



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

06/24/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: Benton County Plan Amendment
DLCD File Number 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: Tuesday, July 08, 2014

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: Greg Verret, Benton County
Jon Jinings, DLCD Community Services Specialist
Ed Moore, DLCD Regional Representative
Amanda Punton, DLCD Natural Resources Specialist

<paa> YA

DLCD FORM 2



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE	001-14
File No.:	(20201)
	[17907]
Received:	6/17/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Benton County

Local file no.: **LU-13-045**

Date of adoption: 5/20/2014

Date sent: 6/18/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 1/27/ 2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Surface Mining Overlay zone also applied to neighboring properties within the impact area; deed restriction for new building permits, and additional review for conditional uses. Also, adopted an ordinance correcting a scrivener's error in the Inventory of Mineral & Aggregate Sites.

Local contact (name and title): Greg Verret, Director

Phone: 541-766-6819

E-mail: greg.verret@co.benton.or.us

Street address: 360 SW Avery Avenue

City: Corvallis

Zip: 97333

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Benton County Comprehensive Plan Chapter 16, Inventory of Mineral and Aggregate Sites; Statewide Planning Goal 5

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from change.	to	acres.	A goal exception was required for this
Change from change.	to	acres.	A goal exception was required for this
Change from change.	to	acres.	A goal exception was required for this
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: Surface Mining Acres added: 324 Acres removed:

Location of affected property (T, R, Sec., TL and address): T14S-R7W-S18 Tax Lot 1000 & properties within 1500 ft.

List affected state or federal agencies, local governments and special districts: ODOT, ODFW, BLM

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE STATE OF OREGON, COUNTY OF BENTON**

In the Matter of Amending the Benton) ORDINANCE No. 2014-0261
County Comprehensive Plan and)
Zoning Map to Establish a Surface)
Mining Overlay on the ODOT Alsea)
Quarry and Surrounding Properties.)

WHEREAS, the Oregon Department of Transportation (ODOT) has requested protection for the subject quarry pursuant to Statewide Planning Goal 5; and

WHEREAS, the Oregon Administrative Rule (OAR) 660 Division 023 specifies the process and criteria for consideration of such a request in a county, such as Benton County, where local regulations implementing that Administrative Rule have not been adopted; and

WHEREAS, pursuant to the OAR, Benton County considered the request, the potential conflicts between the quarry and current and future uses; and

WHEREAS, the Benton County Planning Commission held a duly advertised public hearing on March 18, 2014, and voted to recommend that the Board of Commissioners approve the proposed amendments to the Comprehensive Plan and Zoning Map; and

WHEREAS, the Benton County Board of Commissioners held a duly advertised public hearing on April 15, 2014, to receive testimony from the public and to consider the request; and

WHEREAS, the Board of County Commissioners finds that the proposed amendments comply with the criteria of the OAR; and

WHEREAS, the Benton County Board of Commissioners has considered the staff report, the recommendation of the Benton County Planning Commission, and the record as a whole. The Board of Commissioners deliberated and approved the proposed amendments, and conducted the First Reading of the Ordinance on May 6, 2014; and

WHEREAS, the Benton County Board of Commissioners conducted the Second Reading of the proposed Ordinance on May 20, 2014.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

PART I: Short Title. Amendments to the Benton County Comprehensive Plan and Zoning Map.

PART II: Authority. The Board of County Commissioners of Benton County has authority to amend the Comprehensive Plan and Zoning Map pursuant to ORS Chapter 215 and the Benton County Charter.

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PART III. The Comprehensive Plan and Zoning Map amendments proposed in Planning File No. LU-13-045 are hereby approved, based on the Findings and Conclusions contained in the attached "Exhibit 1" and hereby adopted and incorporated herein.

PART IV. The Benton County Comprehensive Plan is hereby amended to include the Findings as shown in "Exhibit 1."

PART V. The Benton County Zoning Map is hereby amended as shown in "Exhibit 2."


The effective date for these amendments will be:

First Reading: May 6, 2014

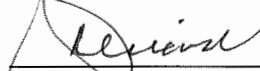
Second Reading: May 20, 2014

Effective Date: June 19, 2014

BENTON COUNTY BOARD OF COMMISSIONERS



Linda Modrell, Chair




Jay Dixon, Commissioner



Annabelle Jaramillo, Commissioner

Approved as to Form:



Vance M. Cronney, County Counsel



Kevin Perkins, Recording Secretary

Exhibit 1

Findings of Fact and Conclusions of Law

Nature of Request:	<p>ODOT has requested a zone change for an existing quarry. The zone change would ensure the ability to use the quarry long-term. Additionally, the zone change could potentially result in limitations on new uses on neighboring properties within 1,500 feet of the subject property if those new uses would conflict with operation of the quarry. Specifically, the request is to establish protection for the aggregate site under Statewide Planning Goal 5 and establish a Surface Mining Overlay zone on the subject property and neighboring properties. This action, if approved, will amend the Zoning Map and amend the Comprehensive Plan to adopt findings demonstrating compliance with applicable criteria.</p>		
Applicable Criteria:	<p>Oregon Administrative Rule (OAR) 660 Division 023; <u>Pursuant to the OAR, local provisions do not apply to this application</u>; otherwise, a zone change application would be subject to the following additional criteria: Benton County Comprehensive Plan, Chapters 5 and 17; Benton County Code Sections 53.505 through 53.525; 91.905.</p>		
Property Location:	<p>Existing ODOT quarry, located on the north side of South Fork Road, approximately two miles southeast of the intersection with Alsea-Deadwood Highway. T14S-R7W-Section 18, Tax Lot 1000. See map in Figure 2.</p>		
Property Owner/ Applicant:	<p>Oregon Department of Transportation (ODOT)</p>		
Zone Designation:	Multi-Purpose Agriculture	Staff Contact:	Greg Verret
Comprehensive Plan Designation:	Agriculture	File Number:	LU-13-045

I. BACKGROUND AND NOTIFICATION

The applicant Oregon Department of Transportation (ODOT) submitted an application for a Comprehensive Plan Amendment and Zoning Map Amendment on June 19, 2013. The application was deemed incomplete in a letter from Benton County to the applicant dated July 17, 2013. On November 7, 2013, the applicant submitted the necessary materials to complete the application.

Notice of the application was electronically submitted to the Department of Land Conservation and Development (DLCD) on January 27, 2014. Notice of public hearing and additional review materials were delivered to the Alsea Citizens Advisory Committee on February 5, 2014. Notice of public hearings was mailed and emailed to relevant public agencies and individuals, and to owners of property identified on the map at right, on February 18, 2014. The minimum required notification area, indicated by the black line on the map, is 1500 feet from the subject property; notification was mailed to owners of property within 2,640 feet (½ mile). A public notice was published in the *Corvallis Gazette-Times* on February 21, 2014.

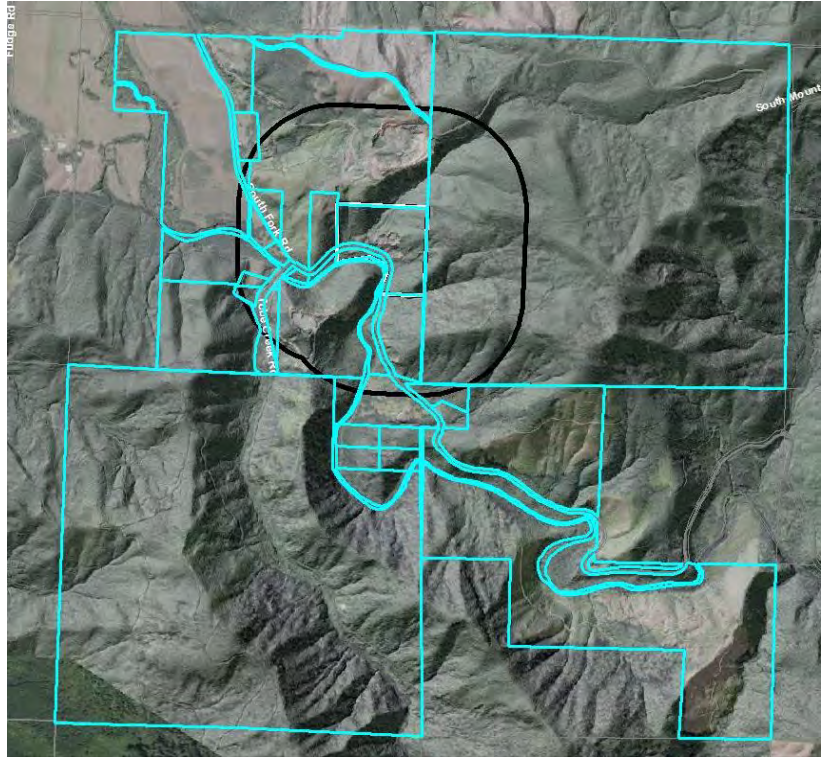


Figure 1. Notification area.

ODOT’s application did not propose any limitations on future conflicting uses on neighboring properties within the 1500-ft impact area; however, upon further discussion with ODOT staff, ODOT requested long-term protection for the quarry by applying some conditions on adjoining properties. This would be accomplished through applying the Surface Mining Overlay to other properties in addition to the ODOT property. State law and the Development Code require specific formatting and language in a notification (commonly referred to as a “Measure 56 Notice”) to affected property owners when a land use action could result in restrictions on their property. Therefore, the hearing dates were re-scheduled, and on February 25, 2014, Measure 56 Notice was mailed to property owners within the potential overlay zone and a revised, standard notice was mailed and/or emailed to the other property owners, agencies, Alsea Citizens Advisory Committee, and interested individuals. A revised public notice was published in the *Corvallis Gazette-Times* on March 3, 2014.

II. COMMENTS

One member of the public testified at the Planning Commission hearing, asking questions and providing anecdotal information regarding wildlife in the area.

One written comment was received prior to the Planning Commission hearing, from a member of the Oregon Native Plant Society requesting opportunity to collect seeds from a rare plant identified on the quarry property. This request has been addressed through Operating Condition #20, which encourages the operator to allow removal of plants that will be damaged by quarry operations.

Two written comments were received after the Planning Commission hearing.

- One, from an owner of adjacent property, raising concerns about traffic conflicts and other issues. The traffic issues raised are addressed in the findings and analysis of traffic conflicts, below. Concern about conflicts with public use of the “wayside” on the river side of South Fork Road is addressed through Operating Condition #7, which prohibits use of that area for mining operations. Stormwater pollution concerns are addressed in the stormwater section, below. Concerns over the sporadic use of a mobile crusher are unclear with regard to how such use would conflict with other land uses.
- The second, from an interested member of the public, raised a variety of questions and concerns relating to plant and animal species and habitat, traffic impacts, and potential conflicts with other uses in the area. These issues are addressed in subsequent sections of these findings.

No other testimony from the general public was received.

Gordon Kurtz, Benton County Public Works, submitted a memo concurring with the methodology and findings of the applicant’s sight distance review and traffic impact analysis. Additionally, Mr. Kurtz states that road condition and traffic impacts resulting from specific peak-use projects involving the ODOT quarry can be resolved by agreement between Public Works and ODOT on a project-by-project basis. Mr. Kurtz stated that Public Works supports the protection of this quarry as a valuable resource that is scarce in the Alesa Valley.

III. GENERAL FINDINGS

The subject property is located in a canyon, on a sharp curve of the South Fork Alesa River. The property contains approximately 25 acres. Except for the main mining/processing area and a parking/stockpile area to the west, the entire property is forested in a mix of hardwoods and second-growth conifers, with some small pockets of native oak savanna. An intermittent creek bisects the property and flows into the South Fork Alesa River, which abuts the southern boundary of the subject property. South Fork Road, a Benton County road, parallels the curve of the river. A narrow portion of the subject property is situated between the South Fork Road right-of-way and the river.

The character of the surrounding area is described more fully in Section V.3.B, below, but key elements are: a sizable commercial quarry (“Site 122” on Figure 5) over the ridge to the north of the subject property; a timber

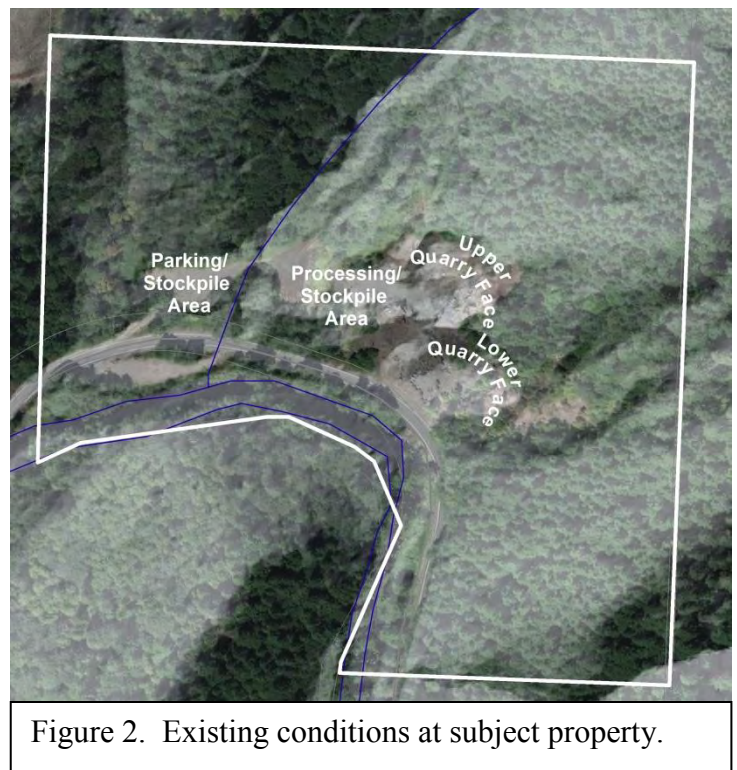


Figure 2. Existing conditions at subject property.

company quarry on the ridge to the southwest; a few residences (the closest being 750 feet to the west of the subject property). All zoning in the area is either Exclusive Farm Use (EFU), Multi-Purpose Agriculture (MPA), or Forest Conservation (FC). The majority of the land in the vicinity is in forest use.

The Oregon State Highway Division acquired the subject property in 1948; it is unclear whether the site was mined prior to that time. According to information from the Oregon Department of Geology and Mineral Industries (DOGAMI) records, mining at the site started prior to 1972. The property has been a quarry for at least 40 years and likely much longer. The 1978 DOGAMI report “Rock Material Resources of Benton County, Oregon” includes photographs of this site (see Figures 4 and 5, next page) and describes the site as a side-hill gouge typical of older mining practices, and less efficient than the “benching” method that is proposed for future activities at this mine.

This is a hard rock quarry, containing approximately 900,000 cubic yards (1,500,000 tons) of high quality basalt, according to the application submittal. The material “does not quite meet ODOT standards for aggregate base, [but] does meet standards for shoulder rock and provides good rip rap material, both of which are much needed materials for ODOT Maintenance.”¹ Moving rock is costly, in terms of both money and fossil fuel use; therefore, it is highly valuable and more efficient to have quarry sites within the vicinity of where the rock will be needed. Most of the rock composing the Oregon Coast Range is sedimentary, but there are scattered intrusions of basalt. Where this basalt is accessible from the surface, it is highly sought for quarry purposes. One such area is the subject property and vicinity, which is home to three separate quarries.

Applicant’s Proposal:

ODOT has used this site sporadically over the past 40 to 70 years, and plans to use the quarry much as it has in the past – as the need for rock in this portion of the state highway system arises. Usage could be minimal over extended periods, but could also be intensive if a sizable maintenance or construction project is underway in the vicinity. The quarry would be used by ODOT and possibly by an ODOT contractor or by Benton County; the quarry is not planned to be used commercially or made available to companies unrelated to an ODOT or County road project.

The Conceptual Mining Plan describes the proposed use in detail; the applicant’s map is shown in Figure 6 below. In summary: the basalt would be blasted and excavated; aggregate material would be sorted; in some cases, a portable or temporary crusher would be established on site to crush the rock; the sorted/processed material would be stockpiled on site; trucks would haul the material out as needed. Overburden (soil and unusable rock, typically) would be stockpiled for later reclamation. Batching (which is mixing the crushed rock with petroleum-based bonding agents, limestone, cement, and/or other materials to make asphaltic concrete or Portland cement concrete) could also be done with portable equipment on site. The proposed excavation area totals approximately 18 acres.

¹ Application Submittal – Conceptual Mining Plan, Page 2.
Ord. 2014-0261



Figure 5b. Site 123. Note man in foreground for scale. Hazards include highwall heights, large loose boulders on sloping fracture planes, and loose overburden at top of quarry.



Figure 5a. Oblique aerial view of sites 122 and 123. Site 122 is being developed with good plan. Multiple benching is being used, and a sound barrier between the mine and outslope has been left. Ridge is being mined from the top down, making reclamation easier when the resource is all mined out. Site 123, in contrast, is a side hill gouge with uncontrolled access and numerous other hazards.

Figure 3 (upper left). Lower quarry face from S. Fork Rd, in 2014.

Figure 4 (upper right). Lower quarry face from S. Fork Rd, in 1978.*

Figure 5 (left). 1978 photo of the ODOT quarry (Site 123) and the Alsea Quarries to the north (Site 122).*

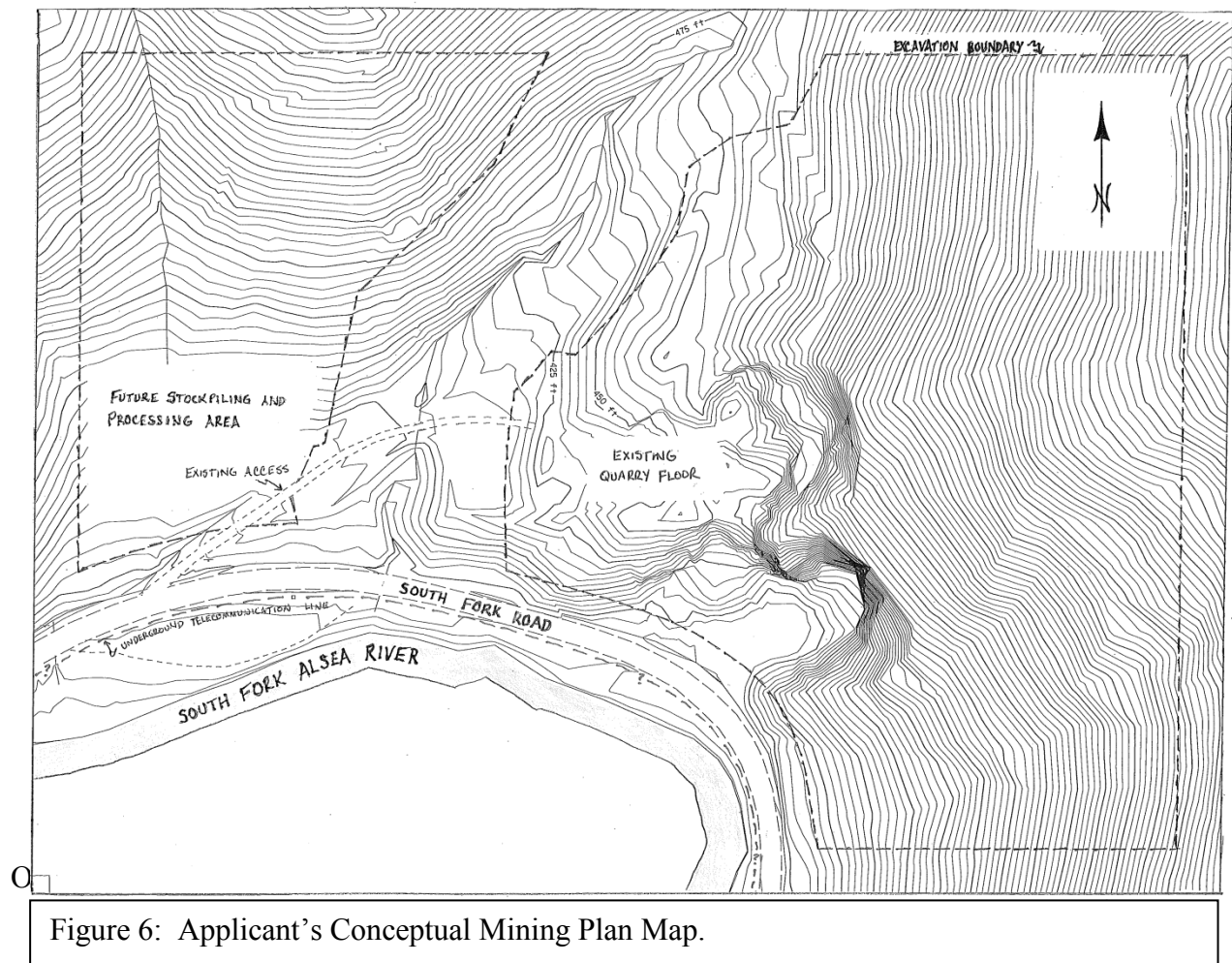
*1978 photos from “Rock Material Resources of Benton County, Oregon” published by Oregon Dept. of Geology and Mineral Industries.

Blasting is proposed to be limited to daylight hours between September 15 and April 1. The seasonal limitation is to avoid disturbing spotted owls that could be nesting in the vicinity. (They are very sensitive to disturbance and will abandon their eggs or young due to excessive noise and activity.)

Note that the applicant's Conceptual Mining Plan states blasting will occur April 1 to September 15; this is a typographical error; the Environmental Summary correctly states that spotted owl nesting season is April 1 to September 15 and that blasting activities should avoid this season. Neither daylight hours nor seasonality for blasting is reflected in the DOGAMI "Operating Permit – Renewal," therefore these will be included as Operating Conditions.

Activities other than blasting are proposed to occur as needed any time of the year, and to generally occur during daylight hours. Emergencies, or construction contracts that require night work for safety reasons, could result in the need to operate after dark.

To facilitate these operations, ODOT is requesting a zone change to the subject property and to neighboring properties within 1500 feet. On the subject property, the addition of the Surface Mining Overlay would: a) authorize use of the site for aggregate mining, stockpiling and processing as proposed, and b) establish the operating conditions that would govern this land use. On neighboring properties within 1500 feet, the addition of the Surface Mining Overlay as proposed by the applicant would result in limitations on establishment of new uses that could conflict with operation of the quarry. This matter is discussed fully in Section V.4, below.



IV. APPLICABLE CRITERIA

Typically, a change of zoning requires that the criteria and procedures from Section 53.505 through 53.525 of Benton County Development Code be followed, and that the proposal be found to be consistent with the policies outlined within the Benton County Comprehensive Plan. In the case of an application for protection of a significant aggregate site pursuant to Goal 5, however, OAR 660-023-0180(9) specifies the following (emphasis added):

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

- (a) Such regulations were acknowledged subsequent to 1989; and*
- (b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-023-0250(7).*

Findings: Benton County has not adopted Development Code provisions to implement OAR 660-023-0180, nor does the Development Code contain specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites.

Conclusion: The provisions of the OAR are directly applicable to the current land use action, and other provisions of Benton County Development Code do not apply. This is consistent with the procedure used by Benton County in reviewing the previous Goal 5 quarry application, for Wild Rose Quarry in 2001.

V. FINDINGS APPLYING OREGON ADMINISTRATIVE RULE 660-023-0180 – Mineral and Aggregate Resources

The following findings address Oregon Administrative Rule (OAR) 660 Division 023. If the proposal is adopted, the findings and conclusions in favor would be adopted into the Benton County Comprehensive Plan as the factual basis for establishing Goal 5 protection for the subject aggregate site. In the following findings, text from this OAR is shown in *italics*.

1. Adequacy of Application [Section 0180(8)]

The first step in the Post Acknowledgement Plan Amendment (PAPA) process is for the local government to determine whether the application is adequate.

An application for a PAPA concerning a significant aggregate site...shall be adequate if it includes:

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

(b) A conceptual site reclamation plan;

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

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

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

Findings: All of the materials required under the administrative rule were included in the applicant's submittal. The Benton County Community Development Department deemed the application complete on November 7, 2013.

Conclusion: The application is adequate as specified in the Goal 5 rule.

2. Determine Significance [Section 0180(3)]

The next step in the PAPA process is to determine whether the resource is significant. OAR 660-023-0180(3) provides as follows:

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)² 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;

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

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

Findings: Only one of these criteria needs to be met. This resource is considered significant under subsection (c), as the subject site was included as Site #123 on Benton County's original inventory of significant aggregate sites, adopted as part of the Comprehensive Plan adopted in 1982³, and still valid on September 1, 1996. The inventory was based on the 1978 report "Rock Material Resources of Benton County, Oregon" published by the Oregon Department of Geology and Mineral Industries (DOGAMI).

² Subsection (d) modifies subsections (a) and (b) if the site is located on Class I or II agricultural soils. The ODOT site is falls under subsection (c) and is not affected by (d); therefore, the text of (d) is not included here.

³ Ordinance 25.

The Board notes that a 1993 ordinance⁴ also lists the Assessment Map and Tax Lot number of the subject property (14-7-18 Tax Lot 1000). The purpose of the 1993 ordinance was to add six additional sites to the inventory in the status of “potentially significant, insufficient information,” as a result of an order from the Oregon Department of Land Conservation and Development (DLCD). The designation of “potentially significant” means that, in order to qualify for Goal 5 protection, the site must be shown through a subsequent review to meet the significance standards in subsection (a) of this section.

Based on the following, the Board has determined that listing of “14-7-18 Tax Lot 1000” as the map and tax lot number for one of the sites in the 1993 ordinance is an error. First, the ordinance lists the six quarries primarily by their DOGAMI permit number; the map and tax lot number is merely a secondary location descriptor. The site listed as having the map and tax lot number of 14-7-18 Tax Lot 1000 has the primary identifier that corresponds to the Rex Pit, an ODOT site along Highway 99W (many miles to the east of South Fork Road). Second, the ordinance lists the zoning for the site as EFU/FP; the ODOT Alsea Quarry is zoned MPA and has no Floodplain designation, while the Rex Pit on Highway 99W *is* zoned EFU/FP. Third, the second quarry listed on the 1993 ordinance is the Tobe Creek Quarry, which is listed with the same Assessment Map (14-7-18), implying the possible source of a cut-and-paste or typographical error. Finally, the DLCDC order requiring these sites to be addressed by Benton County states, “The county has identified six aggregate extraction sites that were not previously included on the comprehensive plan inventory.” However, the ODOT Alsea Quarry *was* previously included on the Comprehensive Plan inventory. In summary, the Board concludes that the first site on the 1993 ordinance is the Rex Pit (14-5-16 Tax Lot 700) and not the ODOT Alsea Quarry (14-7-18 Tax Lot 1000). Therefore, the ODOT Alsea Quarry was included as a significant site on the original Benton County Inventory of Mineral and Aggregate Sites, meaning it was listed as a significant site as of September 1, 1996. By separate ordinance, the Board is correcting this error in the inventory.

Conclusion: The subject site is significant pursuant to the OAR.

3. Decide Whether to Permit Mining

The local government must then determine an area of impact for the proposed mining and processing activities, identify conflicting uses within that impact area, determine whether those conflicts can be minimized, and then, for any significant conflicts that cannot be minimized, evaluate the environmental, social, economic and energy consequences of allowing, limiting, or not allowing mining at the site. Based on this analysis, the local government must decide whether to allow mining, and if allowed, what limitations to impose in order to minimize conflicts.

A. Determine Impact Area [Section 0180(5)(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

⁴ Ordinance 93-0102
Ord. 2014-0261

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.

Findings: Pursuant to subsection (b) below, the county’s evaluation of uses that may conflict with mining at the site is limited to consideration of (1) uses sensitive to “noise, dust, or other discharges,” (2) transportation and traffic, (3) other acknowledged Goal 5 resources, and (4) conflicts with agricultural practices.⁵

Given the narrow, winding valley location of the aggregate site, it is unlikely that noise or dust impacts would extend beyond the 1500-foot buffer. “Other discharges” include stormwater runoff. Once this stormwater enters the river, it would be carried downstream and could create significant conflicts with the stream ecology beyond the 1,500-foot buffer.

As discussed in the traffic impact analysis in the applicant’s submittal, the aggregate site will not produce a conflict at the intersection of South Fork Road and Alsea-Deadwood Highway, which is 1.9 miles to the northwest and is the only potential traffic conflict location outside the 1500-foot buffer. There are no Goal 5 resources within several miles of the aggregate site. Agricultural practices in the area occur only along the west edge of the 1,500-foot impact area; there is no evidence that the aggregate site would conflict with agricultural practices beyond the 1500-foot buffer.

Conclusion: The impact area of 1500 feet from the subject property is determined to be adequate for evaluating conflicts, with the exception of stormwater discharge impacts. The downstream distance at which stormwater from this site could cause significant conflicts depends on a number of factors and would require complex modeling. For the purposes of this analysis, the Board assumes a distance of one mile downstream – particularly given that under Section C below it is determined that all stormwater-derived conflicts can be minimized through proper stormwater management at the site.

B. Identify Conflicting Uses [Section 0180(5)(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. 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;

(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,

⁵ Public airports are also listed, but the nearest (Corvallis) is many miles away and is not relevant.

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;

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

(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;

(E) Conflicts with agricultural practices; and

(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;

Findings: The impact area is described as follows: South Fork Road and the South Fork of the Alsea River wind through the impact area, roughly parallel to each other. At the west edge of the impact area, which is downstream of the subject property, the land begins to become a broad valley; a portion of a large Christmas tree farm is within the impact area, as are two residential properties located between South Fork Road and the river. In this area, Tobe Creek and Tobe Creek Road connect with the river and South Fork Road, respectively. Accessed off of Tobe Creek Road is another residential property. The southwest portion of the impact area contains a ridge of timberland, with a quarry located at the top. This land is currently owned by Weyerhaeuser Company; the quarry was authorized by conditional use permit in 1978 and is listed on the Benton County Comprehensive Plan inventory as a “potentially significant” site. At the south edge of the impact area is a property containing a residence (the dwelling is located outside the impact area).

The eastern portion of the impact area is forested mountainous terrain under timber management by the US Bureau of Land Management as part of the O&C Railroad lands. The northern portion of the impact area is forest land in private ownership and contains the commercial Alsea Quarries, which has operated since at least the 1940s and appears to be Site #122 on the Comprehensive Plan inventory of significant sites. This quarry operated as a legal nonconforming use, and then in 1989, the operator obtained conditional use permit authorization to expand the operation.

A Staff search for permit and land use records determined that there are no uses that have received land use approval other than those described above. Per the OAR, "approved land uses" that may be considered are dwellings allowed by a residential zone – there is no residential zoning within the impact area – and other uses for which conditional or final approvals have been granted by the local government. Other uses that are permitted outright (livestock farming, for example) but are not established at this time are not to be considered pursuant to the OAR.

No other existing or approved uses have been identified within the impact area.

The following paragraphs merely identify potential conflicts; analysis of those conflicts and how to minimize them is addressed in the subsequent section (Section C).

Discharges: Three dwellings are located within the impact area, at approximately 750 feet, 1200 feet and 1500 feet respectively from the boundaries of the subject property. No other existing or approved land uses that would be considered sensitive to discharges have been identified within the impact area. Noise and dust are potential conflicts. ODOT stated that operations would include dry sifting of aggregate, but that no water would be used for processing. Therefore, the only liquid discharge that is expected is stormwater runoff.

DOGAMI has stated⁶ that the major environmental concern on this site is turbid water runoff into the Alsea River. This stormwater runoff from the mining site would typically carry suspended sediment (which can suffocate fish and smother fish eggs) and could also carry other contaminants such as explosives residue, fuel, oil, lubricants, and hydraulic fluids from the heavy equipment.

If the mining activities are not conducted during the dry season, stormwater runoff from the mining area will either:

- a) be retained on-site and infiltrate/evaporate over time, in areas where topography prevents the stormwater from running off the site;
- b) enter the unnamed creek that bisects the property and flows into the South Fork Alsea River; or
- c) discharge directly into the river.

Stormwater leaving the site could be a conflict with uses dependent on clean water downstream of the site. The existing residences within the impact area are at a higher elevation than the stormwater discharge points from the site, and so would not be directly affected by stormwater runoff.

Groundwater contamination is also a potential conflict, as precipitation percolates through the site potentially carrying any on-site pollutants with it.

Traffic: South Fork Road is the local road used to access/egress the site. This road intersects with Alsea-Deadwood Highway, the nearest arterial, at approximately 2 miles to the northwest. The trucks will be going to and from the quarry via this route; trucks would travel traveling south from the quarry only in highly unusual circumstances. Potential conflicts are evaluated in the traffic impact analysis submitted by the applicant. Traffic is a potential conflict.

Airports: No public airports exist within or anywhere near the impact area. The closest public airport is at Corvallis.

Goal 5 Resources: Within the impact area there are no resource sites for which the requirements of Goal 5 have been met. The commercial Alsea Quarries site to the north is listed as a significant resource, but the Goal 5 process has not been completed for that site. The South Fork of the Alsea River runs through the impact area, and is located across South Fork Road from the proposed excavation. The river and its riparian corridor would meet the definition for protection under Goal 5 if the County chose to apply Goal 5 to riparian corridors in the Alsea Basin; however, at this time, the County has not done so.

⁶ Report of Onsite Inspection, November 5, 1998, by Allen Throop, DOGAMI Reclamationist.
Ord. 2014-0261

Agricultural practices: Within the impact area, agriculture includes Christmas tree farming on the very western edge of the impact area, and small-scale, residence-associated farming or hobby-farming activities which appear to include gardening and livestock-raising. Traffic conflicts could occur between quarry trucks and farm machinery/trucks (such as tractors and harvesters, or trucks hauling Christmas trees to market). Noise and vibrations from blasting could cause conflicts with some livestock. A spill or discharge of fuel or other contaminants could contaminate the ground water in the area, which could create health and economic impacts for farm uses such as irrigating crops or watering livestock. Dust from the quarry is unlikely to reach agricultural uses within the impact area in any substantial quantity, especially relative to the dust generated by agricultural activities in the immediate vicinity.

The OAR prohibits the County from considering conflicts other than those listed above.

Conclusion: Potential conflicts exist with regard to noise, dust, stormwater runoff, and traffic.

C. Determine Whether Conflicts can be Minimized [Section 0180(5)(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.

Discharges

Findings:

Noise and Dust. Topography prevents a direct line of sight between the three houses and the quarry, and is anticipated to shield and deflect noise from the mining activities. Additionally, within the impact area exist two other quarries, located on hilltops. The ongoing mining activities at the existing quarries are likely to be substantially more noticeable – in terms of noise and dust – to residents in the vicinity than the activities at the subject site. It should be noted that intermittent blasting has already been occurring at the current site since at least 1978 and likely much earlier, and although all property owners within 1,500 were sent notice of this proposal, no written comments of concern about noise or dust were received.

Stormwater. Sediment-laden water runoff from this site into the Alsea River would be a significant conflict. DOGAMI has strongly recommended to the applicant that the site be used only during the summer months and that operations cease during periods of wet weather. In their submittal to DOGAMI, the applicant stated that any stormwater runoff leaving the site would be directed across vegetative buffers prior to entering waterways.

There is currently a culvert under South Fork Road adjacent to the lower quarry area that could enable runoff to enter the South Fork of the Alsea River. A small berm separates the quarry floor from the roadside ditch and culvert. Additionally, while active mining areas are proposed to be set back (100 feet) from the creek that bisects the property, trucks and equipment will necessarily be operated in proximity to the creek – either crossing the creek via a culvert, or using a graveled roadway that parallels the creek to

get to the upper portions of the rock face. The DOGAMI Operating Permit allows mining-related activity other than excavation activity to occur as close as 25 feet from the creek. Vehicle use will disturb soils which, combined with precipitation, could result in erosion and sediment delivery to the creek and river.

Stormwater is regulated through DOGAMI's Operating Permit. According to DOGAMI staff,⁷ ODOT would need to either (a) ensure their operations did not result in stormwater discharge, by means such as seasonal restrictions of mining-related activities, or (b) would need to obtain an NPDES 1200A permit, which would require a stormwater pollution control plan and meet the standards established by Oregon Department of Environmental Quality (DEQ) pursuant to the federal Clean Water Act.

Groundwater. Pollution can be limited through proper maintenance of vehicles and equipment and standard precautions in fueling and other use of chemicals.

Analysis and Conclusion:

Noise and Dust. Noise conflicts will be substantially limited by topography. Further mitigation will occur through requiring operations to be within DEQ noise standards, requiring notification to area property owners prior to blasting, limiting blasting to daylight hours and September 15 through April 1, and requiring blasting to be controlled to meet dust standards. The Board concludes that these reasonable and practicable measures will result in minimization of noise and dust conflicts with residential uses. The operating conditions proposed in Section VIII requires these measures.

Stormwater. Seasonal restrictions on mining activities would reduce potential runoff conflicts; however, mining may need to occur during wet weather, and the potential exists for runoff to occur between active mining periods as well. The Planning Commission concluded that a 100-foot setback from waterways should be observed in order to limit potential for stormwater or groundwater pollution, and that, in conjunction with compliance with the stormwater control permit administered by DOGAMI, would be sufficient to minimize stormwater impacts. However, this conclusion was premised on staff working to abandon or remove the culvert under South Fork Road. Subsequent to the Planning Commission hearing, further evaluation determined that the culvert serves a road drainage function and should not be removed. Given the potential for stormwater to discharge from the lower portion of the site via the culvert under South Fork Road, improving and maintaining the berm to prevent runoff from the lower quarry floor from entering the South Fork Road ditch and culvert appears necessary for minimizing this potential conflict. Compliance with these requirements will minimize the conflict, and therefore these requirements are included in the operating conditions recommended in Section VIII.

Groundwater. Some degree of pollution is inevitable from resource use, whether that is logging trucks or farm machinery or rock blasting. Standard practices to reduce pollution are included in the Operating Conditions, thereby minimizing the conflict.

Traffic

⁷ Personal conversation with Bob Brinkman, DOGAMI, March 3, 2014.
Ord. 2014-0261

Findings: South Fork Road has no posted speed limit, meaning it is governed by the “Basic Rule.”⁸ Just east of Tobe Creek Road, South Fork Road curves tightly through the canyon and lacks a center-stripe (the road at this location is designated “single-lane with turnouts”, because the two travel lanes are only 10 feet wide which is less than County Standard).

Findings: Based on the expected level of use of the ODOT quarry, mobility and level of service will be relatively unaffected on local roads out to the intersection with Alsea-Deadwood Highway. The highest expected level of use of the quarry would result in an increase in volume-to-capacity ratio of 0.05 at the intersection of South Fork Road and Alsea-Deadwood Highway, which is a small proportion of the Oregon Highway Plan standard of 0.75, and maintains a Level of Service of “A” (on a scale of “A” to “F”) on the Benton County road system. Therefore, despite the increased use, the roads will not be congested.

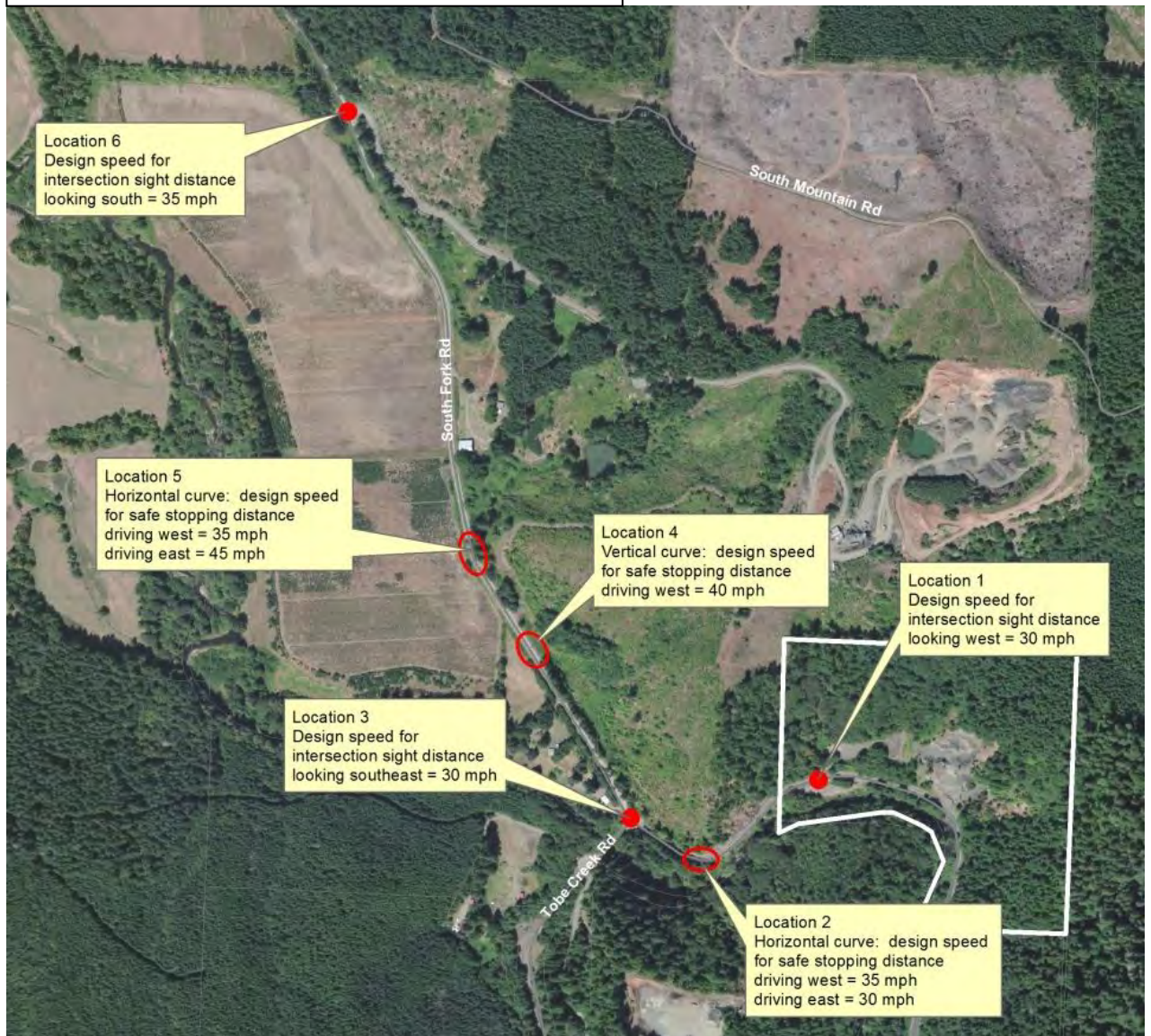
The type of vehicle associated with quarry operations is a three axle (or more) truck or truck-trailer combination. These are large and heavy: three-axel trucks average 26,000 pounds and combinations average 96,000 pounds when fully loaded. As a result these vehicles have restricted maneuverability and lengthened acceleration times and increased braking distances. Large trucks also impede driver sightlines. The combination of this vehicle type with the narrow and curving road in this corridor could increase crashes. Additionally, increased heavy truck traffic will cause increased wear and damage to the road.

Analysis and Conclusion: The sight distance review determined that there are locations along the route from the quarry to Alsea-Deadwood Highway where sight distance is limited. The six locations with restricted sight distance that would reduce the design speed below 55 mph are shown on Figure 7. The restricted sight distances result from existing road conditions. The sight distance review determined that Locations 1, 2 and 3 are mitigated by the tight curves of narrow canyon; the limitation on driving speed created by the road geometry is lower than the sight distance limitation, meaning that safe driving speeds are unlikely to exceed the design speeds identified in Figure 7. Unsafe driving could still result in conflicts, but the additional truck traffic at these locations does not appear to conflict with road design standards. Trucks entering or exiting the quarry access road will be slowing or slowly accelerating. To minimize potential conflicts, “Trucks Entering Roadway” signs shall be posted both west and east of the quarry during times of quarry use. Additionally, when the quarry is not being used these signs shall be removed.

Location 4 is a slight rise in the roadway that creates a short stretch of obscured roadway. Large trucks associated with quarry operations are likely to have fairly good visibility despite the road geometry at this location, and other drivers’ view of large trucks is not likely to be obscured by this slight rise.

⁸ The Basic Rule states that “...a motorist must drive at a speed that is reasonable and prudent at all times by considering other traffic, road and weather conditions, dangers at intersections and any other conditions that affect safety and speed. In other words, drivers are expected to use good judgment in selecting their speed.” (Source: ODOT Traffic-Roadway Section website)

Figure 7. Locations of limited sight distance.



Location 5 is an unsigned curve. The northbound design speed of 35 combined with potentially increased truck traffic indicates the need for posting a sign indicating the curve and recommending a 35 mph speed through the curve.

At Location 6, there is limited sight distance to the south for traffic entering or exiting South Fork Road onto the access road to Alsea Quarries, which will typically be large trucks. To the south of this intersection is a permanent “TRUCKS” sign. Given that signage, and the likelihood that truck traffic associated with the ODOT quarry would be aware of similar truck traffic associated with the well-known Alsea Quarries, conflicts at this intersection are unlikely to be increased.

It is unclear whether ODOT proposes to utilize the older, lower quarry face (see Figure 2) that is directly adjacent to South Fork Road. If that area is used, given the limited space for maneuvering trucks and equipment, active flaggers may be necessary. Additionally, blasting so close to the road could create hazardous driving conditions, both in terms of

the distracting noise of a blast and the potential for dust and flying debris. Road closures and/or signage adequate to warn drivers to expect blasting should be coordinated with Benton County Public Works for times when blasting could potentially affect drivers on the road.

Regarding the increased wear and damage to the road, Benton County Public Works has recommended that ODOT coordinate with Benton County prior to major projects involving this quarry, so that “before and after” pavement conditions can be determined, and that ODOT be responsible for repairs that may be necessary.

With the reasonable and practicable mitigating measures identified here and included in the operating conditions, the Board concludes that the conflicts between the proposed mining operation and local roads can be minimized.

Agricultural Practices

The potential conflicts with agricultural practices were identified as traffic, noise/vibration, and chemicals related to mining appearing in the river or groundwater. The OAR stipulates that minimizing conflicts with agricultural practices be accomplished pursuant to ORS 215.296, which states:

[T]he use will not: (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The traffic impacts addressed above show that road capacity and level of service will not be affected by the proposed quarry operation. The limited acreage in farm use and the infrequency of trip generation from the quarry indicate that even during times of farm machinery movement on the roadway, the quarry will not force a significant change in, or increase in the cost of, farming activities.

As discussed above, noise and vibration will be substantially minimized by the topography and the distance from the quarry site to areas of noise sensitive uses. The farming activities that exist are a minimum of 800 feet from the subject property and are topographically shielded such that noise from the subject quarry is likely to be contained to a large extent within the canyon (away from the residences and farming) and to be substantially less noticeable than the noise from the nearer, hilltop quarry on the Weyerhaeuser property. Pre-blast notification to property owners within the impact area will also mitigate potential impacts. The likelihood of mining-related chemicals appearing in the groundwater or downstream river water will be significantly reduced through compliance with the Operating Condition which requires the acquisition of and compliance with a stormwater permit.

Conclusion: The proposed quarry will not force a significant change in, nor significantly increase the cost of, farm practices within the impact area.

D. ESEE Analysis for Conflicts that Cannot be Minimized [Section 0180(5)(d)]

The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing,

limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:

- (A) The degree of adverse effect on existing land uses within the impact area;
- (B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and
- (C) The probable duration of the mining operation and the proposed post-mining use of the site.

Findings: As determined above, there are no significant conflicts that cannot be minimized.

Conclusion: An ESEE analysis is not required.

E. Authorization of Mining, Including Measures to Minimize Impacts [Section 0180(5)(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.

Findings: Mining is allowed. The result of this land use action will be to amend the Zoning Map to apply the Surface Mining Overlay (/SM) to the mining site and surrounding properties. The uses allowed within the /SM will be specified in the ordinance adopting this zone change. The measures required to minimize conflicts are contained in the Conditions of Approval, below, and will be listed in the ordinance as well.

Conclusion: The requirements of this section are met.

F. Determine the Post-Mining Use [Section 0180(5)(f)]

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

Findings: Mining will be allowed. This is not Class I, II, nor Unique farmland. The post-mining use will be forest land, which will require the applicant to replant with native or

commercial tree species. This property is zoned Multi-Purpose Agriculture, and forest use is permitted outright in this zone. The County will coordinate with DOGAMI.

Conclusion: The requirements of this section are met.

4. Future Conflicting Uses – Allow, Limit or Prevent

OAR 660-23-180(5) requires local governments to 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.

A. Identify Impact Area and Potential Future Conflicting Uses

OAR 660-023-0040(1-3) requires that local governments determine an impact area for each significant resource site and identify conflicting uses. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource.

OAR 660-23-040(2)(a) provides as follows: *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.)*

Findings: The impact area was defined above as 1500 feet from the subject property. This was the area identified in which mining activities could impact existing uses. The identified impacts from the quarry were discharges (noise, dust and stormwater) and traffic. With the aforementioned mitigation measures in place, the conflict with traffic is unexpected to rise to the level to make restricting future uses appropriate. However, future discharge-sensitive uses could therefore impact the quarry by creating conflicts. The 1500-foot impact area is appropriate for the analysis of conflicting uses at this step as well.

All surrounding land within the impact area is zoned either Exclusive Farm Use, Multi-Purpose Agriculture, or Forest Conservation. A large number of land uses are allowed within these zones. Most of the uses permitted outright in these zones are likely to be compatible with the variety of resource uses that occurs within resource zones – such uses including quarry-related activities. Permitted uses that do have a likelihood of conflicting with quarry activities include: dwellings, wineries, farm stands, and places of worship.

Additionally, there are a variety of uses that may be authorized through a conditional use permit. Of these, the uses which may be generally classified as commercial, recreational or civic have a likelihood of conflicting with quarry activities. Examples include commercial activities in conjunction with farm use; schools; home occupations; golf courses; campgrounds. The conditional use review process requires that, in order for a proposed use to be approved, the use must be found to “not significantly interfere with uses on adjacent properties....” A proposed use that is noise or dust sensitive would have an impact, through conflict, with a use that creates noise or dust, and such use would not be approved through the conditional use process.

Conclusion: A small group of permitted uses (dwellings, wineries, farm stands, and places of worship) would be future conflicting uses; a larger group of conditional uses could potentially be future conflicting uses, if the review of conditional use criteria were to not adequately consider the potential for future conflict between the noise or dust sensitive use and the quarry.

B. Analyze ESEE Consequences and Determine Whether to Allow, Limit, or Prevent Future Conflicting Uses

The analysis of Environmental, Social, Economic and Energy (ESEE) consequences that would result from prohibiting, limiting, or allowing conflicting uses on properties within the impact area examines the positive and negative consequences of permitting, limiting, or prohibiting the noise and dust-sensitive uses identified above.

OAR 660-023-0180(1)(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).*

Potential future conflicting uses that could occur in the impact area are the following uses

- a) permitted outright: dwellings, wineries, farm stands, and places of worship; and
- b) permitted conditionally: various commercial, recreational or civic uses.

From OAR 660-023-0040(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.

ESEE Analysis

	<i>Environmental</i>	<i>Social</i>	<i>Economic</i>	<i>Energy</i>
<i>Prohibit Conflicting Uses in the Impact Area</i>	Less development of rural lands would likely result in reductions in pollution, habitat fragmentation, stormwater runoff, and other negative impacts associated with development.	Reduced development opportunities would reduce property owners' options for activities they can carry out on their lands, possibly infringing on property rights and creating negative feelings in the area. Direct social conflicts between land uses and quarry uses would be minimized.	Several potentially money-generating activities for property owners would be off-limits, reducing owners' options to derive income. However, owners are less likely to suffer financial loss from establishing new uses that would conflict. Activities at the quarry site would be unimpeded by conflicting uses, resulting in less cost to taxpayers for road maintenance.	Most of the conflicting uses are uses that rely upon or serve a population. The subject area is remote; therefore, reduced options for such development could mean less energy use if such activities are instead sited closer to population centers. Lack of conflicting uses would help quarry operations to be as efficient as possible. The magnitude of these impacts is expected to be small.
<i>Limit Conflicting Uses in the Impact Area</i>	Limits may result in less development or merely modification to where uses are sited or the acknowledged expectations of the property owner relative to quarry-related activities occurring in the vicinity. If development is reduced, the positive environmental impacts would apply.	Limits could impair a property owner's ability to realize his/her vision for a property, which could create negative feelings – though likely less so than if conflicting uses were prohibited. On the other hand, limits could reduce the potential for social conflicts between the quarry and neighboring land owners	Potential for limiting the options of a property owner to generate income from his/her property. Taxpayers do not reap the full benefit of unimpeded quarry activities.	Limiting conflicting uses would mitigate the negative energy impact of allowing conflicting uses. Energy use related to rural development serving a distant population could be mitigated somewhat as well.
<i>Allow</i>	The habitat	Neighboring	Neighboring	Dealing with conflicts

Conflicting Uses in the Impact Area	fragmentation, stormwater runoff, pollution, and other negative impacts associated with development could occur.	property owners would enjoy more freedom in establishing and siting land uses. However, conflicts between the quarry and neighboring uses could be significant.	property owners would have broader opportunities to establish income-generating activities. However, conflicts could significantly increase the costs of operating the quarry.	with neighboring uses could increase the energy needed to operate the quarry, due to increased, smaller volume trips to the site, reduced operating hours, more start-up time per hour of operation, etc.
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Conclusion: The Board concludes that, given the environmental, social, economic and energy consequences of the three scenarios, **limiting conflicting uses is the ideal path.**

C. Develop a Program to Achieve Goal 5

To achieve the level of protection that was determined appropriate for the quarry through the ESEE analysis, the following limitations on conflicting uses would be adopted, affecting all properties within the impact area:

- A) New building permits or land use authorizations within the impact area will require that the property owner sign for recording in the County deed records for the property an acknowledgment of nearby quarry operations and agreeing to not bring legal action for quarry operations that are conducted consistent with current standards, in compliance with all required permits, and in compliance with the operating conditions of this approval.
- B) Conditional use requests within the impact area will be subject to the additional criterion that the proposed use will not force a significant change in, nor force a significant cost to, the approved quarry operations on the subject property.

5. Conclusions

The Board concludes that all the applicable criteria listed in OAR 660 Division 023 are satisfied.

VI. FINDINGS APPLYING OREGON ADMINISTRATIVE RULE 660 DIVISION 012 - TRANSPORTATION PLANNING RULE

660-012-0060

Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in

section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Findings: The provisions of the Transportation Planning Rule apply to a Comprehensive Plan amendment if the amendment would result in any of the above-listed effects. As discussed under traffic conflicts in Section V.3.C above, the applicant's traffic impact assessment and sight distance review determined there would be no notable adverse impacts to roadway or nearby intersection safety, and that level of service on the county and state roadway systems would not be degraded, remaining at the highest level. The increased volume of heavy trucks and equipment is expected to degrade the road surface; Benton County and ODOT will work cooperatively to have ODOT repair such damage.

Conclusion: The quarry will not result in a change in the functional classification or the standards implementing the functional classification, travel or access inconsistent with the functional classification, or any degradation in the performance of relevant transportation facilities. Therefore, **the Transportation Planning Rule does not apply.**

VII. CONCLUSIONS OF LAW

Based upon review of the applicable criteria and evidence submitted, the Board of County Commissioners concludes that the proposal complies with the applicable Oregon Administrative Rules, and that Benton County Development Code and Comprehensive Plan criteria for zone change and amendment of the Comprehensive Plan do not apply. The Board approves this application, amending the Comprehensive Plan to include the subject property as a protected

Goal 5 aggregate site and establishing the Surface Mining Overlay (SMO) and the regulations applicable within the SMO as listed in Section VIII.

VIII. SURFACE MINING OVERLAY REGULATIONS

The Surface Mining Overlay (SMO) established on the subject property and all land within 1,500 feet of the approved mining area shall be subject to the following regulations in addition to the regulations of the underlying zone.

A. On land within the Impact Area of the SMO, the following regulations (also known as **Impact Area Restrictions**) shall apply:

- 1) New building permits, agricultural building authorizations or land use authorizations within the impact area shall require that the property owner sign for recording in the County deed records for the property an acknowledgment of nearby quarry operations and agreeing to not bring legal action for quarry operations on the Mining Property that are conducted consistent with current standards, in compliance with all required permits, and in compliance with the operating conditions of this approval.
- 2) Conditional use requests within the impact area shall be subject to the additional criterion that the proposed use will not force a significant change in, nor force a significant cost to, the approved quarry operations on the Mining Property.

B. Within the Mining Property, the following conditions (also known as **Operating Conditions**) shall apply:

- 1) The operator shall adhere to all plans and statements as provided for in this application, except as otherwise specified herein, including but not limited to mining boundaries and setbacks, days and hours of operation, and aggregate washing, drying, milling, screening, crushing, or batching.
- 2) The site operator shall remain in compliance with all local, state, and federal agency permits or requirements, and shall retain copies of agency permits and documentation of compliance.
- 3) Fugitive dust shall be minimized in the extraction area. In no event shall dust exceed appropriate Department of Environmental Quality particulate matter standards beyond 1500 feet from the mining boundary.
- 4) Dust suppressants (for example, water) shall be used to control fugitive air particulate matter on the access road and project site, as needed to prevent dust reaching South Fork Road or the Alsea River.
- 5) Noise from the quarry operation, including all vehicles and equipment, shall comply with DEQ's noise standards.
- 6) Setbacks for all mining activity, including refueling equipment, stockpiling, blasting, excavating or processing, shall be a minimum of 50 feet from property lines and 100 feet from the top of banks of seasonal or year-round streams. Land within these setbacks may be used for access purposes by vehicles and equipment, but such incursions should be minimized.

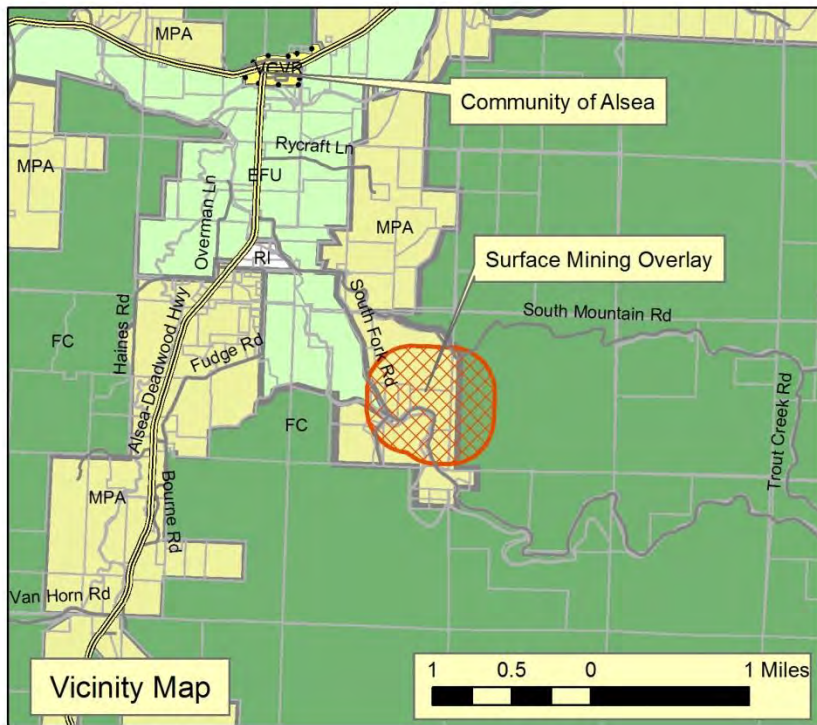
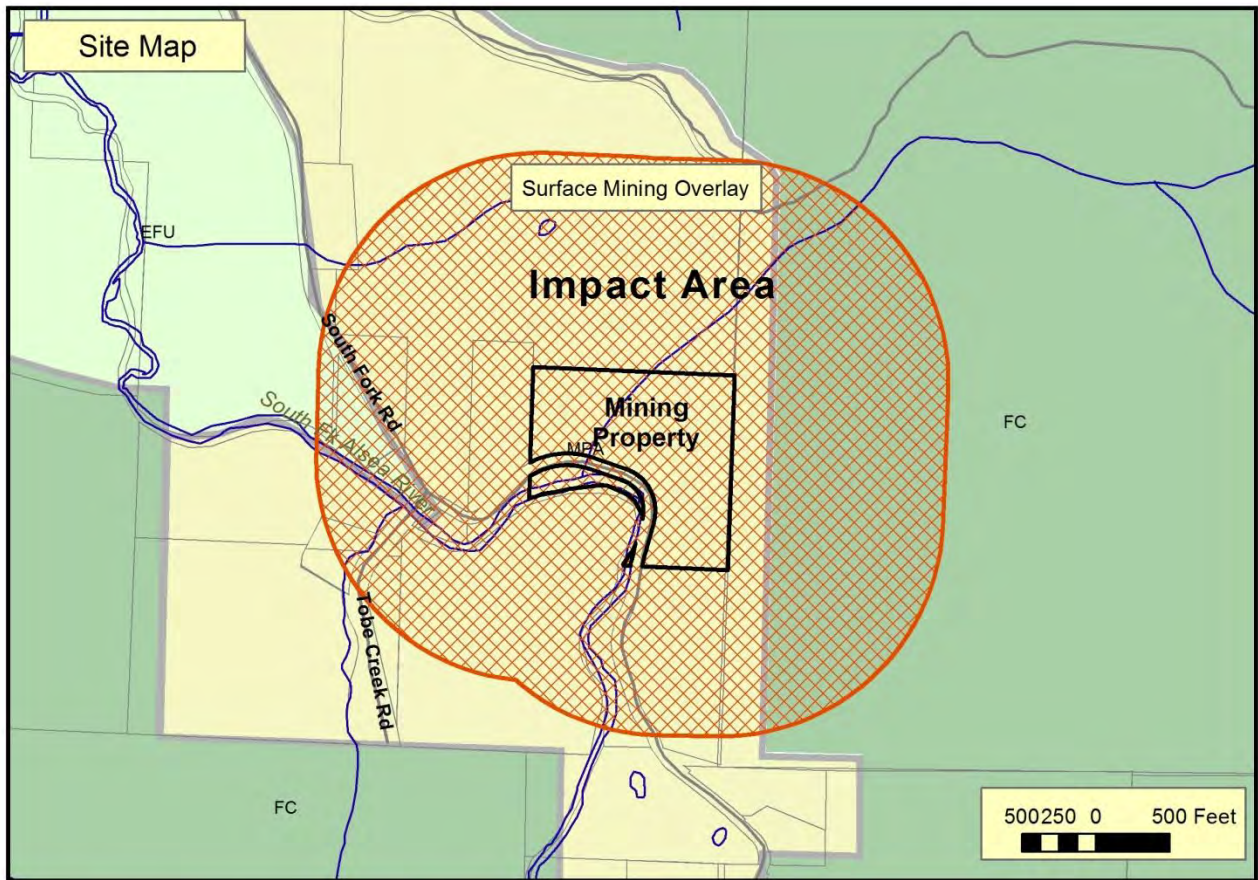
- 7) No quarry-related activity, including but not limited to mining, stockpiling, processing or parking of equipment or vehicles shall occur on the portion of the subject property located between South Fork Road and the South Fork of the Alsea River.
- 8) Hours of operation shall be limited to daylight hours, Monday through Friday, except in the case of emergency or when a project requires work outside of those hours for safety reasons.
- 9) Lighting of the site, if provided, shall be designed so as not to create glare for traffic on South Fork Road.
- 10) Blasting shall be conducted only during daylight hours, Monday through Friday, and only between September 15 and April 1 (or other nesting dates specified by Oregon Department of Fish and Wildlife).
- 11) The operator shall provide all residents within 1,500 feet of the subject property and, if requested by residents up to one mile, of proposed blasting activities at least 48 hours prior to blasting. The operator is encouraged to also notify interested owners of property located more than 1,500 feet from the subject property.
- 12) The following shall be implemented in coordination with, and to the extent authorized by, Benton County Public Works:
 - a) “Trucks Entering Roadway” signs shall be posted both west and east of the quarry during times of hauling material from the quarry. Additionally, when the quarry is not being used these signs shall be removed.
 - b) If the lower quarry face area is utilized, active flaggers and/or temporary road closures shall be used as necessary to ensure safety on South Fork Road.
 - c) Temporary road closures and/or signage adequate to warn drivers to expect blasting shall be placed during times when blasting could potentially affect drivers on the road.
- 13) Prior to each major project (as defined below) involving hauling rock on South Fork Road, the operator shall come to an agreement with Benton County Public Works regarding post-project repair of road wear and damage. Surveying, routine maintenance, or access to existing stockpiles shall not be considered major projects; “major projects” shall include blasting and crushing activities (including mobilization), asphaltic concrete production (batching), or hauling of 20 or more trips per day or hauling lasting more than 5 consecutive operating days.
- 14) During periods of quarry operation, portable self-contained sanitary facilities shall be provided and maintained on-site.
- 15) The operator shall:
 - a) Improve and maintain the berm between the lower quarry floor and South Fork Road to ensure that stormwater does not discharge from the quarry floor into the roadside ditch; and
 - b) Submit a stormwater control plan to DOGAMI, when required, and obtain and abide by a stormwater permit if such a permit is required. Provide a copy of the plan and permit to Benton County Community Development.

- 16) The operator shall prepare and implement a pollution prevention plan that:
 - a) Requires that refueling of equipment not be done within 100 feet of drainages;
 - b) Includes a spill contingency plan that is maintained on site while the quarry is in operation;
 - c) Addresses pollution from stationary engines and related drive mechanisms through means such as attaching drip pans;
 - d) Monitors condition of the quarry floor, parking and service areas, and clean up as necessary to minimize pollutant infiltration or runoff;
 - e) Requires that, prior to initiating activities on site, the operator shall inform all employees of the main concepts in the stormwater plan and the pollution prevention plan.
- 17) No mining shall occur until the operator has obtained a current operating permit from DOGAMI and has its reclamation plan approved by DOGAMI.
- 18) The site shall be reclaimed to forestry uses. Consistent with the foregoing, and unless otherwise specified in the DOGAMI operating permit, reclamation of the site shall include planting commercial conifer trees and/or native trees and other native seeds at a density to obtain either a reasonable stocking level of commercial timber or a native habitat type such as oak savanna. Any modifications to the reclamation plans submitted to DOGAMI shall be provided to the Benton County Community Development Department.
- 19) Progressive reclamation/rehabilitation shall be undertaken during the operation life of the quarry as extraction of each portion is completed, rather than all at the end unless otherwise specified in the DOGAMI operating permit.
- 20) As safety allows, the operator is strongly encouraged to allow non-profit organizations to remove native plants from areas that are expected to be negatively impacted by mining activities. One such organization is the Native Plant Society of Oregon (www.corvallis.npsoregon.org).
- 21) Whenever possible, stands of natural vegetation should be maintained, so as to preserve centers from which plants and soil microorganisms can spread into disturbed areas.
- 22) The operator is strongly encouraged to avoid land clearing activities during the peak nesting period from April 1 to August 1, as removal of trees with bird nests typically results in death of that generation of birds.

Exhibit 2

Amendments to the Benton County Comprehensive Plan

Add Surface Mining Overlay Zone as shown on the following map.



File No.
 LU-13-045
 Surface Mining Overlay

Subject Property:
 14-7-18 Tax Lot 1000

Applicant:
 Oregon Dept. of
 Transportation



**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY
STATE OF OREGON**

In the Matter of Amending the Benton) ORDINANCE No. 2014-0262
County Comprehensive Plan to)
Correct a Scrivener's Error in the)
Inventory of Mineral and Aggregate)
Sites.)

WHEREAS, the Benton County Comprehensive Plan inventory of Mineral and Aggregate Sites, originally adopted in 1982 by Ordinance 25, identified as "significant" a quarry site in Township 14 South, Range 7 West, Section 18, owned by the Oregon State Highway Division, and shown on the accompanying map at the location that is currently identified as Tax Lot 1000 of Assessment Map 14-7-18; and

WHEREAS, in 1993, in response to an order by Oregon Land Conservation and Development Commission requiring Benton County to "Incorporate the six newly identified aggregate extraction sites into the comprehensive plan inventory as a special category..." Benton County adopted Ordinance 93-0102, adding six sites to the inventory as "Potentially Significant"; and

WHEREAS, Ordinance 93-0102 lists as one of the six sites the Rex Pit, DOGAMI Permit Number 0033, and further identifies this site as Assessment Map 14-7-18 Tax Lot 1000; and

WHEREAS, the Board of Commissioners has reviewed the available information and determined that the Assessment Map and Tax Lot number listed in Ordinance 93-0102 is a scrivener's error and that the correct Assessment Map and Tax Lot number for the Rex Pit is 14-5-16 Tax Lot 700; and

WHEREAS, the Benton County Comprehensive Plan, "Procedure for Amending the Comprehensive Plan" states:

If the Board of Commissioners becomes aware of an error in either map or text of the adopted Comprehensive Plan, the Board may cause an immediate amendment to occur to correct the error. Such a correction shall be in the form of an ordinance. Public hearings before the Planning Commission shall not be required where an amendment is intended specifically to correct an error.

and

WHEREAS, the Board of County Commissioners has determined that an error exists in the text of the Comprehensive Plan.

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NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY ORDAINS AS FOLLOWS:

- PART I:** Short Title. Amendment to the Benton County Comprehensive Plan to Correct a Scrivener's Error.
- PART II:** Authority. The Board of County Commissioners of Benton County has authority to amend the Comprehensive Plan pursuant to ORS Chapter 215, the Benton County Charter, and the Benton County Comprehensive Plan.
- PART III.** The Comprehensive Plan Inventory of Mineral and Aggregate Sites, in the category of Sites Deemed "Potentially Significant," is hereby amended to identify the location of the Rex Pit (DOGAMI Permit No. 0033) as T14S-R5W-Sec. 16 Tax Lot 700.

The effective date for these amendments will be:

First Reading: May 6, 2014

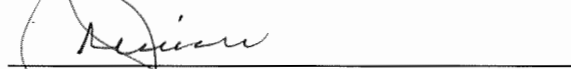
Second Reading: May 20, 2014

Effective Date: June 19, 2014

BENTON COUNTY BOARD OF COMMISSIONERS



Linda Modrell, Chair

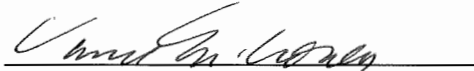


Jay Dixon, Commissioner



Annabelle Jaramillo, Commissioner

Approved as to Form:



Vance M. Croney, County Counsel



Kevin Perkins, Recording Secretary