Oregon
Kate Brown, Governor

Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540
Phone: 503-373-0050
Fax: 503-378-5518
www.oregon.gov/LCD

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

Date: December 04, 2015

Jurisdiction: Deschutes County

Local file no.: PA-04-8, ZC-04-6

DLCD file no.: 016-04

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/03/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 82 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

016-04 {13642}

FORM 2

DLCD Notice of Adoption

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

DATE STAMP

☐ In person ☐ electronic ☐ mailed

DEPT OF

DEC 03 2015

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: Deschutes County

Local file number: PA-04-8, ZC-04-6

Date of Adoption: November 23, 2015

Date Mailed: December 1, 2015

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".

Plan Amendment to revised the mineral and aggregate resource inventory for Deschutes County, and redesignating certain property from Agricultural to Surface Mining. Zone Change from Exclusive Farm Use (EFU-HR) to Surface Mining (SM).

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from: Agriculture to: Surface Mining

Zone Map Changed from: Exclusive Farm Use to: Surface Mining

Location: Assessor's Map 19-15, 902, 1000, 1001 Acres Involved: 365

Specify Density: Previous: New:

Applicable statewide planning goals:

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

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

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. _____

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

Oregon Department of Fish and Wildlife, Bureau of Land Management, Oregon Department of Geology and Mineral Industries.

Local Contact: Paul Blikstad, Senior Planner Phone: (541) 388-6554 Extension:

Address: 117 NW Lafayette Fax Number: 541-385-1764

City: Bend, OR Zip: 97701 E-mail Address: paul.blikstad@deschutes.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**.

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 23, the Deschutes County Comprehensive Plan, to Revise the Mineral and Aggregate Resource Inventory for Deschutes County, and Redesignating Certain Property from Agricultural to Surface Mining.	* * * * * *	ORDINANCE NO. 2015-021

WHEREAS, 4-R Equipment, LLC proposed a Plan Amendment (file no. PA-04-8) to the Deschutes County Comprehensive Plan, to redesignate certain property from Agriculture to Surface Mining; and

WHEREAS, the Deschutes County Board of Commissioners (Board), after review conducted in accordance with applicable law, approved the proposed amendment to the Comprehensive Plan, and adding the site to the County's Mineral and Aggregate Resource Inventory; and

WHEREAS the Board's decision was not appealed; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Section 23.01.010, Introduction, is amended to read as described in Exhibit "A" attached and incorporated by reference herein, with new language underlined.

Section 2. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit "B," attached and incorporated by reference herein with new language underlined.

Section 3. AMENDMENT. Deschutes County Comprehensive Plan is hereby amended to add the subject property to the County's Mineral and Aggregate Resource Inventory, and change the Comprehensive Plan designation of the subject property, described as tax lots 902, 1000 and 1001 in Section 30 of Township 19 South, Range 15 East, Willamette Meridian, and as further described by the legal description attached hereto as Exhibit "C" and the map set forth as Exhibit "D," and the Surface Mining Inventory list for the County, attached hereto as Exhibit "E," by the reference incorporated herein, from Agriculture to Surface Mining.

Section 4. FINDINGS. The Board adopts as it findings in support of this Ordinance, the Decision of the Board of County Commissioners, attached hereto and incorporated herein by this reference, as Exhibit "F."

///

Dated this 23rd of Nov., 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

ALAN UNGER, VICE CHAIR

ATTEST:

Recording Secretary

TAMMY BANEY, COMMISSIONER

Date of 1st Reading: 9th day of Nov., 2015.

Date of 2nd Reading: 23rd day of Nov., 2015.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	✓			
Alan Unger	✓			
Tammy Baney	✓			

Effective date: 22nd day of February 2016.

ATTEST:

Recording Secretary

Chapter 23.01 COMPREHENSIVE PLAN

Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.
(Ord. 2015-021 § 1, 2015; Ord. 2014-027 § 1, 2014; Ord. 2014-021 §1, 2014; Ord. 2014-12 §1, 2014; Ord. 2014-006 §2, 2014; Ord. 2014-005 §2, 2014; Ord. 2013-012 §2, 2013; Ord. 2013-009 §2, 2013; Ord. 2013-007 §1, 2013; Ord. 2013-002 §1, 2013; Ord. 2013-001 §1, 2013; Ord. 2012-016 §1, 2012; Ord. 2012-013 §1, 2012; Ord. 2012-005 §1, 2012; Ord. 2011-027 §1 through 12, 2011; Ord. 2011-017 repealed; Ord.2011-003 §3, 2011)

Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.11.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-23-15/2-2-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.

Property Description
4-R Equipment LLC

EXHIBIT C

All that portion of Section 30, Township Nineteen (19) South, Range Fifteen (15) East of the Willamette Meridian, Deschutes County Oregon lying southerly of US Highway 20 being more particularly described as follows:

Government Lot 2; Government Lot 3; the Southeast One-Quarter of the Northwest One-Quarter (SE1/4 NW1/4); the Northeast One-Quarter of the Southwest One-Quarter (NE1/4 SW1/4); the South One-Half of the Southwest One-Quarter (S1/2 SW1/4) and the Southeast One-Quarter, lying south of US Highway 20.

Excepting Therefrom: that portion conveyed to the State of Oregon, by and through its State Highway Commission, March 13, 1940 in Book 58, Page 381, Deed Records.

Also Excepting Therefrom: That property in the above described lands located in the Flood Plain Zone per Chapter 18.96, Deschutes County Zoning Ordinance.

Subject to: All easements, restrictions and right-of-ways of record and those common and apparent on the land.

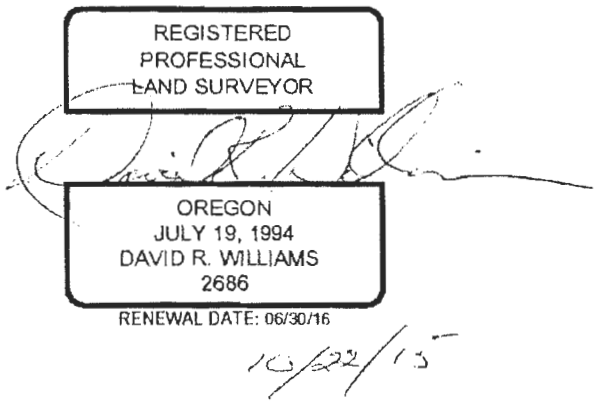
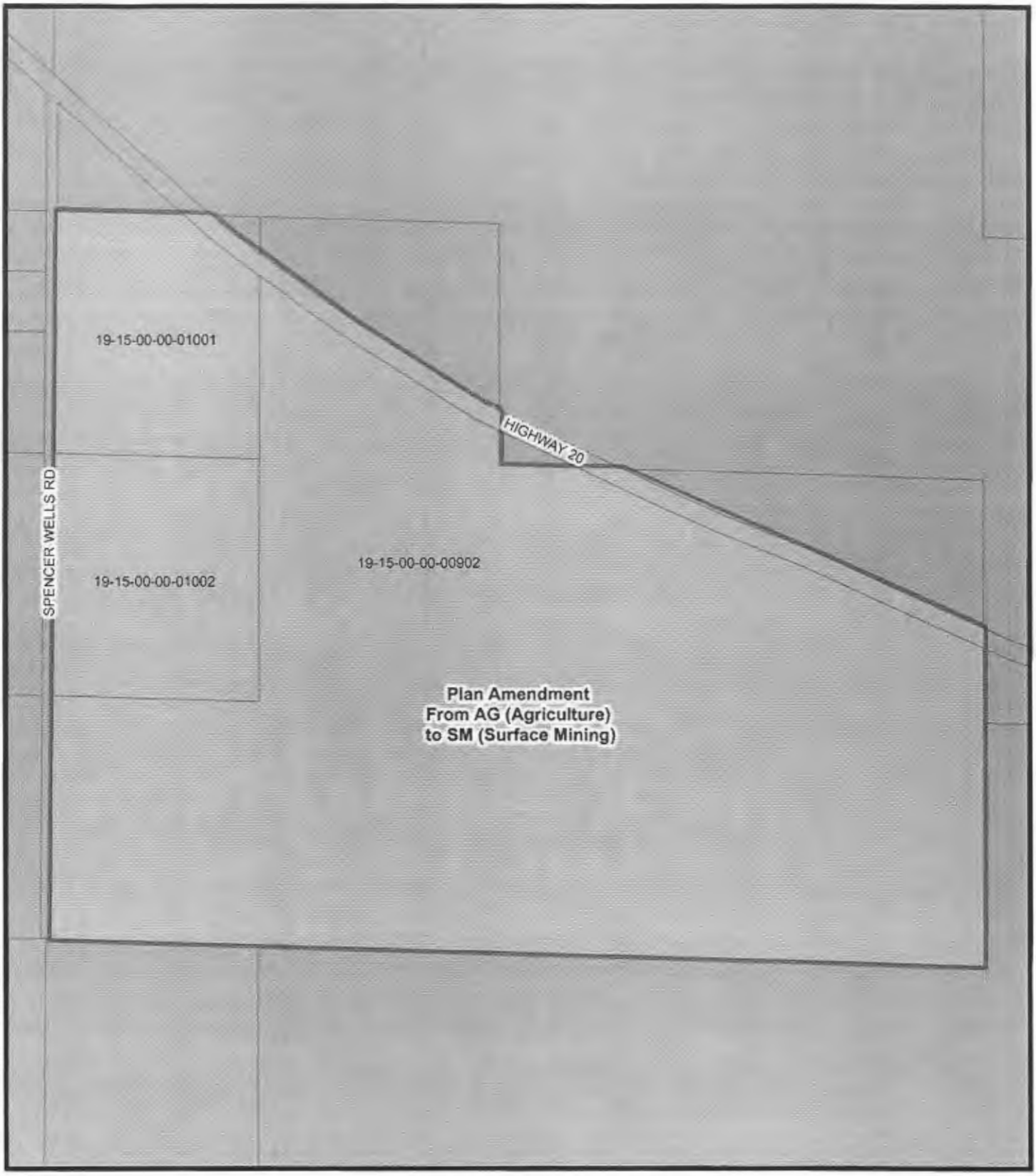


EXHIBIT "C" TO ORDINANCE 2015-021



PROPOSED PLAN AMENDMENT

4-R Equipment, LLC

Exhibit "D"
to Ordinance 2015-021

Legend

Subject Property

Comprehensive Plan Designation

AG - Agriculture

SM - Surface Mining

0 125 250 500 750 1,000 Feet

November 5, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Tony DeBone, Chair

Alan Unger, Vice Chair

Tammy Baney, Commissioner

ATTEST: Recording Secretary

Dated this 23 day of November, 2015
Effective Date: 2/22, 2016

Section 5.8 Goal 5 Inventory
Mineral and Aggregate Resources

Background

This section contains information from the 1979 Deschutes County Comprehensive Plan as revised. It lists the surface mining resources in Deschutes County. These inventories have been acknowledged by the Department of Land Conservation and Development as complying with Goal 5. No changes have been proposed for the 2010 Comprehensive Plan update.

Table 5.8.1 – Deschutes County Surface Mining Mineral and Aggregate Inventory

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
246	151010-00-00205, 207, 300, 302, 303	Tewalt	S & G	10,000	Good	Hwy 20
248	151012-00-00100	Cyrus	Cinders	30.2 M	Excellent	Cloverdale Road
251	151211-D0-01400, 151214-A0-00800	Cherry	S & G	125,000	Good	
252	151200-00-04700, 04701	Thornburgh	Rock	2.5 M	Good	
271	151036-00-00800	Deschutes County	S & G	2 M	Mixed	Harrington Loop Road
273	151117-00-00100	Deschutes County	S & G	75,000	Excellent	Fryrear Rd/Redmond-Sisters
274	151117-00-00700	Deschutes County	S & G		Excellent	Fryrear Road
275	151100-00-02400	Deschutes County	S & G	175,000	Good	Fryrear Landfill
277	151011-00-01100	Oregon State Hwy	S & G	100,000	ODOT Specs	
278	151140-A0-00901, 151211-D0-01200	State of Oregon	S & G	18,000	ODOT Specs	
282	171000-00-00100	Crown Pacific	Cinders	100,000	Fair	
283	171000-00-00100	Crown Pacific	Cinders	50,000	Fair	
288	171111-00-00700	Tumalo Irrigation	S & G	250,000	Good	
292	171112-00-00900	RL Coats	S & G	326,000	ODOT Specs	
293	17112-00-00500, 600, 700, 800	RL Coats	S & G	3 M	ODOT Specs	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
296	171100-00-02702	Crown Pacific	Cinders	100,000	Excellent	Shevlin Park/Johnson Rd
297	171123-00-00100	Crown Pacific	Cinders	60,000		Johnson Rd/Tumalo
303	171207-00-00300	Cascade Pumice	Pumice	750,000	Good	
303	171207-00-00300	Cascade Pumice	S & G	10,000	Good	
313	171433-00-00600	Deschutes County	S & G	100,000	Good	
313	171433-00-00600, 120	Deschutes County	Storage			Dodds Road/Alfalfa
314	171332-00-01100	Deschutes County	Dirt	150,000	Good	
315	140900-00-02100	Stott	Rock	93,454 tons	ODOT Specs	Highway 20
316	140900-00-00202	Black Butte Ranch	S & G	7 M	Good	
317	140900-00-01300	Willamette Ind	Cinders	1.2 M	Good	
322	141200-00-01801	Fred Gunzner	S & G	1.5 M	Mixed	Lower Bridge/Terrebonne
322	141200-00-01801	Gunzner	Diatomite	500,000	Good	Lower Bridge/Terrebonne
324	141200-00-00702	ODVA	S & G	490,000	Good	Lower Bridge/Terrebonne
326	141236-00-00300, 301	US Bank Trust	S & G	1.5 M	Good	
330	141328-00-00702, 703	Larry Davis	Cinders	50,000	Good	
331	141329-00-00100, 103	EA Moore	Cinders	100,000	Good	
332	141329-00-00102	RL Coats	Cinders	2 M	Good	Northwest Way/Terrebonne
333	141329-00-00104	Robinson	Cinders	2.7 M	Good	
335	141333-00-00890	Erwin	Cinders	100,000	Excellent	Pershall Way/Redmond
336	141333-00-00400, 500	US Bank Trust	Cinders	4.5 M	Good	Cinder Butte/Redmond
339	141132-00-01500	Deschutes County	Dirt	200,000	Fill	Goodard Loop/Bend
341	161000-00-00106	Young & Morgan	S & G	1 M	Good	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
342	220900-00-00203	Crown Pacific	Cinders	200,000	Good	
345	161000-00-01000	Crown Pacific	Cinders	50,000	Good	
346	161000-00-01000	Crown Pacific	Cinders	50,000	Good	
347	161101-00-00300	Deschutes County	Dirt	10,000	Good	
351	161112-00-01401, 1700, 2000	Gisler/Russell	Cinders	150,000	Good	Innes Mkt/Innes Butte
357	161136-D0-00100, 161100-00-10400, 10300	Tumalo Irrigation	Cinders	1 M		Johnson Road/Tumalo
357	161136-D0-00100, 161100-00-10400, 10300	Tumalo Irrigation	S & G	500,000	Good	
357	161136-D0-00100, 161100-00-10400, 10300	Tumalo Irrigation	Pumice	500,000	Good	
358	161231-D0-01100	Gisler	S & G	100,000	ODOT Specs	Hwy 20/Tumalo
361	161222-C0-02800	Oregon State Hwy	Cinders	700,000	Good	
366	161230-00-00000	Oregon State Hwy	S & G	40,000	ODOT Specs	
368	161220-00-00200	Bend Aggregate	S & G	570,000	Excellent	Twin Bridges/Tumalo
370	161231-D0-00400	Bend Aggregate Plant Site	Storage			
379	181100-00-01600	Oregon State Hwy	S & G	500,000	ODOT Specs	
381	181125-C0-12600, 181126-00-01600	Pieratt Bros	Cinders	50,000	Good	
390	181214-00-00500, 100	Deschutes County	Dirt	2 M		Landfill
391	181221-00-00200	Central OR Pumice	Cinders	500,000	Good	
392	181223-00-00300	Rose	Rock	10 M Est	Mixed	
392	181223-00-00300	Rose	Dirt	7.5 M	Good	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
393	181225-00-01400	LT Contractors	Cinders	12.5 M	Good	Arnold Mkt Rd/SE of Bend
394	181200-00-04400, 04411	Windlinx	Cinders	270,000	Coarse	Hwy 97/South of Bend
395	181200-00-04300	Oregon State Hwy	Cinders		100,000	Good
400	181300-00-04501, 04502	Eric Coats	S & G	2.5 M	ODOT Specs	
404	191400-00-00200	Moon	S & G	1.3 M	Good	
404	191400-00-00200	Moon	Rock	800,000 - 2 M	Good	Hwy 20/East of Bend
405	191400-00-00600	Oregon State Hwy	Aggregate	50,000	ODOT Specs	
408	191600-00-01500	RL Coats	S & G	3 M	Good	
413	201500-00-01400	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
414	201500-00-01500	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
415	201716-00-00700	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
416	201716-00-00200	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
417	201716-00-00900	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
418	201716-00-01000	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
419	201716-00-01300	Deschutes County	S & G	30,000	Good/Excellent	Hwy 20/East of Bend
421	212000-00-00900	RL Coats	S & G	500,000	Excellent	Hwy 20/Tumalo
423	211106-C0-00700	Ray Rothbard	S & G	100,000	Good	
426	211100-00-00702	La Pine Redi-Mix	S & G	1 M	Good	
427	211100-00-00701	Bill Bagley	S & G	40,000	Good	
431	221100-00-00600	Russell	Cinders/ Rock	12 M/1.2 M	Good	Finley Butte
432	221100-00-00500	State of Oregon	Cinders	160,000	Good	
433	211300-00-00101	La Pine Pumice	Lump Pumice	10 M	Excellent	
441	150903-00-00300	Willamette Ind	S & G	11 M	Good	
442	150909-00-00400	Willamette Ind	S & G	6 M	Good	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
443	150917-00-00600	Willamette Ind	Rock	150,000	Fair	
453	161209, 10-00-00600, 301	Robert Fullhart	S & G	704,000	ODOT Specs	
459	141131-00-05200	Deschutes County	Cinders	50,000	Good	
461	141200-1501, 1502,	Nolan	S & G	211,000	Does not meet ODOT specs	
461	141200-1501, 1502, 1600	Franklin Nolan	Diatomite	2 M	Good	
465	141333-00-00900	Oregon State Hwy	Cinders	100,000	Good	
466	141333-00-00600	Fred Elliott	Cinders	5.5 M	Good	
467	141333-00-00601	Knorr Rock Co	Cinders	5 M	Good	
469	141131-00-00100	Deschutes County	Cinders	2 M	Fair	
475	151012-00-00600	Deschutes County	Cinders	200,000	Good	Cloverdale Road
482	151300-00-00103	Deschutes County	Dirt	2 M	Good	Negus Landfill
488	161230-00-00100, 600, 2000, 2100	Bend Aggregate	S & G	400,000	ODOT Specs	
496	191400-00-00500	Taylor	S & G	1.8 M	Mixed	Hwy 20
498	191400-00-02200	Oregon State Hwy	S & G	200,000	ODOT Specs	
499	191533-00-00200	Oregon State Hwy	S & G	50,000	ODOT Specs	
500	191500-00-00099	Oregon State Hwy	S & G	130,000	ODOT Specs	
501	191500-00-01600	Oregon State Hwy	S & G	50,000	ODOT Specs	
503	191600-00-01300	Oregon State Hwy	S & G	200,000	ODOT Specs	
505	201600-00-00400	Oregon State Hwy	S & G	275,000	ODOT Specs	
506	201600-00-00600, 700, 800	Oregon State Hwy	S & G	36,000	ODOT Specs	
508	201700-00-01000	State of Oregon	S & G	100,000	ODOT Specs	
515	201801-00-00100	Oregon State Hwy	S & G	100,000	ODOT Specs	

#	Taxlot	Name	Type	Quantity*	Quality	Access/Location
522	211900-00-01000	Oregon State Hwy	S & G	300,000	ODOT Specs	
524	212000-00-01900	Oregon State Hwy	S & G	300,000	ODOT Specs	
528	222110-00-00600	Oregon State Hwy	S & G	45,000	ODOT Specs	
529	221100-00-00300	Oregon State Hwy	S & G	31,000	ODOT Specs	
533	222100-00-00800	Oregon State Hwy	S & G	1 M	ODOT Specs	
541	141035-00-02000, 2100, 2200, 2300, 2400, 2500, 2600	Cyrus	Aggregate	528,000	Good	Inc Portions of TL 1800/1900
542	151001-00-02700	Swarens	Aggregate	80,000	Good	
543	151013-00-00100	Cyrus	Aggregate	1.1 M	Good	
600	191400-00-00700	Robinson	S & G	3.8 M	Good	Hwy 20/East of Bend
601	211100-00-00700	La Pine Redi Mix	S & G	479,000	DEQ Specs	Paulina Lake Road
	191500-00-902, 1000, 10001	4-R Equipment	Aggregate	17M	ODOT Specs	Highway 20/Spencer Wells Road

* Quantity in cubic yards unless otherwise noted

Source: 1979 Deschutes County Comprehensive Plan as revised

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

DECISION OF THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY

FILE NUMBER:	PA-04-8/ZC-04-6 (LUBA 2010-082, LUBA 2008-189, LUBA 2007-014)
APPLICANT:	4-R Equipment, LLC c/o Bryant, Lovlien & Jarvis, P.C. 591 SW Mill View Way Bend, OR 97702
PROPERTY OWNER:	4-R Equipment, LLC P.O. Box 5006 Bend, Oregon 97708
REQUEST:	Plan Amendment and Zone Change for 365 acres from Exclusive Farm Use (EFU-HR/FP/LM/WA) to Surface Mining (SM).
PROPERTY:	57720, 57750 and 57600 Spencer Wells Road, Deschutes County Assessor's Tax Map 19-15-00, Tax Lots: 902, 1000, and 1001, Deschutes County, Oregon.
STAFF CONTACT:	Paul Blikstad, Senior Planner
HEARING DATE:	November 12, 2014

I. SUMMARY OF DECISION:

In this decision, the Board of County Commissioners of Deschutes County, Oregon ("Board") resolves two issues remanded by the Oregon Land Use Board of Appeals ("LUBA") through its decision in LUBA 2010-082 concerning the above referenced zone change and plan amendment application.

The subject application proposes a zone change and comprehensive plan amendment to re-zone and re-designate approximately 365 acres in the Millican Valley from Exclusive Farm Use-Horse Ridge Subzone ("EFU-HR") to Surface Mining ("SM"). The Subject Property is also subject to a Flood Plain ("FP"), Landscape Management ("LM"), and Wildlife Area Combing Zone. The Applicant intends to develop a surface mine for the production of aggregate from basalt deposits on the Subject Property.

DC 2015-041

EXHIBIT "F" TO ORDINANCE 2015-021

This is the fourth time that this application has come before the Board. The Board first approved the application in December 27, 2006. It was then subject to three separate appeals to and remands from LUBA. The LUBA appeals concerned a host of issues including effects on agriculture, effects on wildlife, sage grouse leks, and cultural resources. In the most recent LUBA appeal, which was filed by adjacent ranchers Keith and Janet Nash, LUBA remanded the Board's third approval of the application and provided the following directive:

> To summarize, remand is again necessary for (1) the county to expand the impact area to include the Flat Pasture or to identify substantial evidence in the record that supports its decision to limit the impact area to one-half mile from the proposed mine; and (2) to evaluate any conflicts with [the Nashs'] agricultural operations in the impact area that the county designates, including whether the proposed mine would cause sage grouse to abandon the area and seek winter habitat on [the Nashs'] other allotments. (LUBA 2010-082 at p.11-12)

As is set out below, the Board once again approves the application on remand.

II. APPLICABLE CRITERIA:

The applicable criteria are set out in prior Board decisions, which are incorporated herein by reference. The procedural requirements for a LUBA remand are set out in DCC Chapter 22.34.

III. PROCEDURAL HISTORY:

As briefly noted above, the subject application has been approved locally three different times through the following written decisions by the Board: (1) Document No. 2006-609 (December 27, 2006), (2) Document No. 2008-536 (October 1, 2008), and (3) Document No. 2010-570 (September 1, 2010). Each decision resulted in an appeal and subsequent remand by LUBA. The BOCC's third decision was appealed to LUBA by the Nashs (LUBA No. 2010-082). LUBA issued a Final Opinion and Order on February 5, 2011 remanding the County's third approval.

On September 25, 2014, the Applicant requested the Planning Division to initiate the remand process and schedule a public hearing. At its November 5, 2014 work session, staff briefed the Board on the application and remand process. The Board then held a public hearing on the LUBA remand on November 12, 2014. The Board kept the record open until November 24, 2014 for additional testimony and provided the Applicant until December 1, 2014 to submit final argument. On December 15, 2014, the Board conducted deliberations on the Application.

///

IV. FINDINGS OF FACT AND CONCLUSION OF LAW SPECIFIC LEGAL ISSUES:

CHAPTER 22.34 PROCEEDINGS ON REMAND

22.34.020. Hearings Body.

> **The Hearings Body for a remanded or withdrawn decision shall be the Hearings Body from which the appeal to LUBA was taken, except that in voluntary or stipulated remands, the Board may decide that it will hear the case on remand. If the remand is to the Hearings Officer, the Hearings Officer's decision may be appealed under DCC Title 22 to the Board, subject to the limitations set forth herein.**

FINDINGS: The remand originated from an appeal of a decision of the Board. Therefore, the Board is the Hearings Body for this remand.

22.34.030. Notice and Hearings Requirements.

> **A. The County shall conduct a hearing on any remanded or withdrawn decision, the scope of which shall be determined in accordance with the applicable provisions of DCC 22.34 and state law. Unless state law requires otherwise, only those persons who were parties to the proceedings before the County shall be entitled to notice and be entitled to participate in any hearing on remand.**
>
> **B. The hearing procedures shall comply with the minimum requirements of state law and due process for hearings on remand and need comply with the requirements of DCC 22.24 only to the extent that such procedures are applicable to remand proceedings under state law.**
>
> **C. A final decision shall be made within 90 days of the date the remand order becomes effective.**

FINDINGS: The hearing on appeal was conducted before the Board in accordance with the applicable provisions of DCC Chapters 22.24 and 22.34 and the requirements of due process and state law although several parties participated in the proceedings on remand that had not participated in the prior proceedings before the Board. All parties to the proceedings on Applicant's application prior to remand were given adequate notice of, and were allowed to participate in, the remand. A final decision is being made within 90 days of the date the remand order became effective, as extended by Applicant pursuant to ORS 215.435(2)(b).

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22.34.040. Scope of Proceeding.

A. **On remand, the Hearings Body shall review those issues that LUBA or the Court of Appeals required to be addressed. In addition, the Board shall have the discretion to reopen the record in instances in which it deems it to be appropriate.**

FINDINGS: The Board limited its review to only those issues required to resolve the LUBA remand. However, this decision addresses several unrelated or previously resolved issues only to demonstrate that such issues were not within the scope of the remand or, to the extent such issues might be construed as within the scope of the remand, to demonstrate that they do not prevent approval of the application on remand. The Board deemed it appropriate to reopen the record to resolve the remand.

B. **At the Board's discretion, a remanded application for a land use permit may be modified to address issues involved in the remand or withdrawal to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors. Any greater modification would require a new application.**

FINDINGS: The application has not been modified. The Applicant did address instances in the record that suggested mining activities would only take place from November to February. According to the Applicant, references to this time period were meant to indicate when mining operations are most likely to occur because this is when workers, who are usually employed in construction activities for the remainder of the year, are generally available. The Board considers Applicant's submission to constitute a mere clarification and not a modification.

C. **If additional testimony is required to comply with the remand, parties may raise new, unresolved issues that relate to new evidence directed toward the issue on remand. Other issues that were resolved by the LUBA appeal or that were not appealed shall be deemed to be waived and may not be reopened.**

FINDINGS: The Board found that additional testimony was appropriate to address the issues on remand. As identified above, many issues unrelated to the remand or previously resolved were raised by participants in the instant remand proceedings both on their own initiative and in apparent response to the new evidence provided by the Applicant. Such unrelated or previously resolved issues are only addressed in this decision to demonstrate that such issues were not within the scope of the remand or, to the extent such issues might be construed as within the scope of the remand, to demonstrate that they do not prevent approval of the application on remand.

///

FIRST REMAND ISSUE:

LUBA described the first issue on remand as follows:

> [T]he county [must decide] to expand the impact area to include the Flat Pasture or [] identify substantial evidence in the record that supports its decision to limit the impact area to one-half mile from the proposed mine. (LUBA 2010-082 at p.11-12)

Prior LUBA decisions have expressly determined that the half mile impact area need not be expanded on account of sage grouse leks, sage grouse flight paths to leks, the Walker residence, and un-surveyed archaeological resources.[1] With the exception of potential conflicts with agriculture beyond the half mile impact area, all other bases to expand the impact area beyond one-half mile have been previously resolved or have been waived. Moreover, as the Board understands LUBA's directive, potential conflicts with agriculture outside of the impact area are specifically limited to whether or not to expand the impact area based on conflicts with agricultural practices on the Flat Pasture.[2] As discussed herein, the Board finds that there are no potential conflicts with agriculture beyond the impact area that justify an expansion of the impact area to include the entire Flat Pasture.

As a preliminary matter, it must be acknowledged that there are two Flat Pastures in the general vicinity of the proposed mine. The Leslie Ranches Coordinated Resource Management Plan is an overarching plan that governs grazing on BLM property in and around the Millican Valley. The plan governs several "allotments," which are in turn comprised of several pastures. Documentation submitted by the Applicant indicates that one Flat Pasture is located within the Millican allotment and a second Flat Pasture is located within the Horse Ridge allotment. It appears that the two Flat Pastures have been conflated at various times throughout the record, particularly with regard to grazing seasons. The Horse Ridge Flat Pasture is the only Flat Pasture that shares a common boundary with the subject property. The Nashes held grazing rights on the Horse Ridge Flat Pasture and were permitted to graze cattle on that property from November 1 to December 15[3] of each year. The Nashs' grazing rights on the Horse Ridge Flat Pasture have since been conveyed to Stephen Roth, who is subject to the same grazing season. The Board understands the Horse Ridge Flat Pasture as the Flat Pasture

[1] The ODFW letter dated November 24, 2014 appears to only address these issues as the letter makes little to no connections to its concerns and agricultural practices.

[2] LUBA specifically rejected attempts to argue that areas outside of the half mile impact area other than the Flat Pasture because such arguments could have been raised in prior proceedings, but were not. (LUBA 2010-082 at p.10)

[3] There is prior testimony for Nashs that the BLM curtailed grazing on the Flat Pasture to provide additional winter sage grouse habitat. Mr. Borine has asserted that the Nashs voluntarily adjusted the season of use for the Flat Pasture to allow for logical movements of cattle as they transition between pastures. Whatever the reason for the change, it is apparent from Mr. Roth that he is not concerned that sage grouse will lead to a reduction of grazing rights on the Horse Ridge Flat Pasture. As the current holder of the grazing rights on the Horse Ridge Flat Pasture, and without the BLM indicating their opinion, we find Mr. Roth's testimony more compelling than conflicting testimony.

referenced by LUBA. However, as indicated below, it makes no difference which Flat Pasture is at issue because the Board finds that there are no conflicts with agriculture that justify expanding the impact area beyond the one-half mile radius.

In prior testimony, the Nashs indicated that noise and other impacts from mining operations would cause cattle to move to more distant locations from the proposed mine thus over-grazing those areas and resulting in increased costs. The Nashs also previously provided testimony suggesting that noises and other impacts comparable to those potentially produced by the proposed mine have resulted in livestock either losing weight or impeding normal weight gain thus producing a financial loss or decreased profits. Other participants have also suggested that noise, dust, traffic, and other potential externalities may conflict with agriculture outside of the half-mile area.

Neither Keith nor Janet Nash participated in the present remand proceedings. Moreover, the Nashs have since transferred their grazing rights on the Horse Ridge Flat Pasture to Stephen Roth. Mr. Roth, a full-time rancher, testified at the November 12, 2014 hearing and also provided prior written testimony. His testimony indicates that he has prior experience grazing cattle in proximity to mining operations including another mine operated by the Applicant. From these experiences, Mr. Roth does not find any conflicts between surface mining and agricultural practices and in particular his use of the Horse Ridge Flat Pasture. Further, he has entered into an agreement to graze cattle on buffer property adjoining the Subject Property owned by the Applicant.[4]

While the Nashs' prior testimony, and certain other testimony in the record, conflicts with Mr. Roth's testimony, the Board finds Mr. Roth credible and that his testimony constitutes substantial evidence. The Board further finds that Mr. Roth's testimony is more compelling than all other conflicting testimony because he is the current holder of Horse Ridge Flat Pasture grazing rights and appears to be the closest agricultural operator on both public and private property to the proposed mine site.[5] As Mr. Roth's testimony indicates there are no conflicts between agricultural operations either in close proximity to the proposed mine or outside of the half mile impact area on either the Horse Ridge Flat Pasture or other lands. Furthermore, the Board has imposed several conditions of approval to mitigate noise, dust, traffic and other impacts such that the proposed mine should not conflict with agricultural practices beyond the half mile impact

[4] Clay and Tammie Walker question whether this testimony is permissible because noise effects on livestock were resolved in prior proceedings. The Board is unaware of when that issue was resolved and the Walkers do not point to anything specific in the record. In any event, Mr. Roth's testimony in regards to noise impacts at close proximity is responsive to the issue of whether the impact area should be expanded. Specifically, if there is no conflict at close proximity, it follows that there is no conflict at greater distances as impacts should decline with distance.

[5] There is argument from the Walkers that seems to imply that the BLM is an agricultural operator, presumably because it owns the land on which agriculture occurs. While arguably so, there is no testimony from the BLM indicating that the proposal conflicts with its agricultural operations. Moreover, to the extent that future grazing lease holders may be harmed by the proposed mine because it may cause a future reduction in grazing rights, the Board finds that argument too speculative. This theory also conflicts with the testimony of Mr. Roth who, besides from the BLM, is in the best position to evaluate potential consequences to grazing rights in the area as the current lease holder.

area. Accordingly, the Board finds no justification to expand the impact area on account of agricultural conflicts.

The Board also finds support for its determination not to expand the impact area on account of potential conflicts with agriculture in the testimony provided by Roger Borine. Mr. Borine submitted additional written testimony in the instant proceedings pertaining to grazing practices on the Horse Ridge Flat Pasture and the effects of sound on livestock. The letter submitted by Mr. Borine indicates that certain management techniques are not used on the portion of the Horse Ridge Flat Pasture adjacent to the proposed mine to attract cattle to that location. Rather, techniques such as watering and the feeding of hay occur on the southwestern portion of the Horse Ridge Flat Pasture, a considerable distance from the proposed mine. Accordingly, impacts from the mine should not cause cattle to over utilize other portions of the Horse Ridge Flat Pasture because existing management techniques already draw cattle away from the mine and the feeding of hay mitigates overgrazing of natural vegetation.

Relying on a site-specific sound study previously submitted by the Applicant, Mr. Borine notes that noise from blasting activities reaches near ambient noise levels at 1,500 feet. Accordingly noise impacts should be negligible outside of the half-mile impact area. Some testimony in the record indicates that colder weather and the geological makeup of the Millican Valley will amplify and/or cause noise to carry further than it might in other settings. This testimony lacks the empirical data supplied by the Applicant's noise study and thus the Board finds such testimony less compelling. Accordingly, the Board finds that noise impacts, whether to agriculture or any other uses, resources, structures, or people, do not justify an expansion of the analysis area beyond the one-half mile impact area. The Board notes that noise impacts within the impact area have already been addressed and several conditions of approval have been imposed to mitigate such impacts. These conditions further support the Board's decision to not expand the impact area beyond one half mile.

SECOND REMAND ISSUE:

LUBA described the second remand issue as follows:

> On remand, the county should consider, in determining whether the proposed mine conflicts with *petitioners'* agricultural operations, effects of the proposed mine on sage grouse that winter in the impact area and the possibility that such effects could lead to a reduction in lands available for grazing for *petitioners'* cattle. (LUBA 2010-082 at p.11).

At the outset, the Board finds that only the Nashs or Stephen Roth have standing to address this issue given DCC 22.34.030 and LUBA's specific reference to impacts on the Nashs in its directive to the County. Neither Keith nor Janet Nash participated in the instant proceedings and most other parties testifying on sage grouse had not participated in the prior proceedings. In the alternative, the issue may be moot because the Nashs did not participate in the instant proceedings, the Nashs sold most of their

land interests to Stephen Roth (including the disputed Horse Ridge Flat Pasture), there is no evidence in the record that the Nashs still own cattle or run an agricultural operation, and Mr. Roth has expressed support for the proposal.

In any event, the Board finds that the proposed mine does not conflict with agricultural practices, of any kind or location, on account of the possibility that the proposed mine could cause sage grouse to relocate to areas that create conflicts with agricultural practices.

The Board notes that the question posed by LUBA does not concern impacts to leks, migration patterns, other direct impacts on sage grouse, or impacts of relocating sage grouse to agricultural operations other than the Nashs' operation and cattle. Such issues were resolved in previous appeals or have been waived. This remand question is narrowly focused on whether the proposed mine "conflicts with agricultural practices" through the mutually intertwined relationship with sage grouse. As LUBA previously noted, this theory rests on several speculative causal links. To deny the application on this theory, the Board would have to find that all of the following are supported by substantial evidence: (1) there are sage grouse in the area at all and specifically wintering sage grouse, (2) mining activities as opposed to other activities would cause the wintering sage grouse to relocate (3) the wintering sage grouse would relocate to areas used or formerly used by the Nashs for grazing, (4) the wintering sage grouse and the Nashs' cattle grazing could not co-exist if sage grouse relocation occurred, and (5) the conflict between the wintering sage grouse and the Nashs' cattle grazing would create such a conflict that the BLM would (and not simply consider) curtail the availability of grazing lands for the Nashs.

There are several pieces of evidence in the record that undermine one or more of the links in this speculative theory. Most notably, the Nashs' sold most of their land interests to Stephen Roth and Mr. Roth does not see a conflict between sage grouse, whether wintering or otherwise, and his ability to graze on former Nash properties as he has been able to coexist with the presence of sage grouse at other locations. Second, the Applicant's wildlife study indicated there was no sage grouse activity on the Subject Property and evidence indicating sage grouse are in the vicinity primarily comes from dated studies. Third, opponents to the mine submitted a study that, if the Board can even consider it, indicates roads are a primary repellant of sage grouse. This suggests that Highway 20, which is 600 feet from the proposed mining area, has already driven sage grouse away and/or could be the actual cause of future relocation. Fourth, Mr. Borine concludes that supplemental feeding and the short grazing (only for a month and a half in the early portion of winter) season on the Horse Ridge Flat Pasture would not present a conflict between sage grouse and grazing cattle because there is sufficient forage. Finally, the BLM letter only indicates that it would have to consider the mine in evaluating future grazing. There is no indication that reduced grazing on account of the mine is likely or probable. In summary, it is far too speculative to find that the proposed mine would have the hypothesized effects on agricultural practices.

ALL OTHER ISSUES:

The Board finds that all other issues raised including, but not limited to new juniper species, eagles, ODFW recommendations on comprehensive plan updates, smoke, roads, smells, the Dry River Canyon, cumulative effects analysis,[6] dust/respiratory concerns, noise, timing of blasting, heavy equipment travel, adverse effects on humans, direct impacts on sage grouse and leks, vibrations, and antelope are outside the scope of the remand, were raised by persons who had not participated in prior proceedings, were resolved in prior proceedings, or were waived. To the extent there is a nexus between these issues and the remand issues, the Board finds that these issues have been adequately addressed by conflicting evidence in the record or were sufficiently mitigated through conditions of approval.

PRIOR DECISIONS:

The applicable criteria, findings, and conditions of approval contained within all prior decisions concerning this application, except where they conflict with this decision, are hereby adopted and incorporated herein by reference.

V. DECISION:

Based on the findings of fact and conclusions of law set out above, the Board concludes that the Applicant has met all applicable approval criteria for the requested zone change and plan amendment. The application is hereby approved.

DATED this 28th day of January, 2015.

MAILED this 29th day of January, 2015.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

ALAN UNGER, VICE CHAIR

TAMMY BANEY, COMMISSIONER

ATTEST:

Recording Secretary

THIS DECISION BECOMES FINAL UPON MAILING. PARTIES MAY APPEAL THIS DECISION TO THE LAND USE BOARD OF APPEALS WITHIN 21 DAYS OF THE DATE ON WHICH THIS DECISION IS FINAL.

[6] None of the participants who cited or requested a "cumulative effects analysis" identified any applicable approval criteria that require such an analysis.

Community Development Department
Planning Division Building Safety Division Environmental Soils Division

P.O Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
http://www.co.deschutes.or.us/cdd/

CERTIFICATE OF MAILING

FILE NUMBERS: PA-04-8, ZC-04-6

DOCUMENT/S MAILED: Board of County Commissioners
Notice of Public Hearing

MAP/TAX LOT NUMBER: 19-15, 902, 1000, 1001

I certify that on the 29th day of January, 2015, the attached Board of County Commissioner's Notice of Public Hearing, dated January 29, 2015, was mailed by first class mail, postage prepaid, to the persons and addresses set forth on the attached list.

Dated this 29th day of January, 2015.

COMMUNITY DEVELOPMENT DEPARTMENT

By: Sher Buckner

4-R Equipment P.O. Box 5006 Bend, OR 97708	Sharon R. Smith Bryant, Lovlien & Jarvis 591 SW Mill View Way Bend, OR 97702
Clay and Tammie Walker 26730 Highway 20 East Bend, OR 97701	Clay and Tammie Walker P.O. Box 871124 Wasilla, AK 99687
Roger Borine 64770 Melinda Ct. Bend, OR 97701	Dennis Griffin, SHPO, State Archeologist 725 Summer Street NE, Suite C Salem, OR 97301-1266
Central Oregon Landwatch, c/o Gail Snyder 50 SW Bond Street, Suite 4 Bend, OR 97702	Paul Dewey 1539 NW Vicksburg Bend, OR 97701
Stephen Roth 41600 Highway 20 Brothers, OR 97712	Molly M. Brown, Field Manager Deschutes Resource Area Bureau of Land Management 3050 NE 3rd Street Prineville, OR 97754
Oregon Department of Fish and Wildlife Corey Heath 61374 Parrell Road Bend, OR 97702	

REVIEWED
LEGAL COUNSEL

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, the Deschutes County Zoning Map, to Change the Zone Designation on Certain Property from Exclusive Farm Use (EFU-HR) to Surface Mining (SM), and establishing a One-Half Mile Surface Mining Impact Area (SMIA) Combining Zone around the SM Site.	* * * * * * *	ORDINANCE NO. 2015-022

WHEREAS, 4-R Equipment, LLC applied for a Zone Change (file no. ZC-04-6) to the Deschutes County Code ("DCC") Title 18, Zoning Map, to rezone certain property from Exclusive Farm Use – Horse Ridge East Subzone (EFU-HR) to Surface Mining (SM); and

WHEREAS, the Deschutes County Board of Commissioners (Board), after review conducted in accordance with applicable law, approved the proposed change to the County Zoning Map; and

WHEREAS a change to the Deschutes County Zoning Map is necessary to implement the amendment adopted in Ordinance 2015-021; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Title 18, Zoning Map, is hereby amended to change the zone designation of the subject property, described as tax lots 902, 1000 and 1001 in Section 30 of Township 19 South, Range 15 East, Willamette Meridian, and as further described by the legal description attached hereto as Exhibit "A" and the map set forth as Exhibit "B," and by the reference incorporated herein, from Exclusive Farm Use – Horse Ridge East subzone (EFU-HR) to Surface Mining (SM). The area zoned Flood Plain is not being rezoned.

Section 2. AMENDMENT. DCC Title 18, Zoning Map is hereby amended to add the Surface Mining Impact Area (SMIA) Combining Zone around the SM Zone shown on Exhibit B, and depicted on the map set forth as Exhibit "C," and by this reference incorporated herein.

Section 3. FINDINGS. The Board adopts as it findings in support of this Ordinance, the Decision of the Board of County Commissioners, attached to Ordinance 2015-021 as Exhibit "F," and incorporated by reference herein.

///

Dated this 23rd of Nov., 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, CHAIR

ALAN UNGER, VICE CHAIR

ATTEST:

Recording Secretary

TAMMY BANEY, COMMISSIONER

Date of 1st Reading: 9th day of Nov., 2015.

Date of 2nd Reading: 23rd day of Nov., 2015.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	✓			
Alan Unger	✓			
Tammy Baney	✓			

Effective date: 22nd day of Feb., 2016.

ATTEST:

Recording Secretary

Property Description
4-R Equipment LLC

EXHIBIT A

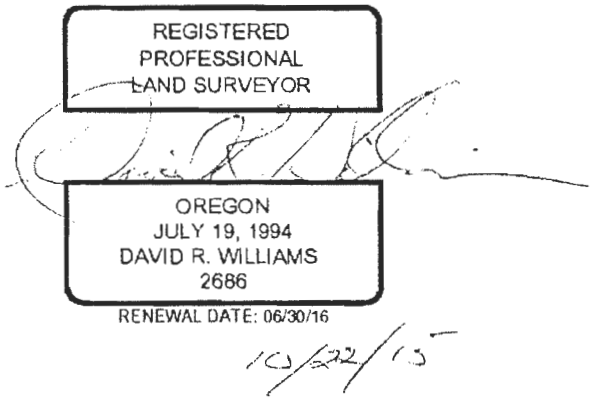
All that portion of Section 30, Township Nineteen (19) South, Range Fifteen (15) East of the Willamette Meridian, Deschutes County Oregon lying southerly of US Highway 20 being more particularly described as follows:

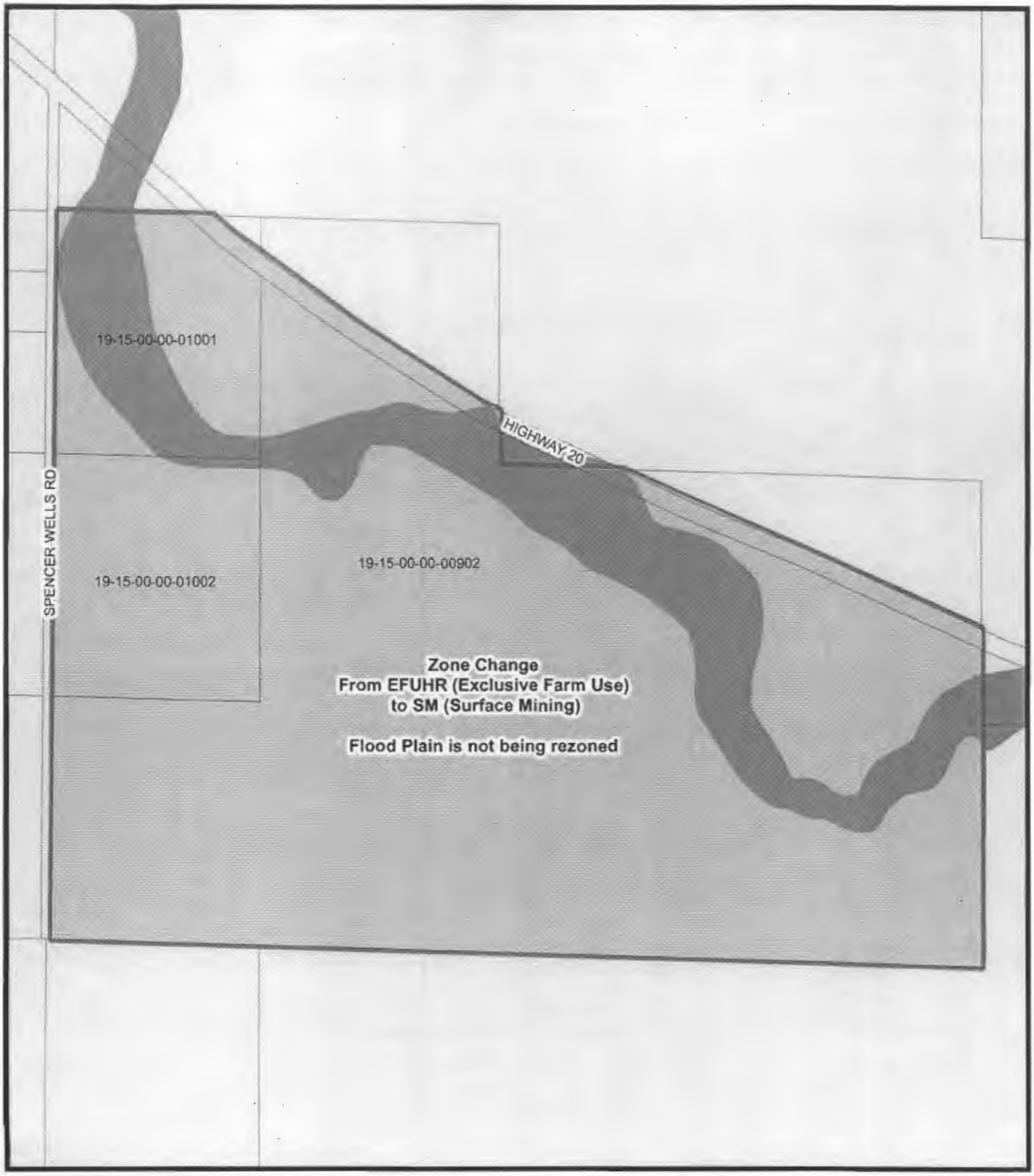
Government Lot 2; Government Lot 3; the Southeast One-Quarter of the Northwest One-Quarter (SE1/4 NW1/4); the Northeast One-Quarter of the Southwest One-Quarter (NE1/4 SW1/4); the South One-Half of the Southwest One-Quarter (S1/2 SW1/4) and the Southeast One-Quarter, lying south of US Highway 20.

Excepting Therefrom: that portion conveyed to the State of Oregon, by and through its State Highway Commission, March 13, 1940 in Book 58, Page 381, Deed Records.

Also Excepting Therefrom: That property in the above described lands located in the Flood Plain Zone per Chapter 18.96, Deschutes County Zoning Ordinance.

Subject to: All easements, restrictions and right-of-ways of record and those common and apparent on the land.





PROPOSED ZONE CHANGE

4-R Equipment, LLC

Exhibit "B"
to Ordinance 2015-022

0 125 250 500 750 1,000 Feet

November 5, 2015

Legend

- Subject Property
- EFUHR - Horse Ridge Subzone
- FP - Flood Plain
- SM - Surface Mining

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

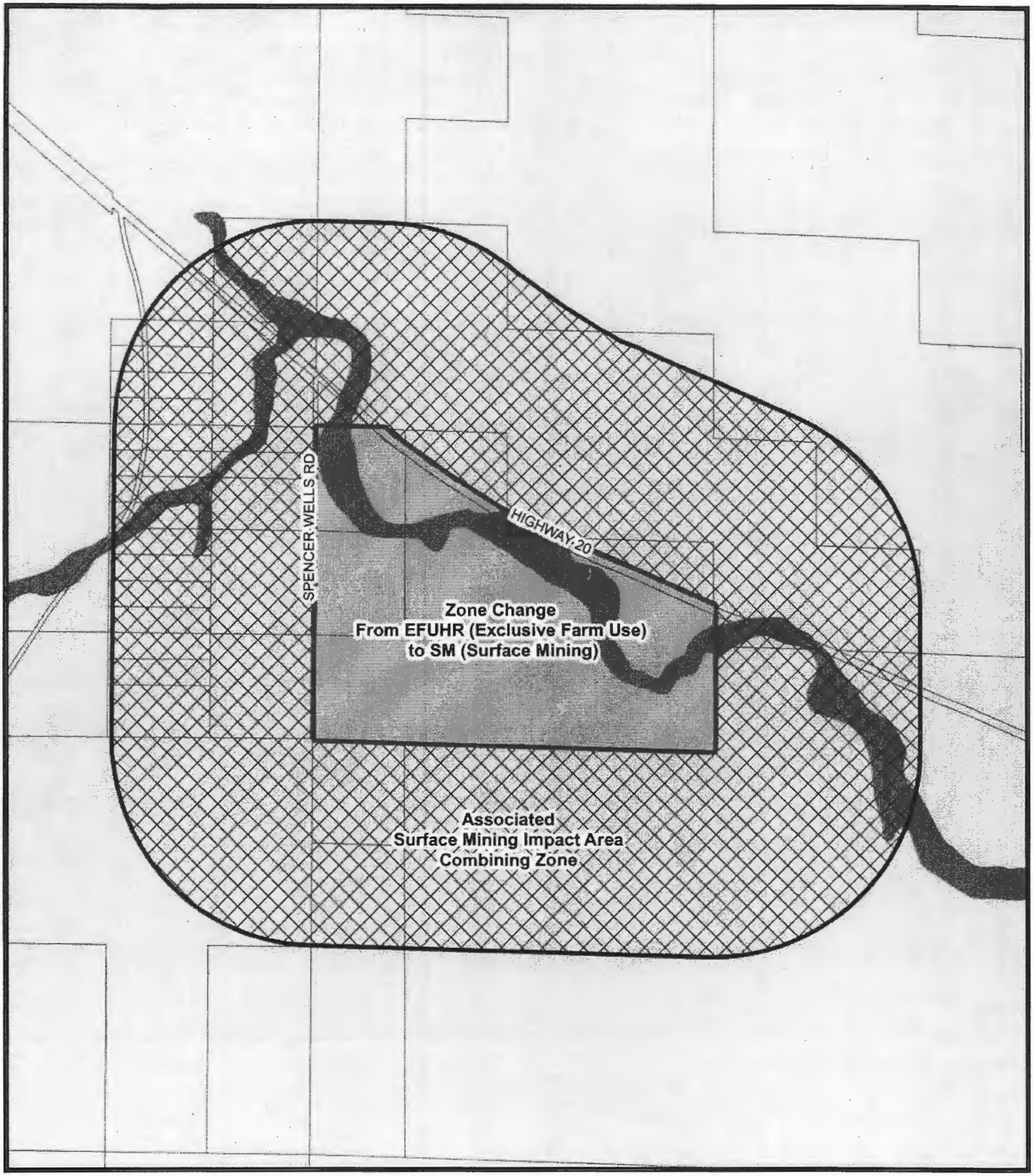
Tony DeBone, Chair

Alan Unger, Vice Chair

Tammy Baney, Commissioner

ATTEST: Recording Secretary

Dated this 23 day of November, 2015
Effective Date: 2/22, 2016



Legend

- Subject Property
- SMIA - Surface Mining Impact Area
- EFUHR - Horse Ridge Subzone
- FP - Flood Plain
- SM - Surface Mining

PROPOSED ZONE CHANGE

4-R Equipment, LLC

Exhibit "C"
to Ordinance 2015-022

0 300 600 1,200 1,800 2,400 Feet

November 5, 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Tony DeBone, Chair

Alan Unger, Vice Chair

Tammy Baney, Commissioner

ATTEST: Recording Secretary

Dated this 23 day of November, 2015
Effective Date: 2/22, 2016

Deschutes County Community Development Department

117 NW LAFAYETTE AVENUE • P.O. BOX 6005
BEND, OREGON 97708-6005
(541) 388-6575

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