of a steeper slope can be demonstrated to the satisfaction of this department.
2. save for reclamation all available topsoil, including that covering the stockpile, processing, and road areas.
3. obtain the landowner's written agreement as to what roads can be left upon completion of mining.

Issued 3-28, 2011


Gary W. Lynch
Assistant Director

RENEWAL IS REQUIRED BY FEBRUARY 28, 2012

c: Baker County Planning Department
Eldon & Clara Hutchinson Baker City
Lary Wogman North Powder

EXHIBIT F

H HARNEY R ROCK & P PAVING CO.

HARNEY ROCK & PAVING CO.
P.O. Box 800
HINES, OR 97738

CONTACT : TROY HOOKER
541-573-7855

CONDITIONAL USE PERMIT MODIFICATION CRITERIA INFORMATION October 14, 2011

Here is the requested information for the listed criteria:

Section 301.06

- A. There will be generally no changes to the operation as a result of this Modification. The Modification will change the boundaries of the permitted area. The activities will not force any known changes to farming of forest practices on nearby lands.
- B. No nonfarm dwellings are proposed with this Modification. The Modification should have no impact on the land use pattern on the surrounding area.
- C. This Modification removes approximately 2,300 acres from the existing CUP, which includes dry land and meadowland. This Modification adds about 35 acres all of which is dry land with sage brush and sparse grasses. The 35 acres is generally steep and has poor soils.
- D. No dwellings are proposed with this Modification.
- E. Light grazing will still be possible, except in the quarry area.
- F. 1) Public services, utilities and road systems are all currently in place.
2) Surface run-off in the quarry is drained internally. Final slopes of overburden will be seeded with native grasses and shrubs.
3) Water is available and adequate for continued use. Solid waste is removed by a sanitary service.
- G. No other conditions have been given.

EXHIBIT F

Section 601

I believe this section deals with guidelines and requires no input from Harney Rock. Please let me know if any information is needed for this section.

Section 602

- A. We believe the proposal is consistent with the plans and policies of the County.
- B. The Modification will not generally change the operation. Harney Rock has made and will continue make efforts to minimize impact on the surrounding area.
- C. No structures are proposed as a part of this Modification. Adding the 35 acres will allow Harney Rock to "soften" the final contours of the quarry.
- D. The Modification should not have any impacts on the assets of the community.
- E. These conditions are at the discretion of the Planning Commission. Note that several conditions were added to the original Conditional Use Permit that was approved in 1990.

Section 603.04

No structures are proposed as a part of this Modification.

Section 403

No signs are proposed as a part of this Modification.

EXHIBIT G

Environmental Review Checklist HARNEY ROCK & PAVING CO.

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: HARNEY ROCK & PAVING CO.

Application Type: Plan Amendment to modify the mining boundary of an existing significant aggregate site.

Application #: PA-11-001

Proposed Development: Aggregate Mining Operation

Comments are due by: NOVEMBER 30, 2011

Location: 48874 Highway 30, North Powder, Oregon

Impact Criteria	Yes	No	Uncertain	Not Applicable	Comments
Hydrology:					
Affect watershed?		<u>X</u>			The flow pattern of runoff water would change, as it would flow into the quarry. The increased boundary would not have an effect on the watershed.
Alter storm water drainage pattern?	<u>X</u>				Would change locally on 20 of the 35 acres; flow would be downhill into the quarry. There are no stream beds or draws.
Affect downstream areas?		<u>X</u>			The proposal would not have any effect to downstream areas, as this is an existing operation because there are no streams within the boundary expansion area.
Change in the quality or quantity of groundwater supply?		<u>X</u>			Tax Lot 801 utilizes a well on the parcel that pumps water through pipes to the crusher and is tanked for dust control and to wash ballast. Wash water is then stored in two 15' x 40' ponds and recycled.
Alter surface water quality?		<u>X</u>			The Kelsey Wilson ditch is outside the property boundary lines and will remain outside of the boundary lines of the ditch once the boundary expansion is completed.

EXHIBIT G

Potential for accidental spills of hazardous or toxic material near body of water?		<u>X</u>			There are two 15' x 40' storage ponds for mining that are up on the hill away from other water sources. There are no other bodies of water on or near Tax Lot 801 or the 35+/- acre boundary expansion area.
Construction in floodplains or wetlands?		<u>X</u>			No construction is proposed as part of this request.

Geologic:	Yes	No	Uncertain	Not Applicable	Comments
Affect erosion potential (either on or off site)?			<u>X</u>		Off-site: no erosion potential. On-site: yes, there is a potential for erosion; however, any erosion will settle back into the quarry area. Overburden will be moved to a permanent location. Any erosion would be mitigated through the reclamation process.
Stability?	<u>X</u>				Temporarily, as pit is established and dirt is moved and area vegetated. This will be mitigated through the reclamation process. The high walls of the pit will be more stable and improved with the addition of the 35+/- acres.
Bearing qualities of the soil?		<u>X</u>			The actual bearing qualities of the soil are average. The proposal will not have an effect on the bearing qualities of the soil. The area will be reclaimed and vegetated.
Geologic formation?	<u>X</u>				Aggregate will be removed from the ground as part of the proposal; reclamation will take place once mining is completed.
Is the area suitable for septic system(s)? (A DEQ Site Evaluation may be necessary to show this.)				<u>X</u>	No construction is proposed as part of this request. If a septic facility is proposed in the future, it would be on the 180+/- acre portion, not the additional 35+/- acres.
Disturb more than one acre of land?		<u>X</u>			Yes. The applicant proposes to expand the 180+/- acre parcel (Tax Lot 801) by approximately 35+/- acres. The purpose of this expansion is to modify the existing aggregate mining boundary.

EXHIBIT G

Alter, destroy or significantly impact environmentally sensitive areas? (i.e. wetlands, floodplains, critical habitat, prime farm land)		<u>X</u>			The existing aggregate site consists of primarily Class VI soil. The proposed boundary modification will not affect any flood plain areas, wetlands, and there are no Class I or II soils located on Tax Lot 801 or the 35+/- acre portion to be conveyed. No critical habitat has been identified.
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Vegetation/Animal Life:	Yes	No	Uncertain	Not Applicable	Comments
Vegetation of high brush (on or near the site)?		<u>X</u>			The existing pit and the 35+/- acre area is an area of low brush.
High or increased fire potential (on or near the site)?		<u>X</u>			A fire plan is currently in place for the aggregate operation, which includes extinguishers on-site and on equipment, as well as a water truck on site. Tax Lot 801 is in the North Powder Rural Fire Protection District.
Area of low revegetation potential on site?	<u>X</u>				This is a dry area consisting of sparse grasses and shrubs. Revegetation is proposed as part of the reclamation process.
Unique vegetation community (on or near site)?		<u>X</u>			
Rare or endangered animal species (on or near site)?		<u>X</u>			<i>*Information provided by applicant.</i>
Highly productive habitats for species of sport, commercial, or educational value (on or near site)?		<u>X</u>			
Introduce new species of animals into the area, or result in a barrier to the migration or movement of animals?		<u>X</u>			
Significantly alter, deteriorate, or destroy fish or wildlife habitat?	<u>X</u>				According to the applicant, some of the high walls of the pit have become a temporary habitat for raptor type birds such as Red Tail Hawk and Ravens. DOGAMI was against saving the high wall for the birds and stated the pit would need

EXHIBIT G

					to be filled in. There are no regular wildlife except for rabbit and small rodents.
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Atmospheric:	Yes	No	Uncertain	Not Applicable	Comments
Effect due to local circulation patterns?		<u>X</u>			No changes to the existing operation.
Prevailing winds?		<u>X</u>			No changes to the existing operation.
Condition up or down wind that could be impacted by the proposed development?		<u>X</u>			No changes to the existing operation.
Affect air quality?		<u>X</u>			A DEQ permit is currently required for the existing operation to keep dust and air quality at a minimum. No changes are projected as a result of the boundary modification.
Create objectionable odors?		<u>X</u>			
Introduce smoke, dust, or suspended particles into the air?		<u>X</u>			
Particulate/dust migration beyond facility/property boundaries?		<u>X</u>			
Increase noise levels?		<u>X</u>			No changes to the existing operation. The 35+/- acre addition will establish overburden berms to help mitigate noise to the north of the existing aggregate pit/operation.

Economic Considerations:	Yes	No	Uncertain	Not Applicable	Comments
Economic impact on schools?	<u>X</u>				Currently 9-12 employees employed by Harney Rock & Paving Co. in Baker County. Local job availability will allow families with children to remain in the area to support the local economy and school systems.

EXHIBIT G

On Fire Districts?	<u>X</u>				Within the North Powder Rural Fire Protection District. The presence of the current aggregate site and mining operation and the proposed boundary adjustment will have minimal impact on fire districts; however, the need for fire protection services is expected due to the mining activities and heavy equipment operations taking place on the parcel.
Water Districts?		<u>X</u>			Although the aggregate site is within the Powder Valley Water Control District, the site is not a member of the District; therefore, no projected impacts are foreseen by the proposed boundary expansion.
Sewer Districts?				<u>X</u>	Not applicable
Law Enforcement?	<u>X</u>				The aggregate pit is within the jurisdiction of the Baker County Sheriff's Department and the Oregon State Police. The current site and the proposed boundary adjustment will have a minimal effect on law enforcement services; however, due to the remote location, type of operation and equipment on the parcel, law enforcement services may be necessary.
Emergency Services?	<u>X</u>				The aggregate pit is served by North Powder QRU and Baker Ambulance services. The presence of the current aggregate site and mining operation and the proposed boundary adjustment will have minimal impact on emergency services; however, the need for emergency services is expected due to the mining activities and heavy equipment operations taking place on the parcel.
Any other jurisdiction?				<u>X</u>	Not applicable

EXHIBIT G

Tax rate of the tax code?	<u>X</u>				Baker County property taxes and personal property taxes on equipment will increase as a result of the increase of property.
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Transportation:	Yes	No	Uncertain	Not Applicable	Comments
Increase traffic on roads?		<u>X</u>			Current operation—approximately 25 trucks per week, which varies by season. Most of the aggregate is hauled off-site by railroad.
Require road expansions or improvements?		<u>X</u>			The operation will utilize existing access roads. No new roads will be constructed as part of this proposal.
Require new access to existing roads?		<u>X</u>			No new access is necessary.
Generate new activity on roads?		<u>X</u>			No new activity proposed.
Use unimproved roads?		<u>X</u>			No. Will utilize the existing access roads currently in use.

Services:	Yes	No	Uncertain	Not Applicable	Comments
Close proximity to shopping, recreational, and employment centers? Give distances.	<u>X</u>				Approximately: 18 miles to Baker City, OR 3 miles to North Powder, OR 6 miles to Haines, OR
Will development cause a need for closer proximity to the above services?		<u>X</u>			
Will there be a need for new power systems?		<u>X</u>			

EXHIBIT G

Public Need:	Yes	No	Uncertain	Not Applicable	Comments
Public need for development?	<u>X</u>				Applicant states there is a need for rock availability in the area.
Alteration in location, distribution, density or growth rate of human population in an area?		<u>X</u>			

Infrastructure Impacts:

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

- ❖ Water? *The existing well system on Tax Lot 801 will be used.*
- ❖ Sanitary Waste Treatment? *Porta-Potties will be utilized on site.*
- ❖ Storm Water Collection? *On-site collection includes collection ponds and drainage areas within the existing pit area on Tax Lot 801.*

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

None

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 *No change from the current operation.*

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

EXHIBIT G

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

Yes No Uncertain *Alteration of the area's topography includes the current use of the 35+/- acres for agricultural grazing, and mining and removal of aggregate once the boundary line adjustment is accomplished. Area will be reclaimed once mining is complete.*

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

COPY

EXHIBIT H

BAKER COUNTY

CONDITIONAL USE PERMIT

FILE NO. 89-03-004

Date: 3/2/89

Township: 7 So.

Range: 39 EWM

Section: 4/5

Tax Lot(s): 600/800

Zone: EFU

Applicant: Harney Rock & Paving

Address: 457 So. Date Ave.
Burns, OR 97720

Phone: 503-573-7855

Decided by: PC

Landowner: C.E. Hutchinson, Rt. 1 P.O. Box 59, North Powder,
OR 97867, and
L. Hellberg, Rt. 1 P.O. Box 57, Lowden, WA
99360

Conditional Use Authorized:

Operate a rock quarry to recover ballast rock for sale to the Railroad and to process and sell associated byproducts; to include a stockpile area, railroad spur construction and loading facility, office, shop, and asphaltic and read-mix concrete plant, all on the above-referenced Tax Lots and as described in testimony before the Baker County Planning Commission January 26 and February 23, 1989.

Subject to the Following Conditions:

1. The applicant shall obtain and maintain required permits from State and federal agencies, including but not limited to DOGAMI and DEQ.
2. The applicant shall contact the Oregon State Highway Division regarding access to the operation off the State Highway.
3. The applicant shall consult with the Powder Valley Water Control District to ensure compatibility of the proposed rail spur with the District's proposed pipeline crossing.
4. The applicant shall cooperate with the irrigation company to protect the Kelsey-Wilson Ditch and the irrigation water it delivers.
5. Any structures on the premises shall be limited to one story.
6. The principal use shall be limited to recovery and processing of ballast rock for the railroad along with

EXHIBIT H

its byproducts. Any change from this principal use shall require Planning Commission approval.

7. The operation shall be limited to daylight hours.
8. Upon termination of the operation, all structures and debris shall be removed from the premises.
9. There shall be an agreement with the landowner concerning reclamation of the property following termination of the operation.
10. Heavy haul access shall not be over the County Road but shall be constructed through Hellberg's property to the east and the south, with approval of the State Highway Division.

Findings: See attached

This permit is valid for a period of 24 months, during which time substantial construction or action on the permitted use shall have taken place. This permit may be extended for an additional 12 months upon written request of the applicant.

This permit is issued to the original applicant only, and is transferable by Planning Commission approval only.

3-2-89

Date

Diane E. Stone

Diane E. Stone, Planning Director

EXHIBIT I

Number : 3

LASS:	TWN: 007 S., RG: 39 E., SEC: 04/05
ITE: HUTCHINSON / HELLBERG HARNEY ROCK	TAX LOT: 0800/0900 ZONING: EFU
COMMODITIES: ROCK (BALLAST), GABBRO	QUAD1: SCALE: QUAD2: SCALE: MINING DIST: *SEE ALSO: INVENTORY CONSOLIDATION

DEPOSIT TYPE:
LAND USE:
ADJ LAND USE: EFU
LAND STATUS: PRIVATE

LAND OWNER: HELLBERG, LELAND & CAROLYN (TL 800)
-HUTCHINSON, CE & CLARA % MARTIN, GARY (TL 900)
ADDRESS: PO BOX 57
CITY ST: LOWDEN, WA 99360
ADDRESS 2:

PHONE:
LESSEE: HARNEY ROCK & FAYING

SPECIFIC LOCATION: 1.5 MILES WEST OF HWY 30 / MILE POST 35.2

PROPERTY: *UNION PACIFIC RESOURCES LETTER
-AREA B= HARD, DENSE MEDIUM TO FINE GRAINED GABBRO
-AREA A= QUARTZ DIORITE AREA C= FINE-GRAINED GABBRO
*DRILL HOLE TEST SAMPLES AVAILABLE IN FILE

QUANTITY: *DOGAMI ON-SITE INSPECTION (SEPT. 1993)
-OVERSIZE STOCKPILE OF RIPRAP QUALITY MATERIAL ON EAST SIDE OF
PIT WITH ROUGHLY 20,000 YARDS
-SOUTHEAST OF PROCESSING AREA AN UNDERSIZE STOCKPILE 3/4 MINUS
MATERIAL CONTAINING APPROX. 100,000 YDS

CONFLICTS:

HISTORY:

ACTIVITY: HEAVY USE: (*DAVE BROOKS - ODOT 1993)

PD FILE:

ODOT FILE: 01-072-5-5 DOGAMI FILE:

NOTES:

REPORTER:

DATE:

UPDATE BY:

DATE:

UPDATE 2 BY:

DATE:

RF1:

RF2:

RF3:

EXHIBIT I

QUALITY REPORT

Obtained From O.D.Q.T. Laboratory Data
TWN: 007 RNG: 39 SEC: 04/05

* 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
SANDING (1993)	12.0 %	NA %

DEGRADE TEST (OREGON AIR DEGRADATION):

ROCK TYPE	(x) MAX. SEDIMENT HEIGHT	(x) MAX. VALUE PASSING #20 SIEVE	* SED. HEIGHT	* PASSING #20 SLIEVE
SANDING	3.0"	30.0 %	0.5 "	13.7 %

ABRASION TEST (LA RATLER):

ROCK TYPE	(x) MAXIMUM VOLUME % LOSS	*SITE QUALITY % LOSS
SANDING (1993)	30.0 %	11.0 %

END OF RECORD

EXHIBIT J

OREGON DEPARTMENT OF TRANSPORTATION
MATERIALS LABORATORY
800 AIRPORT RD. SE SALEM, OR 97301-4798

Page 1 of 1
(503)986-3000
FAX(503)986-3096

Contract No.: C14161	EA No.: CON02908	Lab No.: 10-003794
Project: WINGVILLE LANE #1122: MP 0.0 - MP 4.76	County: BAKER	Data Sheet No.: F0233 665
Highway: WINGVILLE LANE	Contractor: GRANITE NORTHWEST, INC	FA No.: X-STP-C001(011)
Project Manager: JEREMY MORRIS	Submitted By: GARY OLSON	Bid Item No.: 110
Material Source: 01-072-5 HARNEY PIT	Org Unit: A-PA	Sample No.: 1
Sampled At: SOURCE	Org Unit: APA	Qty Represented:
DATE-Sampled: 10/ 8/30	Received: 10/ 9/13	Tested: 10/10/ 5
Class/Type: COMPLIANCE	Sampled By:	Witnessed By:
	Use: CHIP SEAL	Date Reported: 10/10/ 6
		Use: CHIP SEAL CHIP SEAL AGGR

Q or G: QUARRY			AGGREGATE LABORATORY REPORT - CHIPAG		Size: 3/8-#8
Test	Field	Lab	T 84 F. Grav.	T 85 C. Grav.	
T 176 S.E.			Bulk:	Bulk: 2.817	
T 89 L.L.			S.S.D.:	S.S.D.: 2.841	
T 90 P.I.			Appar.:	Appar.: 2.886	
TP 61 Ttl Frac.			Absorp.:	Absorp.: 0.84 %	
TM 226 Dust/Clay			T 104 Soundness	TM 208 Degrade	
TM 227 Cleanness			C A: 8% F A:		
TM 229 Elong pcs			1.5-3/4:		
T 19 Unit Wt.			3/4-3/8: 0.0 %		Crse Ht: 1.1 in
			3/8- #4: 7.9 %		P20: 13.1 %
			#4- #8:		Fine Ht:
			#8-#16:		P20:
			#16-#30:		
			#30-#50:		
T 329 Moisture			T 96 Abrasion	T 21 Impurity	
T 27/11			14.3 %	Plate #:	
Sieve	Passing	Passing	Type C		
2.5			TP 61 Fracture	TM 221 Friables	
2			1.5:	Wt'd Avg :	
1.5			1.0:	1.5-3/4:	
1			3/4:	3/4-3/8:	
3/4			1/2:	3/8- #4:	
1/2		100 %	3/8:	#4-#16:	
3/8		100 %	T 113 Lightweight	TM 225 Woodwaste	
1/4		77 %	Coarse: 0.0 %	Lab:	
# 4		44 %	Fine:	Field:	
# 8		7 %	AASHTO T 288/289	AASHTO T 267	
# 10			Resist: Ω	Organic:	
# 16		2 %	pH:		
# 30		1 %	AASHTO T 291	AASHTO T 290	
# 40			Chloride:	Sulfate:	
# 50		1 %			
#100					
#200		0.3 %			

1 @ T27 = \$ 47.00	NSM = Not Sufficient Material	TOTAL CHARGES: \$ 0.00
1 @ T85 = 45.00	REMARKS:	
1 @ T96 = 97.00	Material represented by sample DOES comply with specifications.	
1 @ T104 = 29.00		
1 @ T113 = 34.00		
1 @ 208A = 74.00		

KEVIN BROPHY - LABORATORY SERVICES MANAGER

REPORT SHALL NOT BE REPRODUCED, EXCEPT IN FULL, WITHOUT WRITTEN APPROVAL OF THIS LABORATORY.

C: FILES ; PROJ MGR: JEREMY MORRIS - ANDERSON-PERRY & ASSOC ; GRANITE NORTHWEST, INC ; REG 5 Q.A.C. ; D TEST - AGGREGATE
DOUGLAS WRIGHT-LIAISON


EXHIBIT K



"Troy Hooker"
<troy@harneyrock.com>
12/05/2011 03:29 PM

To <lhoopes@bakercounty.org>
cc
bcc
Subject Re: Plan Amendment / Conditional Use Modification

1 attachment


10-003794.pdf

Wednesday at 3:30 pm will work for me. We can meet at the office/scale shack which will be the first thing you will come to on our access road.

I have attached the last ODOT test report which shows results of the specific tests cited in OAR-660-23-23180 (3)(a). This test was done on rock on our 180 acres, but is representative of the rock on the 35 acres. We have a third party do quality test twice a year for Union Pacific, but these are somewhat different than the tests listed in OAR.

Our purchase agreement with the McGinns is for 340,000 solid cubic yards. This is equal to about 780,000 ton.

Troy Hooker
Harney Rock & Paving Co.
P.O. Box 800 Hines OR 97738
p:541-573-7855 f:541-573-3532

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

From: lhoopes@bakercounty.org
To: Troy Hooker
Cc: Steve Hultberg
Sent: Monday, December 05, 2011 9:59 AM
Subject: Re: Plan Amendment / Conditional Use Modification

Hi Troy,

I spoke with Holly about a site visit, and I would like to know if Wednesday at 3:30 pm will work for you? If not, please let me know.

Also, do you have any information regarding the ODOT sample testing for the 35+/- acres I discussed in a previous email on November 30, 2011? I am nearly finished with the report for the Planning Commission and I would like to include this information, if it is available, prior to sending it to them on Thursday, December 8, 2011. Thank you!

Regards,

Lauri J. Hoopes, Planner
lhoopes@bakercounty.org
Baker County Department of Planning
1995 Third Street, Suite 131

EXHIBIT L

US 30 - La Grande-Baker Highway

US Highway 30 (LaGrande-Baker Highway) is a District Highway which extends north-south through the north-central portion of Baker County. Prior to construction of I-84, this highway was the primary route between Baker City and La Grande. Today, this highway primarily serves farm/ranch and tourism/recreation uses. It also serves the City of Haines, with was bypassed by I-84. The highway primarily traverses flat rural farm lands transitioning through intermittent rolling terrain. The highway has a two-lane roadway throughout rural sections of Baker County with a posted speed of 55 mph decreasing to 25 mph through urban areas including Baker City where the roadway includes as many as five lanes. The route is primarily straight and flat providing good sight distance and is striped to allow vehicle passing along much of the highway. The highway does not have any passing lanes within rural Baker County but does have intermittent vehicle shoulder pull-outs. There are roadway shoulders on both sides of the highway that are typically two to eight feet wide and partially paved. Intermittent sections of the highway are adequate to support bicycle use.

BAKER COUNTY COMPREHENSIVE PLAN
1993 NONMETALLIC MINERAL AND AGGREGATE SITE INVENTORY INDEX

EXHIBIT M

SITE #	SITE NAME	TWP	RNG	SEC	TAX LOT	DIR
1	STANFORD/HOFFMAN [JACOBSON]	06S	39E	35	3300	
2	HART ESTATE [POWELL]	07S	39E	01	100	
3	HUTCHINSON/HELLBERG	07S	39E	04, 05	800, 900	
4	ORR	07S	39E	02	700	
5	DUNCAN [SMIT/VANBRUNT]	08S	39E	17	100	SE
6	ZIMMER [COLEMAN]	08S	39E	29	1300	
7	AUSTIN [ADAMS]	08S	39E	29	1200	
8	JEPSON [WARNER]	08S	40E	16	3200	NE
9	ROAD DEPT.	10S	36E	08, 17		
10	GRIFFIN GULCH RD	09S	40E	30		
11	STEELE [COLPITTS/CHETWOOD]	08S	46E	08A	1400	
12	DEROEST	09S	40E	29	1300	
13	CARPENTER/LAND [VALENTINE]	09S	40E	30	500	
14	PEYRON/VALENTINE [BRANDENTHALER]	09S	41E	07	700	NW
15	IDAHO POWER [GRAVEN]	09S	45E	35	6000	
16	FOSTER RANCHES/CURRY	10S	40E	04	700	
17	MARTIN	10S	40E	31	5700	
18	ODOT/MP 333	12S	43E	13	2400	SE
19	DOMAN/BOOTSMA-JC COMPTON	12S	44E	33	2300	
20	IDAHO POWER/SNAKE RIVER	13S	45E	29	1800	SE
21	QUAST/HURCH [HUTCHINSON]	14S	44E	14	1900	
22	IDAHO POWER/SNAKE RIVER PIT OIL	14S	45E	08	500	NE, SE
23	WENDT [WIRTH]	07S	39E	21	2700	
24	LABOEUF [HENDERSON]	07S	40E	05, 06	900	
25	ODOT/BAKER HOMESTEAD MP 36.31	09S	45E	18	3200	SE
26	BAKER CITY D MAC D CORP	08S	38E	36	700	SW
27	ODOT	14S	37E	12	100, 400	
28	ODOT/PLEASANT VALLEY	10S	42E	29, 30	3000	
29	BRISKE-CALHOUN [KIEWIT]	10S	41E	21, 22	4300	
30	BLUROCK CONCRETE [REDI-MIX]	08S	39E	20	200	NW
31	BLM	07S	40E	34	1700	N
32	HARNEY ROCK & PAVING [OSBORN]	07S	39E	26	4200	
33	SUMMERS RANCH QUARRY	08S	46E	12	2400	SW
34	ODOT/TEMP BATCH PLANT & EXTRACTION	10S	42E	29C	200	
35	ODOT/HERITAGE LAND	07S	40E	20	1400	
36	ODOT/BUNCH	08S	40E	18	500	NW, SW
37		07S	45E	15		
38	ODOT/BAKER HOMESTEAD MP 65.3	07S	47E	25	1400	SW
39	MARK SACKOS PIT	08S	39E	20	800	NE, SE
40	ODOT/STARK	07S	39E	34A	100	NE
41	ODOT	13S	38E	19	1300	NW
42	ODOT/MEDICAL SPRINGS HWY-SCHETKY RD	08S	40E	24	200	NE
43	ODOT/PINE CREEK	08S	47E	07	400	SE
44	COUNTY PIT	10S	40E	14	100	NW, NE
45	ODOT/TRIPLE C	09S	40E	10	300, 400	
46	ODOT/MCGRIFFIN SAND PIT	09S	43E	05	400	NW, NE
47	ODOT/MEDICAL SPRINGS-DOLBY	07S	41E	34	500	SE
48	ODOT/EAST UNIT, LOVE BRIDGE, BLACK BRIDGE	09S	44E	03	400	S
49	ODOT/MAIDEN GULCH-COPPERFIELD	09S	44E	13	200, 500	SE
50	ODOT/SALISBURY-BAKER ROCK PROD	10S	39E	28C	100	SE
51	ODOT/BAKER-PLEASANT VALLEY	10S	40E	01	200	NW, SW
52	ODOT/SWORD	10S	40E	19C	800	SW
53		10S	40E	05	1100	SE

EXHIBIT M

Record Number : 2

CLASS:

SITE: HART ESTATE [POWELL]

COMMODITIES: ROCK

	TWN: 007 S.,	RG: 39	E.,	SEC: 01	
	TAX LOT: 00100		ZONING: EFU		
	QUAD1:		SCALE:		
	QUAD2:		SCALE:		
	MINING DIST:				
	*SEE ALSO:				

DEPOSIT TYPE:

LAND USE:

ADJ LAND USE: EFU, RR-5

LAND STATUS: PRIVATE

LANDOWNER: THE HART ESTATE INVESTMENT

ADDRESS: 1695 MEADOWWOOD LN SUITE 200
CITY ST: RENO, NV 89502
ADDRESS 2:

PHONE:

LESSEE:

SPECIFIC LOCATION:

CITY:

QUANTITY:

CONFLICTS:

HISTORY:

ACTIVITY:

PD FILE:

ODOT FILE:

DOGAMI FILE:

NOTES:

REPORTER:

UPDATE BY:

UPDATE 2 BY:

RF1:

DATE:

DATE:

DATE:

RF3:

EXHIBIT M

id Number : 4

CLASS:
SITE: ORR
COMMODITIES: GRAVEL

TWN: 007 S., R6: 39	E., SEC: 02
TAX LOT: 00700	ZONING: RR-5
QUAD1:	SCALE:
QUAD2:	SCALE:
MINING DIST:	
*SEE ALSO:	

DEPOSIT TYPE:
LAND USE:
ADJ LAND USE: RR-5, EFU
LAND STATUS: PRIVATE

LANDOWNER: ORR, TED W & VIRGINIA E

ADDRESS: RT BOX 129D
CITY ST: HAINES, OR 97833
ADDRESS 2:

PHONE:
LESSEE:

SPECIFIC LOCATION:

CITY:

QUANTITY:

CONFLICTS: LOCATED IN RR-5 ZONING

HISTORY:

ACTIVITY:

FD FILE:

ODOT FILE:

DOGAMI FILE:

NOTES: CHEMICAL PLANT LOCATED IN 7 39 02 TL: 200

REPORTER:

UPDATE BY:

UPDATE 2 BY:

RF1:

DATE:

DATE:

DATE:

RF3:

neopost[®]

FIRST-CLASS MAIL

02/17/2012

US POSTAGE

\$02.50⁰



ZIP 97811

041L11221

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DEPT OF

FEB 22 2012

LAND CONSERVATION
AND DEVELOPMENT

Baker County Planning Department

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

TO

Attn: Plan Amend. Specialist
Dept. of Land Cons. & Dev.
635 Capitol St. NE
Suite 150
Salem, OR 97301-2540