



PLANNING & ZONING DIVISION

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

CLACKAMAS COUNTY BOARD OF COMMISSIONERS
2051 Kaen Road, Oregon City
BCC Hearing Room - 4th Floor

LAND USE HEARING
February 5, 2020
9:30 AM

The item will not begin before time noted. Interested parties may appear and be heard during the testimony phase of any hearing at the above address. If a hearing is set for decision only, the evidence phase has been completed, so interested parties may no longer be heard. Applications or comments may be inspected, and calls or correspondence directed to: Planning & Zoning Division, 150 Beaver Creek Road, Oregon City, OR 97045, (503) 742-4500.

LAND USE HEARING

File No.: Z0406-19-CP, Z0407-19-MAR, Z0408-19-ZAP

Applicants: Cadman Materials, Inc.

Proposal: The applicant is proposing (1) a Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan (Plan) to designate approximately 99 acres of the proposed mining site, which includes eight taxlots and approximately 106.5 total acres, as a Goal 5 significant mineral and aggregate resource site in Chapter 3, Table III-2 of the Plan; (2) a zoning map amendment to apply a Mineral and Aggregate Overlay (MAO) to the site; (3) approval of a Mineral & Aggregate Overlay District Site Plan Review application for the proposed mining operations; and (4) a modification of conditions of approval in Planning file numbers Z0348-96-CP & Z0349-93-Z to allow processing on Saturdays.

Staff Contact: Martha Fritzie, Sr. Planner, 503-742-4529, MFritzie@clackamas.us

Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at least three (3) business days before the meeting at 503-742-4545 or email Drenhard@clackamas.us.

503-742-4696: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통역?



**Land Use Hearing Item
Staff Summary to the Board of County Commissioners**

File Number: Z0406-97-CP, Z0407-19-MAO & Z0408-19-ZAP; Cadman Materials, Inc.,
Goal 5 Significant Aggregate Mining Site (Canby Pit – Phase 4)

Staff Contact: Martha Fritzie, Planning and Zoning Division, 503-742-4529

Board of County Commissioners Hearing Date: February 5, 2020

PROPOSAL

The applicant is proposing four actions:

- (1) Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan (Plan) to designate approximately 99 acres of the proposed mining site, which includes eight taxlots and approximately 106.5 total acres, as a Goal 5 significant mineral and aggregate resource site in Chapter 3, Table III-2 of the Plan;
- (2) Zoning map amendment to apply a Mineral and Aggregate Overlay (MAO) to the site;
- (3) Approval of a Mineral & Aggregate Overlay District Site Plan Review application for the proposed mining operations; and
- (4) Modification of conditions of approval in Planning file numbers Z0348-93-CP/ Z0349-93-Z and Z1826-97-MAR to allow processing on Saturdays.

The stated intent of this proposal (according to the applicant) is to “expand the existing Cadman Materials Incorporated - Canby Pit 3 in order to provide on-going supply of aggregate at the location of their existing operation. As proposed, the expansion of the mining area onto the subject site, referred to as Phase 4 (or Cadman – Canby Phase 4), will not change or increase the number of currently- permitted trucks entering and leaving the existing permitted processing site, which is located across S. Barlow Rd from the subject site. The proposal is to simply transition excavation operations from the Phase 3 mining area (located immediately north of the subject site) into the Phase 4 mining area. Access to the Phase 4 site would utilize the existing driveway authorized for Phase 3; no new access from S Barlow Rd is proposed.

Operations in the Phase 4 mining area will include the stripping of overburden material, the excavation of the desired aggregate materials, the transportation of excavated material by conveyor to the existing Cadman processing facility located in the Phase 1 mining area (shown

in the figure below), and the reclamation of the site once the aggregate materials have been removed. There will be no blasting or processing of materials within the Phase 4 mining area.



Source: Appendix C, Application

In addition to the Comprehensive Plan text and zoning map amendments to establish the MAO, the applicant proposes to mine and process aggregate materials from the 99-acre portion of the subject property identified in **Figure 2, Application** as the “Extraction Area”. The total excavation area within that 99 acres is expected to be approximately 93.6 acres. Based on the applicant’s consultant, there are approximately 8.1 million tons of aggregate material on the subject property, with an estimated 6.9 million tons available for extraction, and that aggregate meets the applicable standards of Goal 5 to establish that the property is a Significant Mineral and Aggregate Resource site.

The rock will be excavated in three phases over an estimated eight to 10 year period depending upon demand, as shown in **Figure 6, Application** and as described in detail on pages 6-7 and **Figure 3 of Appendix C, Application**. Excavation is proposed to start in the northwest corner of the property and move eastward. Topsoil and overburden removed during the mining process will be used for berms for visual and noise screening, as well as stockpiled in setback areas for use later in the reclamation of the site. Mining excavation setbacks of 30 feet from property lines will be maintained around the excavation area.

Excavators, loaders, dozers, and articulated haul trucks will be used to excavate the site. The mine cells will be partially dewatered to a maximum depth of approximately 20 feet below the ground surface and mined wet below depths of 20 feet with appropriate equipment to eliminate the need to dewater the mining cell further.

Little site preparation is required before mining could begin on the property, as the majority of the property has been in seasonal agricultural production or used for grazing; as such, it contains little vegetation, including grasses, bushes and some trees. There is one existing dwelling with two outbuildings on the site which would be removed prior to the commencement of mining. There is an existing dwelling on taxlot 700 that sits approximately 50 feet above the current grade of the extraction area and, at the request of the homeowner, will remain (instead of selling the entire lot, this property owner reportedly wants to remain in the home with the understanding that it will be overlooking a lake in the future). There are no regulated wetlands, floodplains or other protected natural resources on the site.

Proposed conceptual reclamation of the property will occur concurrently with the mining extraction activities, to the extent practical. Once excavation activities are completed in a particular area of the property, they will progress to another area, and reclamation activities will commence in the excavated area and will include the creation of a natural area including a lake and native vegetation. Being zoned Exclusive Farm Use (EFU), the potential for future development of this site is limited to agricultural or related uses; returning the land to a natural state with a lake is consistent with the intent of EFU land.

BACKGROUND

Oregon Administrative Rule 660, Division 23 contains the procedures and requirements for complying with Statewide Planning Goal 5. Oregon Administrative Rule 660-23-0180 specifically relates to Mineral and Aggregate Resources and lays out the essentials of the procedure to be followed on this type of application. The steps that must be followed to determine if a particular site is “significant” and if mineral and/or aggregate mining is allowed can be outlined briefly as follows:

1. Is the mineral and aggregate resource significant?
2. If so, what is the extent of the resource’s impact area?
3. What conflicts, if any, could be generated between the resource and existing or approved land uses in the impact area?
4. If conflicts are identified, are there any reasonable and practicable measures that would minimize the conflicts?
5. If any identified conflicts cannot be minimized, does an analysis of the Economic, Social, Environmental and Energy (“ESEE”) consequences of the resource support approving the mining use?
6. If mining is approved, what is the post-mining use of the Site?
7. If mining is approved, does an ESEE analysis support the County allowing, limiting, or preventing conflicting uses within the impact area?

Detailed analysis of all these steps and all applicable rules and regulations for approving this proposal can be found in the Planning Commission Staff report, included with this summary. Planning Staff has found that this proposal meets all the relevant criteria for the site to be

designated and a significant Goal 5 resource and to allow mining on the site, subject to the proposed conditions of approval.

RELATED PRIOR BCC ACTION

None on the proposed Phase 4 site. See Planning Commission Staff report (Attachment 3 in Board packet) for prior approvals for mining and related operations on adjacent and nearby sites, including the Cadman Phase 1-3 sites.

PLANNING COMMISSION (PC) ACTION

A public hearing was held on December 16, 2019 before the Planning Commission for consideration of Z0406-97-CP, Z0407-19-MAO & Z0408-19-ZAP. The Planning Commission voted unanimously (7-0) to recommend approval of the proposal, subject to:

1. Clarifications in the conditions of approval, as proposed by the applicant (per Exhibit 6), except the proposed changes to condition #37.
2. Establishing the MAO boundary at the boundary of the subject site (rather than the “noise impact boundary”, as was proposed by Staff), provided the outcome of an EESE analysis to be completed by the applicant warrants this change to the boundary.

All these recommended changes have been included in the proposal before the Board.

CPO, HAMLET AND VILLAGE RECOMMENDATIONS

The subject site is within the area of the South Canby Community Planning Organization (CPO), which is inactive.

SIGNIFICANT ISSUES

Two significant issues arose at the Planning Commission:

1. The potential effect on groundwater levels and nearby agricultural wells. This issue was specifically brought up by a representative of Weyerhaeuser, which uses wells near the proposed Extraction Area to irrigate its nursery stock located on their property approximately ¼- to ½-mile to the southwest of the subject site.

Weyerhaeuser’s concern is that in order to grow high quality seedlings for reforestation, the nursery needs a lot of water and they have already seen an impact from other mining sites in the area. During the Phase 3 mining (which is being dewatered completely and not mined in the wet, as proposed for the subject sites), Weyerhaeuser reportedly had to stop using one of their wells during the summer. The Phase 4 expansion will be even closer to the nursery operations, so their concern is further impact on their wells. At the PC hearing, the Weyerhaeuser representative requested that:

- all recommendations for monitoring wells and related countermeasures be implemented;
- real-time data be shared with the neighbors;
- the triggers are that would cause changes to the mining be clearly defined; and

- they would like to be notified if groundwater levels drop more than 10 feet from current levels.

To address these concerns, the applicant agreed to meet with representatives from Weyerhaeuser to develop and/or revise language for conditions of approval that would satisfy their concerns. Based on the applicants' January 17, 2020 memo to Staff (Exhibit 7), the applicant met with Weyerhaeuser representatives and "other property owners" on January 15, 2020 and agreed to the five conditions listed in that memo. These conditions, have been incorporated into the Revised Conditions of Approval (attached to this BCC Summary)

2. The location of the Mineral Aggregate Overlay (MAO) boundary and the required economic, environmental, social and energy (ESEE) analysis to determine whether to allow, limit, or prohibit uses on properties within the impact area of the proposed mine.

With regard to the location of the MAO boundary, the issue is whether it is appropriate to establish this overlay to correspond with the "noise compliance boundary" (as identified in **Figure 7, Appendix C, Application**) or to establish the boundary only on the subject site. The "noise compliance boundary" includes an area that ranges from approximately 50 to 200 feet onto properties immediately south of the subject properties. This area currently contains no dwellings or other structures and is zoned exclusive farm use (EFU), which means that residences and other "sensitive" uses are either very unlikely to develop or simply not allowed on the properties.

The Goal 5 rules (OAR 660-023-0040) require an analysis of economic, environmental, social, and energy (ESEE) consequences to determine whether to allow, limit, or prohibit new, sensitive uses within the identified impact area. The steps in an ESEE process include the following:

- Identify conflicting uses;
- Determine the impact area;
- Analyze the economic, social, environmental, and energy consequences of allowing, partially allowing, or not allowing the conflicting use; and
- Develop a program to achieve Goal 5

This analysis must be the basis for a local program to manage the resource. In this case, the Goal 5 resource to potentially be protected is the mining site and this analysis is required to understand what, if any steps need to be taken to protect the mining site from future conflicts. This analysis had not yet been completed by the PC hearing and after much discussion among the applicant, Staff and the Planning Commissioners, the parties reached the conclusion and the Planning Commission included, as part of their recommendation, that if the ESEE analysis found that there is no need to limit or prohibit uses in the impact area, then there is no need to establish a MAO boundary outside the boundaries of the subject site.

The applicant's attorney completed an ESEE analysis and submitted it to county staff on January 21, 2020 (Exhibit 8). That analysis reaches the conclusion that there is no need to limit or prohibit uses within the impact area and therefore there is no need to expand the

MAO boundary beyond the boundary of the subject properties. Based on this information, Staff concurs that applying the MAO boundary only to the subject site is appropriate.

STAFF RECOMMENDATION

Approval of Z0568-17-CP, Z0569-17-MAO and Z0570-17-Z, as recommended by the Planning Commission and Planning Staff, subject to the Revised Conditions of Approval (attached to this BCC Summary).

Cadman Materials, Inc. (Canby Pit – Phase 4)
Z0406-97-CP, Z0407-19-MAO & Z0408-19-ZAP
REVISED CONDITIONS OF APPROVAL

General Conditions

1. Table 3-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add “Cadman – Canby Phase 4 Expansion Area Aggregate Site” to the list of Significant Sites, as the site is identified in **Figure 2, Application**.
2. The Mineral & Aggregate Overlay shall be applied to the area identified as the ~~“DEQ Noise Compliance Boundary”~~ “Mining Permit Boundary (Phase 4)”, as identified in **Figure 72, Appendix C, Application** and comprising approximately 99 acres.
3. Mining shall be allowed on the property subject to the site specific program in the submitted application to the extent it is consistent with the remaining conditions of approval.
4. The post reclamation use of the subject property shall be limited to a natural area and lake, consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
5. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the Federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the Federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

General Operations Related Conditions

5. Compliance with all operating conditions proposed in the submitted application is required, to the extent they are consistent with the remaining conditions of approval.
6. The combined level of aggregate and mineral extraction for the Cadman Canby properties – Phase 1 through 4 shall not exceed 3 million tons per calendar year.
7. All mining and processing activities related to Phase 4, except for routine maintenance, is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM on Saturday. No mining activities will occur on Sunday.

8. No mining (including but not limited to excavation and processing), shall take place on any of the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
9. Condition #5 of Z0248-93-CP/Z0349-93-Z and condition #23 of Z1826-97-MAR are hereby amended to read: ***All mining shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday. Processing and hauling shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM on Saturday. No mining activities will occur on Sunday.***
10. There shall be no drilling or blasting on the Site.
11. The applicant and/or operator shall not initiate mining and activities on the Cadman –Canby Phase 4 Aggregate Site (“Site”) until the Oregon Department of Geologic and Mineral Industries (DOGAMI) approves the reclamation plan and operating permit for the Site.
12. The Canby Fire District shall review and approve this mining operation to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve any provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
13. The applicant and/or operator shall obtain Oregon DEQ approval of a Spill Prevention Controls and Countermeasures Plan for the site and shall comply with same.
14. Applicant/operator shall obtain or amend its current Stormwater Control permit issued by DEQ and regulated by DOGAMI to include stormwater generated at the proposed extraction site, as necessary.
15. Copies of all permits issued for the Cadman – Phase 4 site shall be provided to the County including, but not limited to, any permits issued by DOGAMI, DSL, DEQ, the Oregon Water Resources Department, the Oregon Fire Marshal's Office, local Fire Marshal’s Office if applicable, and the U.S. Army Corps of Engineers.
16. The Site operator shall carry a comprehensive liability policy covering mining and incidental activities during the term of the operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one (1) year shall be deposited with the County prior to the commencement of mining, and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.
17. If mining operations disturb any area outside of the permit area or area designated for active mining in the reclamation plan, including but not limited to disturbances caused by landslide or erosion, the operator must restore the disturbed area to a

condition that is comparable to what it was prior to the disturbance, as approved by DOGAMI.

General Mine Plan Related Conditions

18. Extraction shall be limited to those areas of the identified Extraction Area labeled as appropriate for such activities and depicted on the approved Mining and Operation Plan.

19. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Site. No new processing facilities shall be established.

~~19-20.~~ Berms currently separating Phase 3 from Phase 4 as authorized may be removed upon substantial completion of excavation of Phase ~~III~~3.

~~20-21.~~ All lighting on Phase 4, if any, shall be directional to minimize glare and light intrusion on surrounding properties, pursuant to ZDO Subsection 1005.05.

~~21-22.~~ Identified setbacks from the property lines, utilities, and easements will be maintained in accordance with the Mining Plan. The operator shall maintain a minimum 30-foot property line setback, 30-foot setback from S. Barlow Road except where the 35 foot wide gas line easement occurs and then a 30 foot setback from the easement and a 30-foot setback from S Highway 99E for excavation. The operator shall maintain a minimum 100-foot setback for excavation near the BPA tower.

~~22-23.~~ Security and noise berms, construction of internal access roads and construction of DOGAMI-approved stormwater control measures are allowed within the setback areas.

~~23-24.~~ Prior to any land disturbance within the Bonneville Power Administration (“BPA”) right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with all compatibility requirements included in such Land Use Agreement.

~~24-25.~~ In the event that cultural resources are encountered during the project activities, the applicant shall comply with all applicable State laws and regulations regarding suspension of work activities and recovery disposition of such resources. The State Historic Preservation Office (SHPO) should be notified, and a qualified archaeologist should be called in to evaluate the discovery and recommend subsequent courses of action in consultation with the appropriate tribes and SHPO. An Inadvertent Discovery Plan (IDP) will be put in place prior to ground disturbance to ensure actions and notification in compliance with Oregon State law (ORS 97.740 to 97.760, 358.905 to 358.955, and 390.235).

~~25-26.~~ Slope inclinations will vary from 3:1 (horizontal to vertical) above water level to 1:1 slope below water level with the excavation mining, and shall not exceed 1:1 – (horizontal to vertical) within the excavation during mining, unless approved by DOGAMI.

~~26-27.~~ Interior extraction slopes will be graded, shaped, and planted for erosion control purposes.

~~27-28.~~ Reclamation with the applicant's proposed submittal and as approved by DOGAMI shall be completed concurrently, as feasible.

~~29.~~ Dewatering during excavation will be limited to approximately 10 feet below the existing water level throughout the mining area, or approximately 20 feet below the current ground surface.

~~28-30.~~ In the event groundwater levels within the Extraction Area fall more than 10 feet below the natural groundwater level, Cadman will notify Weyerhaeuser immediately.

~~29-31.~~ Excavation shall be undertaken consistent with the applicant's excavation plan illustrated **Figure 6** of the PAPA: mining shall begin at the northern part of the site moving in a west-east direction progressing to the south, excavating one cell at a time.

~~32.~~ Installation of ~~four~~ five new monitoring wells – four – at locations identified by HGSA on Figure 10 of Appendix B and one located in the southeast corner of the Extraction Area – is required a minimum of one year prior to the initiation of mining. Each of these five wells shall have continuous monitoring devices installed. The five existing monitoring wells shall remain until mining requires removal.

~~30-33.~~ Wells shall be monitored on a quarterly basis and data shall be shared with Weyerhaeuser and other neighbors upon request. The quarterly data will be collected in January, April, July and October. In addition, the operator shall collect monitoring data in June and August and share this data with Weyerhaeuser and other neighbors upon request. ~~for at least one year prior to initiation of mining and the five southern monitoring wells shall have continuous water level recorders for the life of the mine.~~

~~31-34.~~ All monitoring wells should be monitored prior to mining and semi-annually for heavier and lighter hydrocarbons (DX and GX), and polycyclic aromatic hydrocarbons (PAHs) until the wells are abandoned or for the life of the mine.

~~32-35.~~ If a trend is observed that could significantly affect nearby wells, the applicant shall work with regulatory agencies to modify its mining plans to mitigate the effects to a level no longer significant within the impact area. Strategies to

accomplish this could include:

- establishment of a recharge area constructed at the southern end of the Canby Phase 4 site so that the recharge activity is directly between the mining activity and the nearby domestic and irrigation wells,
- altering the mining cell order and/or size of the mining cells, and/or
- reducing dewatering depths.

33.36. A report of monitoring data shall be submitted to DOGAMI and Clackamas County, upon request.

34.37. The mining operator shall be responsible for restoring the water source for any property within the impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well of cause water quality to not meet health standards in place at the time this mining operation is approved.

35.38. Recommended impact minimization measures in the HGSA report in Appendix B, dated August, 27, 2019 shall be met if a trend is observed that could significantly affect wells in the Impact Area.

36.39. If water well quantity impacts attributable to the authorized mining within the impact area occurs the operator shall rebuild to its historic level of production for any well that is demonstrated to be significantly affected by the mining operations.

37.40. A Fuel, Oil Prevention Plan and Response Plan will be in place for operations at the subject extraction site.

38.41. There will be no livestock grazing on the subject site.

39.42. The operator shall salvage, stockpile and retain all available soil and overburden material for final reclamation. Soil and overburden stockpiles and berms must be seeded in a cover crop to reduce erosion.

40.43. The operator shall clearly mark the DOGAMI permit boundary and required setbacks in the field, visible to all equipment operators.

Transportation Related Conditions

41.44. No interior haul roads will be constructed within 250 feet of the any residences unless the haul road is paved.

42.45. The Phase 4 mining operation, in combination with Phases 1 through 3, shall not generate more than 154 weekday AM peak trips and 120 weekday PM peak trips.

43-46. Employees shall park their personal vehicles at the designated parking lot located at the Cadman processing facility or onsite in designated areas. All new parking spaces shall meet minimum ZDO section 1007 dimensional requirements. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.

44-47. Aggregate trucks shall maintain and utilize the existing truck wheel wash located near the exit driveway connecting to S Barlow Rd from the processing facility as a sediment/dust control method.

45-48. If on-site parking is provided on Phase 4, the applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (dump trucks with pups, delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

46-49. The existing access-exit driveway connecting the existing processing area to S Barlow Rd will be paved for a minimum of 300 feet.

47-50. The operator shall maintain compliance with all conditions of approval in Planning files Z00331-11-CP and Z0332-11-ZAP as they relate to the driveway intersection and access roads that are located on Phase 3 and will be utilized by Phase 4 operations.

Acoustic Related Conditions

48. The mine operator shall comply with all recommended noise mitigation measures concurrent with mining activities which create the need for such measures including barriers/berms and **Figure 6** of the report identified in the noise study prepared by ABD Engineering Design in Appendix C dated August 30, 2019.
49. The overburden berms for noise mitigation and/or safety will be planted in accordance with DOGAMI recommendations to reduce the potential for erosion.
50. Off-road equipment (*i.e.* excavators, front-end loaders, loading trucks, and bulldozers used for internal site operations shall be fitted with broadband rather than traditional narrowband backup alarms.
51. The operator must use factory or enhanced muffler systems.

Air Quality Related Conditions

52. The operator shall maintain vegetative ground cover on stockpiles to reduce dust.

53. The operator shall sprinkle interior roads with a water truck from March 1 to November 1 to reduce dust.
54. The conveyor shall be covered to reduce the potential for dust dispersion.
55. No more than 5,000 gallons of water per day will be used for dust suppression.
56. A 15 MPH speed limit for onsite truck traffic will be posted on all haul roads within the subject site.
57. Off-road equipment shall meet federal Tier 3 off-road engine standards, and/or equipment to be modified as such.

Z0406-19-CP, Z0407-19-MAO, &
Z0408-19-ZAP:
COMPREHENSIVE PLAN
AMENDMENT, ZONE CHANGE,
& MAO SITE PLAN REVIEW

CADMAN-CANBY PHASE 4 AGGREGATE
SITE/ CADMAN MATERIALS INC.



Board of County Commissioners Public Hearing
February 5, 2020

PROPOSAL

- (1) A Post-Acknowledgement Comprehensive Plan Amendment (PAPA) to designate approx. 99 acres of the subject property as a Goal 5 significant mineral and aggregate resource site in Chapter 3, Table 3-02 of the Plan (Z0406-19-CP);
- (2) A zoning map amendment to apply a Mineral and Aggregate Overlay (MAO) to the subject property (Z0408-19-ZAP); and
- (3) Approval of a Mineral & Aggregate Overlay District Site Plan Review application for the proposed mining operations, if the first two requests are approved (Z0407-19-MAO).
- (4) A modification of conditions of approval in Z0348-93-CP/Z0349-93-Z & Z1826-97-MAR to allow processing on Saturdays.

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (2)

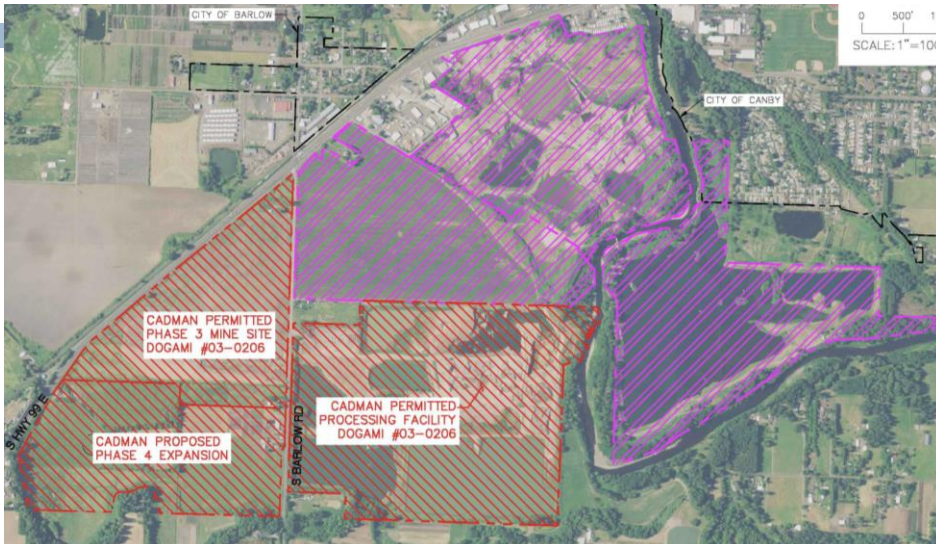
LOCATION



- ≈ 3/4th mile south of S Hwy 99E/ S Barlow Rd. intersection
- 8 taxlots
- ≈ 106.5 total acres
- ≈ 99 acres proposed Extraction Area

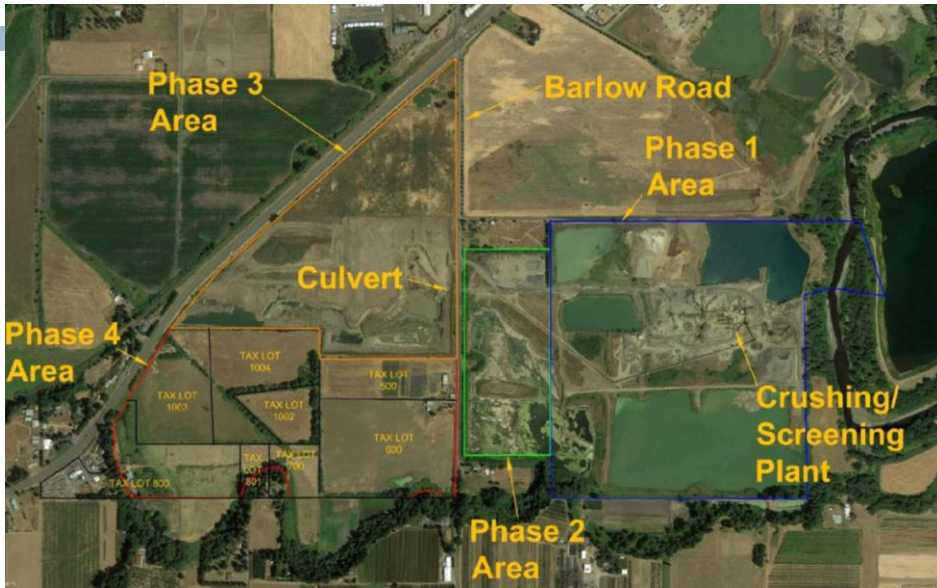
Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (3)

SUBJECT SITE/MINING IN AREA

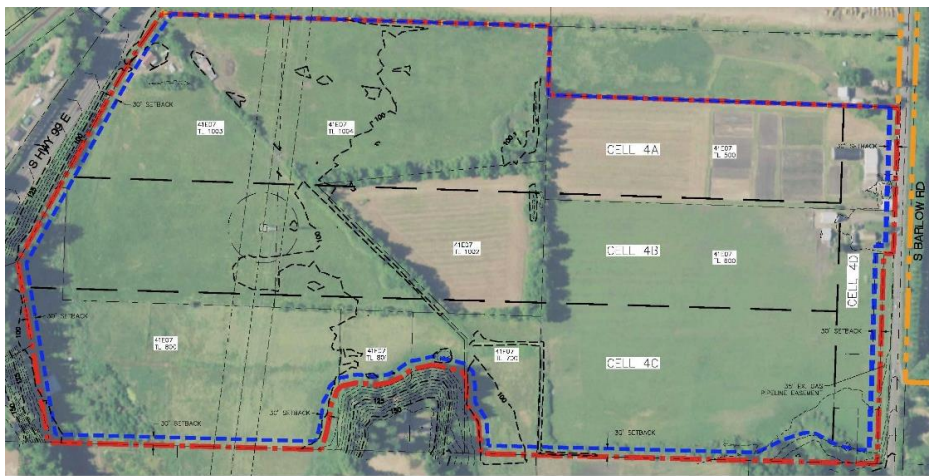


Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (4)

CADMAN SITES/PHASES 1-4

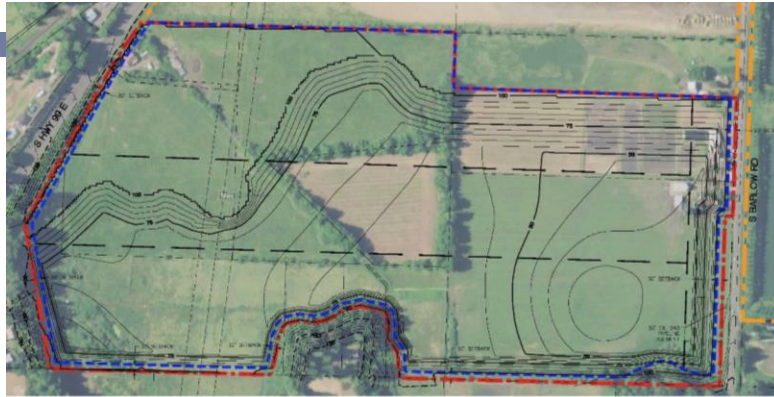


PROPOSED MINING PLAN



Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (6)

CONCEPTUAL RECLAMATION PLAN



NOTES

1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING NOTES:
2. POST WIND LINES ARE AS SHOWN.
3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CLARK COUNTY ZONING ORDINANCE.
4. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CLARK COUNTY ZONING ORDINANCE.
5. WIND LINES SHALL BE MAINTAINED TO THE WEST TO APPROXIMATELY 10 FEET IN THE EAST.

PLANTING NOTES / REVEGETATION PLAN

1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE FOLLOWING NOTES:
2. WIND LINES SHALL BE MAINTAINED TO THE WEST TO APPROXIMATELY 10 FEET IN THE EAST.
3. NON-INDUSTRIAL VEGETATION SHALL BE MAINTAINED TO THE WEST TO APPROXIMATELY 10 FEET IN THE EAST.

LEGEND

— (Red dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Blue dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Black dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Red solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Blue solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Black solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Red dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Blue dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Black dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Red solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Blue solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Black solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Red dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Blue dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Black dashed line)	APPROXIMATE PROPERTY BOUNDARY
— (Red solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Blue solid line)	APPROXIMATE PROPERTY BOUNDARY
— (Black solid line)	APPROXIMATE PROPERTY BOUNDARY

RELEVANT POLICIES & CRITERIA

- Statewide Planning Goals
 - Goal 2 (Land Use)
 - Goal 3 (Agriculture)
 - Goal 5 (Natural Resources)
 - Goal 6 (Air, Water, and Land Resources Quality)
 - Goal 12 (Transportation)
- OAR 660-023-0180: Mineral & Aggregate Resources
- County Zoning & Development Ordinance (ZDO)
 - Section 1202 (Zone Change)
 - Section 708 (Mineral & Aggregate Overlay)
 - Section 1006 (Water, other utilities/facilities concurrency)
 - Section 1010 (Signs)

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (8)

BACKGROUND

- Statewide Planning Goal 5 – Natural Resources
- Goal 5 resources include:
 - Riparian corridors, wildlife habitat, scenic rivers, groundwater resources, mineral and aggregate resources
- Goal 5 review process
 - Criteria and Decision Making Process specified in Oregon Administrative Rules
 - Significance of the resource / allow or not allow mining
 - Comprehensive Plan Amendment / Add to Inventory
 - Zone Change to Apply Mineral Aggregate Overlay MAO
 - Public Hearing- Planning Commission / Recommendation
 - Public Hearing – BCC / Final Decision

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (9)

STEP 1: COMPLETE APPLICATION DETERMINATION (OAR 660-023-0180(8))

- Complete application must include:
 - Quality, Quantity and Location of the Resource
 - Conceptual Site Reclamation Plan
 - Traffic Impact Assessment
 - Proposals to minimize impacts (conflict analysis)
 - Site plan, operational characteristics, proposed mining uses
- Final Decision within 180 days

FINDING: Application complete. 180-day deadline is March 30, 2020

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (10)

STEP 2: DETERMINE IF SITE IS “SIGNIFICANT” (OAR 660-023-0180(3))

- Site is “significant” if:
 - ▣ Quantity Standard: >2,000,000 tons of aggregate material;
 - ▣ Quality Standard: meets ODOT specifications for base rock;
 - ▣ Location: site characteristics, thickness of aggregate layer, soil characteristics;
 - ▣ AND, if site contains >35% Class I or Class II agricultural soils, avg. thickness of resource >25 ft.

FINDING: Subject site is significant.

- ▣ Approx. 8,100,000 tons estimated on subject site (6,900,000 available for excavation); meets quality and location standards.
- ▣ Site contains Class IV soils (≈ 89%)

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (11)

STEP 3A: DETERMINE IMPACT AREA (OAR 660-023-0180(5)(a))

- Determine Impact Area:
 - ▣ Large enough to include existing and approved land uses that would be potentially impacted by mining operations
 - ▣ Limited to 1,500 feet from mining area unless factual information indicates it should be larger

FINDING: Applicant proposed Impact Area of 1,500 is sufficient

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (12)

STEP 3B: IDENTIFY CONFLICTING USES (OAR 660-023-0180(5)(b))

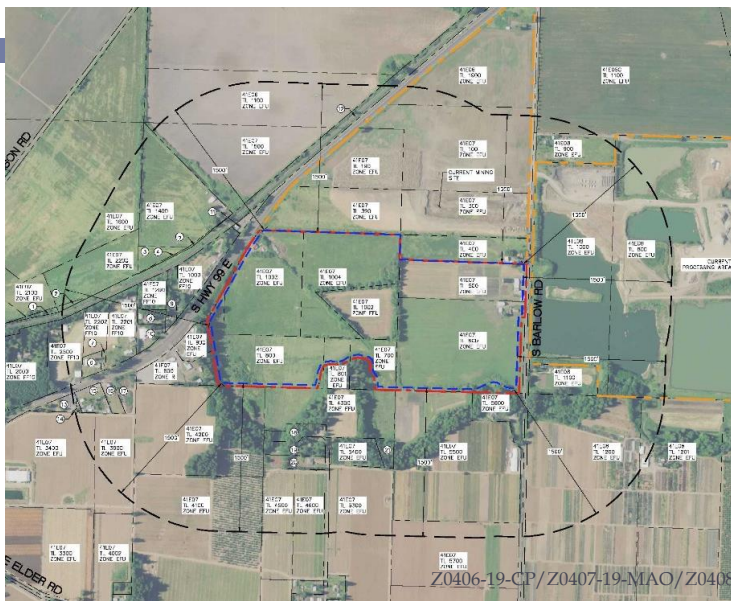
- Identify existing and “approved” uses within Impact Area
- Figure 2 & Appendix H, Application

FINDING: Uses identified & mapped by applicant:

- Mining: east, north, northeast
- 20 dwellings: scattered on farmland to east/south; most in rural residential area (FF-10) along S Hwy 99E
- Rural industrial/limited use: southwest
- Agriculture: corn, hay, nursery stock, trees

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (13)

IMPACT AREA AND USES



Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (14)

STEP 4: CONFLICT ANALYSIS (OAR 660-023-0180(5)(b)(A-F))

- Determine whether identified “conflicts” can be minimized
- “Minimize a conflict” – to reduce a conflict to a level that is no longer significant or ensure conformance to a local, state or Federal standard
- If conflicts minimized, allow mining
- If one or more conflict not minimized, analyze ESEE consequences

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (15)

STEP 4: CONFLICT ANALYSIS (OAR 660-023-0180(5)(b)(A-F)) (cont'd)

- Noise – Equipment, rock crushers, blasting, etc.
- Dust – Mining, truck traffic, rock crushers, mining characteristics (wet mining vs. hard rock)
- Other discharges:
 - ▣ Diesel
 - ▣ Groundwater Impacts – Domestic wells, water quality, changes in aquifer
 - ▣ Stormwater

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (16)

STEP 4: CONFLICT ANALYSIS (OAR 660-023-0180(5)(b)(A-F)) (cont'd)

- Other Goal 5 resources
 - ▣ Other MAO sites
- Local roads – Truck traffic, capacity of road system, safety, weight limitations
- Impacts to airports (bird attractants)
- Impacts on Agricultural Operations (ORS 215.296)

FINDING: All potential impacts (specifically noise) can be mitigated at all noise-sensitive uses (residences); noise impact area extends up to ≈200 ft. across part the southern boundary of Extraction Area

nZ0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (17)

STEP 6: ALLOW OR NOT ALLOW MINING (OAR 660-023-0180(5)(e))

- Mining allowed if:
 - ▣ All conflicts are minimized (Step 4), or
 - ▣ ESEE consequences warrants mining
- If Mining is not allowed:
 - ▣ No further analysis required
 - ▣ Site may still be deemed a “Significant” site

FINDING: Mining should be allowed, subject to listed conditions/mitigation methods

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (18)

STEP 7: DETERMINE POST- MINING USE (OAR 660-023-0180(5)(f))

- Reclamation Plan Required
- Post-mining use must be consistent with Comprehensive Plan and Zoning Ordinance
- Reclamation administered by Department of Geology and Mineral Industries (DOGAMI)

FINDING: Proposed reclamation plan provided with lake/pond and natural areas. Applicant will appropriate all necessary permits/approvals from DOGAMI

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (19)

STEP 8: IDENTIFY FUTURE CONFLICTING USES (OAR 660-023-0180(7))

- Identify future off-site conflicting uses in the impact area (MAO)
- New uses allowed by underlying zoning district (dwellings, agricultural uses, etc.)

FINDING: MAO boundary/ impact area includes DEQ noise impact boundary (Staff). Applicant requests MAO only include subject property and has proposed to provide EESE findings.

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (20)

STEP 10: AMEND THE PLAN (OAR 660-023-0180(9))

- Amend the Comprehensive Plan to carry out the decision
 - ▣ Add site to Goal 5 inventory of significant sites
- Amend zoning map to apply Mineral & Aggregate Overlay (MAO)
- Implementing measures / conditions must be clear and objective

FINDING: All relevant criteria met to amend Comp Plan to add Cadman-Canby Phase 4 Aggregate Site to Goal 5 inventory of significant sites.

All relevant criteria met under ZDO Section 1202 (Zone Change) to apply the MAO district

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (21)

STEP 11: MAO SITE PLAN REVIEW

- ZDO Section 708 (Mineral & Aggregate Overlay)
 - ▣ Uses allowed in Extraction Area
 - ▣ Development standards: access, noise, screening, air and water quality, hours of operation, drilling and blasting, etc.
 - ▣ Reclamation Plan
 - ▣ Process
- ZDO Section 1006 (Water Supply, Sanitary Sewer, Surface Water & Utilities Concurrency)
- ZDO Section 1010 (Signs)

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (22)

STEP 11: MAO SITE PLAN REVIEW (cont'd)

FINDING: All criteria met to approve MAO Site Plan Review:

- Proposed uses allowed under ZDO Section 708 (some may or may not occur on site): extraction, stockpiling, equipment storage
- Development standards met, as conditioned: hours of operation, noise and dust mitigation, access (through existing site with existing driveways), haul roads, screening (visual and noise)
- Reclamation Plan and process meets criteria
- Sewage disposal (port-a-potties), surface water, groundwater and water usage criteria are all met
- No new signs proposed

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (23)

PROCESSING ON SATURDAYS

- Z0348-93-CP/Z0349-93-Z & Z1826-97-MAR (Phase 1 site)
 - ▣ Findings in these files state that all off-site noise conflicts mitigated
 - ▣ DEQ noise standard same for Monday-Friday and Saturday

FINDING: No specific circumstances that necessarily warrant limiting processing hours more than what is allowed in ZDO Section 708; therefore it is reasonable to amend the conditions that currently restrict processing to Monday-Friday to also allow for it on Saturdays, per ZDO Section 708.

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (24)

PC HEARING

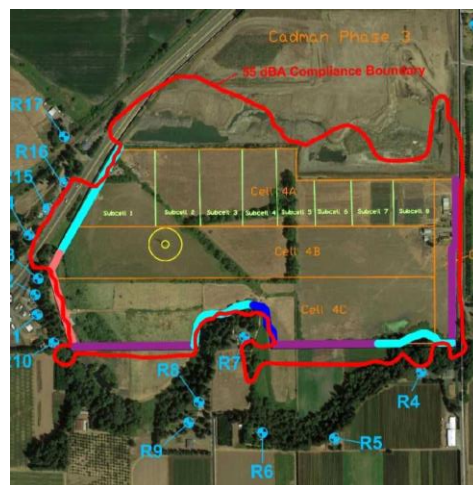
- Public hearing 12/16/2019
- One person testified
- Two main issues:
 1. Groundwater/wells
 - Weyerhaeuser wells for nearby nursery operations
 - Meeting
 - Revised conditions of approval
 2. MAO boundary and EESE analysis

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (25)

PC HEARING (CONT)

MAO boundary and EESE analysis

- Noise compliance boundary vs. subject site boundary
- EESE analysis
- Conclusion: allow conflicting uses, no need to extend MAO past subject boundary



Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (26)

PC & STAFF RECOMMENDATION

- 1) Approval of Z0406-19-C; add Cadman-Canby Phase 4 Aggregate Site (subject site) to inventory in Chapter 3, Comprehensive Plan
- 2) Approval of Z0408-19-ZAP; apply MAO district (to subject site)
- 3) Approval of Z0407-19-MAO; Site Plan Review

Subject to Recommended Conditions of Approval

- ▣ Including the change to conditions to allow for processing on Saturdays

Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP (27)





NAME: Cadman Materials, Inc.
FILE NO: Z0406-19-CP, Z0407-19-MAR & Z0408-19-ZAP
REPORT AUTHOR: Martha Fritzie, Sr. Planner
HEARING DATE(S): December 16, 2019 (PC), February 5, 2020 (BCC)
REPORT DATE: December 9, 2019

**PLANNING STAFF REPORT/RECOMMENDATION
TO THE PLANNING COMMISSION**

GENERAL INFORMATION:

Applicant: Cadman Materials, Inc., 7554 185th Ave. NE, Redmond, WA 98052

Owner(s): Cadman Materials, Inc; Chong Yaxeulue; Rodney W & Charis G Yoder;
Jake Vanpelt, co-trustee; Floyd R Lapp, co-trustee; Arthur D Blumenkron

Proposals: The applicant is proposing four actions:

- (1) a Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan (Plan) to designate approximately 99 acres of the proposed mining site, which includes eight taxlots and approximately 106.5 total acres, as a Goal 5 significant mineral and aggregate resource site in Chapter 3, Table III-2 of the Plan;
- (2) a zoning map amendment to apply a Mineral and Aggregate Overlay (MAO) to the site;
- (3) approval of a Mineral & Aggregate Overlay District Site Plan Review application for the proposed mining operations; and
- (4) a modification of conditions of approval in Planning file numbers Z0348-93-CP/ Z0349-93-Z and Z1826-97-MAR to allow processing on Saturdays.

Location: Approximately three-quarters of a mile south of the intersection of S. Barlow Rd. and S. Hwy 99E, on the west side of S. Barlow Rd.

Legal Description:

Proposed mining site: T4S, R1E, Section 07 Tax Lot(s) 500, 600, 700, 800, 801, 1002, 1003 & 1004 W.M.

Proposed condition of approval modification: T4S, R1E, Section 08 Tax Lot(s) 600, 700 & 800 W.M.

Comprehensive Plan Designation: Agriculture

Zoning District: EFU; Exclusive Farm Use

Total Area Involved:

Proposed mining site: approx. 106.5 total acres

approx. 99 acres within the proposed Extraction Area

RECOMMENDATION:

1. Approval of the PAPA Application (File No. Z0406-19-CP) to designate the subject properties as a “Significant” Goal 5 aggregate resource site in the Mineral and Aggregate Section of the Comprehensive Plan.
2. Approval of the Mineral Aggregate Overlay (MAO) district (File No. Z0408-ZAP), the boundaries of which would correspond to the area identified as the “DEQ Noise Compliance Boundary,” as identified in **Figure 7, Appendix C, Application.**
3. Approval of the Site Plan Review (File No. Z0407-19-MAO) approving the operational aspects of the mining proposal subject to conditions.
4. Approval of a modification of conditions of approval in Planning file numbers Z0348-93-CP/ Z0349-93-Z and Z1826-97-MAR to allow processing on Saturdays.

All approvals would be subject to the Conditions of Approval found in SECTION 4 of this Staff Report (pages 54 thorough 60).

BACKGROUND INFORMATION, DESCRIPTION OF THE SUBJECT PROPERTY AND SURROUNDING AREA AND PUBLIC SERVICE PROVIDERS:

A. Prior Land Use Applications:

Mining-related applications (adjacent and nearby properties)

1. File Nos. Z0348-93-CP / Z0349-93-Z (41E 08, taxlots 600, 700, 800, east side of S. Barlow Rd). This is the original PAPA (Post Acknowledgement Plan Amendment) application for the series of properties currently owned by Cadman Materials, Inc, These applications designated the site as a significant Goal 5 resource and approved a Mineral Aggregate Overlay zoning district on the property and adjacent properties. See Exhibit 2.

The application was approved on January 12, 1995 and included 31 conditions of approval related to the extraction site and 3 conditions related to conflicting uses in the impact area (MAO Boundary). This is currently referred to as the “Phase 1” property and is the site of the existing processing/crushing facility utilized by Cadman for processing materials extracted on other adjacent properties.

2. File No. Z1826-97-MAR (41E 08, taxlots 600, 700, and 800). Mineral and Aggregate Overlay District Permit to develop the approximately 203-acre property with a surface mining operation as authorized in File No. Z0348-93-CP / Z0349-93-Z. This permit also authorizes the post mining use to reclaim the land as a water impoundment and agricultural land. This application was approved by the County on April 28, 1998 subject to 33 conditions. See Exhibit 2.

3. File No. Z0652-99-C (41E 08, taxlot 1000, east side of S Barlow Rd). Conditional Use Permit to operate an asphalt batch plant. The County Hearings Officer approved the conditional use permit for the batch plant subject to conditions of approval. The batch plant was used in conjunction with the existing mining operation on the adjacent property. Based on information contained in the current application, this asphalt plant is no longer in operation.

4. Minor Modification of File No. Z0348-93-CP / Z0349-93-Z. On July 28, 2000 a Minor Modification of File No. Z0348-93-CP / Z0349-93-Z was approved by the County. See Exhibit 3. The Minor Modification authorized changes to two conditions of approval included in the original approval. The first change included a modification to condition no. 16 to increase the limit on aggregate and mineral extraction from 150,000 cubic yards to 3 million tons per calendar year. The second change included a modification of condition no. 10 to relocate the access road for the mining site to the same location approved for asphalt batch plant located on tax lot 1000. See reference to Conditional Use Permit File No. Z0652-99-C.

5. File Nos. Z0756-06-CP, Z0757-06-ZAP & Z0566-07-MAR (41E 08, taxlot 1000, east side of S Barlow Rd). PAPA application which designated the Rodrigues site, containing approximately 38 acres as a significant Goal 5 resource and approved a Mineral Aggregate Overlay (MAO) zoning district on the Rodrigues property. This property which was acquired by Pacific Rock Products, LLC subsequent to approval of the original site but is currently owned by Cadman Materials, Inc. and is referred to as the “Phase 2” property. Final approval of these applications was made by the Board on April 26, 2007. A MAO District Permit to develop the property with a surface mining operation as authorized in File No. Z0756-06-CP and Z0757-06-ZAP (Exhibit 4).

6. File Nos. Z0331-11-CP, Z0332-11-ZAP & Z0362-12-MAR: (41E07 taxlots 00100, 00190, 00390, 00400 & 00700/ 41E06 taxlots 01800 & 01900) These files approved the site immediately to the north of the subject property as a “significant Goal 5 aggregate resource”, applied the MAO, and authorized mining on the site. This site includes approximately 90 acres located in seven taxlots and is referred to as “Phase 3” of Cadman mining operation. These applications were approved by the County on February, 9, 2012

subject to 57 conditions. See Exhibit 5. As part of this proposal, a conveyor system was built to transport mines materials under S. Barlow Rd., to the processing site on the east side of that road (41E08 taxlots 00700 & 00800). Extraction is currently underway on this site.

Other relevant prior applications

7. File Nos. Z0294-15-CP & Z0295-15-ZAP (41E07 taxlot 800) In February, 2016, the Board approved a Comprehensive Plan/Zoning change for the upper portion (approx. 5 acres) of this taxlot from EFU (Exclusive Farm Use) to RI (Rural Industrial). The upper portion of this property has frontage on S. Highway 99E and is separated by approximately 60 feet of elevation change from the lower portion, which remains zoned EFU and is included in the current applications by Cadman Materials Inc. for inclusion in the “Phase 4” Goal 5 aggregate mining site.

B. Proposal: The stated intent of this proposal (according to the applicant) is to “expand the existing Cadman Materials Incorporated - Canby Pit 3 in order to provide on-going supply of aggregate at the location of their existing operation. As noted above Phase 3 is immediate adjacent to the northern boundary of the subject site. Although an expansion, the Oregon Administrative Rules (OARs) require the analysis be completed for the expansion area to determine the entire site is a significant Goal 5 resource and apply the Mineral & Aggregate Overlay (MAO) to the site.

As proposed, the expansion of the mining area onto the subject site, referred to as Phase 4 (or Cadman – Canby Phase 4), will not change or increase the number of currently-permitted trucks entering and leaving the existing permitted processing site, which is located across S. Barlow Rd from the subject site. The proposal is to simply transition excavation operations from the Phase 3 mining area into the Phase 4 mining area. Access to the Phase 4 site would utilize the existing driveway authorized for Phase 3; no new access from S Barlow Rd is proposed.

Operations in the Phase 4 mining area will include the stripping of overburden material, the excavation of the desired aggregate materials, the transportation of excavated material by conveyor to the existing Cadman processing facility located in the Phase 1 mining area (shown in Figure 2, below), and the reclamation of the site once the aggregate materials have been removed. There will be no blasting or processing of materials within the Phase 4 mining area.



Source: Appendix C, Application

In addition to the Comprehensive Plan text and zoning map amendments to establish the MAO, the applicant proposes to mine and process aggregate materials from the 99-acre portion of the subject property identified in **Figure 2, Application** as the “Extraction Area”. The total excavation area within that 99 acres is expected to be approximately 93.6 acres. Based on the applicant’s consultant, there are approximately 8.1 million tons of aggregate material on the subject property, with an estimated 6.9 million tons available for extraction, and that aggregate meets the applicable standards of Goal 5 to establish that the property is a Significant Mineral and Aggregate Resource site.

The rock will be excavated in three phases over an estimated eight to 10 year period depending upon demand, as shown in **Figure 6, Application** and as described in detail on pages 6-7 and **Figure 3 of Appendix C, Application**. Excavation is proposed to start in the northwest corner of the property and move eastward. Topsoil and overburden removed during the mining process will be used for berms for visual and noise screening, as well as stockpiled in setback areas for use later in the reclamation of the site. Mining excavation setbacks of 30 feet from property lines will be maintained around the excavation area.

Excavators, loaders, dozers, and articulated haul trucks will be used to excavate the site. The mine cells will be partially dewatered to a maximum depth of approximately 20 feet below the ground surface and mined wet below depths of 20 feet with appropriate equipment to eliminate the need to dewater the mining cell further.

Little site preparation is required before mining could begin on the property, as the majority of the property has been in seasonal agricultural production or used for grazing; as such, it contains little vegetation, including grasses, bushes and some trees. There is one existing dwelling with two outbuildings on the site which would be removed prior to the commencement of mining. There is an existing dwelling on taxlot 700 that sits approximately 50 feet above the current grade of the extraction area and, at the request of the homeowner, will remain (instead of selling the entire lot, this property owner reportedly wants to remain in the home with the understanding that it will be overlooking a lake in the future). There are no regulated wetlands, floodplains or other protected natural resources on the site.

Proposed conceptual reclamation of the property will occur concurrently with the mining extraction activities, to the extent practical. Once excavation activities are completed in a particular area of the property, they will progress to another area, and reclamation activities will commence in the excavated area and will include the creation of a natural area including a lake and native vegetation. Being zoned Exclusive Farm Use (EFU), the potential for future development of this site is limited to agricultural or related uses; returning the land to a natural state with a lake is consistent with the intent of EFU land.

C. Definitions: Oregon Administrative Rule 660, Division 23 outlines the “Procedures and Requirements for Complying with Goal 5.” OAR 660-023-010 and 660-023-0180(1) includes the definitions of a number of words and terminology which will be used in the evaluation of this application.

D. Site Description: The subject property is located approximately three-quarters of a mile south of the intersection of S Hwy. 99E and S. Barlow Rd. It is bound by on two sides by existing mining sites in various states of preparation, production and/or reclamation. Highway 99E traverses much of the western boundary.

The subject property includes six separate legal lots of record (in eight taxlots), totaling 106.5 acres, of which approximately 99 acres are identified as the Extraction Area. The majority of the proposed Extraction Area is currently undeveloped, and has reportedly been in some sort of seasonal agricultural use and/or grazing for several decades. Site elevations range from a high of approximately 110 feet Mean Sea Level ("MSL") in the eastern portion of the property to a low of approximately 100 feet MSL in western portion of the extraction area. Along the southwestern and southern edges of the extraction area, the elevation increases sharply to 150 to 160 feet MSL. These higher portions are not included in the Extraction Area; rather they will retain their existing uses – a few dwellings and a rural industrial business (located in the RI zone).

Maps of the subject property and the surrounding area are included in **Figures 1 and 2, Application**.

A Bonneville Power Administration (BPA) transmission corridor crosses the site, north to south, with a lattice tower located in the southeastern portion of tax lot 1003.

E. Zoning: The majority of the subject properties are currently zoned Exclusive Farm Use (EFU); the Comprehensive Plan designation is “Agriculture.” A small portion (approx. 5 acres) of one taxlot (41E07 00800) is zoned Rural Industrial (RI) – this portion of the property is not included in the Extraction Area. The properties are located outside the Portland Metropolitan Urban Growth Boundary and the Metropolitan Service District Boundary and are not in a designated Urban or Rural Reserve.

F. Soils:

The subject property is considered low-value farmland. The vast majority of the soils mapped on the subject property are Class 4 – Cove silty clay loam (25), which is estimated to encompass approximately 89% of the Extraction Area.

The remainder of the Extraction Area, along the toe of the slope in the southern portions of the property, are Class 3, unique soils – Humaquepts, ponded (42) which are considered high value, but encompass only an estimated 9% of the site. Soils on the slopes inside and just outside the Extraction Area on the subject property to the south and southwest are low-value, Class 6 – Xerochrepts, very steep (92F).

G. Surrounding Conditions:

Detailed description of surrounding properties can be found on **pages 2-4, Application** and **Appendix H, Application**. Generally, there are large active or retiring surface mining operations to the east, north and northeast of the subject; and rural industrial and rural residential properties to the northwest.

Table 1. Summary of Surrounding Uses

Location	Existing Use(s)	Zoning	Comments
North	Mining	EFU (Exclusive Farm Use)	Cadman Phase 3: Approx. 90 acres approved for aggregate mining (files Z0331-11-CP, Z0662-11-ZAP). MAO overlay includes entire site and the northernmost approx. 300 feet of the subject property.
East (across S Barlow Rd)	Mining/two residences	EFU	Cadman Phase 1 & 2 and processing facility: Approx. 241 acres approved for aggregate mining (files Z0348-93-CP & Z0349-93-ZAP and Z0756-06-CP & Z0757-06-ZAP). MAO overlay includes entire mining site, does not extend over residences. Asphalt batch plant approved for a portion of this site (Z0652-99-C); currently not in operation. Two residences exist in this location, both on land zoned EFU.
Northeast	Agriculture/ mining approved, not yet commenced	EFU	Parker NW/Traverso: Approx. 79 acres approved for aggregate mining (files Z0568-17-CP, Z0569-17-MAO & Z0570-17-Z). Site has been sold to Glacier NW Inc. and sitework appears to have begun for the approved aggregate mining..

South	Residences/ agriculture	EFU	Area contains a few residences and mixed farming operations hay and nursery stock. Significant elevation change, majority of these uses are up on a bluff, approx. 60 feet above the current ground level of proposed extraction area.
West	Rural industrial use/ residences	RI and EFU	One rural industrial business is located in this area, on the portion of taxlot 800 that is zoned RI. Use is limited to approved salvage, drying and milling of reclaimed wood. Several residences exist adjacent to this use on EFU-zoned land. This area is also at a significantly higher elevation (approx. 60 feet) than the proposed extraction area.
Northwest/west (across S Hwy 99E)	Residences, commercial business, agriculture	FF-10 and EFU	Located across S Hwy 99E are several residences in rural residential zoning (FF-10), one reported commercial business and further west/northwest is cultivated farmland.

H. Service Providers:

1. Sewer: The subject property is not located within a public or private sewer district. Sewage disposal is accommodated by an on-site sewage disposal systems in this area.
2. Water: The subject and surrounding properties are served by private wells.
3. Surface Water: The subject property is not located within a public or private surface water district. Surface water is regulated pursuant to Section 1008 of the ZDO. The Oregon Dept. of Geology and Mineral Industries (DOGAMI) and the Oregon Dept. of Environmental (DEQ) also have jurisdiction over some aspects of surface water management for surface mining operations.
4. Fire Protection: Canby Fire District #62

I. Agency and Property Owner Notification List:

1. Cities of Canby and Barlow
2. Clackamas County WES/SWMACC
3. Canby Fire District #62
4. Clackamas County DTD/Engineering Div.
5. Clackamas County WES/Soils Section
6. Dept. of Geology and Mineral Industries (DOGAMI)
7. Dept. of Environmental Quality (DEQ)
8. Dept. of Land Conservation and Development (DLCD)
9. Oregon Dept. of Water Resources (ODWR)
10. Metropolitan Service District (METRO)
11. Aurora Airport
12. Oregon Dept. of Aviation
13. Oregon Dept. of Transportation (ODOT)
14. Property owners of record within 2,500 ft. of the subject property (per ZDO Section 1307.10(3)(b)(iv))

- 15. Property owners of record within 750 ft. of the lots that contain the Cadman processing site subject property (per ZDO Section 1307.10(3)(b)(iii.))

I. CPO Recommendation: The subject property is located within the South Canby Community Planning Organization (CPO), which is not active.

J. Exhibits: See Exhibit List following the last page of this report.

TABLE OF CONTENTS

SECTION 1. Post Acknowledgement Plan Amendment / Comprehensive Plan Text Amendment (File No. Z0406-19-CP). This application is subject to and must be consistent with the Statewide Planning Goals, Oregon Administrative Rules (OARs) and the Clackamas County Zoning & Development Ordinance (ZDO).

Part 1 – Compliance with Statewide Planning Goals.....Page 10
 Part 2 – Compliance with OAR 660-023 – General Provisions.....Page 19
 Part 3 – OAR 660-023-0060 – Notice Requirements..... Page 20
 Part 4 – OAR 660-023-0180(3) – Significance DeterminationPage 21
 Part 5 – OAR 660-023-0180(5) – Determination to Allow/ Not Allow Mining...Page 24
 Part 6 – OAR 660-023-0180(7) – Conflicting Uses in Impact Area.....Page 35
 Part 7 – OAR 660-023-0180(8) – Determination of Complete Application.....Page 36
 Part 8 – Summary of Findings Regarding PAPA.....Page 38

SECTION 2. Zoning Map Change Application (File No. Z0408-19-ZAP).The zone change application is subject to the criteria in Section 1202 of the Clackamas County Zoning and Development Ordinance.

Part 1 – Evaluation of criteria in Section 1202.....Page 39
 Part 2 – Summary of Zone Change Criteria.....Page 40

SECTION 3: Site Plan Review Application (File No. Z0407-19-MAO)

Part 1 – Evaluation of criteria in Section 708.....Page 41
 Part 2 – Summary of Site Plan Review Criteria.....Page 54

SECTION 4: Recommended Conditions of Approval. If approved, the approval will be subject to conditions, as recommended in this section.....Page 54

SECTION 1- COMPREHENSIVE PLAN TEXT AMENDMENT (Z0406-19-CP)

PART 1. COMPLIANCE WITH STATEWIDE PLANNING GOALS

A. Goal 1: Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public notification. This application has been processed consistent with the notification requirements in Section 1307 of the ZDO including notice to individual adjacent and surrounding property owners within 2,500 feet of the subject property, surrounding property owners within 750 feet of the processing site, notice in the local newspaper, and notice to affected agencies and dual interest parties. Notice to the Community Planning Organization (CPO) in the area was not provided because the CPO is inactive. One or more advertised public hearings will also be conducted before the Clackamas County Planning Commission and Board of County Commissioners, which provides an opportunity for additional citizen involvement and input.

This application is consistent with Goal 1.

B. Goal 2; Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The findings addressing this Goal include references to Oregon Administrative Rule 660, Division 23 as the applicable rule guiding the process for the County decision-making for Goal 5 Post-Acknowledgement Plan Amendments (PAPAs).

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following governmental agencies for comments; City of Barlow, Canby Fire District, Aurora Airport, County Dept. of Transportation and Development (DTD), Traffic Engineering, Oregon Dept. of Transportation; District 2B, Oregon Dept. of Aviation, Dept. of Geology and Mineral Industries (DOGAMI), Dept. of Environmental Quality, Dept. of Land Conservation and Development and Dept. of Water Resources. Notice of this application was provided to all these agencies and property owners of record within 2,500 feet of the subject property and within 75 feet of the property with the processing facility on November 6, 2019, well in advance of the first evidentiary public hearing. This notice provided an opportunity for these governments and agencies to evaluate and comment on this application and for the County to consider and coordinate this decision and action with the affected governments and agencies.

The subject property is located in proximity to the Cities of Canby and Barlow and although it is not located within the boundary of the Urban Growth Management

Agreement (UGMA) between either of those cities and Clackamas County, notice was given to both cities. No comments have been received from either Barlow or Canby.

Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. This application has been evaluated against all the applicable goals and policies of the Clackamas County Comprehensive Plan. The background information and findings provided by the applicant and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision consistent with the adopted County Comprehensive Plan.

This application is consistent with Goal 2.

C. Goal 3; Agricultural Land: *To preserve and maintain agricultural lands.*

The subject property is designated Agriculture on the County Comprehensive Plan map. No change in the Agricultural plan designation is proposed. This PAPA application requires a “balancing” of Goal 3, which is intended to preserve agricultural lands and Goal 5 which is intended to protect significant natural resources including mineral and aggregate resources. The “balancing” test is essentially weighed using the Goal 5 process in OAR 660, Division 23. The findings throughout this staff report provide an analysis of that rule and other applicable Statewide Planning Goals and Oregon Administrative Rules. This proposal is consistent with Goal 3 because, as discussed herein, the mineral and aggregate resource on the property is considered “Significant”. Approval of this application will recognize and protect the resource, allow use of the resource to be mined for a limited duration and the post mining use for fish and wildlife habitat uses is an allowed use in agricultural area and consistent with the preservation of agricultural land. Based on those findings this proposal is consistent with Statewide Planning Goal 3.

This application is consistent with Goal 3.

D. Goal 4; Forest Land: *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

The subject property is designed Agriculture on the Comprehensive Plan map. This application does not include any land designated Forest on the Comprehensive Plan map and therefore; Goal 4 is not applicable to these applications.

Goal 4 is not applicable.

E. Goal 5; Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

Goal 5 resources include open space areas, scenic and historic resources and other natural

features and resources, including mineral and aggregate resources. Chapter 3 of the Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

The only significant Goal 5 resources within the impact area of the proposed Phase 4 mining site are the adjacent Mineral and Aggregate (MAO) sites to the north and east. These sites have received several separate approvals; three of the sites are operated by the applicant (Phases 1 through 3 and the Cadman processing facility), while one site is owned by a different company. Overall, approximately 400 acres have been designated as significant and the MAO overlay applied.

This application requests that the subject property be identified as a significant Goal 5 Mineral and Aggregate Resource site. This again requires a “balancing” of this potential Goal 5 resource against the protection of, and / or potential conflicts with, other Goal 5 resources in the area.

OAR 660-023-0180(5)(b)(D) requires a conflict analysis to consider impacts of the proposed mining on other Goal 5 resources. As noted above, the only Goal 5 resources within the impact area are other aggregate mining operations, which, as noted in SECTION 1, Part 5 of this report can reasonably be found to not be in conflict with another mining operations.

This application is consistent with Goal 5.

F. Goal 6; Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water and land resources of the state.*

The County Comprehensive Plan and ZDO contain adopted implementing regulations to protect the air, water and land resources. These regulations, which include compliance with both County and State requirements (DEQ, DOGAMI, etc.), include standards to regulate air, dust, water, erosion and noise. Compliance with these regulations will be required and applied to any future development proposals (grading, mining, processing, hauling, etc.) on the property. Compliance with these regulations will ensure the proposed mining operation maintains and improves the air, water and land resources in the area.

This application is consistent with Goal 6.

G. Goal 7; Areas Subject to Natural Disasters and Hazards: *To protect life and property from natural disasters.*

The subject properties contain no mapped hazard areas. The applicant has also submitted a surface water management plan to reduce or avoid potential adverse flooding impacts to off-site properties due to storm water runoff.

Therefore Staff can find that this proposal would have no significant impact on areas subject to natural disasters or hazards.

This application is consistent with Goal 7.

H. Goal 8; Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities including destination resorts.*

This proposal does not involve any designated recreational or open space lands, or affect access to any significant recreational uses in the area. This project will have no impact on the recreational needs of the County or State.

This application is consistent with Goal 8.

I. Goal 9; Economic Development: *"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens."*

This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan polices.

OAR 660-009 implements Statewide Planning Goal 9 for lands within urban growth boundaries. The subject property is not located within an urban growth boundary, therefore OAR 660-009 is not applicable. This proposal does not include any land designated for commercial, industrial or other types of employment uses specifically regulated under Goal 9.

However, the proposed project furthers the objectives of this goal by providing a material (rock) that is essential to the construction of a variety of infrastructure projects both within and outside the nearby Portland Metropolitan UGB area. Development of these infrastructure projects will support a variety of economic activities across the state.

This application is consistent with Goal 9.

J. Goal 10; Housing: *"To provide for the housing needs of citizens of the state."*

This goal requires local jurisdictions to provide for an adequate number of needed housing units and to encourage the efficient use of buildable land within urban growth boundaries. OAR 660-007 and 660-008 defines the standards for determining compliance with Goal 10. OAR 660-008 addresses the general housing standards. OAR 660-007 addresses the housing standards inside the Portland Metropolitan Urban Growth Boundary. OAR 660-007 takes precedence over any conflicts between the two rules.

Planning Staff finds that Goal 10 is not applicable because this application does not include land planned to provide for urban residential or rural residential housing. The Agricultural plan designation is intended to preserve and maintain the land for agricultural uses and is not intended to provide land for housing. This proposal will not affect the inventory or amount of buildable lands needed for housing in the County.

Goal 10 is not applicable.

K. Goal 11; Public Facilities and Services: *“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”*

This Goal provides guidelines for cities and counties in planning for the timely, orderly and efficient arrangement of public facilities and services, such as sewer, water and storm drainage. The Goal requires these public facilities and services to be provided at levels necessary and suitable for urban and rural uses, as appropriate. The subject property is located outside of an urban growth boundary and is considered “Agriculture” land. The area is not located within, or serviced by any public or private water, sewer or storm drainage service district. The extension of public sewer, water or storm drainage facilities is not proposed or required to support the proposed mining operation.

The inclusion of the subject property as a significant mineral and aggregate site will have no effect on the planning of public facilities or services by the County or nearby cities of Canby and Barlow.

This application is consistent with Goal 11.

L. Goal 12; Transportation: *“To provide and encourage a safe, convenient and economic transportation system.”*

Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12.

OAR 660-012-0060 applies to any plan map amendment that would significantly affect an existing or planned transportation facility. OAR 660-012-0060(1) requires any amendments to functional plans, acknowledged comprehensive plans, and land use regulations which would significantly affect a transportation facility to demonstrate (put in place measures as provided in Section (2) of the rule) that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. Pursuant to OAR 660-012-0060(1) a plan or land use regulation amendment is deemed to significantly affect a transportation facility if it;

- a) *Changes the functional classification of an existing or planned transportation facility;*
- b) *Changes standards implementing a functional classification; or*

- c) *As measured at the end of the planning period identified in the adopted transportation system plan:*
- A. *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or*
 - B. *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
 - C. *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*
3. Pursuant to OAR 660-012-0060(2) compliance with OAR 660-012-0060(1) can be achieved by one or a combination of the following;
- a) *Adopting measures that demonstrate the allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
 - b) *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*
 - c) *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.*
 - d) *Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*
 - e) *Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.*

The applicant has submitted a Traffic Analysis (TA) completed by Sandow Engineering dated March 4, 2019 (**Appendix D, Application**). This analysis includes the following findings:

- *Highway 99E at South Barlow Road currently does not meet the adopted mobility standard which is expected to continue through Clackamas County's Transportation System Plan planning horizon. Oregon Highway Plan Action 1F.5 defines the mobility standard as no further degradation for this intersection. Since the application requests authorization of a minable inventory of aggregate resource to replace depleted resources at the facility, traffic associated with the application of the*

MAO overlay from the proposed aggregate extraction operation does not modify the volume-to-capacity ratios beyond existing background conditions, meeting ODOT mobility targets as defined in the Oregon Highway Plan.

- *The existing site driveway will meet the mobility standard for the year of opening and through the end of Clackamas County Transportation System Plan planning horizon with the comprehensive plan amendment.*
- *The existing horizontal alignment of all roadways can accommodate truck traffic consistent with applicable standards under Goal 5.*
- *The application was found to meet all applicable traffic analysis code criteria.*
- *TPR has been demonstrated to be met for the proposed zone change and comprehensive plan amendment.*

Neither the Oregon Department of Transportation (ODOT) nor the County's Traffic Engineering Division have submitted comments. Planning Staff has reviewed the analysis, however, and finds that, while some assumptions in the analysis are suspect, the fact that the proposal would not increase production of aggregate or increase the number of daily trips occurring on the existing driveway, can lead a reasonable person to conclude that the standard of no further degradation can be met.

Pertinent assumptions that staff finds reasonable in the in the traffic study include:

- The current permitted capacity of up to 3 million tons/year is continued for Phase 4.
- The current trip cap of 154 AM and 120 PM peak hour trips is continued for Phase 4.
- Upon depletion of aggregate on existing lands (in Phase 3), the operation will move to the subject site (Phase 4).
- The conveyor tunnel will continue to be used for the same purpose and all material will be transferred from the west side to the east side of S. Barlow Rd.
- All trucks entering and leaving the overall site will be travelling in and out of the east side of S. Barlow Rd.

However, the TPR analysis, starting on page 24 of the Traffic Study includes unreasonable, aggressive assumptions for the "reasonable worst cast" trip generation under the current zoning. The analysis is based on fairly high traffic generating uses that are either allowed in the EFU zone only as conditional uses (i.e. not as primary uses, but only after consideration of several, often discretionary criteria) or that are actually not allowed in the EFU district (day care centers). The resulting conclusion is that is that the proposed MAO overlay zone would actually generate *fewer* trips than the worst-case trip generation associated with other EFU uses allowed under County code.

It is likely that if an assumption is used based on uses that are primary, outright allowed uses, that this difference in traffic generation would be positive rather than negative. Despite this shortcoming, however, Staff believes that even with a reasonable starting assumption and showing the MAO would likely increase trips, it would be reasonable to find that there is still no significant impact to the transportation system because the actual numbers of trip on the road will not change. In other words, in the analysis, while the

trips may increase due to the subject site, the trips on the adjacent MAO site will decrease with the eventual removal of the overlay, resulting in no net difference in trips onto S. Barlow Rd.

Therefore Staff can find that this proposal is consistent with OAR 660-012-0060(1)(a) and (b) because it does not include in a change in the functional classification of an existing or planned transportation facility, nor change the standards implementing a functional classification. This proposal will not significantly affect the State transportation system as defined in OAR 660-012-0060(1)(c)(C) because it will not worsen the performance of the Hwy. 99E / Barlow Road intersection.

This proposal is consistent with Goal 12.

M. Goal 13; Energy Conservation: *To conserve energy.*

The objective of Goal 13 is the conservation of energy. The proposed project will have at least two significant positive energy consequences. First, mining the aggregate resource will facilitate completion of many needed transportation improvements, which will, in turn, provide greater capacity and smoother surfaces. As a result, vehicles on roads throughout the region will be able to consume less fuel because they will spend less time idling in traffic and/or confronting substandard road conditions.

Furthermore, the energy consequences of allowing a mine can also be considered positive due to the close proximity to the cities of Canby, Barlow, Aurora, and other nearby locations where there is a current or projected significant amount of growth and demand for aggregate. Locating a mine near these markets will reduce the distance the product must travel, resulting in lower fuel consumption. The property's proximity to major transportation corridors, such as Highway 99E and Interstate 5, also reduces fuel consumption and energy impacts compared to more remote locations.

This proposal is consistent with Goal 13.

N. Goal 14; Urbanization: *To provide for an orderly and efficient transition from rural to urban land uses.*

Planning staff finds that Goal 14 is not applicable to this application for the following reasons:

- a. The subject property is not located within an urban growth boundary (UGB) or urban reserve area.
- b. This proposal does not involve a change in the location of the UGB.
- c. This proposal does not include a conversion of rural land to urban land, or urbanizable land to urban land.

Goal 14 is not applicable.

O. Goal 15: Willamette River Greenway: *To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

1. The subject property is not located within or near the Willamette River Greenway and therefore Goal 15 is not applicable.

Goal 15 is not applicable.

P. Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes) and Goal 19 (Ocean Resources).

Goals 16, 17, 18 and 19 are not applicable to Clackamas County.

PART 2. OREGON ADMINISTRATIVE RULE 660-023 – General Provisions and Requirements.

A. General Process: Oregon Administrative Rule 660, Division 23 contains the procedures and requirements for complying with Statewide Planning Goal 5. Oregon Administrative Rule 660-23-0180 specifically relates to Mineral and Aggregate Resources. OAR 660-023-0180(2) outlines the general process for evaluating the PAPA. The application correctly summarizes this process on **page 6** of the **Application**.

B. Individual Applications: OAR 660-23-180(2) requires local governments to amend acknowledged Comprehensive Plan inventories with regard to mineral and aggregate resources at periodic review or in response to an individual application for a Post Acknowledgement Plan Amendment (PAPA). This PAPA application has been submitted by an individual land owner.

C. Processing Time Line: Pursuant to OAR 660-023-0180(5) the County has 180 days after the receipt of the application to complete the review process and render a decision. The application was deemed complete on October 2, 2019. The 180 processing deadline is March 30, 2020. The Board of County Commissioners public hearing is scheduled on February 5, 2020.

D. Applicable Sections: The following Sections of OAR 660-023 are applicable to this application: Section 10 (Definitions), Section 60 (Notice and Land Owner Involvement) and Section 180 (Mineral and Aggregate Resources).

PART 3. OREGON ADMINISTRATIVE RULE 660-023-0060 - Notice and Landowner Involvement Requirements.

A. OAR 660-023-0060: Local governments shall provide timely notice to landowners and opportunities for citizen involvement during the inventory and ESEE process. Notification and involvement of landowners, citizens, and public agencies should occur at the earliest possible opportunity whenever a Goal 5 task is undertaken in the periodic review or plan amendment process. A local government shall comply with its acknowledged citizen involvement program, with statewide goal requirements for citizen involvement and coordination, and with other applicable procedures in statutes, rules, or local ordinances.

Section 1307 of the ZDO identifies the notice requirements and procedures for a quasi-judicial application and public hearings. This Section requires notice at least 35 days before the first evidentiary hearing to the CPO. The CPO is inactive in this case, and therefore notice was not provided.

Notice is also required at least 20 days prior to the hearing to the applicant to property owners of record within 1,000 feet of the subject property's impact area (generally 1,500 feet from the subject); property owners of record within 750 feet of the processing property and contiguously owned property; nearby airport owners; the Oregon Department of Aviation; and dual interest organizations.

Notice must also be provided in a newspaper of general circulation in the affected area at least 10 days prior to the hearing.

Paragraph I in the BACKGROUND Section of this report includes a list of all the agencies sent notice of this application. This list includes all the affected dual interest area parties, including the Aurora Airport and the Oregon Dept. of Aviation. Notice was mailed to all these parties and to property owners, as required, on November 6, 2019, approximately 40 days prior to the first scheduled hearing before the Planning Commission on December 16, 2019. A notice of the public hearing was provided to the Canby Herald newspaper for publication in November 2019.

Notice of the application has been provided consistent with State law, County Comprehensive Plan policies and ZDO requirements. The notice for this application was also provided well in advance of the minimum notice requirements and at the earliest possible opportunity.

The Notice and Landowner Involvement Requirements are met.

Note: the Determination of Completeness and Adequate Application (OAR 660-023-0180(8)) is discussed in Part 8, herein, so as to maintain numerical order of the OARs.

PART 4. OREGON ADMINISTRATIVE RULE 660-023-0180(3) - Determination of Whether the Aggregate Resource Site is Significant (“Step 1”).

A. OAR-660-23-180(3): *An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality and location of the resource demonstrates that the site meets any **one** of the criteria in subsections (a) through (c) of this section, except as provided in Subsection (d) of this Section.*

1. OAR-660-23-180(3)(a): *A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and 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.*

This application includes an *Aggregate Resource Evaluation and Goal 5 Significance Determination, Cadman Expansion Properties – Canby Phase 4* completed by H.G Schlicker & Associates (“HSGA”), dated August 12, 2019. (**Appendix A, Application**). The evaluation was undertaken specifically to determine the location, quality and quantity of aggregate material on the subject property. HSGA reviewed available published geologic literature and the analysis for Cadman’s current mining operation (Phase 3) adjacent to the subject property; completed a subsurface investigation; quantified the potential aggregate resources; and submitted aggregate samples to the Oregon Department of Transportation (ODOT) Materials Laboratory for quality testing.

The applicant summarizes the HSGA analysis regarding the quantity of material as follows: *To estimate the quantity of aggregate at the Site, the top and bottom elevations of the aggregate deposit were identified based on the borings. The top elevations of the aggregate deposit, that is, the top of the aggregate resource located below the residual soil/weathered material (overburden), were identified. The bottom elevations of the aggregate deposit were also identified using the borings. The bottom elevations of the resource, for the purposes of volume calculations, were artificially limited to the depths of the proposed mine floor, which varies in depth across the site. As a result, the volume of resource as set forth in **Appendix A**, is considered a conservative estimate of the quantity of aggregate present on the site. In addition, it is noted that cubic yards were translated to tons using a very conservative conversion factor of 1.54 tons per one cubic yard (p. 9, **Application**)*

The subsurface exploration conducted on the property included 18 drilled borings completed to a maximum depth of 85 feet in the eastern portion of the site and approximately 45 to 50 feet in the western portion of the site. Five monitoring wells have been installed in the borings. The location of the test pits and boring/monitoring wells are identified on **Figure 2, Appendix A, Application**.

Based on the analysis completed by HSGA, the boring samples indicate the proposed mining site generally consists of a layer of topsoil/silt up to 10 feet deep. The sand and gravel resource is located below this overburden to a depth up to approximately 70 feet in

the eastern portion of the site and 40-45 feet in the western portion of the site. HSGA used an assumption of 33 feet for the average resource thickness for the purposes of calculating the quantity under this criterion.

The quantity of the resource is addressed in Section 2.3 of the Aggregate Resource Evaluation report. Clackamas County is considered part of the Willamette Valley. Therefore this application is subject to the 2,000,000 ton threshold. The quantity of aggregate material is calculated based on the estimated cubic yards of material converted to tons (1.54 tons / cubic yard). The total cubic yards of material is estimated based on the size of the Extraction Area, average depth of the material to be mined (33 feet) and configuration of the actual mining site.

The volume estimate indicates there is at least 5 million cubic yards of sand and gravel aggregate resource on the site with approximately 4.5 million cubic yards available to mine. Based on these estimates there is approximately 6.9 million tons (4,474,480 cubic yards x 1.54) of usable mineral and aggregate materials on the subject property. As noted in the report: *The site appears to have a minimum average 33 feet thick aggregate resource providing approximately 8.1 million tons of aggregate on the site. There is approximately 6.9 million tons of sand and gravel in place to depths of approximately 30 to 70 feet below the ground surface which is available for mining, based on the required setbacks from the property lines, LNG easement and the BPA tower, and the mine slope configuration shown on **Figure 7 (Appendix A, Application)***

The quality of the mineral and aggregate resource is summarized in Section 2.2 of the Aggregate Resource Evaluation report. Representative samples were submitted to the Oregon Department of Transportation (ODOT) Materials Laboratory for air degradation, abrasion and soundness testing. The laboratory data sheets for this quality testing are included in the appendix of the aggregate evaluation report. The test results demonstrate the sand and gravel resource meets the applicable ODOT specifications for base rock.

Pursuant to OAR 660-023-180(3)(d), even if a site meets the quality and quantity thresholds, it cannot be deemed a significant site if either: (a) more than 35% of the proposed mining area consists of Class I soils, as classified on Natural Resource and Conservation Service (“NRCS”) maps on June 11, 2004; or (b) more than 35% of the proposed mining area consists of Class II soils, or a combination of Class I, II, or Unique soils as classified on NRCS maps on June 11, 2004, unless the average thickness of the mining area exceeds 25 feet.

According to the applicable NRCS maps and summarized in the Aggregate Resource Evaluation report, the subject site is mapped primarily with Class IV soils (89.2%) and contains no Class I or II soils. Therefore the standard in OAR 660-023- 180(3)(d) for depth does not apply.

Planning Staff finds that the location, quantity and quality standards are met for the following reasons:

1. The HSGA evaluation for this site was completed by qualified professionals in the field of geology.
2. The evaluation includes a review and analysis of a number of different resources such as geologic mapping, well logs, boring samples and subsurface exploration.
3. The subsurface exploration provide a representative sample of the mineral and aggregate resource potential.
4. There is an estimate of approximately 6.9 million tons of available aggregate resource on the property.
5. Representative samples from the test borings were tested for quality. The quality of the mineral and aggregate resources satisfies the applicable ODOT specifications for base rock for air degradation, abrasion and soundness.

The location, quality and quantity standards are met.

2. OAR-660-23-180(3)(b): *The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section.*

Clackamas County has not adopted a separate standard establishing a lower threshold for significance. **This criterion is not applicable.**

3. OAR-660-23-180(3)(c): *The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.*

The subject property is not identified as a “Significant Sites” on Table III-2 - Inventory of Mineral and Aggregate Resource Sites in Chapter 3 of the Clackamas County Comprehensive Plan. **This criterion is not applicable.**

CONCLUSION: The proposed expansion area qualifies as a “Significant” site under OAR 660-023-0180(3) because it satisfies the location, quantify and quality standard in OAR 660-023-0180(3)(a) and OAR 660-023-0180(3)(d) is not applicable.

PART 5. OREGON ADMINISTRATIVE RULE 660-023-0180(5) – Determination to Allow or Not Allow Mining (“Steps 2 through 5”).

A. OAR 660-023-0180(5): *For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.*

1. OAR 660-023-0180(5)(a) (“Step 2”): *The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.*

OAR 660-023-0010(3) defines the “Impact Area” as the geographic area within which conflicting uses could adversely affect a significant Goal 5 resource. The application includes a map entitled “Cadman – Canby Phase 4 Expansion Area – Tax Lot Map and Impact Area” (**Figure 2, Application**) depicting the 1500-foot potential impact area. There is no information in the record which indicates there may be potential conflicts with existing and approved land uses beyond the proposed 1,500 foot impact area, which would warrant a larger buffer area. Therefore, Planning Staff finds that the 1,500 impact area is appropriate for the conflict analysis.

This criterion is met.

2. OAR 660-023-0180(5)(b) (“Step 3”): *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.*

The applicant identified 59 taxlots within the 1,500-foot impact area. The “approved uses” within this area are identified in **Appendix H, Application** and illustrated on **Figure 2, Application**, and generally include the following: surface mining, rural industrial uses, residential (primarily to the west of the subject site and across Hwy 99E) and farming (primarily to the south and northwest, across Hwy 99E). The applicant identified 20 residences within the impact area and, based on zoning designations, identified no opportunities to develop additional residences on vacant lands in the area.

This criterion is met.

(cont.) For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

a. **OAR 660-023-0180(5)(b)(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;*

1. **Noise:** The mining operation will generate noise from activities including removal of overburden, aggregate extraction and from vehicles and equipment. There is no “blasting” proposed at this site.

Pursuant to DEQ classifications, the subject property is considered a DEQ noise regulation “existing noise source” because it is an expansion from a contiguous property. As noted in the submitted Noise Study, *the regulation for an “existing noise source” stipulates that noise radiating from the source is regulated by what is commonly referred to as the “maximum allowable noise rule”* (OAR 340-035-0035(1)(a)) which sets maximum allowable noise levels for an industrial or commercial noise source for 1%, 10%, and 50% of an hour.

The applicant has submitted a Noise Study to address noise impacts from the proposed mining operation. The Noise Study was completed by ABD Engineering & Design (ABD) and is dated August 30, 2019 (**Appendix C, Application**).

The noise study was conducted using the criteria in OAR 340-035-0035 – Noise Control Regulations for Industry and Commerce. The study include a “worst case scenario” which evaluates potential noise assuming all the following equipment would be used on or near the site, operating simultaneously: front-end loaders; on-site haul trucks, excavators, and the crushing and screening plant operating where it is currently allowed on the Phase 1 site. ABD selected 17 representative locations of residences within the impact area for predicting future sound level estimates under this “worst case scenario”.

Based upon the analysis, ABD concluded as follows:

- a. Without mitigation measures, noise at as many as seven of the residences would experience noise levels that exceed DEQ noise standards, “under the worst case”;
- b. ABD identifies several mitigation measures, including both operations restrictions, like limiting equipment in certain area, and “barriers” in three locations that range from 20 to 35 feet in height, as identified in **Figure 6, Appendix C, Application**;
- c. With the recommended mitigation measures in place, ABD predicts noise levels at all 17 representative residential sites to fall under the maximum allowed DEQ limit.

Because noise is regulated by a State DEQ standard, any conflicts or impacts from noise generated from the mining area are deemed to be “minimized” if the applicable DEQ standard can be met. The Noise Study concluded that *based on the results of the study conducted by ABD, if mitigation measures such as those discussed in this report are included in the mining plan, the noise associated with the Canby Pit/Barlow Road Aggregate Mine will be in compliance with the DEQ noise regulations, and this all mining noise conflicts will be minimized as required by the Oregon Statewide Planning Goal 5.* Indeed, the Noise Study provides substantial evidence demonstrating the proposed mining operation, with mitigation measures, can satisfy the State of Oregon DEQ Noise Standards and there is no evidence to the contrary.

2. Dust: Dust will be potentially be generated from all aspects of the mining and processing operation, including overburden and aggregate extraction, berm building, processing, on and off-site truck and equipment movement.

However, as the applicant states, *the majority of the aggregate of this location will be mined in the “wet” and thereby significantly reduce dust emissions.*

To address other potential dust generating activities, the applicant proposes to employ dust mitigation measures on the subject site – many of which are recommended measures in the DOGAMI Best Management Practices guidelines, including:

- a. Watering onsite haul roads, conveyors, as necessary, and staging areas;
- b. Stockpiling topsoil and overburden of using it for construction of berms on site. They will be seeded in order to reduce the potential of wind or surface water erosion and protect neighboring properties from potential dust emissions.
- c. Only dewatering the site to approximately 10 feet below the ground water level. This allows the majority of the resource to be mined in the “wet”, greatly reducing the potential for dust generation.
- d. Maintaining a 15 MPH speed limit for onsite truck traffic, posted on all haul roads within the subject site. Low travel speeds serve to reduce the amount of dust compared to the volumes generated at higher speeds.
- e. Covering conveyors to help keep the materials wet.

C. Other Potential Discharges: The final potential conflict that the County must consider under this conflict category is “other discharges.” Other potential discharges at the site include: (1) diesel engine emissions from on-site mobile equipment and vehicle travel; (2) discharges into the groundwater; (3) stormwater; and (4) combustion byproduct emissions from use of explosives during blasting operations.

- (1) Diesel: Use of mining equipment and vehicles will generate diesel engine exhaust, which contains pollutants such as nitrogen oxides, carbon monoxide, sulfur dioxide, and particulate matter. The release of diesel emissions could, if not minimized, create potential conflicts with residential uses in the Impact Area.

In order to mitigate, control, and limit these criteria pollutants from diesel engines in operation at the project site, the following action proposed by the applicant will be implemented: *off-road equipment shall meet Federal Tier 3 off-road engine standards and/or equipment will be modified as such.*

- (2) Groundwater: The applicant retained the professional services of H.G. Schlicker & Associates ("HGSA") for the purpose of providing a study reflecting groundwater conditions on the proposed mining site and within the impact area. The resulting study, *Hydrogeologic Analysis, Cadman Expansion Properties – Canby Pit Phase 4*, H.G. Schlicker & Associates, Inc. (**Appendix B, Application**) analyzed data from the five monitoring wells on the subject site as well as data from monitoring wells on adjacent properties where extraction is currently taking place. As noted in the study, mining has successfully been going on in this area for more than 70 years.

Of note, however, is that HGSA found that the current mining of Phase 3, (immediately to the north of the subject property) which is being dewatered as is it mined, has had an effect on groundwater levels, per data from the monitoring wells on that site:

Current mining operations at the Phase 3 (Paradis) location, immediately north of the proposed Phase 4 expansion properties, are being conducted by dewatering active mine cells and pumping to nearby cells. Analysis of groundwater measurements obtained at the Phase 3 site before the start of mining and during the current mining operations, along with recent measurements obtained in the monitoring wells constructed in the Phase 4 expansion properties, indicate that the inferred direction of groundwater flow in the area is generally southerly to northerly.

For this reason, this study found that *dewatering the mine cells in the proposed Phase 4 mining area will contribute to a reduction in the groundwater surface at areas surrounding the dewatered mine cell. Dewatering mine cells in the proposed Phase 4 expansion properties has the potential to impact nearby irrigation and domestic wells in the area.*

This study indicates, however, that with proper mitigation, mining management, recommended limits on dry mining (dewatering), and mining cell configuration, there will be no adverse effect on the groundwater in this area. More specifically, this study recommends the following actions to mitigate potential impacts:

- a. Mining the Canby Pit Phase 4 from north to south utilizing mine cells as indicated in the application.
- b. Installing four additional monitoring wells in the southern portion of the subject property to provide real-time and predictive data and mining progresses. These are recommended to supplement the five existing monitoring wells on the site.

- c. Dewatering should be restricted to a depth of approximately 20 feet; extraction of material below that depth should be “wet” mined, a process which leaves most of the water in the groundwater system and the operation moves to the south and close to local off-site wells.
- a. An approximately 20 feet deep infiltration trench may be constructed, as necessary, along the southern boundary of the proposed Phase 4 expansion area, or dewatering depths may be reduced to maintain groundwater at sufficient levels to prevent more than insignificant impacts to wells within the impact area.

Planning Staff concurs with these findings in the HGSA study, as summarized on **pages 17 to 19, Application** and adopts the recommended conditions of approval from the study.

- (3) Stormwater: As noted by the applicant, *the current Phase 3 and processing site has a Stormwater Protection Control Plan (SWPCP) and DEQ Stormwater permit in place and approved by DOGAMI (Appendix G). As with Phase 3, stormwater will be infiltrated back into Phase 4 and/or collected and conveyed offsite to the processing site to stormwater ponds. If stormwater is planned to exit the Phase 4 site within the same manner as that described within the SWPCP for Phase 3, the plan will be revised for review and approval by DEQ and DOGAMI as a condition of Phase 4 operations. The revised plan will document that storm and surface waters are properly managed in accordance with permit requirements.*

The applicant will develop and implement a stormwater control plan in accordance with DOGAMI regulations and Best Management Practices for erosion and sediment control. As such, the applicant proposed the following conditions, to address stormwater:

(a) Applicant shall prepare an SWPCP for the Phase 4 mining, and provide documentation of approval from DEQ and DOGAMI, as required.

(b) The mining operator shall comply with the stormwater and erosion control measures approved by DEQ when conducting mining activities on the Site.

Because there are no identified conflicts associated with off-site stormwater discharges, the Staff finds that it is not required to identify measures that would minimize such conflicts.

- (4) Blasting: There will be no blasting at the subject site and therefore no byproduct emissions from use of explosives.

This criterion is met or can be met with conditions.

- b. **OAR 660-023-0180(5)(b)(B):** *Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;*

This criterion requires an analysis of “Potential conflicts to local roads.....”. Two relevant legal opinions have been issued by the LUBA in regards to this criterion. The first opinion interpreted the word "local" to mean the classification of the road (i.e. local, collector, arterial, etc.), and not a geographical area. Under that opinion, conflicts with the transportation system could not be evaluated if the development takes access to a road classified something other than "local." A subsequent LUBA case found that although that is a correct interpretation of the language, the County is required to consider Goal 12 of the Statewide Planning Goals. The purpose of Goal 12 is "To provide and encourage a safe, convenient and economic transportation system." Therefore, the adequacy of the transportation system as a whole can be evaluated to ensure it is safe and adequate to accommodate the traffic impacts from the proposed mining operation.

The subject site will not take direct access to S Barlow Road; rather access will occur via the adjacent property owned and operated by the applicant (Phase 3).

The project traffic engineer, Sandow Engineering, LLC (“Sandow”), completed an analysis of existing conditions, projected transportation impacts of the proposed mine, and applicable standards as set forth in the Transportation Impact Analysis (TA).
(Appendix D, Application)

The findings addressing Statewide Planning Goal 12 – Transportation and Section 1202 of the ZDO (Zone Change criteria) address the adequacy of the transportation system including relevant site distance standards, road capacity and safety. Those findings demonstrate the road system is safe and adequate to accommodate the anticipated amount of traffic and type of truck traffic associated with the existing mining area and proposed expansion area, primarily because the proposed mining site is not expected to generate any new traffic- it is simply expected to continue the same level of traffic generated from the Phase 3 site, when the Phase 3 site is depleted and mining operations move to the proposed Phase 4 site.

Those findings demonstrate there are no significant conflicts to the local transportation system.

This criterion is met.

c. **OAR 660-023-0180(5)(b)(C):** *Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR Chapter 660, Division 013;*

There are no public airports located in the 1,500 buffer area. The closest public airport is the Aurora Airport which is nearly 2 miles (approximately 9,000 feet) to the west. The subject property is located outside of the “Approach Corridor” and the “Conical Surface” but within the “Horizontal Surface” of this airport. This airport is considered an Instrument Approach airport. The proposed post mining use for this property includes a lake (water impoundment) for fish and wildlife habitat. OAR 660, Division 13 regulates Airport Planning. OAR 660-013-0080 identifies land use compatibility requirements for public use airports. OAR 660-013-0080(1)(f) requires the local government to regulate water impoundments of one-quarter acre or larger consistent with the requirements of ORS 836.623(2) through (6).

ORS 836.623(2)(a) prohibits new water impoundments of one-quarter acre or larger within an Approach Corridor and within 5,000 feet from the end of a runway, or on land owned by the airport or airport sponsor where the land is necessary for airport operations. The subject property is not located within an Approach Corridor or within 5,000 feet of the end of the runway.

ORS 836.632(2)(b) allows the local government to adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger for areas outside a Approach Corridor and within 5,000 feet of a runway if the local government adopts findings that the water impoundment is likely to result in a significant increase in the hazardous movements of birds across the runway or Approach Corridor. The subject property is not located within 5,000 feet of a runway.

ORS 836.632(2)(c) allows the local government to adopt regulations that limit the establishment of new water impoundments of one-quarter acre or larger between 5,000 feet and 10,000 feet of a runway outside and Approach Corridor and between 5,000 feet and 40,000 feet within an Approach Corridor for an airport with an instrument approach only where the local government adopts findings that the water impoundment is likely to result in a significant increase in hazardous movements of birds across the runways or approach corridor. The Aurora Airport is an Instrument Approach airport and the subject property is located within 40,000 feet of the approach corridor. Therefore the County has the authority to regulate the proposed post mining use (water impoundment) if it determines the use will result in a significant increase in the hazardous movement of birds across the runway or Approach Corridor of the airport. Both the Aurora Airport and Oregon Department of Aviation were sent notice of this application.

The proposed mining operation and post mining use is consistent with OAR 660, Division 13 and ORS 836.623(2) through (6) because no water impoundments will be created within 5,000 feet of an Approach Corridor or runway. No comments have been received from the airport owner, the Oregon Department of Aviation or any other interested parties indicating the proposed post mining use would result in a significant

increase in the hazardous movement of birds across the runway or approach corridor of the Aurora Airport. Therefore the proposed mining operation will not create any conflicts with this existing public airport.

This criterion is met.

d. OAR 660-023-0180(5)(b)(D): *Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;*

There is only one type of Goal 5 resources located within the impact area of Phase 4, the subject property - the adjacent mining sites.

Mineral and Aggregate Sites (MAOs): The adjacent properties to the north and northeast/east (across Barlow Rd.) contain a total of approximately 400 acres that are designated as significant Goal 5 Mineral and Aggregate Resource sites in the Mineral and Aggregate Section of the Comprehensive Plan. Both the applicant (**page 25, Application**) and the Planning Staff finds that mining of the proposed site will not conflict with the existing Significant Mineral and Aggregate Resources because they are the same type of Goal 5 resource that consist of similar types of operations and self-generated aggregate mining conflicts and there is no evidence to that a mining use conflicts with a mining use.

This criterion is met.

e. OAR 660-023-0180(5)(b)(E): *Conflicts with agricultural practices; and*

OAR 660-23-180(4)(c) requires ORS 215.296 to be followed when determining if conflicts to agricultural practices exist, and/or if they can be minimized. ORS 215.296 requires the local government to find the proposed use will not: 1) force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and 2) significantly increase the cost of accepted farm and forest practices on surrounding lands devoted to farm or forest uses.

There are existing agricultural uses within the 1,500 foot impact area, as identified in the aerial photo in **Figure 2, Application**. However, as noted by the applicant, *aggregate mining has been active in the area since the mid-1950s. Aggregate and agriculture within the area have both been ongoing.* The application goes further to describe the various agricultural activities, which generally include corn, hay and nursery stock, but also makes note of the fact that these cultivated areas are all located at least 400 feet (and most farther) from the Extraction Area and nearly all are located at a higher elevation (on the “terrace”) above the proposed Extraction Area.

Based upon distance and higher elevation, the primary potential impact to these agricultural produces relates to dust emissions. Upon implementation of proposed dust impact minimization measures, any impact resulting from future operations would be

insignificant at best. The majority of agriculture activities in the area are located south and at least 60 feet above of the subject site, which is terraced land adjacent to S. Lone Elder Road. Since the mine operation will only be dewatering the upper 10 feet of the water table, the majority of the mining will be in the “wet” with the result that the aggregate materials will be wet when excavated. Watering the interior mine site roads, conveyors and implantation of the dust BMPs as proposed will further minimize impacts.

The Planning Staff concludes that, due to the history of co-existence, the location of the existing agricultural uses in the impact area, and the various measures that will minimize project conflicts (e.g. noise, dust, other issues noted) to a level that is insignificant, the project will not force a significant change in or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Therefore, there will be no conflicts between the project and agricultural practices within the Impact Area.

This criterion is met.

f. OAR 660-023-0180(5)(b)(F): Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780;

The County has not adopted any ordinances that supersede the Oregon DOGAMI regulating mining activities pursuant to ORS 517.780.

This criterion is not applicable.

3. OAR 660-023-0180(5)(c) (“Step 4”): The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

The conflicts associated with the proposed expansion area are identified and addressed above in OAR 660-023-0180(5)(b). Based on this analysis, all the identified conflicts, including the off-site noise impacts can be minimized with reasonable and practicable conditions, such as clearly identified setbacks and buffers, noise barriers, normal and customary mining processes, and compliance with applicable state standards. Therefore mining should be allowed at the subject site, and Subsection (d) of this Section is not applicable (i.e. an ESEE Analysis is not required). The reasonable and practical measures necessary to minimizing conflicts are identified in the **Application (page 29)** and included in recommended conditions of approval (SECTION 4).

This criterion is met.

4. **OAR 660-023-0180(5)(d)** (“Step 5”): *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. OAR 660-023-0180(5)(d)(A): *The degree of adverse effect on existing land uses within the impact area;*

b. OAR 660-023-0180(5)(d)(B): *Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and*

OAR 660-023-0180(5)(d)(C): *The probable duration of the mining operation and the proposed post-mining use of the site.*

Based on the findings in OAR 660-023-0180(5)(b) all the identified conflicts can be minimized with reasonable and practical measures and conditions. Therefore, an ESEE analysis is not required.

This criterion is not applicable.

5. OAR 660-023-0180(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. OAR 660-023-0180(5)(e)(A): *For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;*

b. OAR 660-023-0180(5)(e)(B): *Not requested in the PAPA application; or*

c. OAR 660-023-0180(5)(e)(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.*

1. Pursuant to the findings in OAR 660-023-0180(5)(c), Staff has found that mining should be allowed on the property.

2. The measures to minimize conflicts are identified in the Application Narrative and the proposed and recommended conditions of approval. Noise conflicts do extend off the property, but meet DEQ standards at the nearest residential uses. The limit of the DEQ noise standard is illustrated in **Figure 7** of the Noise Study (**Appendix C, Application**). To ensure new conflicting uses are not established in the impact area, the location of the

proposed Mineral and Aggregate Overlay boundary should correspond to the “DEQ Noise Compliance Boundary”.

3. The recommended conditions of approval are clear and objective. Pursuant to Section 708 of the ZDO additional land use review of this proposal is required through a Mineral and Aggregate Operating Site Plan Review permit to ensure the site specific program and conditions are met prior to mining. The applicant has submitted an MAO Site Plan Review application concurrently with the Plan text and Zoning map change requests. That application will be reviewed later in this report.

This criterion can be met.

6. OAR 660-023-0180(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.*

The extraction area on the subject property is located on primarily Class IV soils, therefore the specific limits for Class I, II and Unique farmland do not apply. However, the site remains zoned EFU and, as such, any post-mining uses must be consistent with uses allowed within that zoning district. The applicant has proposed a post mining use for the proposed expansion area to include natural area and a lake. This is an allowed use in the underlying EFU zoning district and is an appropriate use because it is the same post mining use authorized on the existing mining operation on the adjacent property to the north (Phase 3).

A condition of approval will require coordination between Clackamas County and DOGAMI regarding final reclamation plans and activities for this mining site.

This criterion is met.

7. OAR 660-023-0180(5)(g): *Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.*

No processing will occur on the subject property; rather materials will be transported, via conveyor, to the existing process site located on the east side of S. Barlow Rd. on property owned by the operator.

This criterion is not applicable.

PART 6. OREGON ADMINISTRATIVE RULE 660-023-0180(7) – Determination to Allow, Limit, or Prevent Conflicting Use within the Impact Area.

OAR 660-023-0180(7): *Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.)*

The Mineral Aggregate Overlay (MAO) zoning district is the tool within the Clackamas County Comprehensive Plan used to identify an “impact area” and to protect a significant mineral and aggregate site from conflicting uses.

Based on the findings in OAR 660-023-0180(3), the proposed site qualifies as a “Significant Mineral and Aggregate Site.” Therefore the Mineral Aggregate Overlay zoning district should be revised to protect this expansion site from conflicting uses. Based on the conflict analysis in OAR 660-023-0180(5) all the conflicts associated with the proposed expansion are minimized with the exception of off-site noise conflicts. While noise conflicts do extend off the property, DEQ standards are met at the nearest residential uses with proposed mitigation measures. Therefore, the MAO zoning overlay district should reflect the area identified as the “DEQ Noise Compliance Boundary” (**Figure 7, Appendix C, Application**).

Planning Staff finds that reliance upon the development standards set forth in Section 708.08 of the ZDO is sufficient to protect the significant mineral and aggregate resource from conflicting uses and will recommend that the MAO overlay district boundary encompass only the subject properties.

New residential units shall also be prohibited within the MAO zoning district (primarily the subject property) because such a use would cause the mining operation to violate DEQ Noise Standards. This will ensure that there are no conflicting uses within the overlay area of this significant mineral and aggregate site. As a result an ESEE analysis to determine whether to allow, limit or prevent new conflicting uses within the impact area is not required.

PART 7. OREGON ADMINISTRATIVE RULE 660-023-0180(8) – Determination of a Complete and Adequate Application.

A. OAR 660-023-0180(8): *In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, local government shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for approval of an aggregate site following sections (4) and (6) of this rule shall be adequate if it provides sufficient information to determine whether the requirements in those sections are satisfied. An application for a PAPA concerning a significant aggregate site following sections (3) and (5) of this rule shall be adequate if it includes:*

1. OAR 660-023-0180(a): *Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of this rule are satisfied;*

The narrative of the application contains narrative summarizing the findings of the *Aggregate Resource Evaluation and Goal 5 Significance Determination, Cadman Expansion Properties – Canby Phase 4* completed by H.G Schlicker & Associates (“HSGA”), dated August 12, 2019. The full report is found in **Appendix A** of the **Application**. SECTION 1, Part 4 of this report specifically addresses the standards regarding the quantity, quality and location of the resource as required in OAR 660-23-180(3). Those findings demonstrate the information in the report is adequate to determine the location, quantity and quality of the aggregate resource on the subject property.

This submittal standard is met.

2. OAR 660-023-0180(b): *A conceptual site reclamation plan; (Final approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780)*

A conceptual reclamation plan has been submitted in the **Application** and illustrated in **Figure 7**. The proposed reclamation use is a lake and natural area.

This submittal standard is met.

3. OAR 660-023-0180(c): *A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (5)(b)(B) of this rule;*

The narrative of the application includes a summary of the traffic analysis completed by Sandow Engineering, dated March 4, 2019 (**Appendix D, Application**). Section (5)(b)(B) of this rule requires an analysis of 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.

The submitted traffic information provides an analysis of the closest intersections impacted by the proposed mining site. No other roads or intersections within a one mile radius will be significantly impacted and therefore an analysis of other roads or intersections within one mile is not required.

This submittal standard is met.

4. OAR 660-023-0180(d): *Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and*

The location of conflicts within the 1,500 buffer area is identified in the ABD *Noise Study* in **Appendix C, Application**. A land use conflict analysis is provided in the narrative of the Application. This analysis includes an evaluation of conflicts with existing uses identified by the applicant and identified subject experts. The evaluation includes impacts from noise, dust and impacts or conflicts with groundwater resources, wetlands, storm water, roads, other Goal 5 resources and agricultural land and practices.

Proposed mitigation and other measures to reduce or minimize potential conflicts are discussed in the Narrative and proposed conditions of approval throughout the application materials.

This submittal standard is met.

5. OAR 660-023-0180(e): *A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.*

The section of the application titled “Mine Plan” includes a general site plan of the existing and proposed mining site. The application also includes other maps and aerial photos of the existing and proposed mining site which identify existing mined areas, the access road to the existing site, location of processing areas, monitoring wells, proposed landscape berms and other features. The application also includes substantial information addressing hours of operation, mining activities, types of equipment, proposed berms and landscaping and other pertinent operational characteristics regarding the existing and proposed mining activities.

This submittal standard is met.

PART 8. SUMMARY OF FINDINGS AND CONCLUSIONS ON THE PAPA

Parts 1-7 of SECTION 1 of this report outline and addresses all the policies, standards and criteria found to be applicable to this proposal in the Statewide Planning Goals and Oregon Administrative Rules. In consideration of the findings in Parts 1-7, the Planning Staff finds that this proposal should be approved for the following reasons:

- A. This proposal is consistent with the Statewide Planning Goals 1 - 3, 5, 6 - 9 and 11 - 13. Statewide Goals 4, 10, 14 - 19 are not applicable.

 - B. The adequacy and safety of the transportation system is subject to the Statewide Planning Goal 12. The findings in this report demonstrate compliance with the Statewide Planning Goal 12 – Transportation, the implementing Transportation Planning Rule in OAR 660-012. Therefore, the affected State and County transportation facilities are adequate.

 - C. This proposal complies with OAR 660-023-0180. Specifically:
 - 1. The findings in SECTION 1, Part 7 demonstrate the PAPA application is complete.
 - 2. The findings in SECTION 1, Part 3 demonstrate the application has been processed in compliance with the minimum notice and landowner involvement requirements.
 - 3. The findings in SECTION 1, Part 4 demonstrate the mining site is “Significant” because it includes more than 2,000,000 tons of usable aggregate which meets ODOT’s specifications for base rock.
 - 4. The findings in SECTION 1, Part 5 demonstrate all the potential conflicts associated with mining can be minimized subject to reasonable and practical measures, therefore mining of the site should be allowed.
 - 5. The findings in SECTION 1, Part 6 demonstrate that no conflicting uses are located within the impact area, which has been determined to be the same as the “Noise Compliance Boundary”.

 - D. The post mining use is a lake and natural area, which is an allowed use in the underlying EFU zoning district.
-

**SECTION 2- ZONE CHANGE TO APPLY MINERAL AGGREGATE
OVERLAY ZONING DISTRICT (MAO) (Z0408-19-ZAP)**

PART 1. COMPLIANCE WITH SECTION 1202 OF THE ZDO

A. The zone change criteria are listed in Section 1202 of the Clackamas County Zoning and Development Ordinance (ZDO).

1. Section 1202.01A: *The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.*

Because the Land Use Board of Appeals (LUBA) has held that the Goal 5 rule for aggregate establishes a comprehensive regulatory scheme that supersedes local review standards for aggregate, the County's Comprehensive Plan policies do not apply in this application.

This criterion is not applicable.

2. Section 1202.01B: *If development under the proposed zoning district designation has a need for any of the following public services, the need can be accommodated with the implementation of the applicable service provider's existing capital improvement plan: sanitary sewer, surface water management, and water. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered*

The subject properties are not located in a public sewer, surface water or water district, nor is the extension of these services proposed or necessary to support the proposed mining operation.

This criterion is met.

3. Section 1202.01C: *The transportation system is adequate and will remain adequate with approval of the proposed zone change. For the purpose of this criterion:*

a) Section 1202.01C(1): *Adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluation Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area.*

b) Section 1202.01C(2): *The evaluation of transportation system adequacy shall be conducted pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012- 0060).*

c) Section 1202.01C(3): *It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.*

d) Section 1202.01C(4): *The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.*

e) Section 1202.01C(5): *The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed zone change. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.*

f) Section 1202.01C(6): *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere*

g) Section 1202.01C(7): *Notwithstanding Subsections 1202.03(C)(4) through (6), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.*

The adequacy of the transportation system has been addressed under the discussion of Statewide Planning Goal 12 and the implementing Transportation Planning Rule. Those findings demonstrate the County transportation facilities are adequate to accommodate the proposed zone change. Those findings are adopted by reference to address this criterion.

This criterion is met.

4. Section 1202.01D: *Safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change*

The Planning staff has concluded, based on the applicant's Traffic Study, that the safety of the transportation system is adequate to serve the level of development anticipated by the zone change. This conclusion is adopted as part of this report by reference therein and demonstrate the affected County road system is safe to accommodate traffic from the proposed expansion area. Neither ODOT nor the County's Traffic Engineering Division has raised or identified any safety issues at the Hwy. 99E / Barlow Road intersection.

This criterion is met.

PART 2. SUMMARY OF ZONE CHANGE CRITERIA

This application satisfies the applicable criteria in ZDO Section 1202.

SECTION 3: SITE PLAN REVIEW APPLICATION (FILE NO. Z0407-19-MAO)

PART 1. COMPLIANCE WITH SECTIONS 708, 1006, AND 1010 OF THE ZDO

If the PAPA (Z0406-19-CP) and MAO Overlay District (Z0408-19-ZAP) applications are approved, the applicant also seeks Site Plan Review approval for an aggregate mining operation on the subject properties, to include an extraction area on an approximately 94-acre portion of the property, as identified in the “mining plan” (**Figure 6, Application**).

This request is subject to the standards set forth in Section 708 of the County Zoning and Development Ordinance (ZDO).

Section 708.02, Definitions, contains the definitions of terms applicable to this request.

Section 708.04: This subsection identifies the specific uses which may be allowed in the mining Extraction Area.

1. Section 708.04A(1) lists mining as a permitted use in the Extraction Area.
 - a. The proposed Extraction Area is the approximately 94-acre portion of the property located approximately three-quarters of a mile south of the intersection of S Hwy 99E and S Barlow Rd, as identified in **Figure 6, Application**.
 - b. Mining will occur within the proposed Extraction Area boundary. Processing will occur on a property on the east side of S Barlow Rd; materials will be transported to this property on an existing conveyor system that goes under S Barlow Rd.
2. Section 708.04A(2) lists processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a commercial vineyard existing on the date the application was received for the asphalt batch plant.
 - a. Processing of aggregate is not proposed and therefore will not be permitted within the Extraction Area.
3. Section 708.04A(3) lists stockpiling of mineral and aggregate materials extracted and processed onsite as a permitted use in the Extraction Area.
 - a. Stockpiling of mineral and aggregate materials is not proposed and therefore will not be permitted within the Extraction Area.
4. Section 708.04A(4) lists temporary offices, shops or other accessory structures used for the management and maintenance of onsite mining and processing equipment as a permitted use in the Extraction Area.

- a. No accessory structures are proposed and therefore will not be permitted within the Extraction Area.
5. Section 708.04A(5) lists the sale of mining products extracted and processed onsite as a permitted use in the Extraction Area.
 - a. The sale of extracted and processed products is not proposed to occur within the Extraction Area.
6. Section 708.04A(6) lists storage of transportation equipment or machinery used in conjunction with onsite mining or processing as a permitted use in the Extraction Area.
 - a. The Extraction Area will be used to store equipment used in conjunction with the onsite mining. This equipment will generally include, but not be limited to a portable conveyor system, hydraulic excavator and front end loader and haul trucks and a dozer. The applicant states that all other equipment such as dump trucks, service vehicles, water trucks will be stored across S Barlow Rd at the existing processing site and adjacent property owned by Cadman (Phase 1 & 2 properties).
7. Section 708.04A(7) lists other activities including buildings and structures necessary and accessory to development or reclamation of the onsite mineral or aggregate resource as a permitted use in the Extraction Area.
 - a. The uses proposed in the Extraction Area are limited to mining and the use and storage of some of the equipment for the purpose of mining and processing.
8. Section 708.04B states that the County may permit other uses allowed by the underlying zone subject to requirements of the underlying zone and requirements of this section for protection of significant mineral and aggregate sites within the Extraction Area.
 - a. No other uses are proposed within the Extraction Area at this time.

These criteria are met.

9. Section 708.05 contains the Extraction Area Development Standards. *The following standards are the basis for regulating mining and processing activities in the Mineral and Aggregate Overlay District. Requirements adopted as part of the Comprehensive Plan also apply to mining and processing activities in the overlay. Before beginning any mining or processing activity, the applicant shall show compliance with these standards and requirements adopted as part of the Comprehensive Plan program.*

- a. Section 708.05A: Access. *Onsite roads used in mining and processing, and access roads from the Extraction Area to a public road shall meet the following standards:*

1. *All access roads within 100 feet of a paved county road or state highway shall be paved, oiled or watered.*

The applicant states that: *The subject site will not require new access/egress locations. S. Barlow Road will be utilized for access purposes.*

The driveway into the processing facility (on the east side of S Barlow Rd) is paved for a distance of approximately 1,500 feet and is washed, as needed, as a dust control measure. Gravel roads on site and within the processing facility are well maintained and watered for dust control. A truck wheel wash is located approximately 1,800 feet east of the processing facility's exit driveway which connects to S. Barlow Road. Trucks are required to use the wheel wash prior to leaving the site.

This criterion is met.

2. *All roads in the Extraction Area shall be constructed and maintained to ensure compliance with applicable state standards for noise control and ambient air quality.*

The ABD *Noise Study* report (March 4, 2019) has analyzed site operations to account for the loudest potential noise sources anticipated within the operation. Conditions have been proposed within that report designed to mitigate for those loudest potential sources. The report concludes that if the recommended mitigation measures are included as part of the mining plan, the noise associated with the excavation operations in the Cadman Phase 4 site will be in compliance with DEQ noise regulations at all residences.”

In addition, the applicant has incorporated into the mining plan the following measures, which will be included in any conditions of approval:

- (a) *Onsite haul roads will be elevated, graded, graveled, ditched (where necessary) and maintained.*
- (b) *Operations at the site will include the watering of haul roads and staging areas. This mitigation method ensures that dust emissions are reduced to minimal levels.*
- (c) *Onsite haul roads will not be constructed within two hundred fifty (250) feet of a neighboring residence. This measure ensures that dust emissions will not be generated as a result of road usage in sensitive areas adjacent to the extractions site.*

Conditions of approval can ensure that roads in the extraction area will be constructed and maintained for noise control and ambient air quality purposes.

This criterion is met.

3. *All roads in the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use existing on February 22, 1996.*

No roads are proposed by the applicant within 250 feet of the noise and dust sensitive areas adjacent to the subject (residences). If in the future, any roads internal to the Extraction Area are constructed within 250 feet of these uses, those roads would be paved.

This criterion can be met.

b. Section 708.05B requires screening of the mining activities.

1. *The mining activities listed in Subsection (B)(2) of this Section shall be obscured from the view of screened uses, unless one of the exceptions in Subsection (B)(4) applies. Screening shall be accomplished in a manner consistent with Subsection (B)(3).*

The applicant states that screening of the excavation area will include *screening and noise barriers around the majority of the site*, including new screening/barriers to be constructed on the western, southern and eastern edges of the extraction area. In addition, the applicant has requested an exception under Subsection (B)(4)(b) due to the fairly significant topographic difference on the southern and southwestern bounds of the Extraction Area.

These referenced “barriers” appear to be identified in **Figure 8, Application**. It is unclear whether these “barriers” are berms with natural screening, as per Subsection (B)(3) or if they are some other material. To the extent that these do represent qualified screening, Staff would find that this criteria to be satisfied; a condition to ensure such compliance is warranted. Staff also notes that the Extraction Area is partially bound on the south and southwest by a bluff, with an approximately 60 foot elevation difference from the current ground level of the Extraction Area, as illustrated in **Figure 4, Appendix C (Noise Study)**. An exception under Subsection (4)(b) may be warranted for these areas, as discussed further below.

This criterion can be met with conditions.

2. Mining activities to be screened:

- a) *All excavated areas, except: areas where reclamation activity is being performed, internal onsite roads existing on the date of county adoption, new roads approved as part of the Site Plan Review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation that provides natural screening,*
- b) *All processing equipment.*
- c) *All equipment stored on the site.*

The applicant’s proposed screening berms will screen all mining activities and equipment to be stored on site. As the applicant notes, *the equipment to be stored is identified as the*

portable conveyor system, hydraulic excavator, and a front end loader. Haul trucks and a dozer when stripping overburden for a new mine cell will be stored on site. All other equipment such as dump trucks, service vehicles and water trucks will be stored at the existing Cadman processing facility. Additionally, as the site is excavated, the equipment stored will be stationed on the lowered levels, and out of public view.

This criterion is met.

3. Types of screening

a) Natural screening is existing vegetation or other landscape features within the boundaries of the Extraction Area that obscure mining activities from screened uses. Natural screening shall be preserved and maintained except where removed according to a mining or reclamation plan approved by DOGAMI.

b) Supplied screening is either vegetative or earthen screening. Supplied vegetative screening is screening that does not exist at the time of the Site Plan Review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees, and shall not be required to exceed six feet in height when planted. Supplied earthen screening shall consist of berms covered with earth stabilized with ground cover.

As discussed above, the subject properties contain little to no existing vegetation or other landscape features within the boundaries of the Extraction Area aside from the hillside immediately south/southwest of the Extraction Area that contains some trees and natural screening. Atop this bluff to the south/southwest, however, is approximately 60 feet in elevation above the current ground level of the Extraction area.

Supplied screening berms will be constructed, according to the applicant, with overburden and seeded with ground cover for erosion control. In addition, where noise barriers/walls are proposed, vegetation can be planted to obscure such structures.

This criterion can be met.

4. Exceptions. *Supplied screening shall not be required if any of the following circumstances exist:*

a) The natural topography of the site obscures mining and processing from screened uses.

b) Supplied screening cannot obscure mining and processing from screened uses because of local topography.

c) Supplied vegetative screening cannot reliably be established or cannot survive due to soil, water or climatic conditions.

In the applicant's narrative a request for an exception under Subsection (B)(4)(b) due to the fairly significant topographic difference on the southern and southwestern bounds of the Extraction Area. No discussion of the request ensues, but it is fairly obvious that an elevation difference in the nature of 60 feet, as is found along the bluffs to the south and southwest of the Extraction Area. For those areas, an exception is warranted under (4)(b).

This criterion is met.

- c. Section 708.05C: Air and Water Quality. *The discharge of contaminants and dust created by mining and processing shall comply with applicable state air quality and emissions standards and applicable state and federal water quality standards.*

As explained in detail in the Application Narrative and consultant reports in support of the PAPA/MAO Applications discussed in the earlier sections of this report, the applicant shall develop and operate the mine in compliance with applicable state air quality and emissions standards and applicable state and federal water quality standards.

The applicant states that they shall *operate the subject mining site in compliance with applicable State Air Quality and Emission Standards. The applicant maintains DEQ issued permits that regulate operating conditions and requirements at the active aggregate mining operation. The permits are identified as Air Contaminant Discharge Permit No. 37-0494-08-01 and NPDES-1200A-Stormwater Discharge Permit/SWPCP. If the application is approved, the applicant will amend the referenced permits to include operations at the subject site. Copies of the permits are included in the application in Appendix G. The plan will also be modified to include Stormwater Control measures and methods that will be employed in Phase 4.*

The applicant has proposed conditions of approval to ensure compliance with these standards.

This criterion is met.

- d. Section 708.05D: Streams and Drainage. *Mining and processing shall not occur within 100 feet of mean high water of any lake, river, perennial water body or wetland not constructed as part of a reclamation plan approved by DOGAMI unless allowed by specific provisions adopted in the Comprehensive Plan.*

The applicant is not proposing any mining or processing activities within 100 feet of the mean high water line of any lake, river, perennial water body or wetland not constructed as part of a reclamation plan.

This criterion is met.

- e. Section 708.05E: Noise. *Mining and processing shall comply with state noise control standards. Operators may show compliance with noise standards through*

the report of a certified engineer that identifies mitigation methods to control noise. Examples of noise mitigation measures are siting mining and processing using existing topography, using supplied berms, or modifying mining and processing equipment.

The *Cadman Phase 4 Aggregate Site – Goal 5 Noise Study* (August 30, 2019) is included as part of the application package and was prepared by a certified engineer, ABD Engineering & Design, Inc. (**Appendix C, Application**). The purpose of the study was to identify noise impacts resulting from aggregate extraction and potential processing onsite operations and to recommend mitigation methods for noise control. The Noise Study concluded "*If mitigation measures such as those discussed in this report are included as part of the mining plan, the noise associated with the Canby Pit/Barlow Road Aggregate Mine will be in compliance with the DEQ noise regulations and thus all mining noise conflicts will be minimized as required by the Oregon Statewide Planning Goal 5 rules.*" The mitigation methods recommended in the Study have been incorporated into the applicant's Mining and Operations Plan and into the recommended conditions of approval.

This criterion is met.

f. Section 708.05F: Hours of Operation.

1. Mining and processing is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM Saturday. Hauling and other activities may operate without restriction provided that state noise control standards are met.

2. No operations shall take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

The applicant states that operating hours at the proposed Extraction Area and at the processing facility (located on the east side of S Barlow Rd) will be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM Saturday and that no work will be conducted on Sundays and on the following holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

Staff notes that for processing to occur on Saturdays, conditions imposed on the processing site at the time of its MAO designation, limit operations to Monday through Friday and these would need to be amended (Condition # 5, Planning File Z0348-93-CP/Z0349-93-Z and Condition #23 of Z1826-97-MAR). These conditions are identical and state:

Mining, processing and hauling shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Other activities may operate without

restriction provided that the Department of Environmental Quality noise control standards are met.

The applicant has requested this amendment and states that *subsequent to the Board's imposition of the Condition of Approval, Section 708.05.F of the CCZDO was amended to expressly allow processing operations on Saturday as well as Monday through Friday.*

Staff has been unable to ascertain whether or not that statement is true; however, based on Staff's reading of the findings associated with the original approvals, there appears to be no impact-based reason for the condition - the findings specifically note that, with the recommended mitigation, all noise impacts would fall within DEQ standards. These DEQ noise standards (according to the applicant) are no different for Saturday than for Monday through Friday. Therefore there appear to be no specific circumstances have been identified that would necessarily warrant the limitation and therefore processing could be allowed on Saturday from 8:00AM to 5:00PM, as per these criteria in ZDO Section 708.05F.

This criterion is met.

g. Section 708.05G: Drilling and Blasting.

1. Drilling and blasting is restricted to the hours of 9:00 AM to 4:00 PM Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

2. Notice of blasting events shall be posted at the Extraction Area in a manner calculated to be seen by landowners, tenants and the public at least 48 hours prior to the blasting event. In the case of ongoing blasting activities, notice shall be provided once each month for the period of blasting activities, and specify the days and hours when the blasting event is expected to occur.

No drilling or blasting is proposed at the subject site. A condition of approval is included which states that drilling and blasting are not authorized on the site.

This criterion is met.

h. Section 708.05H: Surface and Ground Water. *Surface and ground water shall be managed in a manner that meets all applicable state water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.*

An extensive analysis of surface and ground water systems has been performed for this application by H.G. Schlicker & Associates (see **Appendix B, Application**). The HGSA report identifies site conditions, future aggregate extraction methods, potential impacts,

neighboring wells, and mitigation measures that can be implemented in the applicants' Mine Plan that mitigate impacts associated with the identified potential conflicts. Monitoring of the nine wells on site will provide long term data gathering to observe any changes, should there be any. In addition, the site will only be dewatered for the first approximately 10 feet of excavation and will be wet mined below that level to minimize likelihood of negative impacts to groundwater levels and neighboring wells.

The applicant has stated that the DEQ issued NPDES Permit the applicant has obtained for Phase 3 will be revised for Phase 4 to ensure that water quality standards are met and that water required for dust control will be less than the exempt 5,000 gallons per day.

It should be noted that all aspects of the proposed onsite and offsite stormwater management will be under the authority of the applicable agencies. For stormwater, ground water, and wetlands, those agencies include DOGAMI, Clackamas County, Water Environment Services, the Surface Water Management Agency of Clackamas County, DSL and the Army Corp of Engineers.

This criterion is met.

- i. Section 708.05I: Compliance with Special Conditions. *The County may impose additional, special conditions to resolve issues specific to an individual site. The conditions shall be specified in the site-specific program to achieve the Goal adopted as part of the Comprehensive Plan.*

The applicant acknowledges that the County may impose special conditions to resolve issues specific to an individual site, and that these conditions must be specified in the site-specific program to achieve the Goal adopted as part of the Comprehensive Plan text amendment and MAO overlay designation process. In the companion PAPA/MAO applications, the applicant has proposed a series of conditions designed to limit potential conflicts with proposed mining activities as well as the impacts associated with those conflicts. Imposing these conditions should resolve issues specific to the property.

This criterion is met.

- j. Section 708.05J: Security. *The permittee shall fence the Extraction Area boundary between the mining site and any parcel where dwellings are a principal use. Fencing shall be a cyclone type fence a minimum of six feet high.*

“Principal use” is interpreted to mean a use allowed as a primary use in the County’s Zoning and Development Ordinance (ZDO). Staff finds the requirements of this Subsection do not apply to the permit application for two reasons:

1. The dwellings located on parcels immediately adjacent to the boundaries of the Extraction area are on lands within an Exclusive Farm Use (EFU) zoning district and a dwelling is not considered the principal use in the EFU Zone.
2. The dwellings within the impact area that are on lands within the Farm Forest-10 Acre (FF-10) zoning district are all located across S Hwy 99E from the Extraction area, so even though dwellings are a primary use in these zones, all of these parcels are across the state highway from the boundary of the Extraction Area and not immediately adjacent.

In lieu of fencing, the applicant has proposed screening berms and noise barriers in various locations around the site to provide visual and noise separation from the mining operation and nearby dwellings.

This criterion is met.

k. Section 708.05K: Performance requirements:

1. *The mining operator shall maintain DOGAMI and other state agency permits.*
2. *The mining operator shall carry a comprehensive general liability policy covering mining, and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one year shall be deposited with the County prior to the commencement of mining and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.*

The applicant has proposed conditions to ensure compliance with this requirement, as identified in Section 4 of this report. Staff finds the proposed conditions will be sufficient to meet this criterion.

This criterion is met.

A. Section 708.06: Reclamation.

1. Section 708.06A: *No mining shall begin until the permittee provides the county with a copy of a DOGAMI Operating Permit or exemption in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.*

The applicant has proposed the following conditions to ensure compliance with this requirement:

- a) Applicant shall not initiate mining and activities on the Cadman, Phase 4 Aggregate site until the State Department of Geologic and Mineral Industries approves the reclamation plan and operating permit for the site.

- b) Applicant shall obtain approval from the State Department of Geology and Mineral Industries of a reclamation plan for the site and shall affect reclamation in accordance with same.

This criterion can be met.

- 2. Section 708.06B: *The County's jurisdiction over mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with the Comprehensive Plan and Zoning and Development Ordinance, and ensuring that mine operations and reclamation activities are consistent with the program to achieve the Goal adopted as part of the Comprehensive Plan.*

The reclamation Plan and subsequent beneficial use of the mining site is based on a partially backfilled, natural area and a lake, which is consistent with OAR 660-023-180(5)(f) and with the County's Zoning and Development Ordinance (ZDO), specifically Section 401 (Exclusive Farm Use).

This criterion is met.

- 3. Section 708.06C: *The County shall coordinate with DOGAMI to ensure compatibility between DOGAMI and the County in the following manner.*
 - a) *When notified by DOGAMI that an operator has applied for reclamation plan and an Operating Permit, the County shall inform DOGAMI whether Site Plan Review approval by the County is required.*
 - 1) *If Site Plan Review approval is required, the County shall request that DOGAMI delay final action on the application for approval of the reclamation plan and issuance of the Operating Permit until after Site Plan Review approval has been granted.*
 - 2) *If Site Plan Review approval is not required, the County shall so notify DOGAMI and the County shall review the proposed reclamation plan and Operating Permit during DOGAMI's notice and comment period.*

This section requires coordination with DOGAMI in reviewing Operating Permits and Reclamation Plans. The requested Site Plan Review, if approved, shall be completed prior to the issuance of the DOGAMI Operating Permit and Reclamation Plan. A condition of approval to this effect is warranted.

This criterion is met.

b) *When reviewing a proposed reclamation plan and Operating Permit application circulated by DOGAMI, the County shall review the plan against the following criteria:*

- 1) *The plan provides for rehabilitation of mined land for a use specified in the Comprehensive Plan, including subsequent beneficial uses identified through the Goal 5 planning process.*
- 2) *The reclamation plan and surface mining and reclamation techniques employed to carry out the plan comply with the standards of Section 708.05.*
- 3) *Measures are included which will ensure that other significant Goal 5 resources determined to conflict with mining will be protected in a manner consistent with the Comprehensive Plan.*

During the DOGAMI permit application and review process, the County will have the opportunity for input on the proposed reclamation plan. County staff will review that submittal against the criteria listed above.

This criterion is met.

G. Section 708.07: Extraction Area Permits.

A Site Plan Review, or Extraction Area Permit, requires review as a Type I application pursuant to Section 1307, to the extent that Section 1307 is consistent with the requirements of ORS 197.195 and 215.425.

Although a Type I review is typically a Planning Director administrative action under the terms of this subsection, the Planning Commission and Board of County Commissioners (BCC) have jurisdiction to hear and decide applications filed concurrently with a comprehensive plan amendment application under Section 1307.04 of the ZDO. The applicant has filed the application concurrently with the PAPA/MAO applications. Therefore, the Planning Commission has jurisdiction to hear this matter and advise the BCC on the Site Plan Review application.

This criterion is met.

1. The County shall approve, approve with conditions, or deny the application for the permit based on the conformance of the site plan with the standards of ZDO Sections 708, 1006, 1010, and the requirements of the site-specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

The applicant has directly responded to the requirements of section 708 in the preceding findings. The Site Plan Review section also incorporates the standards of sections 1006 and 1010, which are discussed below:

a) 1006 – Water Supply, Sanitary Sewer, Surface Water, and Utilities Concurrency

Water Supply: The applicant notes that water will be required for dust control management on haul roads and staging areas within the aggregate extraction site. The volume required is estimated at less than 5,000 gallons per day, and is based on present day quantities used in similar operations at the adjacent Cadman site (Phase 3).

Pertaining to the availability of water necessary for the proposed operation, under the exempt uses section of the Oregon Water Laws (ORS section 537.545), a water right not to exceed 5,000 gallons per day is provided for “any single industrial or commercial purpose.” This provision states, “no registration, certificate of registration, application for permit, permit, certificate of completion or ground water right certificate under 537.505 to 537.795 and 537.992 is required for the use of ground water.”

Sanitary Sewer/Sewage Disposal: The applicant expects that portable toilets (port-a-potties) will be used rather than a subsurface sewage disposal system. Portable toilets are utilized at the company’s existing operations. *The proposed aggregate operations are not stationary in that excavating activities move frequently and are normally conducted over a large area. Permanent or isolated sanitary facilities are not ideal for ever moving employee work stations. The port-a-potties referred to are trailer-mounted and are relocated at staging areas as operations move through the subject site.*

Stormwater: Compliance with state water quality standards for storm water occurring within the Extraction Area will be based upon review and approval by the DOGAMI. All aspects of the proposed onsite and offsite stormwater management will be under the authority of the applicable agencies. For stormwater, ground water, and wetlands, those agencies include DOGAMI, Clackamas County, DSL and the Army Corp of Engineers. The applicant notes that Cadman *has an approved Stormwater/Surface Water Management Control plan in place for operations at the existing Phase 3 site. If the application is approved, the applicant will modify the SWPCP to include like operations on Phase 4.*

With regard to requirements of County Roadway Standards, the applicant is not proposing to drain or convey storm/surface waters into roadside ditches. Stormwater will be managed and conveyed to the processing area’s stormwater ponds.

Sensitive Groundwater Areas: The subject property site is located outside the Portland Metropolitan Urban Growth Boundary and Mount Hood Urban Area; however the standards found under 1006.05 do not apply to the proposal because it is not located within a Sensitive Groundwater area.

This criterion is met.

- b. 1010 – Signs. This section of the ZDO sets forth the standards for all on-premise signs for multiple use types.

At this time, the applicant is not proposing any signs. The application does not include new access/exit driveways onto S. Barlow Rd. from the proposed Extraction Area (Phase 4). Access to and from the subject site will be through an onsite road utilizing the existing driveway for Phase 3 site.

This criterion is not applicable.

PART 2. SUMMARY OF MINERAL & AGGREGATE SITE REVIEW CRITERIA

Based upon the application materials and these findings, Planning Staff finds that this application satisfies, or can satisfy, the applicable approval standards of the Sections 708, 1006 and 1010.

SECTION 4: PROPOSED CONDITIONS OF APPROVAL

General Conditions

1. Table 3-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add “Cadman – Canby Phase 4 Expansion Area Aggregate Site” to the list of Significant Sites, as the site is identified in **Figure 2, Application**.
2. The Mineral & Aggregate Overlay shall be applied to the area identified as the “DEQ Noise Compliance Boundary”, as identified in **Figure 7, Appendix C, Application**.
3. Mining shall be allowed on the property subject to the site specific program in the submitted application to the extent it is consistent with the remaining conditions of approval.
4. The post reclamation use of the subject property shall be limited to a natural area and lake, consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
5. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the Federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the Federal

agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

General Operations Related Conditions

5. Compliance with all operating conditions proposed in the submitted application is required, to the extent they are consistent with the remaining conditions of approval.
6. The combined level of aggregate and mineral extraction for the Cadman Canby properties – Phase 1 through 4 shall not exceed 3 million tons per calendar year.
7. All mining and processing activities related to Phase 4, except for routine maintenance, is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM on Saturday. No mining activities will occur on Sunday.
8. No mining (including but not limited to excavation and processing), shall take place on any of the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
9. Condition #5 of Z0248-93-CP/Z0349-93-Z and condition #23 of Z1826-97-MAR are hereby amended to read: ***All mining shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday. Processing and hauling shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM on Saturday. No mining activities will occur on Sunday.***
10. There shall be no drilling or blasting on the Site.
11. The applicant and/or operator shall not initiate mining and activities on the Cadman –Canby Phase 4 Aggregate Site (“Site”) until the Oregon Department of Geologic and Mineral Industries (DOGAMI) approves the reclamation plan and operating permit for the Site.
12. The Canby Fire District shall review and approve this mining operation to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve any provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
13. The applicant and/or operator shall obtain Oregon DEQ approval of a Spill Prevention Controls and Countermeasures Plan for the site and shall comply with same.
14. Applicant/operator shall obtain or amend its current Stormwater Control permit issued by DEQ and regulated by DOGAMI to include stormwater generated at the proposed extraction site, as necessary.

15. Copies of all permits issued for the Cadman – Phase 4 site shall be provided to the County including, but not limited to, any permits issued by DOGAMI, DSL, DEQ, the Oregon Water Resources Department, the Oregon Fire Marshal's Office, local Fire Marshal's Office if applicable, and the U.S. Army Corps of Engineers.
16. The Site operator shall carry a comprehensive liability policy covering mining and incidental activities during the term of the operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one (1) year shall be deposited with the County prior to the commencement of mining, and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.
17. If mining operations disturb any area outside of the permit area or area designated for active mining in the reclamation plan, including but not limited to disturbances caused by landslide or erosion, the operator must restore the disturbed area to a condition that is comparable to what it was prior to the disturbance, as approved by DOGAMI.

General Mine Plan Related Conditions

18. Extraction shall be limited to those areas of the identified Extraction Area labeled as appropriate for such activities and depicted on the approved Mining and Operation Plan.
19. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Site. No new processing facilities shall be established.
20. All lighting on Phase 4, if any, shall be directional to minimize glare and light intrusion on surrounding properties, pursuant to ZDO Subsection 1005.05.
21. Identified setbacks from the property lines, utilities, and easements will be maintained in accordance with the Mining Plan. The operator shall maintain a minimum 30-foot property line setback, 30-foot setback from S. Barlow Road except where the 35 foot wide gas line easement occurs and then a 30 foot setback from the easement and a 30-foot setback from S Highway 99E for excavation. The operator shall maintain a minimum 100-foot setback for excavation near the BPA tower.
22. Security and noise berms, construction of internal access roads and construction of DOGAMI-approved stormwater control measures are allowed within the setback areas.

23. Prior to any land disturbance within the Bonneville Power Administration (“BPA”) right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with all compatibility requirements included in such Land Use Agreement.
24. In the event that cultural resources are encountered during the project activities, the applicant shall comply with all applicable State laws and regulations regarding suspension of work activities and recovery disposition of such resources. The State Historic Preservation Office (SHPO) should be notified, and a qualified archaeologist should be called in to evaluate the discovery and recommend subsequent courses of action in consultation with the appropriate tribes and SHPO. An Inadvertent Discovery Plan (IDP) will be put in place prior to ground disturbance to ensure actions and notification in compliance with Oregon State law (ORS 97.740 to 97.760, 358.905 to 358.955, and 390.235).
25. Slope inclinations will vary from 3:1 (horizontal to vertical) above water level to 1:1 slope below water level with the excavation mining, and shall not exceed 1:1 – (horizontal to vertical) within the excavation during mining, unless approved by DOGAMI.
26. Interior extraction slopes will be graded, shaped, and planted for erosion control purposes.
27. Reclamation with the applicant’s proposed submittal and as approved by DOGAMI shall be completed concurrently, as feasible.
28. Dewatering during excavation will be limited to approximately 10 feet below the existing water level throughout the mining area.
29. Excavation shall be undertaken consistent with the applicant’s excavation plan illustrated Figure 6 of the PAPA: mining shall begin at the northern part of the site moving in a west-east direction progressing to the south, excavating one cell at a time.
30. Installation of four monitoring wells at locations identified by HGSA on Figure 10 of Appendix B is required prior to the initiation of mining. The five existing monitoring wells shall remain. Wells shall be monitored quarterly for at least one year prior to initiation of mining and the five southern monitoring wells shall have continuous water level recorders for the life of the mine.
31. All monitoring wells should be monitored prior to mining and semi-annually for heavier and lighter hydrocarbons (DX and GX), and polycyclic aromatic hydrocarbons (PAHs) until the wells are abandoned or for the life of the mine.
32. If a trend is observed that could significantly affect nearby wells, the applicant

shall work with regulatory agencies to modify its mining plans to mitigate the effects to a level no longer significant within the impact area. Strategies to accomplish this could include:

- establishment of a recharge area constructed at the southern end of the Canby Phase 4 site so that the recharge activity is directly between the mining activity and the nearby domestic and irrigation wells,
- altering the mining cell order and/or size of the mining cells, and/or
- reducing dewatering depths.

33. A report of monitoring data shall be submitted to DOGAMI and Clackamas County, upon request.
34. The mining operator shall be responsible for restoring the water source for any property within the impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well of cause water quality to not meet health standards in place at the time this mining operation is approved.
35. Recommended impact minimization measures in the HGSA report in Appendix B, dated August, 27, 2019 shall be met if a trend is observed that could significantly affect wells in the Impact Area.
36. If water well quantity impacts attributable to the authorized mining within the impact area occurs, the operator shall rebuild to its historic level of production for any well that is demonstrated to be significantly affected by the mining operations.
37. A Fuel, Oil Prevention Plan and Response Plan will be in place for operations at the subject extraction site.
38. There will be no livestock grazing on the subject site.
39. The operator shall salvage, stockpile and retain all available soil and overburden material for final reclamation. Soil and overburden stockpiles and berms must be seeded in a cover crop to reduce erosion.
40. The operator shall clearly mark the DOGAMI permit boundary and required setbacks in the field, visible to all equipment operators.

Transportation Related Conditions

41. No interior haul roads will be constructed within 250 feet of the any residences unless the haul road is paved.
42. The Phase 4 mining operation, in combination with Phases 1 through 3, shall not generate more than 154 weekday AM peak trips and 120 weekday PM peak trips.

43. Employees shall park their personal vehicles at the designated parking lot located at the Cadman processing facility or onsite in designated areas. Parking spaces shall meet minimum ZDO section 1007 dimensional requirements. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.
44. Aggregate trucks shall maintain and utilize the existing truck wheel wash located near the exit driveway connecting to S Barlow Rd from the processing facility as a sediment/dust control method.
45. The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (dump trucks with pups, delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.
46. The existing access-exit driveway connecting to S Barlow Rd will be paved for a minimum of 300 feet.
47. The operator shall maintain compliance with all conditions of approval in Planning files Z00331-11-CP and Z0332-11-ZAP as they relate to the driveway intersection and access roads that are located on Phase 3 and will be utilized by Phase 4 operations.

Acoustic Related Conditions

36. The mine operator shall comply with all recommended noise mitigation measures including barriers/berms and **Figure 6** of the report identified in the noise study prepared by ABD Engineering Design in Appendix C dated August 30, 2019.
37. The overburden berms for noise mitigation and/or safety will be planted in accordance with DOGAMI recommendations to reduce the potential for erosion.
38. Off-road equipment (*i.e.* excavators, front-end loaders, loading trucks, and bulldozers used for internal site operations shall be fitted with broadband rather than traditional narrowband backup alarms.
39. The operator must use factory or enhanced muffler systems.

Air Quality Related Conditions

40. The operator shall maintain vegetative ground cover on stockpiles to reduce dust.

41. The operator shall sprinkle interior roads with a water truck from March 1 to November 1 to reduce dust.
42. The conveyor shall be covered to reduce the potential for dust dispersion.
43. No more than 5,000 gallons of water per day will be used for dust suppression.
44. A 15 MPH speed limit for onsite truck traffic will be posted on all haul roads within the subject site.
45. Off-road equipment shall meet federal Tier 3 off-road engine standards, and/or equipment to be modified as such.

**PLANNING COMMISSION
MINUTES**

December 16, 2019
6:30 p.m., DSB Auditorium

Commissioners present: Brian Pasko, Mary Phillips, Gerald Murphy, Thomas Peterson, Tammy Stevens, Michael Wilson, Louise Lopes.

Commissioners absent: Christine Drazan, Steven Schroedl

Staff present: Jennifer Hughes, Martha Fritzie, Darcy Renhard.

Commission Chair Pasko called the meeting to order at 6:30 pm.

General public testimony not related to agenda items: none.

The public hearing tonight is to review file numbers Z0406-19-CP, Z0407-19-MAR, and Z0408-19-ZAP. This is an application for aggregate mining by Cadman Materials, Inc. which consists of all three land use files: Z0406-19--a Post-Acknowledgement Plan Amendment (PAPA) to designate approximately 99 acres of extraction area as a Goal 5 significant mineral and aggregate resource site in Chapter 3, Table 3-02 of the Comprehensive Plan;; Z0407-19-ZAP—a zoning map amendment to apply a Mineral & Aggregate Overlay (MAO) to the property; and Z0407-19-MAO—approval of a Mineral & Aggregate Overlay District Site Plan for the proposed mining operations if the PAPA and MAO zone change are approved. The applicant has also asked for a modification to the original conditions of approval to Z0348-93-CP, Z0349-93-Z, and Z1826-97-MAR that would allow processing of aggregate materials on Saturdays at the neighboring mining site. Martha Fritzie added Exhibit 6 to the record, which are comments from the applicant regarding proposed changes to the conditions of approval in the staff report.

The property is SW of the City of Canby in the Barlow area. The Cadman sites are referred to as Phases 1-4 in the application. This proposal is for Phase 4, which is an expansion of Phase 3. The area is proposed to be mined out in a series of 'cells', and most of the property will become a large lake as part of the reclamation plan. The reclamation plan is overseen by the Department of Geology and Mineral Industries (DOGAMI).

The relevant policies and criteria are Statewide Planning Goals 2 (Land Use), 3 (Agriculture), 5 (Natural Resources), 6 (Air, Water and Land Resources Quality), and 12 (Transportation). In addition, OAR 660-023-0180 and the Clackamas County Zoning and Development Ordinance (ZDO) Sections 1202, 708, 1006, and 1010 apply.

Statewide Planning Goal 5 natural resources include riparian corridors, wildlife habitats, scenic rivers, groundwater resources, and mineral & aggregate resources. The criteria and decision making process is specifically outlined in the Oregon Administrative Rules:

Step 1--the application must be complete and must include: the quality, quantity, and location of the resource; a conceptual site reclamation plan; traffic impact assessment; proposals to minimize impacts; and a site plan, operational characteristics, and proposed post-mining uses. The OARs also require that a final decision be issued within 180 days of complete application submittal. Staff has determined that this application is complete. That would make the deadline for a decision March 30, 2020.

Step 2—is to determine if the site is 'significant'. The site can be deemed as significant if it meets the quantity standard (more than 2,000,000 tons of aggregate material), the quality standard (ODOT specifications for base rock), meets location requirements (site characteristics, thickness of aggregate

layer, and soils characteristics), and if the site contains more than 35% Class I or Class II agricultural soils with an average thickness of 25 feet or more. Staff has found that this site is significant as there is approximately 6,900,000 tons of available aggregate on the site, and it also meets the quality and location standards. The site contains approximately 89% Class IV soils.

Step 3A—determine the impact area. Staff has determined that the applicant’s proposed impact area of 1,500 feet is sufficient. There is no factual information to indicate that it should be larger.

Step 3B—identify conflicting uses. Existing and approved uses within the impact area must be identified. Martha provided an aerial map showing surrounding uses (Figure 2 & Appendix H, Application). The surrounding uses include existing mining operations to the east, north, and northeast. There are 20 dwellings , most of which are in a rural residential (FF-10) area along S. Hwy 99E, some are on farmland to the east and south of the site. There is a rural industrial/limited use area to the southwest, and various agricultural activities nearby.

Step 4—conflict analysis. It must be determined whether or not identified conflicts can be minimized, which means to reduce it to a level that is no longer significant or to ensure that it conforms to a local, State, or Federal standard. If the conflict can be minimized, then mining can be allowed. If one or more conflicts cannot be minimized, then there must be an ESEE (Environmental, Social, Economic, Energy) analysis. Potential conflicts could be: noise from the equipment, rock crushers, etc.; dust from mining activities, truck traffic, rock crushers; and other discharges such as diesel, stormwater; potential groundwater impacts to domestic wells, aquifers, and water quality; impacts to other Goal 5 resources, local roads, airports, and agricultural operations. The applicant hired a consultant to do a noise study, which in this case is the extraction equipment to be used on the site. With proposed mitigations, the noise can be minimized to sensitive uses. The proposal is to dewater the site to 10 feet below current groundwater levels and then wet-mine the remaining area, which will minimize the potential dust impacts. Diesel can be mitigated through the conditions of approval. The applicant has also hired a hydrogeologist to analyze the groundwater impacts. The findings were that if the site were to be dewatered the entire depth of the mine, then it might have impacts to surrounding wells, which is why the site will not be dewatered past 10 feet below current groundwater levels. The applicant has a permit through the State for stormwater mitigation. The only other Goal 5 resources in the area are mining sites which would not conflict with this mining site. The applicant is not proposing any new entrances to the site—they would use entrances that already exist on Barlow Road. The site is a mile away from the Aurora airport, so there are no impacts to airport operations (bird attractants) and no impacts to agricultural operations. Staff has found that all potential impacts can be mitigated. Because all conflicts are minimized, the applicant is not required to do an ESEE analysis.

Step 6—determine whether or not to allow mining. If all conflicts in Step 4 are minimized (or the results of the ESEE analysis, which is Step 5, warrants mining), then mining can be allowed. If mining is NOT allowed, then no further analysis is needed. It should be noted that the site can still be deemed a significant resource site, even if mining is not approved. Staff recommends that mining be allowed on this site, subject to conditions and mitigation requirements in the staff report.

Step 7 is to determine the post-mining use of the site. A reclamation plan is required, which is overseen by DOGAMI. The reclamation plan must be consistent with the Comp Plan and the ZDO. The proposed reclamation plan for this site is a lake/pond and naturally vegetated areas. The applicant will obtain necessary permits and approvals from DOGAMI.

Step 8—identify future conflicting uses within the impact area, which would allow new uses according to the underlying zoning district (dwelling, agricultural uses, etc.) The staff report proposed that the impact area include the DEQ noise impact boundary. The applicant is requesting that the MAO only include the subject property and has proposed to provide an ESEE analysis.

The next step is to amend the Comprehensive Plan carry out the decision and add the site to the Goal 5 inventory of significant sites. The zoning map must also be amended to apply the MAO overlay. Any

conditions that implement measures must be clear and objective. Staff finds that all relevant criteria has been met to amend the Comp Plan and add the site to the Goal 5 inventory. All relevant criteria has been met under ZDO Section 1202 to apply the MAO district.

Finally, there must be a MAO site plan review. Sections 708 (Mineral & Aggregate Overlay), 1006 (Water Supply, Sanitary Sewer, Surface Water & Utilities Concurrency) and 1010 (Signs) of the ZDO all apply. Staff finds that the proposed uses are allowed under ZDO 708; that development standards are met under the conditions; that the reclamation plan and process meets the criteria; that sewage, surface water, and groundwater usage criteria are all met; and there are no new signs proposed on the site.

The applicant has requested an amendment to the original applications (Z0348-93-CP/Z0349-93-Z & Z1826-97-MAR) to allow processing on Saturdays. Staff finds that all off-site noise conflicts have been mitigated. The DEQ noise standard for Saturday operations is the same as for Monday – Friday. There are no specific circumstances that warrant limiting the processing hours to more than what is allowed in ZDO Section 708. Therefore, staff finds that it is reasonable to amend the original conditions which currently restrict processing to Monday – Friday to allow for processing on Saturday as well. Notice was sent to all surrounding property owners, and there has been no comment received to date. Staff will amend the recommendation to note that there will be stockpiling of product on the site and will also remove the prior condition that requires a berm on the boundary between Phase 3 and Phase 4 of the operation.

Staff is recommending approval of all 3 applications, including the amendments to add of the Saturday processing hours. The only question is the ESEE analysis which the applicant has agreed to provide.

Commissioner Phillips asked if the MAO boundary was addressed in Condition 2. Martha answered that it is. Commissioner Stevens asked how the LUBA decision impacts this. Martha said that it doesn't really change anything in our Comp Plan, it means that we don't need to analyze all of the criteria in our Comp Plan as long as you comply with all requirements in State law. Commissioner Phillips asked what the timing is on a normal DOGAMI review. Staff is not able to provide an answer on that. Commissioner Murphy asked if this is going to increase the amount of loads per day compared to what they are currently doing. Martha explained that it will not, as it is conditioned the same way as Phase 3 was. This limits the number of trips per day and the amount of aggregate that can be extracted per year. It is intended to be a replacement for Phase 3 once Phase 3 is mined out.

Chair Pasko opened the hearing for public comment. There are no government agencies present to provide testimony.

Chair Pasko invited the applicant to provide testimony.

Steven Pfeifer – Mr. Pfeifer is the attorney for the applicant. He is supportive of staff's recommendations and the proposed conditions.

Andy Hyland (Cadman Materials)- The applicant is proposing to expand operations of their existing mining site (Phase 3 onto the adjacent 104-acre parcel (Phase 4). The scale of operations will remain consistent with the current operations, and the access point and truck route will remain the same. The northwest area of the site will be filled in for reclamation. The applicant has performed extensive technical analysis. They also held a public meeting on November 19th and invited the surrounding neighbors. Approximately 13 neighbors attended this meeting. They discussed the impacts and proposed uses with these community members.

Dorian Kuper (Kuper Consulting)- Ms. Kuper is an Engineering Geologist who analyzed two different aspects of the PAPA. There is confirmed presence of sand and gravel deposits, 30-60 feet thick across the site. The site meets the criteria for location. ODOT has confirmed that the samples from a variety of borings on the property meet their quality standards. Goal 5 requires that there be at least 2 million tons of aggregate on a site. This site has approximately 8.1 million tons, 6.9 million of which are extractable. The potential offsite impacts within 1500 feet of operations are minimal for most of the surrounding area, with the exception of a handful of residential and farm uses. Use of noise barriers will mitigate noise impacts and wet mining will take care of dust potential. They will also be watering the roads as necessary during dry weather. The berms will be seeded (planted) and the conveyors will be covered. Traffic impacts will be as they currently are for existing operations. An inadvertent discovery plan is in place should any archaeological resources be discovered, which would require involvement from SHPO (State Historical Preservation Office). Storm water will infiltrate and/or be conveyed over to storm water ponds for eventual outfall to the Molalla River, which is permitted by DEQ. Groundwater will be monitored using onsite monitoring wells, and dewatering will only happen to 20 feet below ground surface. Commissioner Lopes asked if Phase 3 and Phase 4 would be happening at the same time. Ms. Kuper replied that it will not. Phase 3 will be completed before mining begins on Phase 4.

Kerrie Standlee (ABD Engineering & Design) – Mr. Standlee is a registered acoustical engineer who conducted a noise study for Phase 4 of the Cadman mining operations. His job is to determine what steps should be taken to maintain current sound levels at proposed mining operations. Each sub cell of excavation will move down to a depth of 35-60 feet before operations are moved to the next sub-cell. The loudest hourly noise levels that could ever radiate from the mining operations in the expansion area were predicted at residences in the vicinity of the site. The residences chosen were considered to be representative of the residences within the greatest impact of the noise area. Overburden is approximately 10 feet deep on the site, so the top of the resource is approximately 10 feet below the existing grade. Noise considerations were done using the highest levels possible. Berms will be built to a height appropriate to mitigate noise conditions at different areas of the mining site.

Douglas Gless (H.G. Schlicker & Associates) – Mr. Gless is a licensed hydrogeologist and certified engineering geologist. He did a technical study and drilled 18 borings. There are also 5 monitoring wells. He performed an analysis of the pump tests. The proposed area is generally flat, other than some elevation changes at the south. The Molalla River is approximately 0.7 miles to the east, and the Pudding River is also nearby. Exploratory borings found that sand and gravel with silty matrix goes to a depth of about 70 feet in most areas of the operating site. Dewatering will be limited to approximately 20 feet below the ground surface in Phase 4, and the wells will provide for continual monitoring of groundwater levels. The mining plan will be modified to mitigate potential effects if adverse trends are observed. Five monitoring wells are currently installed, and four additional wells are proposed. Strategies to mitigate significant impacts to nearby wells could include establishment of a recharge area so that the recharge activity is directly between mining and nearby domestic and irrigation wells, altering the mining cell order and/or the size of the mining cells, and reducing the dewatering depths. Commissioner Pasko asked how far away the nearest well is. Mr. Gless answered that the Yoder well is actually on the subject property, so there would need to be considerations when working in that area.

Mr. Pfeifer explained that an IDP requires that there be protocols in place, including training of the lead operators, to identify possible artifacts if they are discovered. DOGAMI is required to coordinate with tribal nations and other agencies, who have 35 days to respond regarding potential discovery of historic artifacts. Commissioner Phillips wants to know why the applicant is asking for a mining boundary instead of the MAO as staff is recommending. Mr. Pfeifer responded that the rules state that if mining is allowed, the last step

that a county has to make is whether to allow, prohibit, or limit new conflicting uses to the Goal 5 mining activity.

Commissioner Pasko moved to public testimony. No CPOs, hamlets, or villages to testify. One person neutral to testify.

Mark Friedwasser (manager for Aurora Weyerhaeuser nursery) – Mr. Friedwasser’s concern is that in order to grow high quality seedlings, the nursery needs a lot of water. They have already seen an impact from other mining sites in the area. During summer months the nursery doesn’t use a whole lot of water, but in the fall water is critical to protect the seedlings from frost. During periods of long frost, they may be pumping 12-20 hours per day. Their wells don’t accommodate this now. During the Phase 3 mining, one of their wells did cavitate and they had to stop using it during the summer. The Phase 4 expansion will be even closer to the nursery operations, so there could be further impact on their wells. He would like to request that all recommendations for monitoring wells and related countermeasures be implemented. They would also like to have real-time data shared with the neighbors. He would like to know what the triggers are that would cause changes to the mining and would like to be notified when the water levels drop below 10 feet. Mitigation measures should be proactive rather than reactive. Cadman should also be responsible for rebuilding any historic wells back to their original status if there is damage from the mining operations.

Mr. Pfeifer is not going to rebut Mr. Friedwasser’s concerns, as they are reasonable. His recommendations are the same as what the applicant is hoping for, which is to put the mitigation on the front end. They are confident that they can work with Weyerhaeuser to find solutions.

Commissioner Pasko referred back to the MAO boundary and asked what criteria should be applied in determining whether to draw the boundary at the property line or within the impact zone. Martha said that as an alternative, if the ESEE analysis shows that there is no need to limit uses, then we could keep it at the property line. There is already very limited opportunity for additional uses on the surrounding properties anyway.

Commissioner Phillips asked if the data from the monitoring wells can be made available to neighbors. The applicant does give this information to the County and DOGAMI on a quarterly basis.

Martha has no rebuttal, but does point out a pretty extensive list of conditions already in the staff recommendation (conditions 31-37).

The public hearing is closed, moved to deliberations.

The Planning Commission decided to make recommendations on 6 decision making points:

1. Completeness of the application and significance of the mining area: there is agreement that this is pretty clearly demonstrated. Commissioner Phillips moved to determine that the application is complete and that the resource is significant. Commissioner Stevens seconds. *Ayes=7.*
2. Can conflicts be minimized? Commissioner Peterson said that the applicant is willing to address any conflicts that have been brought forward. Commissioner Stevens agrees. Commissioner Phillips thinks that the conditions would address the issue of wells. The biggest concern on water and wells is new condition of approval #37. The additional language puts too much burden on surrounding property owners. She would like to see some way of determining what a ‘significant impact’ is. Commissioner Peterson said that perhaps there is a way to provide better assurance or collaboration with affected parties, and to be more proactive and avoid any potential conflict. Commissioner

Pasko would like to see the southern monitoring well established early on. The second need is to ensure that there is some sort of disclosure of the well status to neighbors. Thirdly, he would like some sort of qualitative standard that implements remedies and would like to remove the language in condition #37. Commissioner Lopes would like to see firm data on where and how high berms will be. Martha explained that the heights of noise barriers have already been determined, they just haven't decided what they will be constructed with yet. Commissioner Phillips moved that we state that all conflicts can be minimized in the conditions of approval, with removal of condition #37 in Exhibit 6, and that there be some guidance worked out to what 'significant impact' means, some sort of collaboration established with potentially affected well owners nearby, and that south monitoring wells are put in place 1 year prior to beginning mining of Phase 4. Commissioner Stevens seconds. *Ayes=6 (Phillips, Stevens, Pasko, Peterson, Wilson, Murphy); Nays=1 (Lopes).*

3. There is no need because conflicts have been determined as able to be mitigated.
4. Is the reclamation plan acceptable? Commissioner Phillips said that this is determined by DOGAMI, so the condition is satisfied. She moves that a reclamation plan as approved by DOGAMI is acceptable. Commissioner Stevens seconds. *Ayes=7.*
5. There was discussion around where the boundary should be. Martha said that it is very unlikely that any of the affected properties would build a new residence in the near future. Commissioner Pasko feels that the cleanest way to do this is to put the overlay at the property boundary. If you increase the overlay onto neighboring properties, you run the risk of decreasing those property values. Commissioner Phillips moved that we accept the applicant's proposed boundary to be the mining property line, and that it is subject to the applicable ESEE analysis. Commissioner Stevens second. *Ayes=7.*
6. Commissioner Phillips moved that we recommend approval of the PAPA application Z0406-19-CP, Z0408-19-ZAP, and Z0407-19-MAO as well as amendments to the original applications Z0348-93-CP, Z0349-93-Z and Z1826-97-MAR to permit mining operations on Saturdays, subject to the conditions of approval in Exhibit 6 with applicant's changes and changes noted in previous discussion tonight. Commissioner Lopes seconds. *Ayes=7. Motion carries.*

Jennifer Hughes provided a schedule review: January 13th will be a continuation of the study session that Glen started last week. We will have a study session on housing strategies on January 27th.

There being no further business, the meeting was adjourned at 9:56 p.m.

Table III-2
Inventory of Mineral and Aggregate Resource Sites *

Significant Site	Location
Anderson Quarry	T4S, R1E, Section 06, Taxlots 1100, 1200 & 1600
<u>Cadman Materials Inc./ Canby Pit, Phase 4</u>	<u>T4S, R1E, Section 07 Taxlots 500, 600, 700, 800, 801, 1002, 1003 & 1004</u>
Canby Sand & Gravel Site	N/A
Dhooghe Road Quarry Site	T5S, R3E, Section 17, Taxlots 600, 690, 700 & 790 (Taxlots combined post-approval, significant site now located on T5S, R3E, Section 17, Taxlots 600 & 700)
Estacada Rock Products Site	T3S, R4E, Section 18, Taxlots 1400, 1490, 1491 & 1492
Minsinger Bench Site	T2S, R6E, Section 20, Taxlots 100, 200, 300 & 500 (Taxlots reconfigured post-approval, significant site now located on T2S, R6E, Section 20, Taxlots 500 & 501)
Molalla River Reserve/Abbott, Merrill, Wallace Properties	T4S, R2E, Section 33, Taxlots 700, 900 & 1100 T4S, R2E, Section 34, Taxlots 500 & 700
Oregon Asphaltic Paving Company Site	T3S, R1E, Section 29, Taxlot 900 T3S, R1E, Section 30, Taxlots 1500, 1590 & 1700 T3S, R1E, Section 31, Taxlots 100 & 400
Pacific Rock/Rodrigues Property	T4S, R1E, Section 08, Taxlot 1000
Pacific Rock Products, L.L.C. Property	T4S, R1E, Section 06, Taxlots 1800 & 1900 T4S, R1E, Section 07, Taxlots 100, 190, 300, 390 & 400
Parker-Northwest Paving Co/Traverso Aggregate Site	T4S, R1E, Section 05C, Taxlot 1100 T4S, R1E, Section 05D, Taxlot 1100
River Island Sand & Gravel Site	T2S, R3E, Section 26, Taxlots 600 & 701 (Taxlots reconfigured post-approval, significant site now located on T2S, R3E, Section 26, Taxlot 600 & 100)
Tonquin Aggregate Quarry	T3S, R1W, Section 04A, Taxlots 100 & 102
Wilmes Sand & Gravel Site	T4S, R1E, Section 08, Taxlots 600, 700 & 800

CLACKAMAS COUNTY COMPREHENSIVE PLAN

Potential Sites				
17	65	Francis Welch Silica	Ellis Deposit	Port Blakely Tree Farm
21-22	87	Terrill Silica Deposit	Scotts Mills Locality	Hein-Morris Property
29	89	Petes Mtn.	Dibble Deposit	Halton Company Property
32	90	Kroaker Prospect	Johnson & Laird	Alford-Goheen Property
35	114-116	Bauxite Deposit	Molalla High Alumina Clay	Robert Poole Property
37	227	Clear Creek	Avison Lumber	Western Pacific Construction
43	229	North Fork Claims	Forman Property	Wilsonville Concrete
45	231	Perry Bond Ranch	Molalla Redi-Mix	Molalla River Group
61-63		Molalla Clay	Patton Stone Quarry	Ogle Mountain Mine

Other Sites				
1-2	84	Crown Zellerbach	Florence Silvers	Meadowbrook
4-13	86	Cavenham Forest Ind	Barton Sand & Gravel	180 Pit
14-15	88	Jim Hartman	Columbia Continental	Marquam Limestone Quarry
26	92-100	Doug Sandy	Brightwood Quarry	Beaver Creek
30-31	102-113	Jim Elting	Norman Strabein	South Fork 9AC
33-34	117	Jack Parker	Oregon State Hwy Division 1	
38-42	119-161	Cassinelli	Quarry 3	
44	166-226	Clack Sand & Gravel	South Eagle Pit	
47	228	OR State Hwy Div 2	Arrah Wanna Co	
64	23	Quick Srvs Sand & Gravel	John Jorgeson	
66-82	232-460	George Herbst	Arthur Snyder	

*Resource sites identified by number from the State of Oregon Department of Geology and Mineral Industries (DOGAMI) Special Paper 3 “Rock Material Resources of Clackamas, Columbia, Multnomah, and Washington Counties, Oregon;” by number or name from the DOGAMI “Mineral Information Layer For Oregon By County;” by name from Conditional Uses for Surface Mining; and by name from H.G. Schlicker & Associates, Inc. Report for the Anderson Quarry, Jerry Lewis & Associates Report for Canby Sandy & Gravel Site and Oregon Asphaltic Paving Company Site, Cascade Earth Sciences, LTD. Report for River Island Sand & Gravel Site, Dhooghe Road Quarry Site and Estacada Rock Products Site, and Reports Boatwright Engineering, Inc., Northwest Testing Laboratories, Inc. and Carlson Testing, Inc. for Wilmes Sand & Gravel Site

[Amended by Board Order 2000-94; Amended by Board Order 2001-283, 11/29/01; Amended by Board Order 2007-269, 4/26/07; Amended by Board Order 2012-12, 2/9/12; Amended by Board Order 2014-14, 2/27/14; Amended by Board Order 2018-20, 4/5/18]



Land Use Application

For Staff Use Only	
Date received:	Staff initials:
Application type:	File number:
Zone:	Fee:
Violation #:	CPO/Hamlet:

Applicant Information:

What is proposed? Obtain land use approval for aggregate extraction for Canby Phase 4 Site, Zone Map Amendment, Comprehensive Plan Text Amendment, Site Review Permit, Mineral & Aggregate Overlay Zone

Name of applicant: Cadman Materials Inc., Attention: Charles Rose

Mailing address: 7554 185th Avenue, NE, Suite 100

City Redmond State WA Zip 98052

Applicant is (select one): Property owner Contract purchaser Agent of the property owner or contract purchaser

Name of contact person (if other than applicant): Sophie Mullen

Mailing address of contact person: same as above

Applicant #s: Wk: 604-812-6116 Cell: _____ Email: sophie.mullen@lehighhanson.com

Contact person #s: Wk: _____ Cell: _____ Email: _____

Other persons (if any) to be mailed notices regarding this application:

Name	Address	Zip	Relationship
Name	Address	Zip	Relationship
SITE ADDRESS:	<u>3/4 mile south of Hwy 99E and S. Barlow Rd. intersection, west side of road</u>		
TAX LOT #:	<u>T 4S R 1E</u>	<u>Section 7</u>	Tax <u>500,600,1002,1003,1004 & portions</u> Lot(s) of <u>700, 800 & 801</u>
Adjacent properties under same ownership:	Total land area: <u>99 Acres</u>		
<u>T 4S</u>	<u>R 1E</u>	<u>Section 7</u>	Tax lot(s) <u>100,190,300,390,400</u>
<u>T 4S</u>	<u>R 1E</u>	<u>Section 8</u>	Tax lot(s) <u>700,800,1000</u>
<u>T _____</u>	<u>R _____</u>	<u>Section _____</u>	Tax lot(s) _____

I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

CADMAN MATERIALS INC. 9/3/19 Charles Rose (TAX LOT 600) SEE APPENDIX "J" FOR REMAINING TAX LOTS
 Property owner or contract purchaser's name Date Owner or contract purchaser's signature
 (print)

CADMAN MATERIALS INC. 9/3/19 Charles Rose
 Applicant's name Date Applicant's signature
 (print)



Application for Design Review

May 2018

*****A Pre-Application Conference is required prior to filing this application.*****

Date Received: _____ File No.: _____
 Staff Member: _____ Design Review Fee: \$ _____
 Zone: _____ .384% of Construction Cost: \$ _____
 Comp. Plan: _____ (\$650.00 Minimum / \$36,835.00 Maximum Fee)
 Development No.: _____ Project No.: _____

Name of Applicant: Cadman Materials, Inc. Attn: Charles Rose
 Mailing Address: 7554 185th Avenue NE, Suite 100, Redmond WA 98052
 Phone: 206-735-0574 Email: charles.rose@lehighhanson.com

What is proposed?:

Obtain land use approval for aggregate extraction for Canby Phase 4 Site, Zone Map Amendment, Comprehensive Plan Text Amendment, Site Review Permit, Mineral & Aggregate Overlay Zone

Proposed title: Canby Pit - Phase 4 Sq. ft. of each structure: N/A

Estimated completion date: 8-10 years Estimated cost of constr (labor & materials): \$ N/A

Site Address: 3/4 mile south of Hwy 99E and S. Barlow Rd. intersection, west side of road

Total Land Area : 99 Acres

Legal Description: T 4S R 1E Section: 7 Tax Lot(s): 500,600,1002,1003,1004, portions of 700,800 & 801

Adjacent Properties Under Same Ownership: T 4S R 1E Section 7 Tax Lot(s) 100,190,300,390,400
8 700,800,1000

Other persons (if any) to be mailed notices regarding this application:

Name	Address	Relationship
Name	Address	Relationship

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

<u>MULTIPLE OWNERS</u>	<u>CADMAN MATERIALS INC.</u>
Property Owner's Name (Print)	Applicant's Name (Print)
<u>Charles Rose (TAX LOT 600)</u>	<u>Charles Rose</u>
Property Owner's Signature	Applicant's Signature
<u>9/13/19</u>	<u>9/13/19</u>
Date	Date

**SEE APPENDIX "J" FOR REMAINING TAX LOT APPROVAL SIGNATURES*



Department of Energy

Bonneville Power Administration
2715 Tepper Lane NE
Keizer, OR 97303

TRANSMISSION BUSINESS LINE

September 29, 2016

In reply to: TERR-Chemawa
BPA Case No. 20100493

Tract No. OC-M-9-A-45
Line Name: Oregon City - Marcola No. 1 (operated as Pearl - Marion No. 1)
ADNO# 7256; Structure # 9/5 - 10/1
Stationing: 4615+92 - 4620+48

Mr. Chuck Rose
CEMEX, USA
8705 NE 117th Avenue
Vancouver, WA 98662

Dear Mr. Rose:

Enclosed is one copy of the fully executed Land Use Agreement Amendment No. 2 extending your mining use to September 30, 2021. Keep this copy for your records. A second copy was mailed to Mr. Paul R. Hribernick, Black Helterline LLP.

Please contact my office at 503-304-5906, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Clark".

Jim Clark
Realty Specialist
Bonneville Power Administration | Real Property Field Services
Phone: (503) 304-5906 | Mobile: (503) 758-3883

Enclosures



Department of Energy
Bonneville Power Administration
2715 Tepper Lane NE
Keizer, OR 97303

TRANSMISSION SERVICES

September 21, 2016

In Reply Refer To:

BPA Case No. 20100493

Tract No. OC-M-9-A-45

Line Name: Oregon City - Marcola No. 1 (Operated as Pearl - Marion No. 1)

ADNO: 7256; Structure # 9/5 -10/1

Stationing: 4615+92 - 4620 + 48

Mr. Chuck Rose
General Manager
CEMEX, USA
8705 NE 117th Avenue
Vancouver, WA 98662

**LAND USE AGREEMENT
AMENDMENT NO. 2**

The Bonneville Power Administration (BPA) has amended Land Use Agreement No. 20100493 dated October 12, 2010 as follows:

1. Your approved use must be completed by September 30, 2021. If you have not completed your project by the above date, you must inform BPA five working days in advance to receive an extension.
2. You must notify BPA if there are any changes to the approved use within the BPA right-of-way.


All other terms and conditions of Land Use Agreement No. 20100493 remain the same.

If you have any questions or concerns, please notify this BPA Realty Office. You may direct any communication to Bonneville Power Administration, 2715 Tepper Lane NE, Keizer, OR 9703, or telephone Jim Clark at 503-304-5906.

A copy of this agreement shall be physically located at the project during construction activities.

**THIS AMENDMENT NO 2 BECOMES EFFECTIVE UPON THE SIGNATURE
OF ALL PARTIES.**

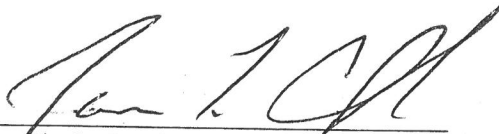
**I HAVE READ, UNDERSTAND, AND CONCUR WITH THE TERMS OF THIS
AMENDED AGREEMENT:**



Chuck Rose, General Manager

9/26/16
Date

**THIS AMENDED AGREEMENT IS HEREBY AUTHORIZED BY BONNEVILLE
POWER ADMINISTRATION:**



Jim Clark, Realty Specialist

9/29/2016
Date

cc:
Paul R. Hribernick
Black Helterline LLP
1900 Fox Tower
805 SW Broadway
Portland, OR 97205



Department of Energy
Bonneville Power Administration
2715 Tepper Lane
Keizer, OR 97303

August 19, 2011

In Reply Refer To: TERR-3
BPA Case No. 20100493

Tract No. OC-M-9-A-45
Line Name: Oregon City – Marcola No. 1 (Operated as Pearl - Marion No. 1)
ADNO: 7256; Structure # 9/5 – 10/1
Stationing: 4615+92 – 4620+48

Mr. Chuck Rose
Aggregate Manager
CEMEX, USA
8705 NE 117th Avenue
Vancouver, WA 98662

**LAND USE AGREEMENT
AMENDMENT NO. 1**

The Bonneville Power Administration (BPA) has amended Land Use Agreement No. 20100493 dated October 12, 2010 as follows:

1. Your approved use must be completed by September 30, 2016. If you have not completed your project by the above date, you must inform BPA five working days in advance to receive an extension.

11. You must notify BPA if there are any changes to the approved use within the BPA right-of-way.

All other terms and conditions of Land Use Agreement No. 20100493 remain the same.

If you have any questions or concerns, please notify this BPA Realty Office. You may direct any communication to Bonneville Power Administration, Real Estate Field Services (TERR-Chemawa), 2715 Tepper Lane, Keizer, OR 97303, or telephone Monica Stafflund at 503-393-8181 x 269.

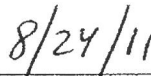
A copy of this agreement shall be physically located at the project during construction activities.

**THIS AMENDMENT NO 1 BECOMES EFFECTIVE UPON THE SIGNATURE
OF ALL PARTIES.**

**I HAVE READ, UNDERSTAND, AND CONCUR WITH THE TERMS OF THIS
AMENDED AGREEMENT:**

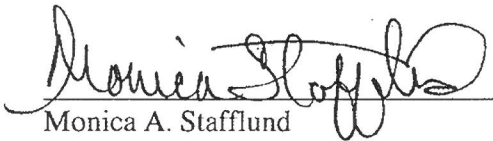


Mr. Chuck Rose
Aggregate Manager

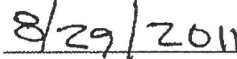


Date

**THIS AMENDED AGREEMENT IS HEREBY AUTHORIZED BY BONNEVILLE
POWER ADMINISTRATION:**



Monica A. Stafflund
Realty Specialist



Date

cc:

Paul R. Hribernick
Black Helterline LLP
1900 Fox Tower
805 SW Broadway
Portland, OR 97205



Department of Energy
Bonneville Power Administration
2715 Tepper Lane
Keizer, OR 97303

October 12, 2010

In reply to: TERR-3
BPA Case No. 20100493

Tract No. OC-M-9-A-45
Line Name: Oregon City - Marcola No. 1
(operated as Pearl - Marion No. 1)
ADNO# 7256; Structure # 9/5 - 10/1
Stationing: 4615+92 - 4620+48

Mr. Chuck Rose
Aggregate Manager
CEMEX, USA
8705 NE 117th Avenue
Vancouver, WA 98662

LAND USE AGREEMENT

Bonneville Power Administration (BPA) hereby agrees to your use of BPA's easement area for aggregate mining on Tax Lot 390.

The location of your use is partially within the NW1/4NE1/4 of Section 7, Township 4 South, Range 1 East, Willamette Meridian, Clackamas County, State of Oregon, as shown on the attached segment of BPA Drawing No. 139809, marked as Exhibit A and a BPA excavation standard drawing, marked as Exhibit B.

You shall not make any changes or additions to your use of the right-of-way without BPA's review and written approval. Any other uses and utilities on the right-of-way must be applied for separately.

Please note that BPA is not the owner of this property. If you are not the owner, you must obtain the owner(s) permission to use this property. There may also be other uses of the property that might be located within the same area as your project. This agreement is subject to those other rights.

This agreement is entered into with the express understanding that it is not assignable or transferable to other parties without the prior written consent of BPA. This agreement is revocable at will by BPA and does not modify, change, or otherwise alter the rights BPA acquired by Deed. BPA may terminate this agreement upon 30 days written notice.

The subject use of this easement area has been determined not to be a hazard to, or an interference with, BPA's present use of this easement for electric transmission line purposes. Accordingly, there is no present objection to such use. However, if BPA should determine at any time, that your use has become a hazard to the presently installed electrical facilities of BPA, or any facilities added or constructed in the future, or if such use should interfere with the inspection, maintenance, or repair of the same, or with the access along such easement, you will be required to stop your use or remove such hazard or interference from the right-of-way at no expense to BPA.

**BY ACCEPTING THIS LAND USE AGREEMENT YOU ARE AGREEING TO
THE FOLLOWING CONDITIONS**

1. Your approved use must be completed by September 30, 2011. If you have not completed your project by the above date, you must inform BPA five working days in advance to receive an extension.
2. Maintain a minimum distance of at least 20 feet between your facilities and the transmission line conductors (wires). Do not measure this with measuring tape, pole, or other physical means.
3. When excavating, a minimum horizontal buffer zone of **100** feet shall be maintained from any point where steel lattice tower legs, wood poles, steel poles, concrete poles, concrete foundations and guy anchors enter the earth.
4. From the excavation buffer zone, a slope in the ratio of **2:1** (Horizontal:Vertical) or less shall be maintained.
5. Access to BPA transmission line system by BPA and/or its contractors shall not be obstructed at any time.
6. A **20** foot wide road shall be maintained for access to the affected transmission structures with grade of the road not to exceed **15** percent. This road shall be constructed on original ground and may not be fill material.
7. BPA right-of-way shall be returned to its original condition following construction. No grade changes to facilitate construction or disposal of overburden shall be allowed.
8. Equipment, machinery, and vehicles traveling on BPA's right-of-way shall come no closer than 25 feet to any BPA structure or guy anchor ground attachment point.
9. No storage of flammable materials or refueling of vehicles or equipment on BPA property.
10. Nuisance shocks may occur within the right-of-way. Grounding metal objects helps to reduce the level of shock. It is suggested that road building/construction equipment be grounded with a drag chain.

IN ADDITION, THE FOLLOWING IS BROUGHT TO YOUR ATTENTION

You agree to assume risk of loss, damage, or injury which may result from your use of the easement area, except for such loss, damage, or injury for which BPA may be responsible under the provisions of the Federal Tort Claims Act, 62 Stat. 982, as amended. It is understood that any damage to BPA's property caused by or resulting from your use of the easement area may be repaired by BPA, and the actual cost of such repair shall be charged against and be paid by you.

The aggregate mining shall be at no cost to BPA.

BPA seeks your help maintaining the integrity of the electrical transmission system. Please report any Vandalism or Theft to the BPA Crime Witness program at 1-800-437-2744. Cash rewards of up to \$25,000 will be paid should information lead to the arrest and conviction of persons committing a crime.

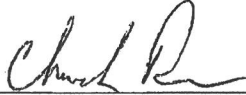
BPA shall not be liable for damage to your property, facilities, or injury to persons that might occur during maintenance, reconstruction, or future construction of BPA facilities as a result of your facilities being within the right-of-way.

If you have any questions or concerns, please notify this BPA Realty Office. You may direct any communication to Bonneville Power Administration, Real Estate Field Services (TERR-Chemawa) 2715 Tepper Lane, Keizer, OR 97303, or telephone Monica Stafflund at 503-393-8181 x 269.

A copy of this agreement shall be physically located at the project during construction activities.

**THIS LAND USE AGREEMENT BECOMES EFFECTIVE UPON THE
SIGNATURE OF ALL PARTIES.**

**I HAVE READ, UNDERSTAND, AND CONCUR WITH THE TERMS OF THIS
AGREEMENT:**

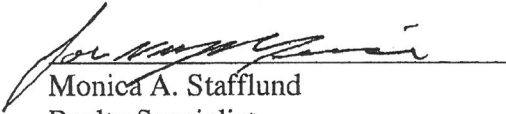


Mr. Chuck Rose
Aggregate Manager

12/23/10

Date

**THIS AGREEMENT IS HEREBY AUTHORIZED BY BONNEVILLE POWER
ADMINISTRATION:**



Monica A. Stafflund
Realty Specialist

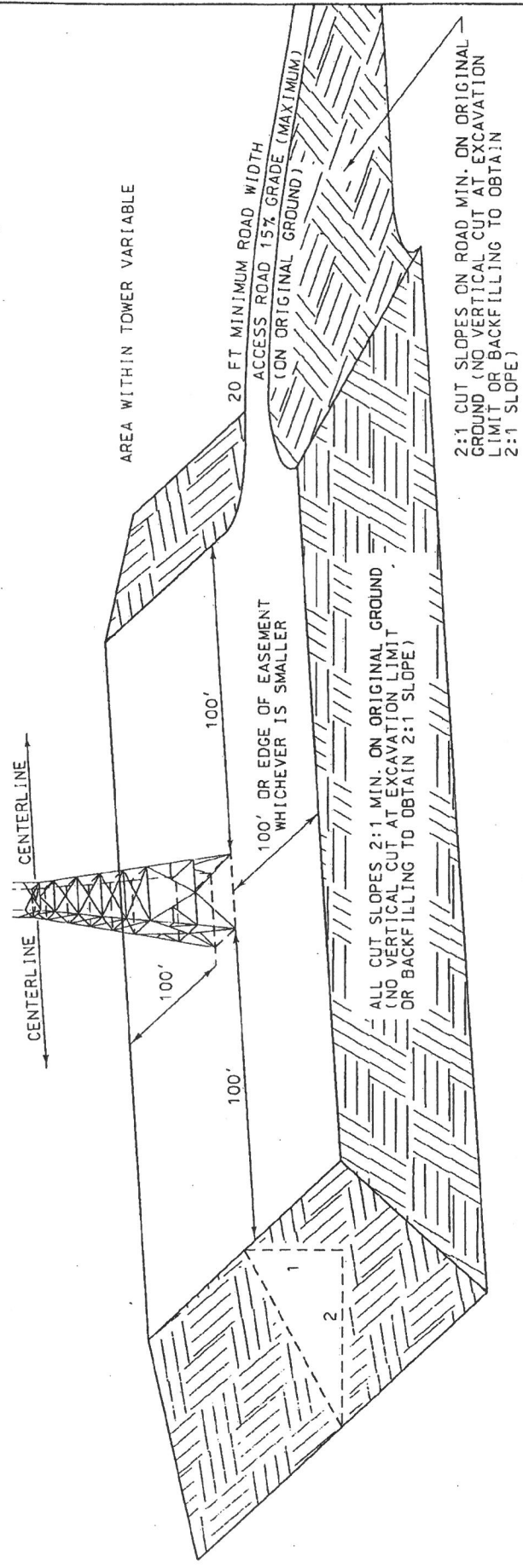
1/3/2011

Date

cc:

Paul R. Hribernick
Black Helterline LLP
1900 Fox Tower
805 SW Broadway
Portland, OR 97205

FIGURE 1 SHOWS THE TYPICAL LIMITS OF LARGE SCALE EXCAVATION AROUND BPA STEEL LATTICE TOWERS.



BPA RESERVES THE RIGHT TO EXPAND LISTED LIMITS BASED ON SAFETY AND RELIABILITY ISSUES.

FIGURE 1 TYPICAL LARGE SCALE EXCAVATION LIMITS FOR STEEL LATTICE TOWERS

2010-01-13

Exhibit B

**OPTION TO PURCHASE AGREEMENT
WITH RIGHTS FOR DRILLING AND EXPLORATION**

This Option to Purchase Agreement ("Agreement") is made and entered into this 18th day of April, 2019 by and between Arthur D. Blumenkron, an individual ("Optionor") and Cadman Materials, Inc., a Washington corporation ("Optionee") for an Option to Purchase a portion of Clackamas County Tax Parcel Number 01004905, which parcel is legally described on Exhibit "A," and which portion consists of approximately 14.2 acres of land as depicted on Exhibit "B" (the "Property"). This Agreement shall be deemed effective upon the date it is mutually executed by Optionor and Optionee ("Effective Date"). Any capitalized terms not defined in this Agreement shall have the meanings attributed to them in the Real Estate Contract attached hereto as Exhibit "C" ("Real Estate Contract").

1. **Option to Purchase.** Subject to the terms and conditions set forth herein, Optionor does hereby grant and convey unto Optionee an irrevocable option to elect to purchase the Property in accordance with the provisions of the Real Estate Contract ("Option").

2. **Option Fee.**

[REDACTED]

3. **Option Period.**

[REDACTED]

4. **Title.**

[REDACTED]

4.1 Objections to Title and Survey.

[REDACTED]

5. Inspections.

[REDACTED]


6. Permits and Approvals. During the Option Period, Optionee shall have the right to apply for all permits, licenses, and approvals necessary for Optionee's intended use of the Property, including but not limited to land use approvals from Clackamas County, a DOGAMI Surface Mining Permit, and DEQ 1200-A (collectively, "Permits"). Optionor shall reasonably cooperate and assist Optionor, at no out-of-pocket cost to Optionor, in Optionor's efforts to obtain the Permits. If Optionee has not obtained all of the Permits within the Option Period, then Optionee shall have the right to terminate the Option at any time prior to the end of the Option Period.

7. Exercise of Option.

[REDACTED]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates written below.

OPTIONOR:

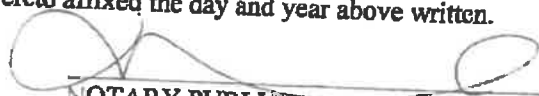


Arthur D. Blumenkron
Date: 4/8/19

On this 8 day of April, 2019, before me personally appeared Arthur D. Blumenkron, to me known to be the person who executed the within and foregoing instrument, and acknowledged said instrument to be his free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.





NOTARY PUBLIC in and for
Deschutes Oregon
Residing at: Sisters OR
My commission expires: November 05, 2021

OPTIONEE:

Cadman Materials, Inc., a Washington corporation

By: [Signature]
Its: VP & GM, Palenada, Firu
Date: 4-18-2019

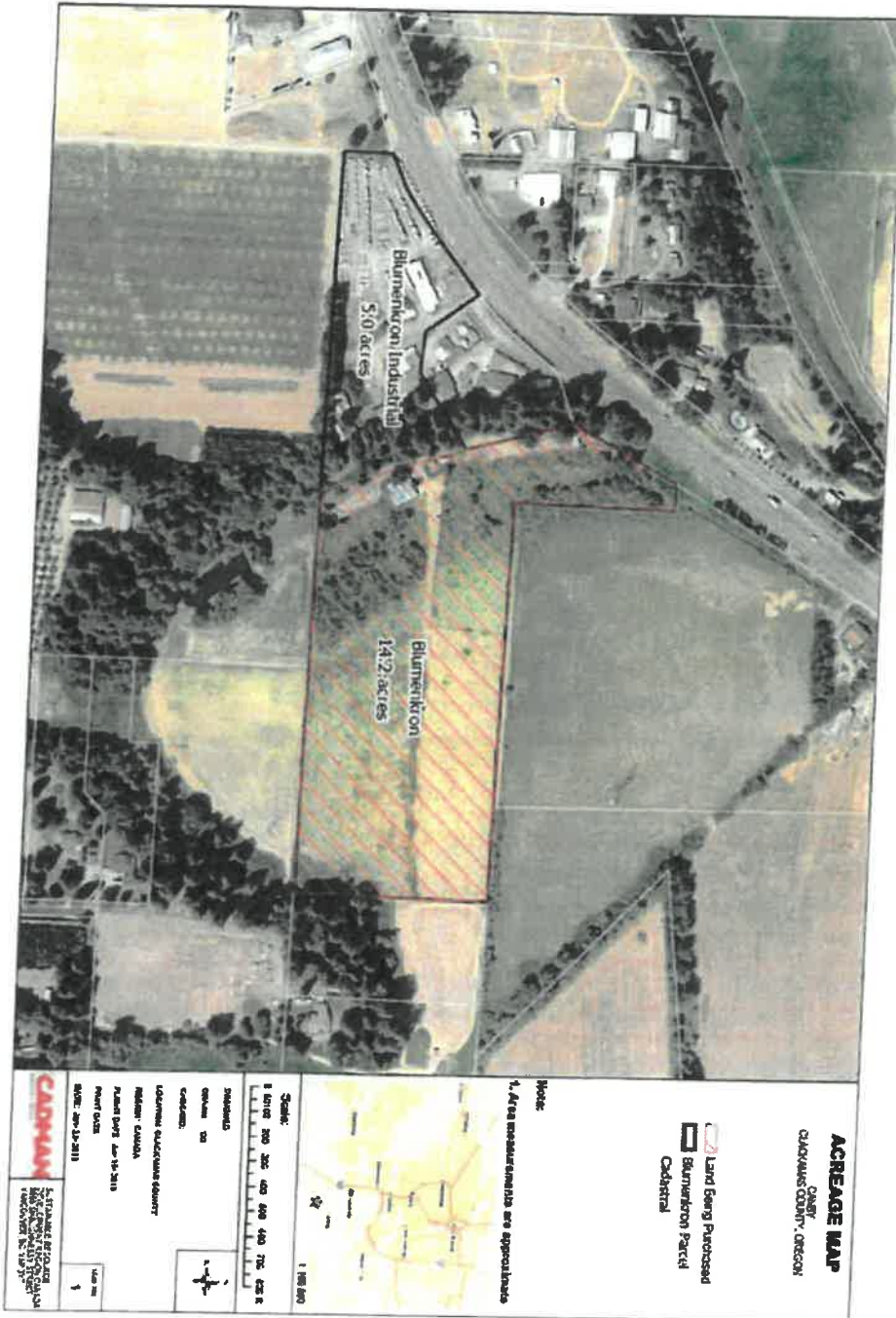
On this 18th day of April, 2019, before me personally appeared Joerg Nixdorf to me known to be the VP & GM of Cadman Materials, Inc., a Washington corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.



[Signature]
NOTARY PUBLIC in and for
King County, WA
Residing at: Snoqualmie, WA
My commission expires: 11/23/2022

**Exhibit B
Depiction of Property**



**OPTION TO PURCHASE AGREEMENT
WITH RIGHTS FOR DRILLING AND EXPLORATION
(Cha Farm)**

This Option to Purchase Agreement ("Agreement") is made and entered into this 28th day of Jan, 2019 by and between Chong Yaxeulue, Pao Yee Cha, and Tou Neng Cha (collectively, "Optionor") and Cadman Materials, Inc., a Washington corporation ("Optionee") for an Option to Purchase approximately 18.13 acres of land associated with Clackamas County Tax Parcel Numbers 01004870 and 01004941, commonly known as 25311 S. Barlow Road, Canby, Oregon 97013, and more particularly described on Exhibit "A" attached hereto and made a part hereof ("Property"). This Agreement shall be deemed effective upon the date it is mutually executed by Optionor and Optionee ("Effective Date"). Any capitalized terms not defined in this Agreement shall have the meanings attributed to them in the Real Estate Contract attached hereto as Exhibit B ("Real Estate Contract").

1. **Option to Purchase.** Subject to the terms and conditions set forth herein, Optionor does hereby grant and convey unto Optionee an irrevocable option to elect to purchase the Property in accordance with the provisions of the Real Estate Contract ("Option").

2. **Option Fee.** [REDACTED]

3. **Option Period.** [REDACTED]

4. **Title.** [REDACTED]

[REDACTED]

4.1 Objections to Title and Survey.

[REDACTED]

5. Inspections.

[REDACTED]

6. Permits and Approvals. During the Option Period, Optionee shall have the right to apply for all permits, licenses, and approvals necessary for Optionee's intended use of the Property, including but not limited to land use approvals from Clackamas County, a DOGAMI Surface Mining Permit, and DEQ 1200-A (collectively, "Permits"). Optionor shall reasonably cooperate and assist Optionor, at no out-of-pocket cost to Optionor, in Optionor's efforts to obtain the Permits. If Optionee has not obtained all of the Permits within the Option Period, then Optionee shall have the right to terminate the Option at any time prior to the end of the Option Period.

7. Exercise of Option.

[REDACTED]

IN WITNESS WHEREOF, the Optionor has hereunto set his hand and seal to this Option Agreement, and the Optionee has caused this Option Agreement to be executed by its duly authorized officers, all as of the date first set forth above.

OPTIONOR:

CHONG YAXEULE, PAO YEE CHA, AND TOU NENG CHA

Chong Yaxeule
Chong Yaxeule

Pao Yee Cha
Pao Yee Cha

Tou Neng Cha
Tou Neng Cha

On this 26 day of January, 2019, before me personally appeared CHONG YAXEULUE, to me known to be the person who executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.



Warren Kenneth Holzem
NOTARY PUBLIC in and for
Oregon
Residing at: COLUMBIANA COUNTY
My commission expires: 12/18/22

On this 26 day of January, 2019, before me personally appeared PAO YEE CHA, to me known to be the person who executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.



Warren Kenneth Holzem
NOTARY PUBLIC in and for
Oregon
Residing at: COLUMBIANA COUNTY
My commission expires: 12/18/22



On this 26 day of January, 2018, before me personally appeared TOU NENG CHA, to me known to be the person who executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.



Warren Kenneth Holzem
NOTARY PUBLIC in and for
OREGON
Residing at: CLATSOP COUNTY
My commission expires: 12/11/22



OPTIONEE:

Cadman Materials, Inc., a Washington corporation

By: *[Signature]*
Its: *VPEGM Materials, PNW*

On this 28 day of January, 2019, before me personally appeared Joerg Nixdorf to me known to be the VPEGM Materials, PNW of CADMAN MATERIALS, INC., A WASHINGTON CORPORATION, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.

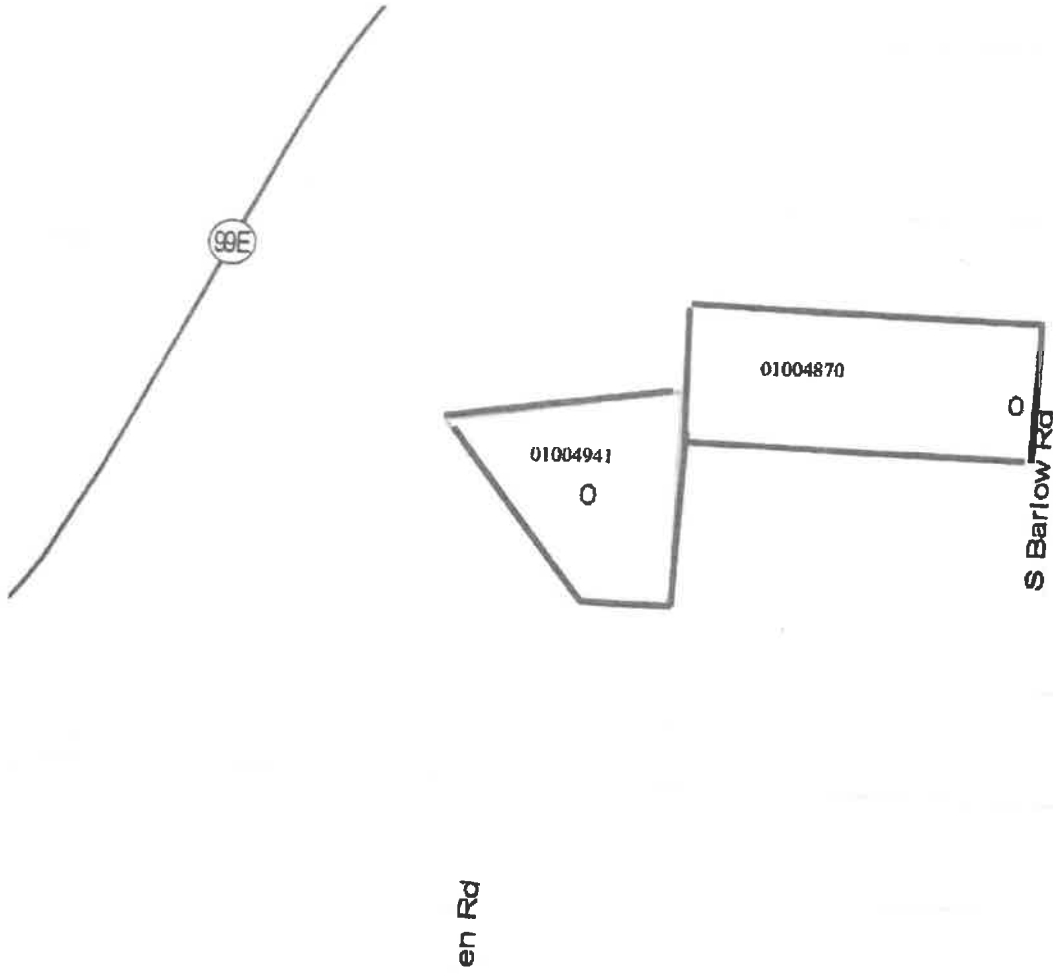


Gwyn Suzette Hart
NOTARY PUBLIC in and for
Washington
Residing at: *Bellevue, WA*
My commission expires: 9/21/2020

Exhibit A (Continued)
Legal Description and Parcel Map

Clackamas County

11/22/2017



**OPTION TO PURCHASE AGREEMENT
WITH RIGHTS FOR DRILLING AND EXPLORATION
Lapp Farm**

This Option to Purchase Agreement ("Agreement") is made and entered into by and between Floyd and Claudia Lapp, as Co-Trustees of the Lapp Family Trust ("Optionor") and Cadman Materials, Inc., a Washington corporation ("Optionee") for an Option to Purchase approximately 17.05 acres of land associated with Clackamas County Tax Parcel Number 01004950, Canby, Oregon 97013, more particularly described on Exhibit "A" attached hereto and made a part hereof ("Property"). This Agreement shall be deemed effective upon the date it is mutually executed by Optionor and Optionee ("Effective Date"). Any capitalized terms not defined in this Agreement shall have the meanings attributed to them in the Real Estate Contract attached hereto as Exhibit B ("Real Estate Contract").

1. **Option to Purchase.** Subject to the terms and conditions set forth herein, Optionor does hereby grant and convey unto Optionee an irrevocable option to elect to purchase the Property in accordance with the provisions of the Real Estate Contract ("Option").

2. **Option Fee.** [REDACTED]

3. **Option Period.** [REDACTED]

4. **Title.** [REDACTED]

4.1 Objections to Title and Survey.

[REDACTED]

5. Inspections.

[REDACTED]

6. Permits and Approvals. During the Option Period, Optionee shall have the right to apply for all permits, licenses, and approvals necessary for Optionee's intended use of the Property, including but not limited to land use approvals from Clackamas County, a DOGAMI Surface Mining Permit, and DEQ 1200-A (collectively, "Permits"). Optionor shall reasonably cooperate and assist Optionor, at no out-of-pocket cost to Optionor, in Optionor's efforts to obtain the Permits. If Optionee has not obtained all of the Permits within the Option Period, then Optionee shall have the right to terminate the Option at any time prior to the end of the Option Period.

7. Exercise of Option.

[REDACTED]

IN WITNESS WHEREOF, the Optionor has hereunto set his hand and seal to the Option, and the Optionee has caused the Option to be executed by its duly authorized officers, all as of the date first set forth above.

OPTIONOR:

Floyd and Claudia Lapp, as Co-Trustees of the Lapp Family Trust

Floyd Lapp

Claudia Lapp

On this 16th day of March, 2018, before me personally appeared FLOYD AND CLAUDIA LAPP, to me known to be the persons who executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act of the LAPP FAMILY TRUST for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.

Andrew Kauffman



NOTARY PUBLIC in and for Oregon

Residing at: Canby OR

My commission expires: 1/15/2022

OPTIONEE:

Cadman Materials, Inc., a Washington corporation

By: [Signature]
Its: VP&GM Materials, Pacific Northwest

On this 26th day of June, 2018, before me personally appeared Jerry Stewart to me known to be the VP & GM of CADMAN MATERIALS, INC., A WASHINGTON CORPORATION, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.

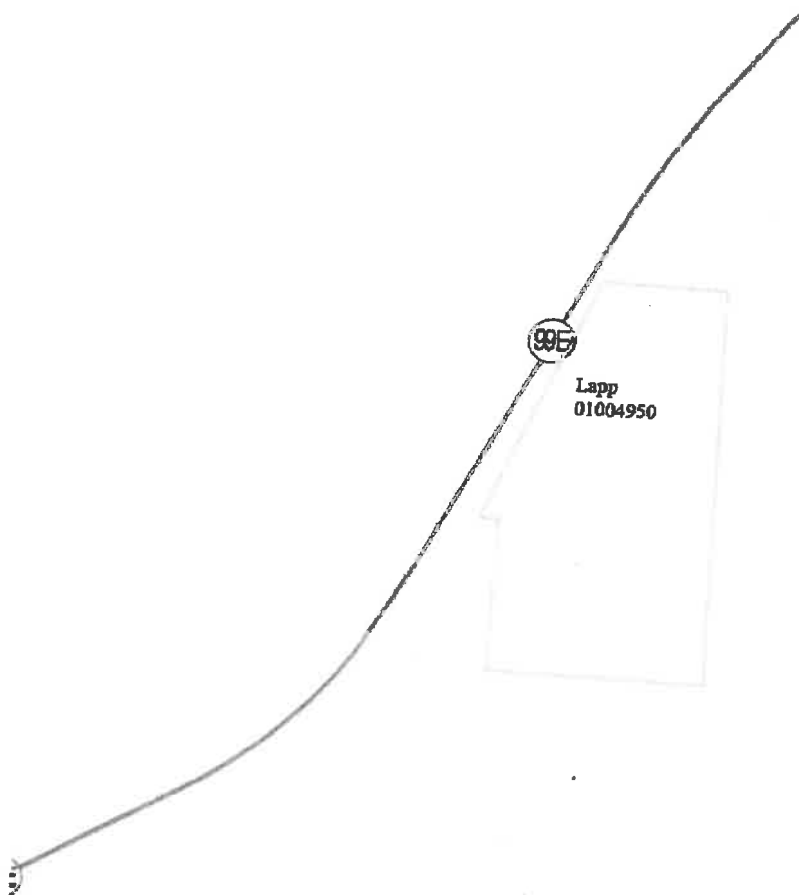
Notary Public
State of Washington
KRISTON JOHNSON
My Appointment Expires April 15, 2020

[Signature]
NOTARY PUBLIC in and for
Vancouver WA
Residing at: Clark County
My commission expires: 4-15-2020

**Exhibit A (Continued)
Legal Description and Parcel Map**

11/22/2017

Clackamas County



Rd

Primary Address: No Situs
Jurisdiction: Clackamas County (<http://www.clackamas.us/>)
Map Number: 41E07
Taxlot Number: 41E07 01003
Parcel Number: 01004950
Document Number: 2017-010178
Census Tract: 022800

this Contract, Optionor also shall furnish, if available, to Optionee and the Title Company, a survey of the Property ("Survey").

4.1 Objections to Title and Survey. Optionee will have the right to notify Optionor in writing, within ninety (90) days of Optionee's receipt of the Title Commitment (which right shall revive as to any new exceptions shown in an updated Title Commitment issued prior to Closing), copies of all the documents shown as exceptions in the Title Commitment, and the Survey, of any objections to matters shown by such documents. Optionor will have five (5) days after the receipt of Optionee's objections in which to cure such objections. If Optionor is unwilling or unable to cure the objections prior to Closing, Optionee will have the right as its sole remedy therefore to (i) terminate the Option at any time prior to expiration of the Option Period, in which case Optionee will be entitled to a full refund of the Option Fee, or (ii) waive the objections, either by an express written notice of waiver, in which event the exceptions shown in the Title Commitment shall be "Permitted Exceptions" if Optionee exercises the Option.

5. Inspections. During the Option Period, Optionee shall have the right to enter upon the Property and to perform tests, drilling, and other exploration to determine whether there are commercially minable quantities of sand and gravel on the Property. Optionee agrees to conduct its exploratory operations in a prudent and business-like manner and agrees not to damage any crops planted on the Property, except to the extent necessary to conduct its operations (which may include removal of small scrubs or trees that may interfere with drilling equipment testing, and entrance to and exit from, the Property). Additionally, Optionee agrees to regrade, to the natural contours, any areas that Optionee excavates. Any boreholes drilled by Optionee will be promptly plugged in accordance with the requirements of applicable law. Optionee shall have the right to seek a zoning change for the Property to enable Optionee to engage in its intended use of the Property for mining and processing of aggregates. Optionee hereby indemnifies and holds Optionor harmless from and against any and all claims, causes of action, loss, reasonable attorney's fees or demands of any kind or nature which might arise out of or result from any of Optionee's, or its agents', acts on the Property. Optionee shall have the right to conduct an initial environmental inspection of the Property, commonly called a Phase I, and if necessary follow this up with a Phase II environmental inspection. If any of Optionee's inspections hereunder reveal that the Property is not suitable, in Optionee's sole discretion, then Optionee shall have the right to terminate the Option at any time prior to the end of the Option Period.

6. Permits and Approvals. During the Option Period, Optionee shall have the right to apply for all permits, licenses, and approvals necessary for Optionee's intended use of the Property, including but not limited to land use approvals from Clackamas County, a DOGAMI Surface Mining Permit, and DEQ 1200-A (collectively, "Permits"). Optionor shall reasonably cooperate and assist Optionor, at no out-of-pocket cost to Optionor, in Optionor's efforts to obtain the Permits. If Optionee has not obtained all of the Permits within the Option Period, then Optionee shall have the right to terminate the Option at any time prior to the end of the Option Period.

7. Exercise of Option. To exercise the Option, Optionee shall give written notice of its election to purchase the Property in accordance with the Real Estate Contract prior to 5:00 p.m. PST on the last day of the Option Period ("Option Notice"). Upon delivery of such Option

IN WITNESS WHEREOF, the Optionor has hereunto set his hand and seal to this Option Agreement, and the Optionee has caused this Option Agreement to be executed by its duly authorized officers, all as of the date first set forth above.

OPTIONOR:
Vanpelt Family Trust

Jake Vanpelt

Marilyn Vanpelt

By Jake and Marilyn Vanpelt,
Co-Trustees of The Vanpelt Family Trust

On this 26th day of JUNE, 2018, before me personally appeared JAKE AND MARILYN VANPELT, husband and wife, as Co-Trustees of the Vanpelt Family Trust, to me known to be the persons who executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the VANPELT FAMILY TRUST, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.

Mark John Irmischer

NOTARY PUBLIC in and for
STATE OF OREGON

Residing at: LINCOLN COUNTY

My commission expires: APRIL 30, 2021



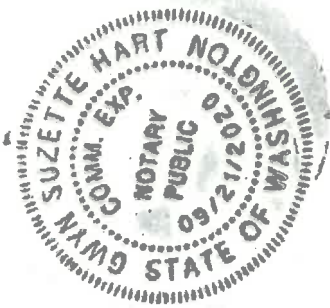
OPTIONEE:

Cadman Materials, Inc., a Washington corporation

By: [Signature]
Its: VPS 607 Materials, Pacific Northwest

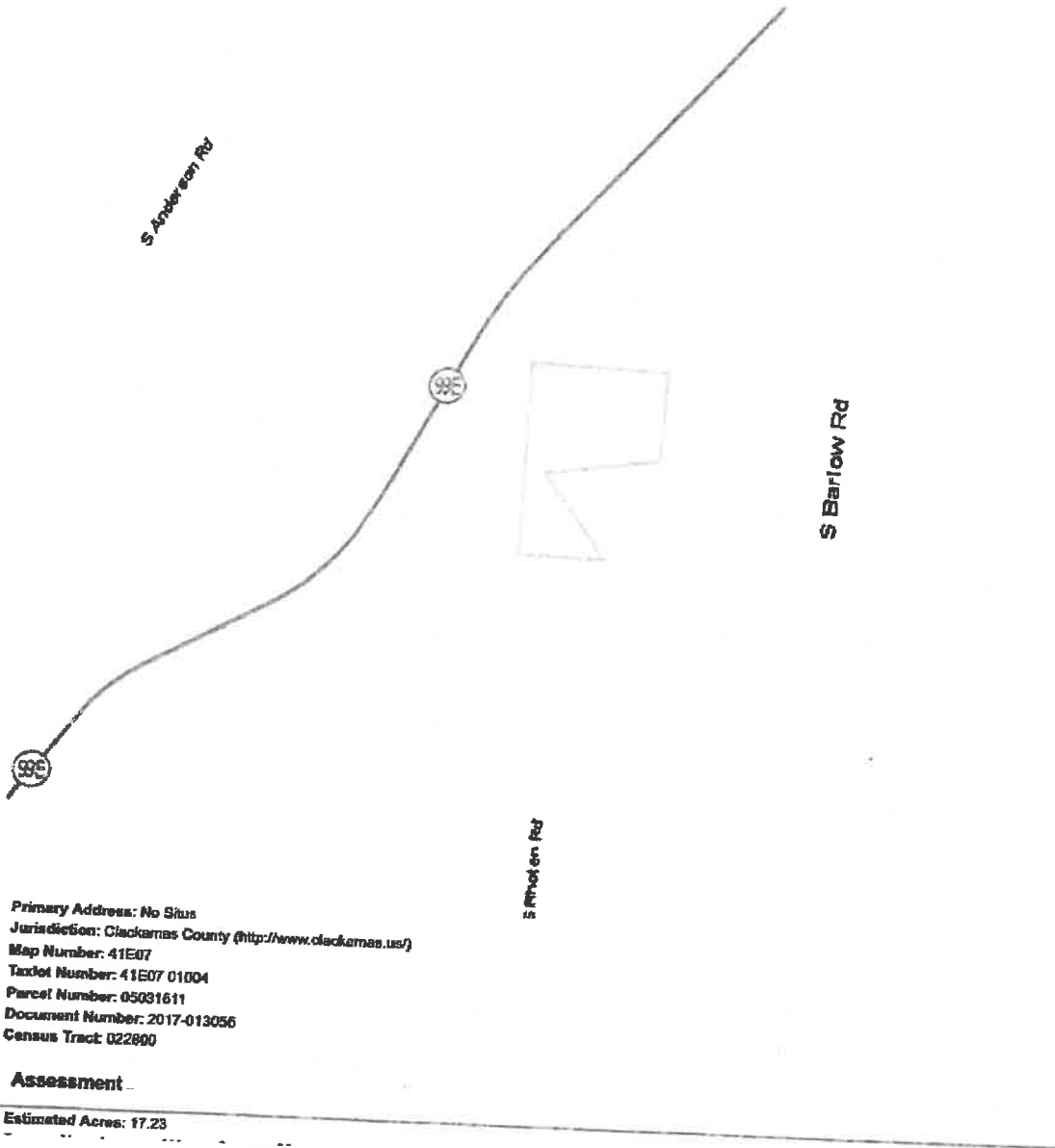
On this 29th day of June, 2018, before me personally appeared Jörg Nixdorf to me known to be the VP Materials of Cadman Materials, Inc., a Washington corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year above written.



Gwyn Suzette Hart
NOTARY PUBLIC in and for
Washington
Residing at: Fall City
My commission expires: 9/21/2020

Exhibit A (continued)
Legal Description and Parcel Map



Primary Address: No Situs
Jurisdiction: Clackamas County (<http://www.clackamas.us/>)
Map Number: 41E07
Tadot Number: 41E07 01004
Parcel Number: 05001611
Document Number: 2017-013056
Census Tract: 022800

Assessment

Estimated Acres: 17.23

Clackamas County Planning and Zoning Division
150 Beavercreek Road
Oregon City, OR 97045

Re: Land Owner Consent to Pursue Clackamas County Land Use Approval

To whom it may concern:

As the landowners of Clackamas County Tax Parcel Numbers 01495563 and 01004898, we do hereby grant Cadman Materials Inc. permission to pursue land use approval from Clackamas County for aggregate extraction on those parcels.



Sincerely,

Rod Yoder *Charis Yoder*

Rod & Charis Yoder



PRELIMINARY STATEMENT OF FEASIBILITY

To be completed by the applicant:

Applicant's Name: Cadman Materials Inc.
 Property Legal Description: T 4 S, R 1E, Section 7, Tax Lot(s) 500, 600, 700, 800, 801, 1002, 1003, 1004
 Site Address: 1/2 Mile South intersection of Hwy 99E & Barlow Rd, west side of road Project Engineer: Geologist - Kuper Consulting LLC
 Project Title/Description of Proposed Development: _____
Canby Phase 4, expansion of aggregate mine excavation site from existing site southerly onto above tax lots

To be completed by the service provider or surface water management authority:

Check all that apply:

- Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.
- Adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
- Water service is available in levels appropriate for the development, and adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution or such levels and capacity can be made available through improvements completed by the developer or the system owner. This statement applies does not apply to fire flows.*

**If water service is adequate with the exception of fire flows, the applicant shall submit a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.*

- This statement is issued subject to conditions of approval set forth in the attached.
- Adequate sanitary sewer service, surface water management, water service cannot be provided.

Vincent Hanrahan
 Signature of Authorized Representative

1/23/19
 Date

Civil Engineer
 Title

Clackamas County - DTD
 Name of Service Provider for Surface Water Management Authority

Completion of this statement does not reserve capacity for the development and does not alter an applicant's obligation to comply with the service provider's or surface water management authority's regulations. Completion of this statement does not obligate the service provider or surface water management authority to finance or construct improvements necessary to provide adequate service for the proposed development. Completion of this statement does not guarantee that land use approval for the proposed development will be granted.



Oregon

Kate Brown, Governor

Department of Environmental Quality

Northwest Region

700 NE Multnomah Street, Suite 600

Portland, OR 97232

(503) 229-5263

FAX (503) 229-6945

TTY 711

July 2, 2018

Environmental Manager
Cadman Materials, Inc.
PO Box 97038
Redmond, WA 98073

Re: Re-Issuance of a General ACDP

Permit No.: 37-0494-08-01 Application No.: 029835

The Department of Environmental Quality has reviewed and approved the renewal application for Cadman Materials, Inc.'s General ACDP: AQGP-08 a General ACDP for its rock crushing. The crusher is portable. The effective date of the permit is the date it was signed by the regional Air Quality Manager.

The signature and date appears on the first page of the document. The permit is issued pursuant to Oregon Revised Statutes 468A.040 and Oregon Administrative Rules Chapter 340 Division 216.

You may appeal conditions or limitations contained in the attached permit by applying to the Environmental Quality Commission, or its authorized representative, within twenty days from the date of this letter. Appeals are pursuant to ORS Chapter 183 and procedures are found in OAR Chapter 340, Division 11.

A copy of the current permit must be available at the facility at all times. Failure to comply with permit conditions may result in civil penalties. **You are expected to read the permit carefully and comply with all conditions to protect the environment of Oregon.**

If you have any questions, please contact Daniel Murphy at 503-229-6068.

Sincerely,

Matt Hoffman
DEQ Northwest Region Air Quality Manager

Enclosure
Cc: HQ/AQ



ASSIGNMENT
to
GENERAL AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality
Northwest Region
700 NE Multnomah St., Suite 600
Portland, OR 97232

PERMITTEE:

Cadman Materials, Inc.
PO Box 97038
Redmond WA 98073-9738

INFORMATION RELIED UPON:

Application No.: 029835
Date Received: 02/15/2018

PLANT SITE LOCATION:

Portable

LAND USE COMPATIBILITY STATEMENT:

Approving Authority: Not applicable for portable sources

ASSIGNMENT: The permittee identified above is assigned by the Department of Environmental Quality to the General ACDP listed below in accordance with ORS 468A.040, OAR 340-216-0060(2) and based on the land use compatibility findings included in the permit record (note: land use compatibility statements are not applicable to portable sources).


Matt Hoffman, Northwest Region AQ Manager

7/2/2018
Dated

General Air Contaminant Discharge Permit Issued in Accordance with OAR 340-216-0060:

General ACDP Number	Expiration Date	Source Category Description
AQGP-008	10/01/2027	Rock, concrete, or asphalt crushing
Rule Citation	OAR 340-216-8010, Table 1, Part B, 70	
SIC	1442	
NAICS	212321	

SUPPLEMENTAL INFORMATION:

Facility contact:		
Name:	Noel Barnett	
Phone number:	360-260-6018	
Facsimile number:		
e-mail address:	noelw.barnett@lehighhanson.com	
Permit Summary:		
Source Test Requirement	No	N/A
NSPS (40 CFR Part 60)	No	N/A
NESHAP (40 CFR Part 63)	No	
Reports Required:		
Annual	Yes	Due by February 15 th every year
NSPS	No	N/A
NESHAP	N/A	N/A
Other	Yes	Refer to Condition 7.0 Excess Emissions, Greenhouse Gas Registration and Reporting, Relocation Notice, Notice of Change of Ownership or Company Name, and Construction or Modification Notices
Public Notice	Category I	
Application review report:		
The Department has reviewed the application for assignment to the General ACDP and determined that the application is complete and the subject facility qualifies for assignment to the General ACDP.		



State of Oregon
Department of
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Quality

Permit Number: AQGP-008
Expiration Date: 10/01/2027
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GENERAL AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality
Operations Division
Air Operations Section
700 NE Multnomah Street, Suite 600
Portland, OR 97232
Telephone: 503-229-5696

This permit is issued in accordance with the provisions of ORS 468A.040 and OAR 340-216-0060

ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

Signed copy of permit on file at DEQ

October 10, 2017

Lydia Emer, Operations Division Administrator

Dated

Portable and stationary rock crushers, screens, and associated material handling activities such as storage piles, conveyors, and vehicle traffic. Other equipment may include electrical generators with internal combustion engines. SIC 1442

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State of Oregon
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1.0 PERMIT ASSIGNMENT

- 1.1 Qualifications** The permittee must meet all of the following conditions in order to qualify for assignment to this General Air Contaminant Discharge Permit (ACDP):
- a. The permittee is performing rock crushing activities listed on the cover page of this permit, including supporting activities.
 - b. A Simple or Standard ACDP is not required for the source.
 - c. The source is not having ongoing, recurring or serious compliance problems.
- 1.2 Assignment** DEQ will assign qualifying permittees to this permit that have and maintain a good record of compliance with DEQ's Air Quality regulations and that DEQ determines would be appropriately regulated by a General ACDP. DEQ may rescind assignment if the permittee no longer meets the requirements of OAR 340-216-0025(2), 340-216-0060 and the conditions of this permit.
- 1.3 Permitted Activities** The permittee is allowed to discharge air contaminants from processes and activities related to the air contaminant source(s) listed on the first page of this permit until this permit expires, is modified, revoked or rescinded as long as conditions of this permit are complied with. If there are other emissions activities occurring at the site besides those listed on the cover page of this permit, the permittee may be required to obtain an associated General ACDP Attachment or a Simple or Standard ACDP, if applicable.
- 1.4 Relation to local land use laws** This permit is not valid in Lane County, or at any location where the operation of the permittee's processes, activities, and insignificant activities would be in violation of any local land use or zoning laws. For operation in Lane County, contact Lane Regional Air Protection Agency for any necessary permits at 541-736-1056. It is the permittee's sole responsibility to obtain local land use approvals as, or where, applicable before operating this facility at any location.

2.0 GENERAL EMISSION STANDARDS AND LIMITS



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Expiration Date: 10/01/2027
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2.1 Visible Emissions

The permittee must comply with the following visible emission limits, as applicable:

- a. Visible emissions from sources installed, constructed or modified prior to June 1, 1970, and located outside a special control area, must not equal or exceed:
 - i. An average of 40 percent opacity through December 31, 2019; and
 - ii. An average of 20 percent opacity on and after January 1, 2020.
- b. Visible emissions from sources installed, constructed or modified on or after June 1, 1970 and from any source located inside a special control area must not equal or exceed an average of 20 percent opacity.
- c. The visible emissions limitation in this condition is based upon a six-minute block average of 24 consecutive observations recorded at 15-second intervals as specified in OAR 340-208-0110(2).
- d. The visible emissions standard in this condition does not apply to fugitive emissions from the source.
- e. As used in this condition, "special control area" means an area designated in OAR 340-204-0070:
 - i. Benton, Clackamas, Columbia, Lane, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties;
 - ii. Umpqua Basin and Rogue Basin - associated boundaries are defined in OAR 340-204-0010; and
 - iii. Areas within incorporated cities having a population of 4,000 or more, and within three miles of the corporate limits of any such city.

2.2 Fugitive Emissions

The permittee must comply with the following, as necessary:

- a. The permittee must take reasonable precautions to prevent fugitive particulate matter from becoming airborne from all site operations from which it may be generated. Such reasonable precautions may include, but not be limited to:
 - i. Controlling vehicle speeds on unpaved roadways;
 - ii. Application of water or other suitable chemicals on unpaved roads, material stockpiles, and other surfaces which can create airborne dusts;



- iii. Full or partial enclosure of material stockpiles in cases where application of water or other suitable chemicals are not sufficient to prevent particulate matter from becoming airborne;
 - iv. Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;
 - v. The prompt removal from paved streets of earth or other material (track-out) that may become airborne;
 - vi. Alternative precautions approved by DEQ.
 - b. For purposes of this condition, fugitive particulate emissions are visible emissions that leave the permittee's property for a period or periods totaling more than 18 seconds in a six minute period.
 - c. Fugitive particulate emissions are determined by EPA Method 22 at the downwind property boundary.
 - d. If requested by DEQ, the permittee must develop a fugitive emission control plan that will prevent any visible emissions from leaving the property of a source for more than 18 seconds in a six-minute period following the procedures of EPA Method 22.
- 2.3 Particulate Matter Fallout** The permittee must not cause or permit the deposition of any particulate matter larger than 250 microns in size at sufficient duration or quantity, as to create an observable deposition upon the real property of another person
- 2.4 Nuisance and Odors** The permittee must not cause or allow air contaminants from any source to cause a nuisance. Nuisance conditions will be verified by DEQ personnel.
- 2.5 Fuels and Fuel Sulfur Content** If the permittee burns any of the fuels listed below, the sulfur content cannot exceed:
 - a. 0.0015% sulfur by weight (15 ppmw) for ultra low sulfur diesel;
 - b. 0.3% sulfur by weight (3,000 ppmw) for ASTM Grade 1 distillate oil;
 - c. 0.5% sulfur by weight (5,000 ppmw) for ASTM Grade 2 distillate oil;
 - d. 1.75% sulfur by weight for residual oil;



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2.6 RICE Generator Limitation

- e. The permittee is allowed to use on-specification used oil that contains no more than 0.5% sulfur by weight (5,000 ppmw). The permittee must obtain analyses from the marketer or, if generated on site, have the used oil analyzed, so that it can be demonstrated that each shipment or batch of used oil does not exceed the used oil specifications contained in 40 CFR Part 279.11, Table 1.

The permittee is allowed to use on-specification used oil that contains no more than 0.5% sulfur by weight. The permittee must obtain analyses from the marketer or, if generated on site, have the used oil analyzed, so that it can be demonstrated that each shipment or batch of oil does not exceed the used oil specifications contained in 40 CFR Part 279.11, Table 1.

- a. The RICE unit will remain and be operated at the same location for more than 12 consecutive months; OR
- b. The RICE unit meets all of the criteria below and is considered a “stationary seasonal source”:
 - i. An engine is a seasonal source if it remains at one location during the full annual operating period of the source and operates at that single location for approximately three (or more) months each year.
 - ii. A seasonal source is a stationary source if it remains and operates in a single location on a permanent basis (i.e., at least two years).
- c. As used above, a location is any single site at a building, structure, facility, or installation. Any engine that replaces an engine at a location and performs the same or similar function will be included in the calculation of consecutive time period.
- d. The permittee must apply for a stationary source RICE generator permit at least 60 days before the facility becomes recognized as a stationary source.

A compliance handbook is available from DEQ's Small Business Technical Assistance Program by calling (503) 229-6147.



3.0 OPERATION AND MAINTENANCE REQUIREMENTS

- 3.1 **Work practices** The use of water sprays or equivalent control is required when the source of minerals to be crushed does not contain adequate moisture to suppress dust conditions.
- 3.2 **Fugitive Emissions Control Plan** While operating in the Medford-Ashland AQMA, the permittee must prepare and implement site-specific plans for the control of fugitive emissions in accordance with OAR 340-240-0180. While operating in the Lakeview Urban Growth Area (UGA), the permittee must prepare and implement site-specific plans for the control of fugitive emissions in accordance with OAR 340-240-0410.
- 3.3 **O&M plan** While operating in the Medford-Ashland AQMA, the permittee must prepare and implement an operation and maintenance (O&M) plan in accordance with OAR 340-240-0190. While operating in the Lakeview UGA, the permittee must prepare and implement an O&M plan in accordance with OAR 340-240-0420.

4.0 PLANT SITE EMISSION LIMITS

- 4.1 **Plant Site Emission Limits (PSEL)** Plant site emissions must not exceed the following:

Pollutant	Limit	Units
PM	24	tons per year
PM ₁₀	14	tons per year
PM _{2.5}	9	tons per year
SO ₂	39	tons per year
NO _x	39	tons per year
CO	99	tons per year
VOC	39	tons per year
GHGs (CO ₂ e)	74,000	tons per year

- 4.2 **PM10 PSEL for Medford-Ashland AQMA** For sources operating in the Medford-Ashland AQMA, plant site emissions of PM10 must not exceed the following:

Pollutant	Limit	Units
PM ₁₀	4.5	tons per year
	49	pounds per day



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- 4.3 Annual Period** The annual plant site emissions limits apply to any 12-consecutive calendar month period.

5.0 COMPLIANCE DEMONSTRATION

- 5.1 Fuel Sulfur Monitoring** If fuel oil is burned, the permittee must either obtain a certificate from the vendor stating that the fuel sulfur content complies with the limits in Condition 2.5 or have a sample of the fuel analyzed in accordance with the appropriate ASTM analytical procedures. If the permittee has samples analyzed for sulfur, a sample must be collected from the holding tank just after each shipment of oil is added to the tank.

- 5.2 PSEL Compliance Monitoring** Compliance with the PSEL is determined for each 12-consecutive calendar month period based on the following calculation for each pollutant:

$$E = \Sigma(EF \times P)/2000$$

where,

E = pollutant emissions (ton/yr);

EF = pollutant emission factor (see below);

P = process production (tons of crushed rock for the rock crusher and gallons of fuel burned for the generators)

- 5.3 Emission Factors** The emission factors for determining compliance with the PSEL are as follows:

Emissions device or activity	Pollutant	Emission Factor (EF)	Emission factor units
Rock crusher	PM	0.04	lb/ton of rock crushed
	PM ₁₀	0.02	lb/ton of rock crushed
	PM _{2.5}	0.0012	lb/ton of rock crushed
Generator(s) (oil-fired)	PM/PM ₁₀ / PM _{2.5}	42.5	lb/1000 gallon of fuel burned
	SO ₂	39.7	lb/1000 gallon of fuel burned
	NO _x	604	lb/1000 gallon of fuel burned
	CO	130	lb/1000 gallon of fuel burned
	VOC	49.3	lb/1000 gallon of fuel burned



Generator(s) (natural gas, propane, and butane - fired)	PM/PM ₁₀ / PM _{2.5}	10	lb/million cubic feet of NG burned
	SO ₂	0.6	lb/million cubic feet of NG burned
	NO _x	2840	lb/million cubic feet of NG burned
	CO	399	lb/million cubic feet of NG burned
	VOC	116	lb/million cubic feet of NG burned

5.4 Medford/Ashland AQMA If the source operates in the Medford/Ashland AQMA, the permittee must also maintain records of the daily rock crushed and calculate the daily maximum emissions for the reporting period.

6.0 RECORDKEEPING REQUIREMENTS

6.1 Operation and Maintenance The permittee must maintain the following records related to the operation and maintenance of the plant and associated air contaminant control devices:

- a. Crushed rock produced in Oregon on a monthly basis for each site of operation (tons);
- b. Crushed rock produced in PM₁₀ nonattainment areas in Oregon on a daily basis for each site of operation;
- c. Types and quantities of fuel combusted in Oregon on a monthly basis for each site of operation (gallons or cubic feet);
- d. Types and quantities of fuels combusted in PM₁₀ nonattainment areas in Oregon on a daily basis for each site of operation (gallons or cubic feet);
- e. Sulfur content from vendor certification of each shipment of fuel oil, if used at the plant; and
- f. If used oil is used, the permittee must obtain analyses from the marketer or, if generated on site, have the used oil analyzed, so that it can be demonstrated that each shipment or batch of oil does not exceed the used oil specifications contained in 40 CFR Part 279.11, Table 1.



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- 6.2 **Excess Emissions** The permittee must maintain records of excess emissions as defined in OAR 340-214-0300 through 340-214-0340 (recorded on occurrence). Typically, excess emissions are caused by process upsets, startups, shutdowns, or scheduled maintenance.
- 6.3 **Complaint Log** The permittee must maintain a log of all written and verbal complaints received that specifically refer to air pollution concerns associated to the permitted facility. The log must include a record of the permittee's actions to investigate the validity of each complaint and a record of actions taken for complaint resolution.
- 6.4 **Retention of Records** Unless otherwise specified, the permittee must retain all records for a period of five (5) years from the date of the monitoring sample, measurement, report, or application and make them available to DEQ upon request. The permittee must maintain the two (2) most recent years of records onsite or available electronically.

7.0 **REPORTING REQUIREMENTS**

- 7.1 **Excess Emissions** The permittee must notify DEQ by telephone or in person of any excess emissions which are of a nature that could endanger public health.
- a. Such notice must be provided as soon as possible, but never more than one hour after becoming aware of the problem. Notice must be made to the regional office identified in Condition 8.3.
 - b. If the excess emissions occur during non-business hours, the permittee must notify DEQ by calling the Oregon Emergency Response System (OERS). The current number is 1-800-452-0311.
 - c. The permittee must also submit follow-up reports when required by DEQ.
- 7.2 **Annual Report** The permittee must submit to DEQ by **February 15** of each year this permit is in effect, two (2) copies of the following information for the preceding calendar year:
- a. Operating parameters:
 - i. Crushed rock produced in Oregon on an annual basis for each site of operation (reported in tons).



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- ii. Types and quantities of fuels combusted in Oregon on an annual basis for each site of operation (gallons or cubic feet).
 - iii. Maximum daily amount of rock crushed in PM₁₀ nonattainment areas and Air Quality Maintenance Areas (AQMAs); and
 - iv. Type and maximum daily amount of fuel burned in the generator(s) in PM₁₀ nonattainment areas.
 - b. Records of all planned and unplanned excess emissions events.
 - c. Summary of complaints relating to air quality received by permittee during the year.
 - d. List permanent changes made in plant process, production levels, and pollution control equipment which affected air contaminant emissions.
 - e. List major maintenance performed on pollution control equipment.
- 7.3 **Greenhouse Gas Registration and Reporting** If the calendar year emission rate of greenhouse gases (CO₂e) is greater than or equal to 2,756 tons (2,500 metric tons), the permittee must register and report its greenhouse gas emissions with DEQ in accordance with OAR 340-215.
- 7.4 **Initial Startup Notice** The permittee must notify DEQ in writing of the date a new facility is started up. The notification must be submitted no later than seven (7) days after startup.
- 7.5 **Relocation Notice** The permittee must not install or operate the facility or any portion of the facility at any new site without first providing written notice to the Permit Coordinator in the appropriate regional office. The written notice must include the date of the proposed move, approximate dates of operation, a detailed map showing access to the new site, and a description of the air pollution controls and procedures to be installed, operated, and practiced at the new site. Additional permits may be required if the permittee operates individual components of the facility at more than one site at a time.
- 7.6 **Notice of Change of Ownership or Company Name** The permittee must notify DEQ in writing using a DEQ "Permit Application Form" within 60 days after the following:
 - a. Legal change of the name of the company as registered with the Corporations Division of the State of Oregon; or
 - b. Sale or exchange of the activity or facility.



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7.7 Construction or Modification Notices

The permittee must notify DEQ in writing using a DEQ “Notice of Construction Form,” or “Permit Application Form,” and obtain approval in accordance with OAR 340-210-0205 through 340-210-0250 before:

- a. Constructing or installing any new source of air contaminant emissions, including air pollution control equipment;
- b. Modifying or altering an existing source that may significantly affect the emission of air contaminants;
- c. Making any physical change which increases emissions; or
- d. Changing the method of operation, the process, or the fuel use, or increasing the normal hours of operation that result in increased emissions.

7.8 Where to Send Reports and Notices

Reports and notices, with the permit number prominently displayed, must be sent to the Permit Coordinator for the regional office where the source is located as identified in Condition 8.2. For portable units, reports and notices should be sent to the DEQ Regional Office nearest the company’s Office of record.

8.0 ADMINISTRATIVE REQUIREMENTS

8.1 Reassignment to the General ACDP

The permittee must complete an application for reassignment to this permit within 60 days after the permit is reissued. DEQ will notify the permittee when the permit is reissued. The application must be sent to the appropriate regional office.

- a. If DEQ is delinquent in renewing the permit, the existing permit will remain in effect and the permittee must comply with the conditions of the permit until such time that the permit is reissued and the source is reassigned to the permit.
- b. The permittee may submit an application for either a Simple or Standard ACDP at any time, but the permittee must continue to comply with the General ACDP until DEQ takes final action on the Simple or Standard ACDP application.
- c. If a complete application for reassignment to the General ACDP or Simple or Standard ACDP is filed with DEQ in a timely manner, the permit will not be deemed to expire until final action has been taken on the application.



8.2 Permit Coordinator Addresses

All reports, notices, and applications should be directed to the Permit Coordinator for the area where the source is located. The Permit Coordinator addresses are as follows:

Counties	Permit Coordinator Address and Telephone
Clackamas, Clatsop, Columbia, Multnomah, Tillamook, and Washington	Department of Environmental Quality Northwest Region 700 NE Multnomah Street, Suite 600 Portland, OR 97232 Telephone: (503) 229-5582
Benton, Coos, Curry, Douglas, Jackson, Josephine, Lincoln, Linn, Marion, Polk, and Yamhill	Department of Environmental Quality Western Region 4026 Fairview Industrial Drive Salem, OR 97302 Telephone: (503) 378-8240 ext. 225
Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, Wheeler	Department of Environmental Quality Eastern Region 475 NE Bellevue, Suite 110 Bend, OR 97701 Telephone: (541) 388-6146 ext. 223

8.3 DEQ Contacts

Information about air quality permits and DEQ's regulations may be obtained from the DEQ web page at www.deq.state.or.us. All inquiries about this permit should be directed to the regional office for the area where the source is located. DEQ's regional offices are as follows:

Counties	Office Address and Telephone
Clackamas, Clatsop, Columbia, Multnomah, Tillamook, and Washington	Department of Environmental Quality Northwest Region 700 NE Multnomah Street, Suite 600 Portland, OR 97232 Telephone: (503) 229-5696
Benton, Lincoln, Linn, Marion, Polk, and Yamhill	Department of Environmental Quality Salem Office 4026 Fairview Industrial Drive Salem, OR 97302 Telephone: (503) 378-8240
Coos, Curry, and Western Douglas	Department of Environmental Quality Coos Bay Office 381 N Second Street Coos Bay, OR 97420 Telephone: (541) 269-2721



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Eastern Douglas, Jackson, and Josephine	Department of Environmental Quality Medford Office 221 Stewart Avenue, Suite 201 Medford, OR 97501 Telephone: (541) 776-6010
Crook, Deschutes, Harney, Hood River, Jefferson, Klamath, Lake, Sherman, Wasco, and Wheeler	Department of Environmental Quality Bend Office 475 NE Bellevue, Suite 110 Bend, OR 97701 Telephone: (541) 388-6146
Baker, Gilliam, Grant, Malheur, Morrow, Umatilla, Union, and Wallowa	Department of Environmental Quality Pendleton Office 800 SE Emigrant Avenue, Suite 330 Pendleton, OR 97801 Telephone: (541) 276-4063

9.0 FEES

- 9.1 Annual Compliance Fee** The Annual Compliance Determination Fee specified in OAR 340-216-0060 and 340-216-8020, Table 2, Part 2(c) for a Class Two General ACDP is due on **December 1** of each year this permit is in effect. An invoice indicating the amount, as determined by DEQ regulations, will be mailed prior to the above date.
- 9.2 Change of Ownership or Company Name Fee** The non-technical permit modification fee specified in OAR 340-216-8020, Table 2, Part 3(a) is due with an application for changing the ownership or the name of the company of a source assigned to this permit.
- 9.3 Where to Submit Fees** Fees must be submitted to:
 Department of Environmental Quality
 Financial Services – Revenue Section
 700 NE Multnomah Street, Suite 600
 Portland, OR 97232-4100

10.0 GENERAL CONDITIONS AND DISCLAIMERS

- 10.1 Other Regulations** In addition to the specific requirements listed in this permit, the permittee must comply with all other legal requirements enforceable by DEQ.
- 10.2 Conflicting Conditions** In any instance in which there is an apparent conflict relative to conditions in this permit, the most stringent conditions apply.



- 10.3 Masking of Emissions** The permittee must not cause or permit the installation of any device or use any means designed to mask the emissions of an air contaminant that causes or is likely to cause detriment to health, safety, or welfare of any person or otherwise violate any other regulation or requirement.
- 10.4 DEQ Access** The permittee must allow DEQ's representatives access to the plant site and pertinent records at all reasonable times for the purposes of performing inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emissions discharge records and conducting all necessary functions related to this permit in accordance with ORS 468-095.
- 10.5 Permit Availability** The permittee must have a copy of the permit available at the facility at all times.
- 10.6 Open Burning** The permittee must not conduct any open burning except as allowed by OAR 340 Division 264.
- 10.7 Asbestos** The permittee must comply with the asbestos abatement requirements in OAR 340, Division 248 for all activities involving asbestos-containing materials, including, but not limit to, demolition, renovation, repair, construction, and maintenance.
- 10.8 Property Rights** The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
- 10.9 Termination, Revocation, or Modification** The Commission may modify or revoke this permit pursuant to OAR 340-216-0060(3) and (4) and 340-216-0082.



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11.0 ABBREVIATIONS, ACRONYMS, AND DEFINITIONS

ACDP	Air Contaminant Discharge Permit	NSR	New Source Review
ASTM	American Society for Testing and Materials	O ₂	Oxygen
AQMA	Air Quality Maintenance Area	OAR	Oregon Administrative Rules
bbl	barrel (42 gal)	ORS	Oregon Revised Statutes
calendar year	The 12-month period beginning January 1st and ending December 31st	O&M	operation and maintenance
CFR	Code of Federal Regulations	Pb	Lead
CO	carbon monoxide	PCD	pollution control device
date	mm/dd/yy	PM	particulate matter
DEQ	Oregon Department of Environmental Quality	PM _{2.5}	particulate matter less than 2.5 microns in size
dscf	dry standard cubic foot	PM ₁₀	particulate matter less than 10 microns in size
EPA	US Environmental Protection Agency	ppm	part per million
FCAA	Federal Clean Air Act	ppmv	part per million by volume
gal	gallon(s)	PSD	Prevention of Significant Deterioration
GHGs	Greenhouse gasses in CO ₂ equivalent	PSEL	Plant Site Emission Limit
gr/dscf	grains per dry standard cubic foot	PTE	Potential to Emit
HAP	Hazardous Air Pollutant as defined by OAR 340-244-0040	RACT	Reasonably Available Control Technology
ID	identification number	scf	standard cubic foot
I&M	inspection and maintenance	SER	Significant Emission Rate
lb	pound(s)	SERP	Source Emission Reduction Plan
MMBtu	million British thermal units	SIC	Standard Industrial Code
NA	not applicable	SIP	State Implementation Plan
NESHAP	National Emissions Standards for Hazardous Air Pollutants	SO ₂	sulfur dioxide
NO _x	nitrogen oxides	Special Control Area	as defined in OAR 340-204-0070
NSPS	New Source Performance Standard	VE	visible emissions
		VOC	volatile organic compound
		year	A period consisting of any 12-consecutive calendar months



Department of Environmental Quality
Operations Division

GENERAL
AIR CONTAMINANT DISCHARGE PERMIT
ASSESSMENT REPORT

ROCK CRUSHERS/CONCRETE CRUSHERS/RAP CRUSHERS

SOURCE DESCRIPTION AND QUALIFICATION

1. This General Permit is designed to regulate air contaminant emissions from rock crushers, concrete crushers and recycled asphalt product (RAP) crushers.
2. If there are other emission activities occurring at the facility besides those regulated by this permit, the facility may be required to obtain a Simple or Standard ACDP or General ACDP Attachment(s), as applicable.
3. Facilities eligible for assignment to this permit have not experienced recurring or serious compliance problems.

ASSESSMENT OF EMISSIONS

4. Facilities assigned to this General Permit are sources of PM, PM₁₀ and PM_{2.5} emissions. Some facilities are portable and may operate generators to produce the energy necessary for the production processes. Generators are also sources of PM, PM₁₀ and PM_{2.5}, as well as SO₂, CO, NO_x, VOC, HAP and GHG emissions. Facilities with generators may be required to obtain a General ACDP Attachment for the generators.
5. Potential nuisances originating from this type of operation could include fugitive dust associated with the crushing process, material handling operations and vehicular traffic. The permit includes requirements to control fugitive dust emissions.
6. DEQ has assessed the level of emissions of all air pollutants from these facilities and determined that facilities complying with the operational limits and monitoring requirements of this permit have emission levels below the established levels of concern stated in Tables 2 and 3 of OAR 340-200-0020.



SPECIFIC AIR PROGRAM APPLICABILITY

7. Facilities assigned to this General Permit are subject to the general visible emissions standards, nuisance requirements (control of fugitive dust and odors), and fuel sulfur limits in OAR Chapter 340, Divisions 208 and 228. The permit contains requirements and limitations to ensure compliance with these standards. The particulate matter emission limits in OAR Chapter 340, Division 226 are not applicable to these facilities because the emissions are fugitives, which cannot be measured using standard test methods.
8. Facilities assigned to this General Permit may be subject to 40 CFR Part 60, Subpart OOO. Oregon has not adopted the regulation for sources of this size, but the regulation may impose requirements on the source which are implemented by the US EPA.

COMPLIANCE ASSURANCE

9. Permittees are required to use water sprays for controlling fugitive dust emissions when crushing dry material.
10. Permittees are required to maintain records of production, upset conditions, and complaints received at the facility. These items are reported to DEQ annually.
11. DEQ staff members perform site inspections of the permitted facilities on a routine basis, and more frequently if complaints are received.

REVOCACTION OF ASSIGNMENT

12. Any facility that fails to demonstrate compliance, generates complaints, or fails to conform to the requirements and limitations contained in the permit may have its assignment to the General Permit revoked. The facility would then be subject to a higher, more stringent level of permitting.

PUBLIC NOTICE

13. General Air Contaminant Discharge Permits are incorporated into the Oregon Administrative Rules by reference and are part of the State Implementation Plan. As part of the rulemaking process, the public will be provided at least 30 days to submit written comments or may provide oral testimony at a public hearing that will be held at the end of the comment period. Notice of when and where the hearing will be held will be provided at least 30 days in advance of the hearings. DEQ will review any comments and may modify the permits in response to the comments. The final permits will be issued after approval by the Administrator of DEQ's Operations Division.

EXHIBIT LIST
Z0406-19-CP, Z0407-19-MAO & Z0408-19-ZAP
(Cadman – Canby Phase 4 Aggregate Mining Site)

Ex. No.	Date of Exhibit	Author or Source	Subject
1	11/22/19	DTD, Planning Staff	Notices sent
2	12/9/19	DTD, Planning Staff	Document: Conditions of Approval for Z 0348-93-CP/ Z0349-93-Z & Z1826-97-MAR (“Phase 1”/ processing site)
3	12/9/19	DTD, Planning Staff	Document: Conditions of Approval for Minor Modification of Z0348-93-CP/Z0349-93-Z
4	12/9/19	DTD, Planning Staff	Document: Conditions of Approval for Z0756-06-CP, Z0757-06-ZAP & Z0566-07-MAR (“Phase 2” site)
5	12/9/19	DTD, Planning Staff	Document: Conditions of Approval for Z0331-11-CP, Z0332-11-ZAP & Z0362-12-MAR (“Phase 3” site)
6	12/13/19	Stephen Pfeiffer, Attorney for Applicant	Proposed revisions to “Section 4: Proposed Conditions of Approval” (red-lined)
7	1/21/2020	Christy McDonough, Applicant	Memo from applicant (dated 1/17/2020) regarding proposed conditions of approval agreed to by Cadman and Weyerhaeuser; related to groundwater concerns identified by Weyerhaeuser at 12/16/19 PC hearing
8	1/21/2020	Stephen Pfeiffer, Attorney for Applicant	Proposed findings for EESE (economic, social, environmental and energy) analysis required under OAR 660-023-0180(7) for new conflicting uses
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NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND THE BOARD OF COUNTY COMMISSIONERS ON A PROPOSAL IN YOUR AREA

Date of Mailing of this Notice: November 6, 2019

Notice Sent To: Agencies, Community Planning Organizations and property owners within 2,500 feet of the proposed mining site parcels and within 750 feet of the site with the existing processing facility.

PLANNING COMMISSION HEARING DATE & TIME: Monday, December 16, 2019; 6:30PM

HEARING LOCATION: Clackamas County Development Services Building Auditorium
150 Beaver Creek Road
Oregon City, OR 97045

BOARD OF COUNTY COMMISSIONERS HEARING DATE & TIME: Wednesday, February 5, 2020; 9:30AM

HEARING LOCATION: Clackamas County Public Services Building, BCC Hearing Room, 4th Floor
2051 Kaen Road
Oregon City, OR 97045

Planning File Number(s): Z0406-19-CP, Z0407-19-MAO & Z0408-19-Z

Applicant(s): Cadman Materials, Inc.

Property Owner(s): Multiple property owners - Cadman Materials, Inc; Chong Yaxeulue; Rodney W & Charis G Yoder; Jake Vanpelt, co-trustee; Floyd R Lapp, co-trustee; Arthur D Blumenkron

Proposal: The applicant is proposing (1) a Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan (Plan) to designate approximately 99 acres of the proposed mining site, which includes eight taxlots and approximately 106.5 total acres, as a Goal 5 significant mineral and aggregate resource site in Chapter 3, Table III-2 of the Plan; (2) a zoning map amendment to apply a Mineral and Aggregate Overlay (MAO) to the site; (3) approval of a Mineral & Aggregate Overlay District Site Plan Review application for the proposed mining operations; and (4) a modification of conditions of approval in Planning file numbers Z0348-96-CP & Z0349-93-Z to allow processing on Saturdays.

Applicable Zoning and Development Ordinance and Comprehensive Plan Criteria: Sections 401, 708, 1202 and 1307 of the Zoning and Development Ordinance (ZDO). The Post-Acknowledgement Comprehensive Plan amendment (PAPA) is subject to the Statewide Planning Goals, Oregon Administrative Rule Chapter 660, Division 23. These criteria may be viewed online at <https://www.clackamas.us/planning/zdo.html> and <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3073>

Site Address and/or Location: Approximately three-quarters of a mile south of the intersection of S Barlow Rd and S Hwy 99E

Assessor's Map: Proposed mining site: T4S, R1E, Section 07 Tax Lot(s) 500, 600, 700, 800, 801, 1002, 1003 & 1004 W.M.
Proposed condition of approval modification: T4S, R1E, Section 08 Tax Lot(s) 600, 700 & 800 W.M.

Property Size: Proposed mining site: approx. 106.5 total acres
Proposed condition of approval modification site: approx..157.0 total acres

Zoning: Exclusive Farm Use (EFU); Mineral & Aggregate Overlay (MAO) & Rural Industrial, limited use (RI/LUZ)

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

HOW TO OBTAIN ADDITIONAL INFORMATION

Staff Contact: Martha Fritzie; 503-742-4529; mfritzie@clackamas.us.

A copy of the entire application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at the Planning Division offices. In addition, a staff report on the application will be available for inspection at no cost at least **seven days prior to the hearing**. Hard copies of documents will be provided at reasonable cost. You may inspect or obtain these materials by:

1. Emailing or calling the staff contact;
2. Visiting the Planning & Zoning Division at the address shown at the top of this notice during regular business hours, which are Monday through Thursday, 8AM to 4PM and Friday, 8AM to 3PM; or
3. Going to the Clackamas County website page: <http://www.clackamas.us/planning/zdoproposed.html>

Community Planning Organization for Your Area: The following recognized Community Planning Organization (CPO) has been notified of this application and may develop a recommendation. You are welcome to contact the CPO and attend their meeting on this matter, if one is planned. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact the Citizen Involvement Office at 503-655-8552. **CPO: South Canby CPO (not active).**

HOW TO SUBMIT TESTIMONY ON THIS APPLICATION

- All interested citizens are invited to attend the hearings and will be provided with an opportunity to testify orally, if they so choose.
 - Written testimony received by December 3, 2019 will be considered by staff prior to the issuance of the staff report and recommendation on this application. However, written testimony will continue to be accepted until the record closes, which may occur as soon as the conclusion of the Board of County Commissioners' hearing.
 - Written testimony may be submitted by email, fax, regular mail, or hand delivery. Please include the case file number on all correspondence and address written testimony to the staff contact who is handling this matter.
 - Testimony, arguments, and evidence must be directed toward the criteria identified above, or other criteria in the Zoning and Development Ordinance or Comprehensive Plan that you believe apply to the decision. Failure to raise an issue in person at the hearing or by letter prior to the close of the record, or failure to provide statements or evidence sufficient to afford the Board of County Commissioners and the parties involved an opportunity to respond to the issue, precludes an appeal to the Oregon Land Use Board of Appeals based on that issue.
 - Written notice of the Board of County Commissioners' decision will be mailed to you if you submit a written request **and provide a valid mailing address.**
-

PROCEDURE FOR THE CONDUCT OF THE HEARING

The following procedural rules have been established to allow an orderly hearing:

1. The length of time given to individuals speaking for or against an item will be determined by the Chair presiding over the hearing prior to the item being considered.
2. A spokesperson representing each side of an issue is encouraged.
3. Prior to the conclusion of the evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The Planning Commission or the Board of County Commissioners may either continue the hearing or leave the record open for additional written evidence, arguments, or testimony.
4. The Planning Commission will make a recommendation to the Board of County Commissioners on the application. The Board of County Commissioners is the final decision maker for Clackamas County on this matter.

**NOTICE OF PUBLIC HEARINGS
SCHEDULED ON PROPOSED COMPREHENSIVE PLAN MAP AMENDMENT
AND ZONE CHANGE TO DESIGNATE A SIGNIFICANT AGGREGATE MINING
SITE**

The Clackamas County Planning Commission and Board of Commissioners will hold public hearings to consider a proposed Post-Acknowledgement Plan Amendment (PAPA) to the Clackamas County Comprehensive Plan in order to designate a portion of the subject properties as a Goal 5 significant resource (mining site); to consider a proposed zone change to apply a Mineral and Aggregate Overlay (MAO) zone; to allow aggregate mining on the site; and to modify a condition of approval for file numbers Z0348-93-CP/Z0349-93-Z to allow for processing on Saturdays. The proposed mining site includes 106.53 acres of land located approximately three-quarters of a mile south of the intersection of S Barlow Rd and Hwy 99E at T4S, R1E, Section 07 Tax Lots 500, 600, 700, 800, 801, 1002, 1003 & 1004 W.M. The site processing site includes 157.0 acres of land located at T4S, R1E, Section 08 Tax Lots 600, 700 & 800 W.M.

The proposed amendments, File Z0406-19-CP, Z0407-19-MAO & Z0408-19-Z are available at <http://www.clackamas.us/planning/zdoproposed.html>. The public may review and comment on the proposed amendments before and/or at the public hearings.

Planning Commission Public Hearing

6:30 p.m., Monday, December 16, 2019

Development Services Bldg Auditorium, Rm. 115, 150 Beaver Creek Rd., Oregon City

Board of Commissioners Public Hearing

9:30 a.m., Wednesday, February 5, 2020

Board Hearing Room, Public Services Bldg, 2051 Kaen Rd., Oregon City

For more information: Martha Fritzie, 503-742-4529 or mfritzie@co.clackamas.or.us



CLACKAMAS COUNTY

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COUNTY COURSE
Department of Transportation & Development

THOMAS J. VANDERZANDEN
EXECUTIVE DIRECTOR

File No. Z0348-93-CP/Z0349-93-Z CONDITIONS OF APPROVAL

Conditions for Extraction Area Uses within the Extraction Area

1. The Extraction Area uses are subject to the Extraction Area Development Standards of Subsection 708.06 of the Mineral and Aggregate Resources District to the extent they are consistent with the remaining conditions of this approval.
2. The level of aggregate and mineral extraction shall not exceed 150,000 cubic yards per calendar year.
3. There shall be no Mining, Processing and associated activities within 250 feet of the ordinary high water line of the Molalla River and 100 feet of the south property line.
4. An asphaltic concrete batch plant and cement batch plant shall not be operated within the Mineral and Aggregate Resources District.
5. Mining, Processing and hauling shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Other activities may operate without restriction provided that Department of Environmental Quality noise control standards are met.
6. The mining operator shall meet Department of Environmental Quality noise regulations and shall assure that mining operations on the site do not violate such regulations. Noise mitigation measures to include berming shall be considered to insure Department of Environmental Quality daytime noise regulations are not exceeded at existing residential structures.
7. The mining operator shall be responsible for implementing a noise monitoring program, submitted to the Clackamas County Department of Transportation and Development and Department of Geology and Mineral Industries for review and approval, to insure continued compliance with Department of Environmental Quality noise regulations before any mining occurs.
8. The Extraction Area affected by mining shall be visually screened from properties within the Impact Area to the west, north, and east. Screening shall be accomplished by

EXHIBIT 2

1
Z0406-19-CP/Z0407-19-MAO/Z0408-19-ZAP B
902 Abernethy Road • Oregon City, OR 97045-1100 • (503) 655-8521 • FAX 650-3351

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- maintained plantings and/or earthen berm for the duration of mining.
9. The rock crushing machinery shall be permanently stationed within the northeast portion of the Extraction Area. A site plan specifically locating this machinery shall be submitted as part of the Mineral and Aggregate Resources District Permit.
 10. The work area containing the rock crushing machinery shall be visually screened from properties within the proposed Impact Area to the south, west, east, and north. Screening shall be accomplished by evergreen plantings and/or an earthen berm for the duration of mining.
 11. All property owners within the Impact Area shall be notified of the County Mineral and Aggregate Resources District Permit process and given the opportunity to participate and comment on the issue of screening, including berms and plantings, between the area(s) of Mining and Processing within the Extraction Area and surrounding properties.
 12. The mining operator shall have a hydrogeological investigation done to determine groundwater flow directions and time-of-travel for evaluating the potential water quality risks to area water sources including the City of Barlow's well prior to any mining.
 13. The mining operator shall be responsible for implementing a groundwater monitoring well program, submitted to the Clackamas County Department of Transportation and Development, Department of Geology and Mineral Industries, and Department of Environmental Quality for review and approval, to insure compliance with the Department of Environmental Quality water quality standards before any mining occurs. The program shall address the number and location of the wells and the reporting frequency.
 14. The mining operator shall be responsible for restoring the water source for any other property in the area to include the city of Barlow's well for which damage has been proven to water quantity and/or quality by virtue of Mining and Processing within the Extraction Area.
 15. Reports shall be submitted to the Clackamas County Department of Transportation and Development by the appropriate state agencies with regulatory authority on the surface water and groundwater impacts of Mining and Processing within the Extraction Area for review as part of the County's site plan review for the Mineral and Aggregate Resources District permit.
 16. All process water shall be retained in a closed water system within the mining site.

17. The mining operator shall have approval of a National Pollutant Discharge Elimination System Permit from the Department of Environmental Quality for any surface water discharge into the Molalla River before any mining occurs.
18. The mining operator shall submit a wetlands study to the Division of State Lands to identify if there are any jurisdictional wetlands within the Extraction Area before any mining occurs. Any jurisdictional wetlands shall be retained unless otherwise permitted by Clackamas County and/or the Division of State Lands.
19. The mining operator shall be responsible for implementing a spill prevention and response program, submitted to the Clackamas County Department of Transportation and Development, Department of Geology and Mineral Industries, and Department of Environmental Quality for review and approval, to insure compliance with Department of Environmental Quality water quality standards before any mining occurs. The program shall address substances used in the mining operation such as fuels and lubricants.
20. The entrance of the private access road onto Barlow Road shall meet Clackamas County road standards, and the mining operator shall maintain this entry in good repair. This private access road shall be paved to adequately accommodate two-way truck traffic.
21. The mining operator shall be responsible for implementing a program, submitted to the Clackamas County Department of Transportation and Development for review and approval, for the policing and cleanup of any dust, mud, rocks, and other debris at the access point onto Barlow Road.
22. The mining operator shall have an operational water truck stationed on-site and/or utilize other methods as required to insure Department of Environmental Quality standards for fugitive dust are met for the entire mining operation before any mining occurs.
23. The mining operator shall develop a plan for the annual exterior cleaning of the Barlow House as long as it remains designated as a historic resource. This plan shall be developed with the Barlow House operator, and the Historic Review Board may act as mediator to resolve any disputes on the implementation of this condition.
24. The Extraction Area uses are subject to the Extraction Area Reclamation Standards of Subsection 708.07 of the Mineral and Aggregate Resources District.
25. The sequential reclamation of this mining site is required. The area exposed for extraction and not being reclaimed, excluding roads, ponds, and stockpiles shall be limited to

five (5) acres or the minimum area needed to extract the depth of the identified aggregate resource, whichever is greater. This area shall be determined by the Department of Geology and Mineral Industries and extraction shall be limited to one area at any given time.

26. The overburden and spoils from the Extraction Area shall be used for reclamation.
27. The mining operator shall have approval of a Floodplain Development Permit before any development, as defined in Subsection 703.03C of the Zoning and Development Ordinance, occurs within the 100-year floodplain of the Molalla River.
28. The mining operator shall have approval of a Principal River Conservation Area Review before any development and tree-cutting activities, as defined in Subsection 704.06A of the Zoning and Development Ordinance, occurs within the Principal River Conservation Area.
29. The mining operator shall have approval of an Operating Permit from the Department of Geology and Mineral Industries before any mining occurs.
30. Clackamas County's Dispute Resolution Service is a procedure that should be utilized to settle disputes regarding the conduct of Mining and Processing.
31. The violation of any of these conditions shall be cause for revocation of Clackamas County's Mineral and Aggregate Resources District Permit.

Conditions for Conflicting Uses allowed conditionally within the Impact Area.

1. The proposed use shall be subject to the Impact Area approval criteria of Subsection 708.09D of the Mineral and Aggregate Resources District.
2. The proposed use will not cause or threaten to cause the mining operation to violate environmental standards contained in permits issued by State and County agencies.
3. The proposed use will not cause the mining operation to violate noise control standards and ambient air quality and emission standards as measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate whether standards are or can be met. Mitigation measures which may be necessary to assure standards compliance shall be the responsibility of the applicant and shall be a condition of approval.

1208/cond/gn-save

95-47



CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN
EXECUTIVE DIRECTOR

NAME: Clackamas County
FILE NO.: Z0348-93-CP/Z0349-93-Z
REPORT AUTHOR: Gary Naylor
HEARING DATE: January 31, 1994
REPORT DATE: January 24, 1994

PLANNING STAFF REPORT/RECOMMENDATION TO PLANNING COMMISSION

FACTS

GENERAL INFORMATION

Applicant: Clackamas County

Owner(s): Arlie Oster, Canby Sand & Gravel Co.; Frank J. Schmidt III; James S. & Janice K. Green; Curtis W. Hulit; Steven Van Gorder; Jackson Rodrigues; Sharon D. Vermillion; Norman F. Hurst; Sidney & Cynthia Miles; Patrick McCormick; Steve Allen

Proposal: Comprehensive Plan Amendment to identify this site as a significant Aggregate Resource. Zoning Map Change to apply the Mineral and Aggregate Resources Overlay District.

Location: East side of Barlow Rd., approximately 1/2 mile south of State Hwy. 99E; Barlow-Canby area.

Legal Description: T4S, R1E, Section 5C, Tax Lot 960, Part of Tax Lots 970, 980, and 1100; T4S, R1E, Section 5D, Part of Tax Lots 300, 900, 1001, 1100, and 1190; T4S, R1E, Section 8, Tax Lots 490, 600, 700, 800, 900, 1000, 1100, Part of 100, 300, 400, 1200, 1201, 1400, 1500, and 1501, W.M.

Zone: GAD, General Agricultural District; EFU-20, Exclusive Farm Use 20 Acre District

Comprehensive Plan Designation: Agriculture

History: Part of the existing Wilmes Sand and Gravel Mining Operation began prior to the adoption of zoning in this area of Clackamas County, and all of the present mining operation began prior to the adoption of Section 708 of the Clackamas County Zoning and Development Ordinance (Mineral and Aggregate Resources District). The original nonconforming use was for the extraction of approximately 12,000 cubic yards of gravel per year from the bed and banks of the Molalla River and the processing of that gravel through rock crushing and screening machinery on a portion of Tax Lot 600.

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Ex. D

Conditional Use File No. 619-84-C authorized an increase in the volume of gravel extraction and processing to approximately 50,000 cubic yards per year. Conditional Use File No. 371-86-C authorized the extraction of sand and gravel from a roughly 8-acre area of Tax Lots 1100 and 1190 immediately to the north of the processing area on Tax Lot 600. Conditional Use File No. Z0507-91-C, PRC authorized the siting of an office and scale facility on an approximately .33-acre area at the northwest corner of Tax Lot 800. Therefore, the existing mining operation is a preexisting use subject to the conditions of the three approved conditional uses unless those conditions are removed or modified through this Goal 5 process. This preexisting use is established on properties described as T4S, R1E, Section 5D, Tax Lots 1100, 1190, and T4S, R1E, Section 8, Tax Lots 600, 700, and 800. This mining operation is subject to an operating permit from the Oregon Department of Geology and Mineral Industries. (See Exhibit No. 6.)

There are eight (8) dwellings located within the proposed Impact Area and three (3) dwellings located within the proposed Extraction Area of the Mineral and Aggregate Resources District. These dwellings are the existing Conflicting Uses, but are nonconforming uses which are not subject to the requirements of Section 708. These nonconforming uses may be continued indefinitely subject to the provisions of Section 1206 of the Zoning and Development Ordinance.

RECOMMENDATION

Approval of the Comprehensive Plan text amendment to inventory the Extraction Area as a Significant Aggregate Resource. Approval of the zoning map change to apply the Mineral and Aggregate Resources (Overlay) District on the proposed Extraction Area and Impact Area as shown in Figure 2 of the David Newton Associates report. (See Exhibit No. 7.)

CONCLUSIONS

- I. The first part of this report is the consideration of the Comprehensive Plan text amendment. Policy 2.0 within the Mineral and Aggregate Resources section of the Comprehensive Plan requires Significant Aggregate Resource Sites be inventoried through the Statewide Planning Goal 5 process. Accompanying Policies 5.0 and 6.0 identify what constitutes a Significant Aggregate Resource Site. Specifically, Policy 5.0 states the quality standard for a significant site is based on meeting three (3) materials tests. Data provided by Northwest Testing Laboratories Inc. and Carlson Testing Inc. from on-site samples tested confirms the gravel deposit within the proposed extraction area exceeds the quality standard for these materials tests. David Newton Associates, the consulting firm hired by Clackamas County to prepare a report on this aggregate site, has reviewed this data and agrees with this conclusion.

Policy 6.0 states a Significant Aggregate Resource Site must also contain reserves in excess of one million cubic yards. Four (4) core drillings were done within the proposed extraction area which identified layers of sand, gravel, and/or cobbles to depths ranging from 34 to 61 feet. Using the average depth of the resource as 46 feet and subtracting the average depth of the overburden, substantiates the aggregate resource within the approximately 150-acre extraction area roughly 10 million cubic yards. David Newton Associates estimates the sand and gravel resource on the proposed 150-acre extraction area is 11.1 million cubic yards. The quantity of aggregate within the proposed extraction area far exceeds the one million cubic yard threshold for a Significant Aggregate Resource Site.

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In conclusion, the staff finds the location of this aggregate resource is site-specifically described on the extraction area site plan submitted by David Newton Associates. The data from Northwest Testing Laboratories, Cascade Earth Sciences, and Donald Kenner Construction, based on the on-site testing, confirms this aggregate resource exceeds the quality and quantity standard in the Comprehensive Plan for a Significant Aggregate Resource Site. David Newton Associates concludes this is a Significant Aggregate Resource Site, as does the staff. Therefore, the Planning Division staff recommends this site be inventoried as a Significant Aggregate Resource Site on Comprehensive Plan Table III-2, as required by Policy 8.0 within the Mineral and Aggregate Resources section of the Plan.

- II. The second part of this report is the consideration of the zoning map change. Subsection 708.04 of the Zoning and Development Ordinance identifies the procedure for applying the Mineral and Aggregate Resources District. The Planning Division staff has reviewed all the information in this file with respect to this subsection and finds:
- A. Subsection 708.04A requires the County determine whether this aggregate resource site is significant based on all the available information relating to the location, quality, and quantity of the resource. A site-specific map has been submitted by David Newton Associates showing the location of this resource. Laboratory test data from Northwest Testing Laboratories and Carlson Testing demonstrates this resource exceeds the quality standard for a Significant Aggregate Resource site. Data submitted from on-site core drillings demonstrates this resource far exceeds the quantity standard for a Significant Aggregate Resource Site. Based on the requirements of this subsection, it is the staff's determination this is a Significant Aggregate Resource Site.
 - B. Subsection 708.04B states that, based on the information supplied pursuant to 708.04A relating to the location, quality, and quantity of the resource, the County shall determine the inventory status of the resource site. The staff has determined this is a Significant Aggregate Resource Site and recommended it be placed on the inventory of significant sites.
 - C. Subsection 708.04C requires the Impact Area be identified and mapped for each Significant Site. The Impact Area has been identified in the David Newton Associates report as the standard 750-foot distance from the Extraction Area stated in the Mineral and Aggregate Resources District, and it has been mapped on Figure 2 of that report. David Newton Associates determined the standard 750-foot distance adequately covered the area of potential impacts in this case. The staff concurs with their determination.
 - D. Subsection 708.04D requires Conflicting Uses be identified for a Significant Site placed on the inventory. David Newton Associates has determined the existing Conflicting Uses within the proposed Impact Area are eight (8) dwellings, and within the proposed Extraction Area are three (3) dwellings. They estimated the potential for establishing 3-6 additional dwellings (Conflicting Uses) within the Impact Area. However, elements of House Bill 3661, which became effective November 4, 1993, likely precludes establishing any additional dwellings within this Impact Area zoned Exclusive Farm Use and General Agricultural District. David Newton Associates further identifies a number of other permitted and discretionary uses within the Exclusive Farm Use District and General Agricultural District on pages 7, 8, 9, and 10 of their

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report. As required by this subsection, the Impact Area portion of the Mineral and Aggregate Resources District must be applied due to the presence of Conflicting Uses and the potential of additional Conflicting Uses.

- E. Subsection 708.04E requires an Economic, Social, Environmental, and Energy (ESEE) consequences analysis be performed since Conflicting Uses have been identified for this Significant Site. The David Newton Associates report includes an ESEE Analysis. The ESEE Analysis identifies the impacts of existing and potential Conflicting Uses and the Significant Site on each other. It further includes consideration of outright permitted uses and discretionary uses within the Exclusive Farm Use District and General Agricultural District, opportunities to avoid or mitigate conflicts, an analysis of allowing Conflicting Uses fully or allowing Mining and Processing fully, and protecting Significant Goal 5 resources found to be Conflicting Uses. It lastly includes consideration of the applicability of the other Statewide Planning Goals, the County's Comprehensive Plan, and the County's Zoning and Development Ordinance, as required by this subsection. This staff report and recommendation also considers the provisions of ORS 215.296 as required by this subsection.

Since the proposed Extraction Area is within an agricultural zoning district, the applicable portions of ORS 215.296 must be considered. Specifically, 215.296(1)(a) and (b), which requires the proposed Mining and Processing will not force a significant change in accepted farm practices on surrounding lands devoted to farm use or will not significantly increase the cost of these practices. David Newton Associates determined Mining and Processing would not have significant economic consequences on farm uses. There are commercial farm uses on surrounding lands. Some of these commercial farm uses have coexisted with the existing mining operations in this area for many years with no apparent change in farm practices and increase in the cost of these practices. The proposed Mining and Processing is not a habitable use, and it is the staff's judgment it will not force any significant change in or significantly increase the cost of any accepted farm practices on surrounding lands devoted to commercial farm uses.

The Economic part of the ESEE Analysis within the David Newton Associates report concludes the consequences of allowing Conflicting Uses fully next to this mining site are that extraction of the resource may be severely curtailed or prohibited by complaints from neighbors. The proposed Extraction Area contains a very large quantity of quality aggregate in proximity to markets and with good access to these markets. The ESEE Analysis then concludes the consequences of allowing Mining and Processing fully will not be significant to the primary purpose of the Exclusive Farm Use District and General Agricultural District, as exemplified by the history of Mining and Processing in this area. It further states the continuation of activity at the subject site would not appear to adversely affect property values.

The Social part of the ESEE Analysis concludes the consequences of allowing Conflicting Uses fully, adjacent to this mining operation, relates to aesthetic impacts, potential loss of natural, scenic and historic resources, the value and necessity of conflicting uses and potential impacts to resource cost. It then concludes the consequences of allowing Mining and Processing fully is minimal since the proposed mining plan retains a dense vegetative buffer along the southern side of the site and proposes a landscaped berm along the western and northern sides limiting views of the site from existing and potential

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conflicting uses. Specifically, regarding the aesthetic impact of the proposed mining operation, the site will be mined in phases and reclamation of each phase will begin as mining of the next phase commences.

Clackamas County has identified the Barlow House as a Historic Resource in this area through the County's Goal 5 inventory process. The Barlow House and immediate grounds are recognized through a 1.48-acre Cultural Resources Overlay District. While this overlay district is approximately 1,650 feet north of the proposed Extraction Area, it is highly visible across a large agricultural field. A landscaped earth berm can be constructed at the perimeter of the mining operation to block the views of the extraction from the site of the Barlow House.

Natural Resources, other than the aggregate, include the Molalla River, wetlands, and fish and wildlife habitats. A very small portion of the proposed Extraction Area (northeast corner) is within the flood fringe of the Molalla River. The remainder of the proposed Extraction Area is outside the 100-year floodplain of the Molalla River. The eastern boundary of the proposed Extraction Area is from 150 feet to 550 feet west of the Molalla River. There is a wooded fringe along the west bank of the river, except in the area of the existing Wilmes Sand and Gravel processing site, which provides visual screening between the river and the proposed Extraction Area. The National Wetlands Inventory identifies significant wetland areas associated with the Molalla River east of the proposed Extraction Area. While the Inventory does not identify any wetlands within the proposed Extraction Area, several of the soil types are hydric soils, which is a wetland indicator. The staff-recommended conditions will include Division of State Lands approval of any encroachment into any jurisdictional wetlands within the proposed Extraction Area.

The Environmental part of the ESEE Analysis concludes the consequences of allowing Conflicting Uses fully are that a new noise- or dust-sensitive use could cause the mining operation to violate noise standards which may stop, restrict, or delay mining and processing operations. It then concludes the consequences of allowing Mining and Processing would be an incremental increase in dust in the Impact Area. A permit is required from the Department of Environmental Quality (DEQ) to maintain air quality standards. A water truck can be stationed on-site or some other method used to suppress the dust on the haul roads. Noise from the proposed mining operation could exceed DEQ daytime noise standards at several locations without mitigation. There is no available data on the noise impact. Again, the consultant determined noise mitigation measures may be needed for mining operations within at least a portion of the proposed Extraction Area in order to meet noise standards. A staff-recommended condition will require an acceptable noise abatement plan be submitted before any mining occurs.

The ESEE Analysis concludes traffic generated by the proposed mining operation is not expected to be substantially different from traffic related to the existing one. It further states operation of the proposed mining site is not expected to significantly increase existing traffic volumes or contribute to the need for future transportation improvements. The Oregon State Highway Division has concerns about the impact of this land use on the signalized intersection of State Highway 99E and Barlow Road, and requests a traffic impact analysis be reviewed and approved. The available data includes a

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1992 traffic study by Kittleson and Associates (see Exhibit No. 13) which examines traffic impacts at the intersection of State Highway 99E and Barlow Road. The Transportation Planning Section within the Department of Transportation and Development has reviewed this traffic study and determined the existing road system has the design capacity to accommodate the traffic generated by this continuing mining operation. The Department of Transportation and Development staff has also determined there is excellent sight-distance at the haul road entrance, but some road entrance improvements are needed.

The David Newton Associates report states the use of buffers, consisting of unremoved natural vegetation, will reduce impacts to the riparian area to the east of the proposed Extraction Area. It further states surface water drainage will be controlled through the mining operation plan and will not discharge into the Molalla River or adjacent wetlands, therefore water quality of the river will not be affected. It lastly states management of on-site water quality and quantity would be integrated in the site design. A staff-recommended condition will require a report be submitted from a hydrologist for review and approval before any mining occurs. This may require mining occur in small segments, may regulate the depth of quarrying, and may require the excavation not be dewatered.

The Oregon Department of Human Resources, Drinking Water Section (see Exhibit No. 18), has submitted a statement and delineated an interim well head protection area for the city of Barlow's well. Again, limiting the size of the phased excavation and dredging below the water table rather than dewatering would greatly reduce the drop in groundwater levels identified in the referenced Slicker and Associates report (see Exhibit No. 14). It should also be noted that report states that given the aquifer characteristics in the region, contamination to nearby wells due to turbidity is unlikely but contamination due to chemical spills is possible. While the Slicker and Associates report refers to a site northwest of the proposed Extraction Area, its findings are generally applicable to the proposed Extraction Area. Lastly, as stated in the report, chemical spills are the more important problem, and gives examples of methods to prevent chemical contamination of the groundwater. Again, staff-recommended conditions will require the review and approval of methods to prevent detrimental groundwater quantity and quality impacts.

Roughly 53 percent of the soils within the proposed Extraction Area are rated as Class II for agriculture and considered prime farmland. The remainder of the soils are rated as Class III and IV for agriculture. Most of the Extraction Area is now planted in seed grass, and there have been several historic agricultural uses on this property. There are no forested areas, but rather several groves of mixed hardwoods and softwoods in the northeastern portion of the property, and some brush and hardwoods associated with the escarpment at the southern boundary.

Reclamation will be in accordance with the requirements of the State Department of Geology and Mineral Industries and will consist of a combination of refilled land for agricultural use and ponded areas for open space and wildlife habitat. It is estimated that roughly 25 percent of the proposed Extraction Area can be refilled from on-site materials and another 25 percent could be refilled from materials hauled back onto the site. The area left in ponds could also be used for irrigation of farm crops. These are uses

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recognized under the goals within the Agriculture section of the Comprehensive Plan and purpose statement of the Exclusive Farm Use District. Careful reclamation can maintain the quality of the existing land resource.

Lastly, the significant fishery is the Molalla River to the east, and the significant wildlife habitat area is the corridor of mature trees and shrubs along the Molalla River to the east and the vegetation to the south on the escarpment. These areas are outside of the proposed Extraction Area and can be maintained as open space.

The Energy part of the ESEE Analysis concludes the consequences of allowing Conflicting Uses fully relates to the efficiency of the mining operation at this site and the proximity of this site to potential markets. Energy savings result from continued use of the already developed infrastructure for Mining and Processing. It then concludes there are no consequences of allowing Mining and Processing fully on conflicting uses.

The Molalla River is a Goal 5 resource within the proposed Impact Area. It is protected through Clackamas County's Principal River Conservation Area review process. It is not considered a Conflicting Use by the staff since it will not force a change in Mining at the proposed Extraction Area.

The David Newton Associates report reviews the applicability and requirements of the other Statewide Planning Goals, and the County's Comprehensive Plan and Zoning and Development Ordinance. Regarding the former, Agricultural Lands Goal 3 refers to preserving and maintaining agricultural lands. The overburden and spoils from the proposed Extraction Area will be used for reclamation of a portion of that area for agricultural use consistent with Goal 3. Haulback of materials onto the site will be used for reclamation of additional area for agricultural use. However, extraction of the underlying aggregate resource will leave much of the proposed Extraction Area ponded. While nearly half of the property has soils which are not considered prime farmland, there would be some loss of agricultural land. Goal 3 acknowledges mining and processing of aggregate resources as uses which may be established in any area zoned for Exclusive Farm Use while stating such nonfarm uses should be minimized to allow for a maximum agricultural productivity. It is the staff's judgment the proposed Extraction Area is an example of an area where establishing a nonfarm use minimally affects the preservation of agricultural lands and does not affect a significant area of prime farmland where agricultural productivity is maximized. In addition, there will be no adverse impacts on and restrictions placed on agricultural uses within the proposed Impact Area.

Regarding other Statewide Planning Goals, it is the staff's judgment this proposal is consistent with Goals 6, 7, 8, 9, and 13 for the reasons stated on pages 13 and 14 of the David Newton Associates report.

The Agriculture section of the County's Comprehensive Plan likewise refers to preserving agricultural lands and provides for nonfarm uses as allowed by state law. For the reasons previously stated in consideration of Goal 3, it is the staff's judgment the proposed Extraction Area and Impact Area is consistent with the Agriculture section of the Plan.

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The other pertinent Comprehensive Plan section is the recently adopted Mineral and Aggregate Resources section. Specifically, the Extraction Area is a Significant Aggregate Resource as per the quality and quantity standards of Policies 5.0 and 6.0. As required by Policy 3.0, the County is completing the Goal 5 process on this Significant Site.

The recently adopted Mineral and Aggregate Resources District section of the Zoning and Development Ordinance provides for the zoning overlay district in question. It also provides for the Extraction Area development standards, Extraction Area reclamation, and Impact Area development standards discussed later in this report. These development and reclamation standards are specifically identified in the staff's recommended conditions.

Other pertinent sections of the Zoning and Development Ordinance are the Exclusive Farm Use District and General Agricultural District. This proposal is consistent with the purpose statement of these districts for the same reasons previously discussed in the corresponding Comprehensive Plan sections and Statewide Planning Goal 3. The Principal River Conservation Area section of the Zoning and Development Ordinance is also applicable. The Floodplain Management District section of the Zoning and Development Ordinance may also be applicable within the small area of the proposed Extraction Area within the 100-year floodplain of the Molalla River. The requirements of these sections with respect to development in proximity to the Molalla River and within the 100-year floodplain of the river are incorporated into the staff-recommended conditions.

In summary, it is the Planning Division staff's judgment the ESEE Analysis submitted by David Newton Associates adequately covers the wide range of issues described in Subsection 708.04E. This staff report further elaborates on some of these issues. It is our staff judgment there is sufficient information contained in this file to make a decision on a program to provide the appropriate level of Goal 5 protection for this Significant Aggregate Resource site.

- F. Pursuant to Subsection 708.04F, David Newton Associates determined the consequences of the conflicts between mining the valuable resource in the Extraction Area and the existing and potential Conflicting Uses within the Impact Area are primarily economic and environmental and negatively affect both. Therefore, based on the ESEE Analysis, they determined the appropriate level of protection is provided by a decision under Subsection 708.04F2. This decision balances protection of this Significant Site and the Conflicting Uses and permits Mining and Processing. This decision provides for application of the Extraction Area and Impact Area of the Mineral and Aggregate Resources (Overlay) District as shown on the site plan (Figure 2) in their report. The David Newton Associates report identifies the specific program to achieve Goal 5 on pages 17-20. The Planning Division staff concurs with this decision and recommends approval of the zoning map change for the Mineral and Aggregate Resources (Overlay) District identified on Figure 2 of the report and their program to achieve Goal 5.
- III. The third part of this report contains the specific David Newton Associates and Planning Division staff recommended conditions for the required staff administrative applications for Extraction Area uses and for Conflicting Uses allowed conditionally in the Impact Area. The following conditions are recommended for the Extraction Area uses identified in Subsection 708.05A:

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1. The Extraction Area development standards of Subsection 708.06.
2. The area affected by mining shall be visually screened from properties within the proposed Impact Area to the west and north. Screening shall be accomplished by a planted earthen berm for the duration of the mining.
3. A wetlands study shall be submitted to the Division of State Lands to determine if there are any jurisdictional wetlands within the proposed Extraction Area before any mining occurs. Any jurisdictional wetlands shall be retained unless otherwise permitted by the Division of State Lands.
4. A noise study shall be submitted for review and approval before any mining occurs. Noise mitigation measures to include berming shall be considered to insure Department of Environmental Quality daytime noise regulations are not exceeded at existing residential structures.
5. A report shall be submitted on the surface water and groundwater impacts of mining for review and approval before any mining occurs.
6. Approval of a National Pollutant Discharge Elimination System permit for surface water drainage before any mining occurs.
7. Approval of a Principal River Conservation Area review before any development and tree cutting activities, as defined in Subsection 704.06A, occurs within the Principal River Conservation Area.
8. The Extraction Area reclamation standards of Subsection 708.07.
9. Approval of an Operating Permit from the State Department of Geology and Mineral Industries before any mining occurs.
10. Approval of a Floodplain Development Permit before any development, as defined in Subsection 703.03C of the Floodplain Management District, occurs within the 100-year floodplain of the Molalla River.

The following conditions are recommended for Conflicting Uses allowed conditionally under Subsection 708.09B and identified on page 19 of the David Newton Associates report:

1. The impact area approval criteria of Subsection 708.09D.
2. The proposed use will not cause or threaten to cause the mining operation to violate environmental standards contained in permits issued by state and county agencies.
3. The proposed use will not cause the mining operation to violate noise control standards and ambient air quality and emission standards as measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate whether standards are or can be met. Mitigation measures which may be necessary to assure standard compliance shall be the responsibility of the applicant and shall be a condition of approval.

FINDINGS

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of the Modification
of a Condition of a Previously
Approved Comprehensive
Plan and Zone Change
for Pacific Rock Products.

ORDER NO. 2000-116
(Page 1 of 2)

File No.: Z0348-93-CP; Z0349-93-Z Modification

This matter coming regularly before the Board of County Commissioners, and it appearing that Pacific Rock Products made application for a modification of a condition of approval on property described as T4S, R1E, Section 8, Tax Lots 600, 700, 800 W.M., located off the east side of Barlow Road approximately 1/3 mile south of Highway 99E, Canby area; and

It further appearing that planning staff, by its report dated August 23, 1999, recommended denial of the application, but by later memorandum dated December 3, 1999 meeting, recommended approval, based on further information; and

It further appearing that the Planning Commission at its December 13, 1999, has recommended approval of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on January 5, 2000, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on March 1, 2000.

Based upon the evidence and testimony presented, this Board makes the following findings:

1. The applicant requests modification of a condition of approval of a previous Comprehensive Plan amendment and zone change designating the property as a significant aggregate site and putting in place a mineral and aggregate overlay district. The requested modification would increase the limit on extraction from 150,000 cubic yards to 3,000,000 tons per calendar year.
2. This request complies with the applicable Statewide Goals and Oregon Administrative Rules, Comprehensive Plan provisions and Zoning and Development Ordinance criteria for the reasons stated in the attached Exhibit "A", "Findings of Fact and Conclusions of Law".

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of the Modification
of a Condition of a Previously
Approved Comprehensive
Plan and Zone Change
for Pacific Rock Products.

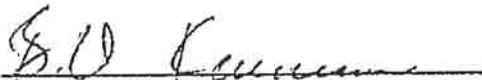
ORDER NO. 2000-116
(Page 2 of 2)

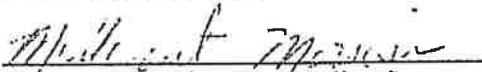
File No.: Z0348-93-CP; Z0349-93-Z Modification

NOW, THEREFORE, IT IS HEREBY ORDERED
that the requested modification of condition of approval is granted, subject to the conditions of
approval stated in attached Exhibit "B".

DATED this 8th day of June, 2000.

BOARD OF COUNTY COMMISSIONERS


Bill Kennemer, Chair


Millicent Morrison, Recording Secretary

NOTICE OF DECISION ON
MINOR MODIFICATION - APPROVAL

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
LAND-USE AND ENVIRONMENTAL PLANNING DIVISION
9101 SE Sunnybrook Blvd, Clackamas OR 97015
Phone: (503) 353-4400

TO: Applicant, Agencies, and Property Owners within 750 feet of this application.

DATE: July 28, 2000

LAST DATE TO APPEAL: August 9, 2000

FILE NO: Z0348-93-CP, Z0349-93-Z

STAFF CONTACT: Gary Naylor

APPLICANT: Pacific Rock Products, LLC

OWNER OF PROPERTY: Same

LOCATION: On the east side of Barlow Road approximately 1/3 mile south of its intersection with Highway 99E; Barlow area.

LEGAL DESCRIPTION: T4S, R1E, Section 8, Tax Lots 600, 700, 800 and 1000, W.M.

SITE ADDRESS: 25000 South Barlow Road

TOTAL AREA INVOLVED: Approximately 195 acres

PRESENT ZONING: EFU, Exclusive Farm Use and MAO, Mineral and Aggregate Overlay District.

CITIZENS PLANNING ORGANIZATION FOR AREA: South of Canby Community Planning Organization (Inactive)

PROPOSAL: Modify the condition in the Goal 5 specific program requirements for this mining site to relocate the originally approved access road to the same location approved for the asphaltic concrete batch plant on Tax Lot 1000.

CONCLUSIONS: Subsection 1305.01L of the Clackamas County Zoning and Development Ordinance, under Administrative Responsibility of the Planning Director, states it is the duty of the Planning Director or designate to review minor modifications to applications or conditions thereto which have been approved under the provisions of the Zoning Ordinance. It further states a modification shall be considered minor, and thus may be approved by the Planning Director or designate, only if the proposed modification meets three (3) criteria. The Planning Division staff has reviewed this proposal with respect to these criteria and finds:

1. The first criterion requires the modification be consistent with the prior approval. Comprehensive Plan change Z0348-93-CP modification and Zoning Map change Z0349-93-Z modification were approved by the Board of County Commissioners on June 8, 2000. Condition No. 16 of that approval required applicant Pacific Rock Products immediately submit an application for a modification of that Post Acknowledgement Plan Amendment for the relocation of the originally approved access road for this mining operation to the same location approved for the asphaltic concrete batch plant on Tax Lot 1000 under file number Z0652-99-C. This requirement was due to a traffic safety hazard at the originally approved access road. This present application relocates the access road for the mining operation to the same location approved for the asphaltic concrete batch plant where all traffic safety requirements for vehicle maneuvering on and off Barlow Road are met. This is consistent with the Board of County Commissioners prior approval. This first criterion is met.
2. The second criterion requires the proposal be consistent with all zoning ordinance provisions in effect at the time of this modification. Section 708 of the Clackamas County Zoning and Development Ordinance continues to provide for the mining of aggregate resources within the Mineral and Aggregate Overlay District. This second criterion is met.
3. The third criterion requires the proposal not result in a number of changed circumstances. The Planning Division staff has reviewed each of these circumstances and finds:
 - A. The first requires the proposal not result in a change in the type of use (commercial, industrial, community service, et. al.) This proposal to relocate the originally approved access road for this mining operation does not result in any change in the type of use.
 - B. The second requires the use not result in an increase greater than 10% of the originally approved building floor area or an increase in the overall lot coverage exceeding 10% of the original approved plan. This proposal is only to relocate the originally approved access road and results in no increase in approved building floor area and overall lot coverage of buildings.
 - C. The third requires the proposal not result in an increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures. This proposal to relocate the originally approved access road does not result in any increase in the intensity of this mining operation.

- D. The fourth requires the proposal not result in an increase in traffic congestion or use of public facilities. Again, this proposal to relocate the originally approved access road does not result in any increase in traffic generated by this mining operation and requires no use of public facilities.
- E. The fifth requires the proposal not result in a reduction in approved open space. The proposed relocation of the access road extends through areas approved for aggregate extraction and processing. It does not extend into any area approved as an open space buffer from this mining operation.
- F. The sixth requires the proposal not result in a reduction of off-street parking and loading spaces. The proposed relocation of the access road does not extend into any area providing off-street parking and loading spaces for this mining operation.
- G. The seventh requires the proposal not result in a reduction in required pavement widths or a change in major access locations except as required by the County. The pavement width for this relocated access road will be increased and meet County requirements. This proposed change in the major access location has been required by the Board of County Commissioners in the modification of Z0348-93-CP and Z0349-93-Z approved on June 8, 2000 in order to meet traffic safety standards. This proposed relocation of the originally approved access road meets all traffic safety standards to include vehicle sight-distance and vehicle turning movements onto and off Barlow Road.

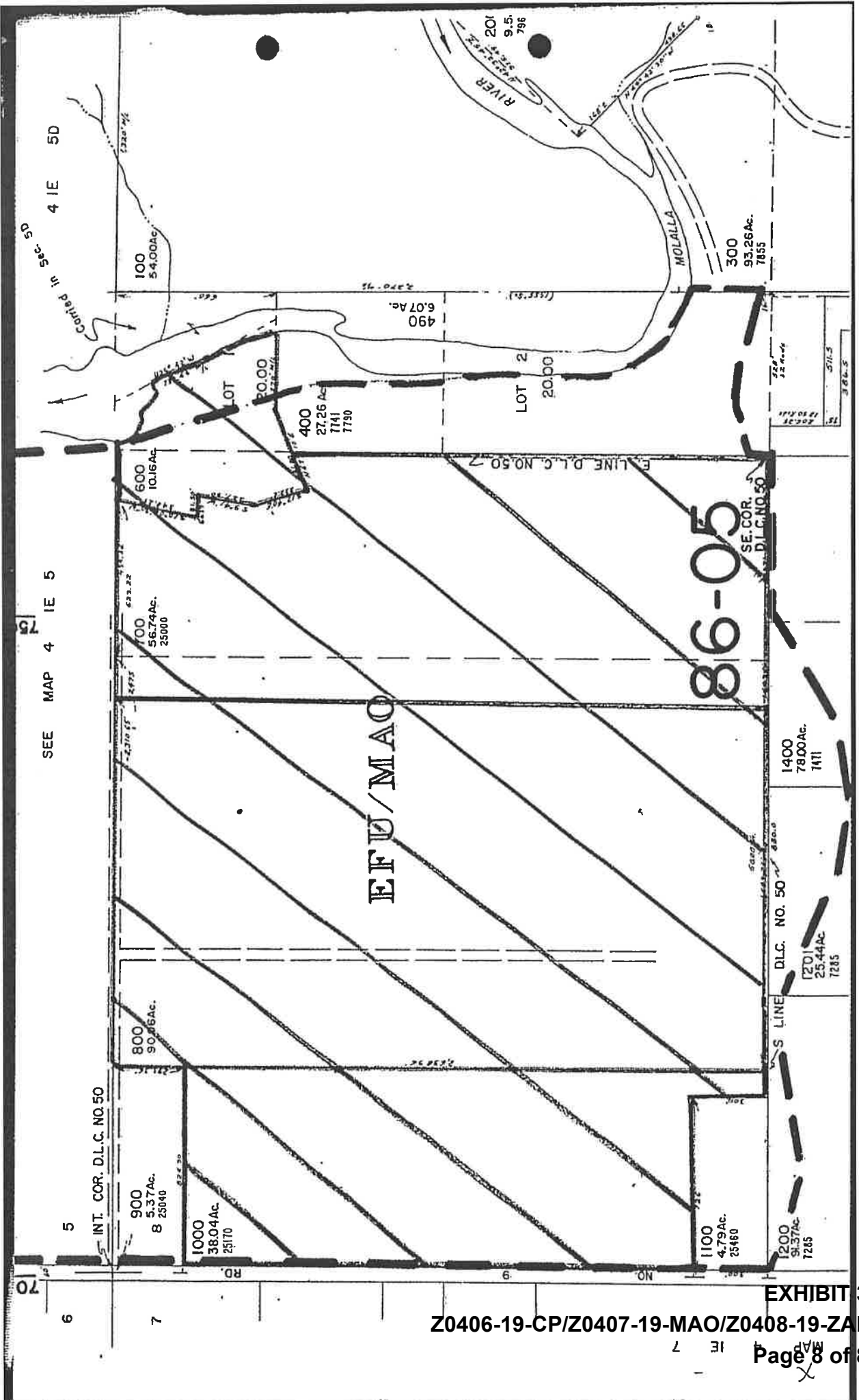
In summary, the Planning Division staff finds this third criterion is met.

In conclusion, the Planning Division staff finds this proposal is consistent with the three (3) criteria in Subsection 1305.01L of the Zoning and Development Ordinance and, therefore, it is APPROVED as a minor modification of the approved Comprehensive Plan Amendment and Zoning Map change for this mining operation subject to the following conditions:

1. The existing conditions of Z0348-93-CP and Z0349-93-Z modification.
2. County Traffic Engineering Section review and approval of the proposed relocation of the originally approved access road to this mining site.
3. The originally approved access road to this mining site shall not be used for any traffic associated with this mining operation when the new access road is constructed.
4. The proposed relocation of the originally approved access road shall be reviewed and meet the requirements of the Canby Fire District for access for fire and emergency vehicles.
5. The address for this mining operation shall be in plain view at the entrance of the relocated access road.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215
REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY
FORWARDED TO THE PURCHASER.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE
PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR
CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY
HEARINGS OFFICER. THE COST OF THE APPEAL IS \$100. YOUR APPEAL MUST BE
RECEIVED IN THE PLANNING DIVISION OFFICE BY 5:00 PM ON THE LAST DATE TO
APPEAL, WHICH IS AUGUST 9, 2000. THIS PERMIT WILL NOT BE ISSUED UNTIL
THE DAY AFTER THE APPEAL DEADLINE.



SEE MAP 4 IE 5

EFU/MAO

86-05

EXHIBIT 3

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MAP 7 IE 7

X

PACIFIC ROCK
FILE NOS. Z0756-06-CP / Z0757-06-Z

FINAL CONDITIONS OF APPROVAL

1. GENERAL CONDITIONS:
 - A. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Pacific Rock / Rodrigues Property" to the list of Significant Sites.
 - B. **This approval authorizes modifications to conditions of approval in Files Nos. Z0348-93-CP / Z0349-93-Z and File No. Z1826-97-MAR. Condition of approval number 8 in Files Nos. Z0349-93-CP / Z0349-93-Z (Exhibit 2) and condition of approval number 6 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is modified to allow the required noise berm on the west boundary of the existing site to be relocated to the western boundary of the Rodrigues property along Barlow Road. Condition of approval number 5 in File Nos. Z0348-93-CP / Z0349-93-Z (Exhibit 2) and condition of approval number 25 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is modified to allow loading and hauling activities from existing mining site between the hours of 6:00 P.M. to 10:00 P.M. on Monday through Friday and 8:00 A.M. to 5:00 P.M. on Saturdays in addition to the existing approved hours of operation providing these activities fully comply with DEQ with noise standards.**
 - C. Mining shall be allowed on the property subject to the site specific program in the submitted PAPA application to the extent it is consistent with the remaining conditions of approval.
 - D. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses and / or farm uses consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
 - E. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsible for the administration and enforcement of the ESA, who must ensure that

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the approve activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

2. PROCESSING/OPERATING/MONITORING CONDITIONS:

- A. Compliance with all operating conditions proposed in the submitted application, to the extent they are consistent with the remaining conditions of approval.
- B. The combined level of aggregate and mineral extraction for Rodrigues site and the existing Pac Rock site shall not exceed 3 million tons per calendar year.
- C. **All mining activities except for routine maintenance for the existing mining site and the Rodrigues property shall be limited to the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday. Loading and hauling activities are permitted from 7:00 A.M. to 10:00 P.M. on Monday through Fridays and from 8:00 A.M. to 5:00 P.M. on Saturday. No mining, loading or hauling activities shall occur on Sundays and the following legal holidays: New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.**
- D. Prior to any land disturbance associated with this mining operation, the applicant shall submit to the County Planning Division a copy of an Operating Permit and approved reclamation plan from the Oregon Department of Geology and Mineral Industries. The mining operator shall maintain a State Department of Geology and Mineral Industries, Operating Permit and all other applicable permits for the duration of this mining operation.
- E. A County Mineral and Aggregate Overlay District Permit shall be obtained before any land disturbance associated with this mining operation. This mining operation is subject to all the applicable standards in Section 708 of the ZDO, including Extraction Area uses, development standards and reclamation. All property owners within the Impact Area shall be notified of the County Mineral and Aggregate Resources District permit process and given the opportunity to participate and comment on the issue of screening, including berms and plantings.
- F. The processing plant located on the existing mining operation (Pac Rock Site) shall be used for processing mineral and aggregate materials from the Rodrigues site. No new processing facilities shall be established on the Rodrigues site.
- G. The Canby Fire District shall review and approve this mining operation to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve the provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
- H. Review and approval of this development by the Oregon Dept. of Water Resources, of any water resource issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit for industrial uses such as dust control, truck and gravel washing, and water rights for the reclamation ponds.

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- I. All mining operator owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent.
- J. All non-mining operator owned equipment that will be utilized at this mining site shall be equipped with the original equipment manufacturer muffler, or its equivalent.
- K. All mining operator mobile diesel equipment shall have original equipment manufacture engine compartment side panels.
- L. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light / strobe mode shall be installed and used on all loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light / strobe mode when allowed under State and Federal Warning Signal Requirements (e.g. After Dark).
- M. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.
- N. Blasting shall not be used for any purpose at this mining site.
- O. All process water shall be retained in a closed water system within the mining site. The mining site may be dewatered for mining individual cells. All water removed form the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds, or other onsite or offsite methods approved by DOGAMI. This can include utilizing the pond on the adjacent property to the south (Miles property) as a recharge source subject to written approval from the property owner. A copy of the written agreement shall be provided to the Clackamas County Planning Division.
- P. Prior to any land disturbance associated with this mining operation, the applicant shall submit to the County Planning Division a copy of a 1200-C-General National Pollutant Discharge Elimination System Permit (storm water and erosion control) approved by DOGAMI or the Water Environment Services Department.
- Q. A Department of Environmental Quality, Air Contaminant Discharge Permit (ACDP) shall be obtained and maintained by the mining operator throughout the duration of this mining operation.
- R. On site haul roads shall be graveled. An operational water truck shall be maintained on-site for dust control (and fire control) on the interior roadways and access road

throughout the duration of this mining operation. Water shall be sprayed over the crusher to control dust as required by DEQ.

- S. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation is approved.
- T. The mining operator shall submit to the Clackamas County Planning Department any surface water and groundwater studies included in the DOGAMI operating permit application for review as part of the County's required Mineral and Aggregate Resources District Permit.
- U. In coordination with other sand and gravel operators in the area, operators will consider joint efforts to clean the exterior of the Barlow House upon request by the property owner, not to exceed once per year.
- V. **A minimum setback of 30 feet shall be maintained between the extraction area and the north, south and west property lines of the subject property. A greater setback shall be maintained if required by the DOGAMI or by Clackamas County in the review of the Mineral and Aggregate Operating Permit if deemed necessary to protect the structural integrity and stability of Barlow Road and the natural gas pipeline on the west side of Barlow Road. The County shall send notice and request comments from the natural gas company in the review of the Mineral and Aggregate Overlay Operating Permit. The applicant and County shall coordinate with the natural gas company to ensure mining does not impact the natural gas line.**
- W. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Rodrigues property in the approved location subject to compliance with all conditions of approval.
- X. Topsoil shall only be removed from new mining area on the Rodrigues property between October and May, or at other times using approved dust suppression techniques. Seed and mulch all unvegetated stockpiled topsoil/overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.
- Y. The mining operator shall be responsible for developing and implementing a spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards. The program shall address substances used in the mining operation including fuels and lubricants. Spill response equipment shall be located on site near the crusher operation area at all times.

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3. VISUAL SCREENING CONDITIONS:

- A. The applicant shall provide visual screening along Barlow Road pursuant to Section 708.05B of the ZDO.
- B. All lighting shall be designed to direct light downward and shield adjacent properties from glare.
- C. **There shall be strict compliance with the Berm Landscaping Plans required for the existing mining site and proposed for the Rodrigues property. All dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates. The west side of the required berm along Barlow Road shall include in addition to the required trees, a combination of ground cover or shrubs planted to landscape industry standards.**

4. NOISE RELATED CONDITIONS:

- A. **Noise resulting from all mining activities within the subject site shall comply with the Department of Environmental Quality noise standards at all existing residences during the lifetime of this mining operation. All berms identified in the Noise Study shall be constructed to mitigate noise. Before the beginning of any aggregate extraction and processing on the Rodrigues property the applicant shall submit to the County Planning Division verification that all of the noise mitigation measures have been implemented and the DEQ Noise Standards are met at all existing residences.**
- B. **Within 45 days after extraction operations are commenced on the Rodrigues property, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with applicable DEQ standards. These reports shall be submitted to the Clackamas County Planning Department.**
- C. All vehicles and equipment used on the subject site shall meet required DEQ Noise Standards.

5. TRAFFIC / ROAD IMPROVEMENT CONDITIONS:

- A. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.
- B. The applicant shall design and construct improvements on Barlow Road from the site driveway to a point approximately 400 feet northerly from the site driveway. The improvements shall be completed prior to initiation of mining activities on tax lot 1000. These improvements shall consist of:
 - 1. Thermoplastic to replace existing painted longitudinal striping and painted turn lane arrows.

2. Replacement of all damaged or missing reflectorized buttons with new reflectorized buttons.
- C. Prior to the initiation of mining activities on tax lot 1000 , the applicant shall submit to Clackamas County Engineering Office a set of street improvement construction plans for review, in conformance with *Clackamas County Roadway Standards* Section 130, to Clackamas County's Engineering Office and obtain written approval, in the form of a Street Construction and Encroachment Permit. The permit will be for thermoplastic longitudinal striping and turn lane arrows, and reflectorized buttons. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
- D. The applicant shall design and construct necessary infrastructure on site to prevent mud and other debris from entering onto the County Road systems. The mining operator shall be responsible for keeping Barlow Road entrance clean of any such material that may be tracked from the mining site onto the right-of-way.
- E. A 15 mile per hour speed limit shall be maintained for all vehicles using the roadways within the subject site.
- F. Prior to final approval of a Mineral and Aggregate Operating Permit, the applicant shall enter into a maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Hwy. 99E.
- G. The mining operation on the Rodrigues property in combination with the existing Pac Rock mining site shall not generate daily traffic exceeding 154 A.M. Peak Hour trips and 120 P.M. Peak Hour trips.

6. CONFLICTING USES WITHIN IMPACT BOUNDARY:

- A. Property within the Impact Area is subject to Section 708.08 of the ZDO.
- B. No proposed use will be allowed which would cause the mining operation to violate noise control standards measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate compliance with the noise standards. Mitigation measures necessary to achieve compliance with the noise standards shall be the responsibility of the applicant for the proposed use.

PACIFIC ROCK
FILE NOS. Z0756-06-CP / Z0757-06-Z

Exhibit C

1. Condition of approval number 8 in File No. Z0348-93-CP / Z0349-93-Z (Exhibit 2) are amended to read as follows:

“The Extraction Area affected by mining shall be visually screened from properties within the Impact Area to the north and east. Screening shall be accomplished by maintained plantings and / or earthen berm for the duration of mining.”

2. Condition of approval number 6 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is amended to read as follows:

“The applicant shall visually and acoustically screen surface mining and processing within the Extraction Area by construction of an earthen berm planted in trees at least 6 feet in height as shown on the Revised Site and Mining Plan. This planted berm shall be extended eastward along the north property line to the northeast corner of the Extraction Area when the mining operation progresses into the area leased to the former property owner. The berm shall be extended eastward to obstruct vision through it that would otherwise result from construction of the relocated access road. The required berm along the west side of the Extraction Area may be removed upon approval of a Mineral and Aggregate Operating Permit for mining on the Rodrigues Property.”

3. Condition of approval number 5 in File Nos. Z0348-93-CP / Z0349-93-Z (Exhibit 2) are amended to read as follows:

“Mining and processing shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Loading and hauling activities are also allowed between the hours of 6:00 p.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays providing these activities fully comply with DEQ noise standards. Other activities may operate without restriction provided that Department of Environmental Quality noise control standards are met.”

4. Condition of approval number 25 in the July 28, 2000 Decision in File No. Z1826-97-MAR (Exhibit 6) is amended to read as follows:

“Mining and processing shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Loading and hauling activities are also allowed between the hours of 6:00 p.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays providing these activities fully comply with DEQ noise standards. Other activities may operate without restriction provided that Department of Environmental Quality noise control standards are met.”

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NOTICE OF DECISION ON MINERAL AND AGGREGATE
OVERLAY DISTRICT OPERATING PERMIT- **APPROVAL**

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
LAND USE AND ENVIRONMENTAL PLANNING DIVISION
9101 SE Sunnybrook Blvd., Clackamas, Oregon, 97015
Phone: 503-353-4500

TO: Applicant, Citizens Planning Organization, Agencies, and Property Owners within 1500 feet of this application.

DATE: September 20, 2007

LAST DATE TO APPEAL: October 2, 2007

FILE NO: Z0566-07-MAR

STAFF CONTACT: Steve Koper

APPLICANT: Pacific Rock Products, LLC; 8705 NE 117th Avenue, Vancouver, WA 98662

PROPERTY OWNER: Pacific Rock Products, 1501 Belvedere Road, West Palm Beach, FL 33406

LEGAL DESCRIPTION: T4S, R1E, Section 8, Tax Lot 1000

SITE ADDRESS: 25100 S. Barlow Road, Canby, Oregon 97013

TOTAL AREA INVOLVED: Approximately 38 acres

PRESENT ZONING: Exclusive Farm Use (EFU) and Mineral Aggregate Overlay (MAO)

CITIZENS PLANNING ORGANIZATION FOR THE AREA: South Canby CPO. This organization is currently inactive. If you are interested in becoming involved in land use planning in your area, call Clackamas County Citizen Involvement at (503) 655-8552.

PROPOSAL: Request for a Mineral and Aggregate Overlay Resources District Permit to authorize mining on the property. A Comprehensive Plan amendment and zone change application (File Nos. Z0756-06-CP / Z0757-06-Z) was approved on this property in 2007. This Post Acknowledgement Plan Amendment (PAPA) authorized a Mineral and Aggregate Overlay District on the property subject to the conditions of approval. Condition No. 2E of the PAPA requires the applicant to obtain a Mineral and Aggregate Operating Permit pursuant to Section 708 of the Clackamas County Zoning and Development Ordinance (ZDO) prior to commencement of mining activities. Review of this operating permit constitutes a specific site plan review to ensure compliance with the extraction area development standards in Section 708 of the ZDO and conditions of approval in the PAPA.

DECISION: Approval, with conditions.

LAND USE ORDINANCE CONSIDERATIONS:

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This application is subject to the Mineral and Aggregate Overlay District Standards in Section 708 of Clackamas County Zoning and Development Ordinance.

Section 708.07 of the ZDO outlines the requirements for Site Plan Review under the Mineral and Aggregate Overlay District. Site Plan Review is considered a Planning Director Administrative Action and processed pursuant to Section 1305.02(A), (E) and (G) through (I) of the ZDO. Section 708.07B states the County shall approve, approve with conditions, or deny the application for the permit based on the conformance of the site plan with the standards of ZDO Sections 708 (MAO), 1006 (Utility Lines and Facilities), 1010 (Signs), and the requirements of the site specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

The Planning Staff has reviewed each of these applicable Sections and requirements of the site specific Goal 5 application approved on this property under File Numbers Z0756-06-CP / Z0757-06-Z and makes the following findings.

1. Section 708.04: Extraction Area Uses. This subsection identifies the specific uses which may be allowed in the mining extraction area. The approved extraction area is approximately 38.04 acre site. The extraction site (known as the “Rodrigues site”) is located between Barlow Road to the west and the existing mining and processing operation to the east (“Pac Rock site”).

A. Section 708.04A: *The County may allow the following uses subject to standards of ZDO 708.05, and any requirements adopted as part of the Comprehensive Plan.*

1. *Mining;*

Mining is proposed within the approved extraction area.

2. *Processing, except the batching or blending of mineral and aggregate materials into asphalt concrete within two miles of a planted commercial vineyard existing on the date the application was received for the asphalt batch plant;*

No processing of aggregate or other materials are proposed within the approved extraction area. The processing plant located on the existing mining operation (Pac Rock Site) shall be used for processing mineral and aggregate materials from the Rodrigues site. No new processing facilities shall be established on the Rodrigues site. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Rodrigues property in the approved location subject to compliance with all conditions of approval. This is consistent with conditions 2F and 2W of the approval for Files Z0756-07-CP / Z0757-07-Z.

3. *Stockpiling of mineral and aggregate materials extracted and processed on site;*

Stockpiling of mineral or aggregate materials is proposed. Extracted gravel may be temporarily placed in windrows prior to being transported on the conveyor system.

4. *Temporary offices, shops or other accessory structures used for the management and maintenance of on site mining and processing equipment;*

No temporary office, shops or other structures are proposed in the extraction area. All such facilities have previously been established on the Pac Rock Site and will remain because the processing areas will be located at this site.

5. *Sale of mining products extracted and processed onsite;*

No sale of mining products extracted from the site will be sold in the extraction area.

6. *Storage of transportation equipment or machinery used in conjunction with onsite mining or processing;*

The extraction area will be used to store limited pieces of equipment used in conjunction with the on site mining. This equipment is generally limited to a trackhoe and front end loader. No processing equipment will be stored or allowed on site because processing is prohibited under the conditions of the approval.

7. *Other activities including buildings and structures necessary and accessory to development or reclamation of the onsite mineral or aggregate resource.*

No other activities or buildings are proposed in the extraction area.

The uses proposed in the extraction area are limited to mining, temporary stockpiling and storage of equipment used for mining. These are all listed and allowed uses within the extraction area. **This criterion is met.**

B. Section 708.04B: *The County may permit other uses allowed by the underlying zone subject to requirements of the underlying zone and requirements of this section for protection of significant mineral and aggregate sites.*

The applicant has not proposed any other uses in the extraction area. **This criterion is not applicable.**

2. Section 708.05: Extraction Area Development Standards. This subsection identifies the specific development standards applicable to the mining and operating areas within the approved site.

A. Section 708.05A: *Access. Onsite roads used in mining and processing, and access roads from the Extraction Area to a public road shall meet the following standards:*

1. *All access roads within 100 feet of a paved county road or state highway shall be paved, oiled or watered.*

An existing access road to the Pac Rock site is established on Barlow Road. This access road will also be used for mining on the subject property. The access road is paved in excess of 1000 feet from Barlow Road. **This standard is met.**

2. *All roads in the Extraction Area shall be constructed and maintained to ensure compliance with applicable state standards for noise control and ambient air quality.*

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Internal roads within the extraction area will be graveled and watered to maintain compliance with state noise and ambient air quality. Access to the extraction area is from Barlow Road. A water truck shall be on-site at all times to control any dust within the extraction area. The findings in the approval support that this means of dust control is adequate to meet minimum air quality standards. In addition, the applicant will be required to provide and maintain an Air Contaminant Discharge Permit for the duration of mining operations to ensure compliance with emission standards. **This standard can be met.**

3. *All roads in the Extraction Area shall be paved at all points within 250 feet of a noise or dust sensitive use existing on February 22, 1996.*

Noise and dust sensitive uses include residential structures, churches, hospitals, schools, public libraries and campgrounds during their period of use. Forest and farm uses are not noise or dust sensitive uses unless so determined in the Goal 5 process. These uses were not determined to be noise or dust sensitive in the Goal 5 process.

There are several residential structures within 250 feet of the extraction area which currently exist or existed on February 22, 1996. However, all roads in the Extraction Area are paved at all points within 250 feet of all noise or dust sensitive uses. In addition, Condition of Approval 2R requires that an operational water truck be maintained on-site for dust control for the duration of the mining operation. Water shall be sprayed over the crusher to control dust as required by the DEQ. **This standard is met.**

B. Section 708.05B: *Screening;*

1. *The mining activities listed in Subsection (B)(2) of this Section shall be obscured from the view of screened uses, unless one of the exceptions in Subsection (B)(4) applies. Screening shall be accomplished in a manner consistent with Subsection (B)(3).*

Screened uses are defined as "Noise sensitive uses or other uses determined to be conflicting uses through the Goal 5 planning process or scenic viewpoints or other areas designated as significant Goal 5 scenic resources. The mining activities in Subsection (B)(2) authorized in the Extraction Area include mining, stockpiling and storage of equipment and machinery. The "Screened Use" identified in the Goal 5 process is the impact area to the north and west of the subject site. No screening is required to the east because it is adjacent to the existing Pac Rock site. Condition 1B of the PAPA authorized the noise berm located on the west of the Pac Rock site to be relocated to the west boundary of the Rodrigues site along Barlow Road. The impact area to the south is adjacent to the natural bluff topography. An exception to the screening is warranted based on the finding in Section 708.05(B)(4).

2. *Mining activities to be screened:*

- a) *All excavated areas, except: areas where reclamation activity is being performed, internal onsite roads existing on the date of county adoption, new roads approved as part of the Site Plan Review, material excavated to create berms, and material excavated to change the level of the mine site to an elevation that provides natural screening.*

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The applicant shall provide visual screening along the north and west boundaries of the extraction area. Screening is not required to screen the existing access road.

b) *All processing equipment.*

No processing equipment is proposed or will be allowed in the extraction area. Therefore no screening is required for processing equipment.

c) *All equipment stored on the site.*

All equipment will be stored on the previously approved processing site (Pac Rock site). Equipment may be temporarily stored on the subject site in conjunction with extraction activities only.

3. *Types of screening*

a) *Natural screening is existing vegetation or other landscape features within the boundaries of the Extraction Area that obscure mining activities from screened uses. Natural screening shall be preserved and maintained except where removed according to a mining or reclamation plan approved by DOGAMI.*

Natural screening is not present on the subject site. Required screening shall be supplied earthen and vegetative screening.

b) *Supplied screening is either vegetative or earthen screening. Supplied vegetative screening is screening that does not exist at the time of the Site Plan Review. Plantings used in supplied vegetative screening shall be evergreen shrubs and trees, and shall not be required to exceed six feet in height when planted. Supplied earthen screening shall consist of berms covered with earth stabilized with ground cover.*

The applicant shall supply earthen berm screening stabilized with ground cover and evergreen shrubs and trees consistent with the supplied Landscaping Plan. All dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates. The west side of the required berm along Barlow road shall include in addition to the required trees, which shall be Douglas Firs, a combination of ground cover or shrubs, which shall include Cascara (*Rhamnus purshiana*), Mockorange (*Philadelphus lewisii*), Ocean-Spray (*Holidiscus discolor*), Red Currant (*Ribes sanguineum*) and / or Western Serviceberry (*Amelanchier aifolia*), planted to landscape industry standards. See Exhibit 20 of the application.

4. *Exceptions. Supplied screening shall not be required if any of the following circumstances exist:*

a) *The natural topography of the site obscures mining and processing from screened uses.*

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- b) *Supplied screening cannot obscure mining and processing from screened uses because of local topography.*
- c) *Supplied vegetative screening cannot reliably be established or cannot survive due to soil, water or climatic conditions.*

Screening along the impact area to the south of subject site is not possible as the natural bluff topography prevents the ability to fully screen mining and processing uses. An exception to screening the extraction area from the properties to the south is warranted. **This standard is met.**

- C. Section 708.05C: *Air and Water Quality; The discharge of contaminants and dust created by mining and processing shall comply with applicable state air quality and emissions standards and applicable state and federal water quality standards.*

The findings in the PAPA approval for the Pac Rock site and Condition of Approval 2C demonstrate the proposed operation with appropriate conditions are adequate to ensure the mining will comply with all state air emissions standards and water quality standards. The applicant has obtained and provided evidence of a DEQ NPDES 1200C permit for surface and subsurface water control and a DEQ NACDP permit for air quality purposes for the existing processing facilities on the Pac Rock site. A condition of approval is warranted requiring applicant to obtain DEQ NPDES 1200C and NACDP permits for the Rodrigues site. **This standard can be met.**

- D. Section 708.05D: *Streams and Drainage; Mining and processing shall not occur within 100 feet of mean high water of any lake, river, perennial water body or wetland not constructed as part of a reclamation plan approved by DOGAMI unless allowed by specific provisions adopted in the Comprehensive Plan.*

There are no lakes, rivers, perennial water bodies or wetlands located within 100 feet of the extraction area, except lakes and ponds approved as part of a reclamation plan on the Pac Rock site.

The Molalla River is located adjacent to existing Pac Roc Site. However, the Molalla River is not within the 1500 foot impact area of the subject site. **This standard is met.**

- E. Section 708.05E: *Noise; Mining and processing shall comply with state noise control standards. Operators may show compliance with noise standards through the report of a certified engineer that identifies mitigation methods to control noise. Examples of noise mitigation measures are siting mining and processing using existing topography, using supplied berms, or modifying mining and processing equipment.*

The original PAPA application included a noise study demonstrating the mining activities can be conducted in compliance with DEQ noise standards, subject to certain mitigation measures. See Noise Study completed by Daly-Standlee and Associates dated September 11, 2006. Condition of Approval 4A requires that noise resulting from all mining activities within the subject site shall comply with DEQ noise standards at all existing residences during the lifetime of the mining operation. Condition of Approval 4B requires that within 4

commencement of extraction operations, the operator shall provide a noise study to demonstrate compliance with the applicable DEQ standards, which shall be submitted to the County Planning Division. The specific noise mitigation measures will be included as a condition of approval. **This standard can be met.**

F. Section 708.05F: *Hours of Operation;*

1. *Mining and processing is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM Saturday. Hauling and other activities may operate without restriction provided that state noise control standards are met.*

The hours of operation for all mining activities except for routine maintenance for the existing mining site and the Rodrigues site are limited to between 7:00 A.M. and 6:00 P.M. Monday through Friday. Condition of approval 2C limits loading and hauling activities from 7:00 A.M. to 10:00 P.M. on Monday through Friday and 8:00 A.M. to 5:00 P.M. on Saturday. No mining, loading, or hauling activities shall occur on Sundays and the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day. A condition of approval to this effect is warranted. **This standard is met.**

2. *No operations shall take place on Sundays or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.*

Operations on these days are prohibited. A condition of approval to this effect is warranted. **This standard is met.**

G. Section 708.05G: *Drilling and Blasting;*

1. *Drilling and blasting is restricted to the hours of 9:00 AM to 4:00 PM Monday through Friday. No drilling or blasting shall occur on Saturdays, Sundays, or the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.*

This is a wet mining operation. Condition 2N prohibits blasting for any purpose at this site. No drilling or blasting is proposed or permitted in this mining operation. **This standard is not applicable.**

2. *Notice of blasting events shall be posted at the Extraction Area in a manner calculated to be seen by landowners, tenants and the public at least 48 hours prior to the blasting event. In the case of ongoing blasting activities, notice shall be provided once each month for the period of blasting activities, and specify the days and hours when the blasting event is expected to occur.*

This is a wet mining operation. No drilling or blasting is proposed or permitted in this mining operation. **This standard is not applicable.**

H. Section 708.05H: *Surface and Ground Water; Surface and ground water shall be* **EXHIBIT 4**

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a manner that meets all applicable state water quality standards and DOGAMI requirements. The applicant shall demonstrate that all water necessary for the proposed operation has been appropriated to the site and is legally available.

The applicant has obtained an operating permit from DOGAMI, including a National Pollutant Discharge Elimination System 1200C Permit under DEQ requirements for the Pac Rock site. A condition of approval is warranted requiring the applicant to obtain an operating permit from DOGAMI, and a DEQ NPDES 1200C permit for the Rodrigues site.

The applicant has provided evidence of water availability, a certificate of water right, applicant's statutory exemption, existing Oregon Water Resources Department water permits for the existing Pac Rock site. A condition of approval is warranted requiring applicant to provide evidence that all water necessary for the proposed operation can be supplied. The applicant shall also demonstrate that the Water Recharge Agreement in Exhibit 12 is approved by the Oregon Department of Water Resources (OWDR). This evidence shall be in the form of written approval from the OWDR provided to the County Planning Division or otherwise included in the DOGAMI operating permit. Compliance with these permits will ensure surface water and ground water is managed in compliance with state water quality standards and DOGAMI requirements.

This standard can be met.

- I. Section 708.05I: *Compliance with Special Conditions; The County may impose additional, special conditions to resolve issues specific to an individual site. The conditions shall be specified in the site-specific program to achieve the Goal adopted as part of the Comprehensive Plan.*

The County staff does not find it necessary to impose any additional conditions to resolve issues related to the site other than those required under Section 708 and adopted as part of the original PAPA application and subsequent approval for the Rodrigues site (File Nos. Z0756-06-CP / Z0757-06-Z). Each of the conditions in the PAPA approval is either satisfied or can reasonably be met. Those conditions will be incorporated as part of this approval. Condition 2V requiring notice to the Natural Gas Utility Provider has been met, and no comments regarding this application were received. Section 708 of the ZDO also requires compliance with Section 1006 (Utility Lines and Facilities) and 1010 (Signs). These Sections of the ZDO are not applicable as no utility lines are proposed or required for the operation. No new signs are proposed. **This standard is met.**

- J. Section 708.05J: *Security; The permittee shall fence the Extraction Area boundary between the mining site and any parcel where dwellings are a principal use. Fencing shall be a cyclone type fence a minimum of six feet high.*

The subject property is located in, and entirely surrounded by lands zoned Exclusive Farm Use (EFU). Dwellings are not a listed principal use in the EFU zoning district. Therefore, security fencing is not required around the extraction area. **This standard is not applicable.**

- K. Section 708.05K: *Performance requirements;*

- I. *The mining operator shall maintain DOGAMI and other state agency permits* **EXHIBIT 4**

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The applicant shall be required to submit evidence of a current operating permit from DOGAMI and associated NPDES permits for surface and storm water management for the Rodrigues site as a condition of approval. **This standard can be met.**

2. *The mining operator shall carry a comprehensive general liability policy covering mining, and incidental activities during the term of operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one year shall be deposited with the County prior to the commencement of mining and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.*

A condition of approval is warranted requiring the mining operator to submit evidence of a liability policy in the form of a Certificate of Liability Insurance covering mining, and incidental activities during the term of operation and reclamation for the Rodrigues site, with an occurrence limit of at least \$500,000. Evidence of coverage for a term of one year shall be submitted to the County Planning Division prior to the commencement of mining operations, and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation. **This standard can be met.**

3. Section 708.06: Reclamation. This subsection identifies the requirements for reclamation of the approved mining site.

- A. Section 708.06A: *No mining shall begin until the permittee provides the county with a copy of a DOGAMI Operating Permit or exemption in accordance with ORS 517.750 through 517.900 and the rules adopted thereunder.*

The applicant shall be required to provide evidence of a current operating permit from DOGAMI for the Rodrigues site as a condition of approval. **This standard can be met.**

- B. Section 708.06B: *The County's jurisdiction over mined land reclamation is limited to determining the subsequent beneficial use of mined areas, ensuring that the subsequent beneficial use is compatible with the Comprehensive Plan and Zoning and Development Ordinance, and ensuring that mine operations and reclamation activities are consistent with the program to achieve the Goal adopted as part of the Comprehensive Plan.*

The reclamation plan proposes to establish fish and wildlife habitat and/or farm uses. These uses are allowed in the underlying EFU zoning district. This reclamation use was determined to be a beneficial use and compatible with the County Comprehensive Plan in the PAPA application. **This standard is met.**

- C. Section 708.06C: This Section of the ZDO requires coordination with DOGAMI in reviewing Operating Permits and Reclamation Plans. The Operating Permit and Reclamation Plans will be reviewed and approved by DOGAMI prior to issuance of an Operating Permit and approval of the applicant's Reclamation Plan. **This standard is not applicable.**

Based on the above findings it is the decision of the Clackamas County Planning Division to approve

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this application subject to the following conditions:

A. The following conditions shall be satisfied **prior** to any land disturbance (grading, berm construction, or any other similar activities) associated with this mining operation:

1. The applicant shall submit to the County Planning Division a copy of an Operating Permit and approved reclamation plan from the DOGAMI.

2. The applicant shall design and construct improvements on Barlow Road from the site driveway to a point approximately 400 feet northerly from the site driveway. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with the *Clackamas County Roadway Standards*. These improvements shall consist of:

a. Thermoplastic to replace existing longitudinal striping and painted turn lane arrows.

b. Replacement of all damaged or missing reflectorized buttons with new reflectorized buttons.

c. The applicant shall submit to Clackamas County Engineering Division a set of street improvement construction plans for review, in conformance with *Clackamas County Road Standards* Section 130, and obtain written approval in the form of a Street Construction and Encroachment (SC & E) Permit. The permit will be for thermoplastic longitudinal striping and turn lane arrows, and reflectorized buttons. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.

3. The applicant shall submit to the County Planning Division evidence of a signed maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Highway 99E.

4. The applicant shall obtain a National Pollutant Discharge Elimination System Storm Water General Permit 1200-C (storm water and erosion control) from DOGAMI or by the County Water Environment Services Department. A copy of this NPDES Permit shall be provided to the County Planning Division.

5. The applicant shall obtain and maintain an Oregon Department of Environmental Quality Air Contaminant Discharge Permit for the duration of mining operations. A copy of this permit shall be provided to the County Planning Division.

6. The mining operator shall submit to the County Planning Department any surface water and groundwater studies included in the DOGAMI operating permit application.

7. The applicant shall provide a copy of a letter of approval from the Canby Fire District evidencing that the mining operation has been reviewed and approved to ensure it is acceptable for access by fire and emergency vehicles.

8. The applicant shall provide evidence of written approval or evidence in the DOGAMI permit of the proposed operation by the Oregon Department of Water Resources of any water resource

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issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit, for industrial uses such as dust control, truck and gravel washing, and water rights for the reclamation ponds, as well as the Mile Water Recharge Agreement.

9. The mining operator shall submit to the County Planning Division evidence of a general liability policy in the form of a Certificate of Liability Insurance covering mining, and incidental activities during the term of operation and reclamation for the Rodrigues site, with an occurrence limit of at least \$500,000, for a term of one year. A current certificate of insurance shall be submitted to and kept on file with the County Planning Division during the term of operation and reclamation.

10. The mining operator shall develop and implement a spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI, and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards. The program shall address substances used in the mining operation including fuels and lubricants. Spill response equipment shall be located on site near the crusher operation area at all times. The Fire District shall also review and approve the provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.

B. The following conditions shall be satisfied **prior** to any aggregate extraction on the site:

1. The applicant shall construct the required earthen berms and landscape the berms with ground cover, evergreen shrubs and trees consistent with the supplied Landscaping Plan. See Exhibit 20. Pursuant to condition of approval 3C, all dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates. The west side of the required berm along Barlow road shall include in addition to the required trees, which shall be Douglas Firs, a combination of ground cover or shrubs, which shall include Cascara (*Rhamnus purshiana*), Mockorange (*Philadelphus lewisii*), Ocean-Spray (*Holidiscus discolor*), Red Currant (*Ribes sanguineum*) and / or Western Serviceberry (*Amelanchier aifolia*), planted to landscape industry standards. See Exhibit 20 of the application.

2. All dead or dying trees on the landscape berms screening the Pac Rock site shall be replaced.

3. Topsoil shall only be removed from the new mining area between October and May, or at other times using approved dust suppression techniques. The mining operator shall seed and mulch all unvegetated stockpiled topsoil / overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.

4. Noise radiating from all mining operations within the expansion area shall comply with the Department of Environmental Quality noise regulations at all existing residences around the proposed expansion area during the lifetime of the mining operation. All berms identified in the noise study prepared Daly-Standlee and Associates, Incorporated shall be constructed to mitigate noise. The applicant shall submit to the County Planning Division verification that all of the noise mitigation measures listed in the noise study has been implemented and the DEQ Noise Standards are met at all existing residences.

5. A minimum setback of 30 feet shall be maintained between the extraction area and the north, south, and west property lines of the subject property. A greater setback shall be maintained

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required by DOGAMI or if deemed necessary by Clackamas County to protect the structural integrity and stability of Barlow Road and the natural gas pipeline on the west side of Barlow Road. The applicant and Clackamas County shall coordinate with the natural gas company to ensure mining does not impact the natural gas line. No portion of any berms shall be located within the Barlow Road Right-of-Way.

6. No temporary office, shops or other structures are permitted in the extraction area.
7. No sale of mining products extracted from the site shall be sold in the extraction area.
8. The extraction area will be used to store limited pieces of equipment used in conjunction with the on site mining. This equipment is generally limited to a trackhoe and front end loader. No processing equipment shall be stored or allowed on site.
9. Access to the extraction area shall use the existing paved access road from Barlow Road. The paving on this road shall be maintained in good condition. All other on site haul roads shall be graveled. An operational water truck shall be maintained on-site for dust control (and fire control) on the interior roadways and access road throughout the duration of this mining operation. Water shall be sprayed over the crusher to control dust as required by DEQ.
10. The applicant shall design and construct necessary infrastructure on site to prevent mud and other debris from entering onto the County Road systems. The mining operator shall be responsible for keeping the Barlow Road entrance to the site clean of any such material that may be tracked from the mining site onto the right-of-way.

C. The applicant shall comply with and maintain as necessary the following conditions during the life of the mining operation:

1. This application is approved for the specific surface mining operation described in the application to the extent it is consistent with the remaining conditions of approval.
2. The mining operator shall maintain a State DOGAMI Operating Permit and all other applicable permits for the duration of the mining operation.
3. This mining operation shall be phased and concurrently reclaimed as generally shown within the Mine Plan, and the Conceptual Reclamation Plan. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses and / or farm uses consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plan species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
4. All mining activities except routine maintenance for the existing mining site (Pac Rock Site) and the Rodrigues site is restricted to the hours of operation of between 7:00 A.M. and 6:00 P.M. Monday through Friday. Loading and hauling activities are permitted from 7:00 A.M. to 10:00 P.M. on Monday through Friday and 8:00 A.M. to 5:00 P.M. on Saturday. No mining, loading, or hauling activities shall occur on Sundays and the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

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5. Within 45 days after extraction operations are commenced on the Rodrigues property, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with the applicable DEQ Noise Standards. These reports shall be submitted to the County Planning Division.
6. The extraction area is limited to the 38.04 acre expansion area.
7. The combined level of aggregated and mineral extraction for the Rodrigues site and the existing Pac Rock site shall not exceed 3 million tons per calendar year. The applicant shall submit an annual report to the County Planning Division identifying the amount of extracted mineral and aggregate materials.
8. The mining operation on the Rodrigues property in combination with the existing Pac Rock site shall not generate daily traffic exceeding 154 A.M. Peak Hour trips and 120 P.M. Peak Hour trips.
9. There shall be no stockpiling of aggregate within the expansion area but the extracted aggregate can be temporarily placed in windrows prior to being transported for processing on the Pac Rock Site.
10. There shall be no storage of off-site generated materials on the subject property.
11. All process water shall be retained in a closed water system within the mining site. The mining site may be dewatered for mining individual cells. All water removed from the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds, or other onsite or offsite methods approved by DOGAMI. This can include utilizing the pond on the adjacent property to the south (Miles property) as a recharge source subject to written approval from the property owner and regulation, if any, by the Oregon Department of Water Resources.
12. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the Oregon DOGAMI, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation was approved.
13. All lighting shall be designed to direct light downward and shield adjacent properties from glare.
14. In coordination with other sand and gravel operators in the area, operators will consider joint efforts to clean the exterior of the historic Barlow House upon request by the property owner, not to exceed once per year.
15. A 15 mile-per-hour speed limit shall be maintained for all vehicles using the access roads within the subject site.
16. A water truck shall be assigned to this mining site during all times of operation to control any dust within the activity areas.

17. All vehicles and equipment operated on the subject site shall meet required DEQ noise standards.

18. All mining operator owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent. All mining operator owned mobile diesel extraction equipment shall be fitted with original equipment manufacture engine compartment side panels.

19. All non-mining operator owned diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent.

20. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light / strobe model shall be installed and used on all loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light / strobe mode when allowed under State and Federal Warning Signal Requirements (e.g. After Dark).

21. This shall be a wet mining operation. No drilling or blasting is proposed or permitted in this mining operation.

22. The processing plant located on the existing mining operation (Pac Rock site) shall be used for processing mineral and aggregate materials from the Rodrigues site. No new processing facilities shall be established on the Rodrigues site.

23. The asphaltic concrete batch plant approved under County File No. Z0652-99-C may continue to operate on the Rodrigues property in the approved location subject to continued compliance with all conditions of approval.

24. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility located on the Pac Rock site by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.

25. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY HEARINGS OFFICER. THE COST OF THE APPEAL IS \$250. YOUR APPEAL MUST BE RECEIVED IN THE PLANNING DIVISION OFFICE BY 5:00 ON THE LAST DATE TO APPEAL WHICH IS **October 2, 2007**. THIS PERMIT WILL NOT BE ISSUED UNTIL THE DAY AFTER THE APPEAL DEADLINE.

Z0331-11-CP / Z0332-11-ZAP (PACIFIC ROCK)

CONDITIONS OF APPROVAL

1. **GENERAL CONDITIONS:**

- A. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Pacific Rock / Paradis Property" to the list of Significant Sites.
- B. Mining shall be allowed on the property subject to the site specific program in the submitted application to the extent it is consistent with the remaining conditions of approval.
- C. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
- D. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

2. **PROCESSING / OPERATING / MONITORING CONDITIONS:**

- A. Compliance with all operating conditions proposed in the submitted application, to the extent they are consistent with the remaining conditions of approval.
- B. The combined level of aggregate and mineral extraction for the Paradis properties, the Rodrigues site, and the existing Pac Rock site (e.g., Phases 1-3) shall not exceed 3 million tons per calendar year.
- C. All mining activities on Phase 3, except for routine maintenance, shall be limited to the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday and from 8:00 A.M. to 5:00 P.M. on Saturday. No mining activities shall occur on Sundays and the following legal holidays: New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. No loading and hauling activities are permitted. Loading, hauling, mining and processing hours on Phase 1 and Phase 2 shall remain unchanged.
- D. Prior to any land disturbance associated with the mining operation on Phase 3, the applicant shall submit to the County Planning Division a copy of an Operating Permit and approved

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reclamation plan from the Oregon Department of Geology and Mineral Industries which covers Phase 3 (either as a separate permit or an expansion of the existing permit for Phase 1 and Phase 2). The mining operator shall maintain a State Department of Geology and Mineral Industries Operating Permit and all other applicable permits for the duration of this mining operation.

- E. A County Mineral and Aggregate Overlay District Permit shall be obtained before any land disturbance associated with this mining operation. This mining operation is subject to all the applicable standards in Section 708 of the ZDO, including Extraction Area uses, development standards and reclamation. All property owners within the Impact Area shall be notified of the County Mineral and Aggregate Resources District permit process and given the opportunity to participate and comment on the issue of screening, including berms and plantings.
- F. Prior to any land disturbance within the Bonneville Power Administration ("BPA") right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with any conditions included in such Land Use Agreement.
- G. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Paradis properties. No new processing facilities shall be established on the Paradis properties.
- H. The Canby Fire District shall review and approve this mining operation to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve any provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
- I. Review and approval for this development by the Oregon Department of Water Resources, of any water resource issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit for industrial uses.
- J. Mining operations on Phase 3 shall comply with DEQ noise standards.
- K. All mining operator-owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent. All non-operator owned equipment that will be utilized at this mining site shall be equipped with original equipment manufacturer muffler, or its equivalent.
- L. All mining operator-owned mobile diesel equipment shall have original equipment manufacturer engine compartment side panels.
- M. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light/strobe mode shall be installed and used on all

loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light/strobe mode when allowed under State and Federal Warning Signal Requirements (e.g., After Dark).

- N. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.
- O. Blasting shall not be used for any purpose at this mining site.
- P. The mining site may be dewatered for mining individual cells. All water removed from the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds at the Canby operation, or other onsite or offsite methods approved by DOGAMI.
- Q. Prior to any land disturbance associated with the mining operation on Phase 3, the applicant shall submit to the County Planning Division a copy of a 1200-C-General National Pollutant Discharge Elimination System Permit (storm water and erosion control for Phase 3) approved by DOGAMI or the Water Environment Services Department.
- R. If required for Phase 3, a Department of Environmental Quality, Air Contaminant Discharge Permit (ACDP) shall be obtained and maintained by the mining operator throughout the duration of this mining operation.
- S. A water truck shall be maintained at the Canby operations for dust control (and fire control) at Phases 1-3 of the mining operation. Access drive(s) for employee access and parking areas shall be graveled. Access onto County roads shall meet County Roadway standards.
- T. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation is approved.
- U. Prior to extraction within the Paradis properties, the operator shall install three additional monitoring wells in a south to north orientation, as shown on Figure 5 in the Hydrology Report. Installation of these three additional wells shall be completed at least 12 months in advance of dewatering operations on the Paradis site.
- V. The operator shall monitor all on-site monitoring wells (the three existing monitoring wells and the three additional wells described in Condition U) on a bi-weekly basis for one year before commencing dewatering operations on the Paradis properties. The purpose of this condition is to assure that there is a full year of accurate data before dewatering commences, and to provide real-time data on groundwater levels as mining progresses. The operator shall share this monitoring data with the City of Barlow and any other interested regulatory agency (e.g., DOGAMI and OWRD). If a trend is observed that could significantly affect

the City of Barlow well, the operator shall work with the City of Barlow and regulatory agencies to modify its mining plans to eliminate the problem. Strategies to accomplish this could include:

- establishment of a recharge area at the north end of the Paradis properties so that the recharge activity is directly between the mining activity and the City of Barlow well;
 - altering mining cell order and/or the size of the mining cells;
 - requiring wet mining for final lift on Cells 1 and 2 or the first or second lift of gravel on Cells 3 and 4 (i.e., further reduce or control dewatering per actual on-site conditions established by monitoring well data);
 - reducing mining depths.
- W. The operator shall mine the site from south to north utilizing four mine cells, beginning at Cell 1 as shown on Figure 3 in the Hydrology Report. On Cells 3 and 4, the operator shall dewater only for the first two lifts of aggregate removal (approximately 28 feet) and shall use an excavator and "wet" extraction for removal of the final lift of gravel.
- X. A minimum setback of 40 feet shall be maintained along Highway 99 (westerly boundary) of Phase 3. A minimum setback of 30 feet shall be maintained between the extraction area and the property lines on the remainder of the subject property. A greater setback shall be maintained if required by the DOGAMI or by Clackamas County in the review of the Mineral and Aggregate Operating Permit, if deemed necessary to protect the structural integrity of S. Barlow Road. Berms may be constructed in the set-back area. In addition, the operator shall maintain the setbacks required by BPA to protect the structural stability of the BPA transmission lines and towers, pursuant to the BPA Land Use Agreement (also discussed in Condition F).
- Y. In coordination with other sand and gravel operators in the area, the operator will consider joint efforts to periodically clean the exterior of the Barlow House. All mineral and aggregate operators in the general area must contribute an equal share to the cost of such cleaning, if any.
- Z. The permitted operations on Phase 1 and Phase 2, approved under File Nos. Z1826-97-MAR, Modification and Z0756-06-CP/Z0757-06-Z, may continue to operate subject to compliance with all conditions of the approvals in the relevant files. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Phase 2 property in the approved location subject to compliance with all conditions of approval in that file.
- AA. Topsoil shall only be removed from the new mining area between October and May, or at other times using approved dust suppression techniques. Seed and mulch all unvegetated stockpiled topsoil/overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.

BB. The mining operator shall be responsible for incorporating Phase 3 into the existing spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards.

3. VISUAL SCREENING CONDITIONS:

- A. The applicant shall provide adequate visual screening between any mining activity and Barlow Road and Highway 99E pursuant to Section 708.05B of the ZDO.
- B. All lighting on Phase 3, if any, shall be designed to direct light downward and shield adjacent properties from glare, pursuant to ZDO Subsection 1005.05.
- C. There shall be strict compliance with the Berm Landscaping Plans required for the Paradis properties. Dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates. The east side of the required berm along S. Barlow Road shall include in addition to the required trees, a combination of ground cover or shrubs planted to landscape industry standards.

4. NOISE RELATED CONDITIONS:

- A. Noise resulting from all mining activities within Phase 3 shall comply with the Department of Environmental Quality Noise Standards at all existing residences during the lifetime of this mining operation. All berms identified in the Noise Study shall be constructed to mitigate noise. At the operator's election, Cell 1 may be mined from East (Barlow Road) to West (Highway 99E), or from West to East. The remaining cells (Cell 2-4) must be mined West (Highway 99E) to East (Barlow Road). Before the beginning of any aggregate extraction on the Paradis properties, the applicant shall submit to the County Planning Division verification that all of the noise mitigation measures have been implemented.
- B. Within 45 days after extraction operations are commenced on the Paradis properties, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with applicable DEQ standards. The report shall be provided to the County Planning Department.
- C. All vehicles and equipment used on the subject site shall meet required DEQ Noise Standards.

5. TRANSPORTATION RELATED CONDITIONS:

- A. All material from the Paradis properties shall be sent by conveyor under Barlow Road to the existing processing area in Phase 1. No trucks will be used to transfer gravel across Barlow Road. No loading or hauling shall be allowed from Phase 3.
- B. Employees shall generally cross Barlow Road via motorized vehicles except in emergency or unusual situations.

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- C. Prior to final approval of a Mineral and Aggregate Operating Permit, the applicant shall renew the maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Highway 99E.
- D. The applicant has indicated an interest in constructing a new driveway approach to Barlow Road via tax lot 41E07 00300. The applicant shall permanently close and remove the existing driveway approach to Barlow Road on tax lot 41E07 00300 with approval of a new driveway to this tax lot. The existing driveway approach shall be replaced with matching shoulder, ditch and landscaping. A new access meeting current drainage, sight distance, circulation, surfacing, etc. may be constructed at that time. The applicant shall apply for and obtain a Development Permit for those improvements.
- E. At such time that mining operations commence on tax lot 41E06 01900, the applicant will discuss with the gas pipeline company, the possibility of combining driveway access to Tax Lot 41E 06 1800 and 41E 06 1900 and the possibility of a mutual access easement. If applicant and gas company ultimately decide that the driveways can be combined, driveway access to Tax Lot 41E 06 1800 shall be permanently closed and the existing driveway approach to tax lot 41E 06 01900 shall be replaced with a matching shoulder, ditch and landscaping. In the event of a combination of these two driveway access points, the applicant shall apply for an obtain a Development Permit for the improvements.
- F. The Phase 3 mining operation, in combination with Phase 1 and Phase 2, shall not generate more than 154 weekday AM peak hour trips and 120 weekday PM peak hour trips.
- G. The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (i.e. dump trucks with pups, delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site and at the site driveway intersections with Barlow Road.
- H. Parking spaces shall meet minimum *ZDO* dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans.
- I. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.
- J. The applicant shall generally not allow debris from the site to deposit onto Barlow Road. Should debris be deposited on Barlow Road, the applicant shall be responsible for cleanup of debris on a daily basis.
- K. The applicant shall provide and maintain adequate intersection sight distance and adequate stopping sight distance at the driveway intersections with Barlow Road. Adequate intersection sight distance for drivers turning left into the site shall also be provided and

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maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance, at the driveway intersection with Barlow Road, shall be 665 feet along Barlow Road, measured 14.5 feet back from the edge of the travel lane. Minimum stopping sight distance shall be in accordance with AASHTO standards, appropriately adjusted for grades and measured along the middle of the individual travel lanes. Minimum intersection sight distance for drivers turning left into the site shall be 490 feet measured from the driver's location at the intersection to the middle of the oncoming travel lane.

- L. The applicant shall provide adequate corner vision. No sight-obscuring structures or plantings exceeding 30 inches in height, measured from the roadway surface, shall be located within a 20-foot radius of the lot corner nearest the intersection of two public, County, or State roads, or from the intersection of a private driveway, access drive, or private road and a public, County, or State road. Trees located within a 20-foot radius of such an intersection shall be maintained to allow eight feet of visual clearance below the lowest-hanging branches. The limits of a public, County or State road are defined by the entire right-of-way width.
- M. Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.
- N. The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned five feet above the pavement surface, at the driveway intersection with Morgan Road. (*Manual on Uniform Traffic Control Devices*)
- O. All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
- P. Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
 - 1. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply as applicable. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - 2. Written approval from the appropriate surface water management authority for surface water management facilities and erosion control measures.
 - 3. A set of street and site improvement construction plan for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 - 4. The permit will be for driveway, drainage, parking and maneuvering area, and other site improvements.

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- a) The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.
 - b) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
- Q. Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD.
6. CONFLICTING USES WITHIN MAO BOUNDARY:
- A. Property within the Impact Area is subject to Subsection 708.09D of the ZDO.
 - B. No proposed use will be allowed which would cause the mining operation to violate noise control standards measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate compliance with the noise standards. Mitigation measures necessary to achieve compliance with the noise standards shall be the responsibility of the applicant for the proposed use.

Memo



Daly • Standlee & Associates, Inc.

4900 S.W. Griffith Drive
Suite 205
Beaverton, Oregon 97005
(503) 646-4420
Fax (503) 646-3385

Date: November 17, 2011

To: Paul Hribernick

Black Helterline LLP
1900 Fox Tower
805 SW Broadway
Portland, OR 97205

From: Valerie Smith, Acoustical Consultant
Kerrie G. Standlee, P.E., Principal

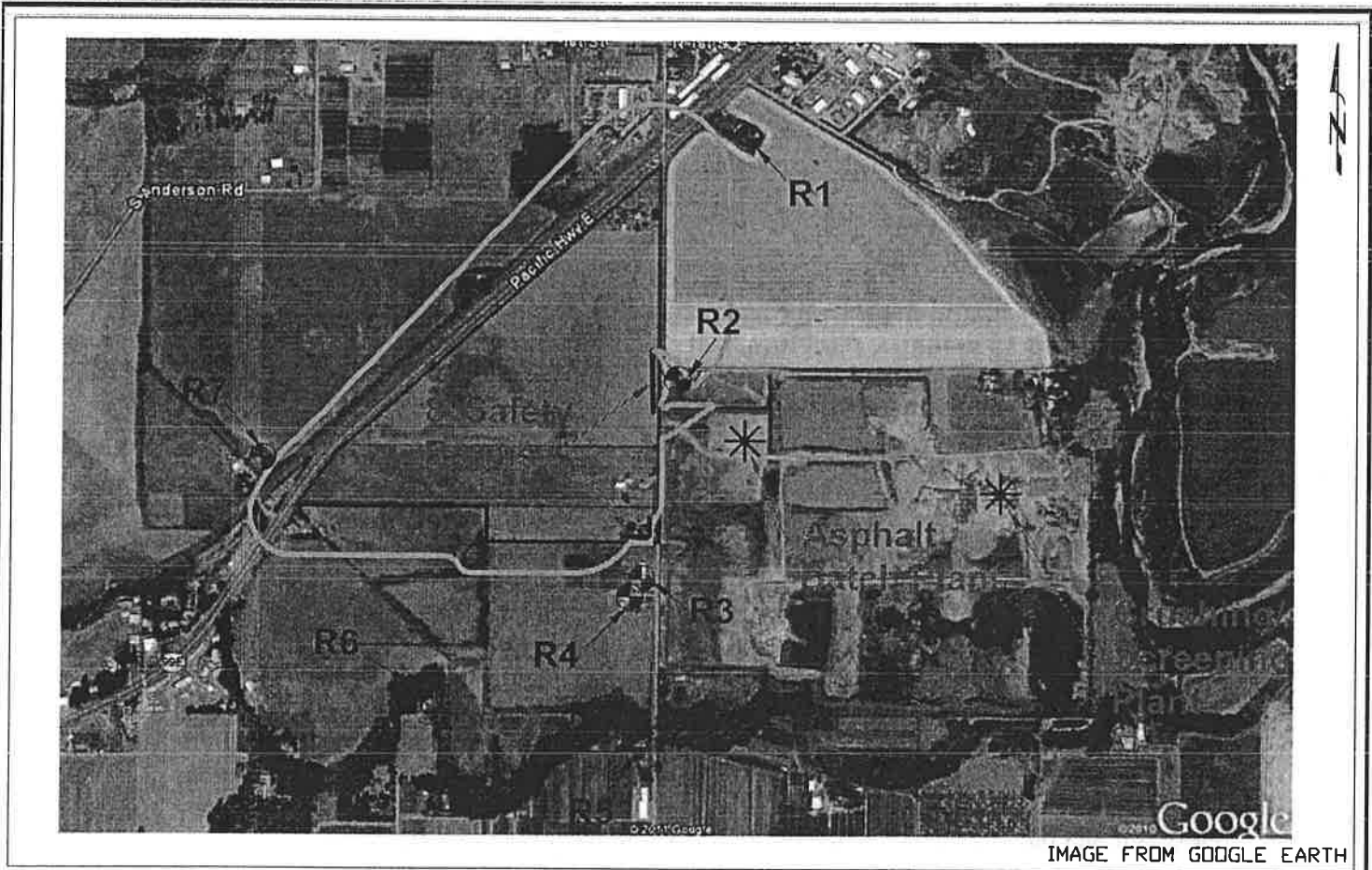
Re: Noise Compliance Boundary for Paradis Property Operations

DSA File #: 156083

Paul:

At your request, an additional figure has been generated to supplement our June 13, 2011 noise study report entitled "Noise Study for the Proposed Cemex USA Canby/Barlow Road Aggregate Mine, Phase 3 Mining Area". The attached Figure 7 shows the "DEQ Noise Compliance Boundary" for the operations that will occur solely on the Paradis expansion property (Phase 3 of the Canby/Barlow Road Aggregate Mine mining plan). Figure 6 in the 6/13/11 noise study report shows the "DEQ Noise Compliance Boundary" for the operations that could occur in all three phase areas of the site (the proposed Paradis expansion property operations and the existing permitted Phase 1 and 2 property operations).

The "DEQ Noise Compliance Boundary" shown in Figure 7 is defined as the boundary around the mining area within which noise radiating from operations in the mining area will exceed the DEQ noise regulation limits. Outside the boundary, the noise levels will be less than or equal to those specified by the DEQ noise control regulations. DSA considers the area inside the "DEQ Noise Compliance Boundary" as the area identified in the Goal 5 rule where noise impacts to noise sensitive receivers must be minimized. Since there are no noise sensitive receivers located within the "DEQ Noise Compliance Boundary" shown in Figure 7, DSA concludes the noise associated with operations in the proposed Paradis expansion area has been minimized as required in the Goal 5 rule.



Daly-Standlee & Associates, Inc.

ph: 503-646-4420
 fax: 503-646-3385
 email: DSA@acoustechgroup.com

Canby/Barlow Road Aggregate Mine, Phase 3 Mining Area Analysis
 Noise Compliance Boundary for Paradis Property Operations

PROJECT NO. 156082	Project Engineer: VCS	DATE: 11/17/11	FIGURE # 7
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Land Use and Zoning

Development Services Building

Mike McCallister, Manager

150 Beaver Creek Road, Oregon City, OR 97045

Phone: (503) 742-4500 fax: (503) 742-4550

e-mail: zoninginfo@co.clackamas.or.us

Web: <http://www.clackamas.us/transportation/planning/>

NOTICE OF LAND USE DECISION

This document represents the Land Use and Zoning Staff findings for a Land Use Application for a Mineral and Aggregate Overlay District Site Plan Review as cited below. It contains three parts:

Section 1 – Summary, Section 2 – Conditions and Section 3 – Findings.

SECTION 1 – SUMMARY

DATE: November 28, 2012

APPEAL DATE: December 10, 2012

CASE FILE NO.: Z0362-12-MAR

STAFF CONTACT: Steve Koper, (503)742-4551, stevekop@co.clackamas.or.us

LOCATION: No situs;

T4S R1E Section 6, Tax Lot(s) 1800 and 1900; T4S R1E Section 7, Tax Lot(s) 100, 190, 300, 390, and 400

APPLICANT: Pacific Rock Products, LLC; 8705 NE 117th Ave, Vancouver, WA 98662

OWNER: Same

CONTACT: Black Helterline LLP, 805 SW Broadway, Ste 1900, Portland, OR 97205

TOTAL AREA: Approximately 90 acres

ZONING: Exclusive Farm Use (EFU) / Mineral and Aggregate Overlay Zone (MAO)

CITIZENS PLANNING ORGANIZATION: South Canby

The South Canby CPO is inactive. No comment was received from any citizen, interested party, agency or department, except for the Oregon Department of Aviation. Those comments will be satisfied by imposition of conditions already required by the Board of County Commissioners in Board Order 2012-12.

SCANNED EXHIBIT 5

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PROPOSAL: Request for a Mineral and Aggregate Overlay Resources District Permit to authorize mining on the property. A Comprehensive Plan amendment and zone change application (File Nos. Z0331-11-CP and Z0332-11-ZAP) was approved on this property in 2012 by Board Order 2012-12. This Post Acknowledgement Plan Amendment (PAPA) authorized a Mineral and Aggregate Overlay District on the property subject to the conditions of approval. Condition No. 2E of the PAPA requires the applicant to obtain a Mineral and Aggregate Operating Permit pursuant to Section 708 of the Clackamas County Zoning and Development Ordinance (ZDO) prior to commencement of mining activities. Review of this operating permit constitutes a specific site plan review to ensure compliance with the extraction area development standards in Section 708 of the ZDO and conditions of approval in the PAPA.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: A copy of the Land Use and Zoning Staff Decision and all evidence submitted with this application is available for inspection, at no cost, at the Land Use and Zoning office during normal business hours. Copies of all documents may be purchased at the rate of 11-cents per page. The Land Use Decision contains the findings and conclusion upon which the decision is based along with any condition of approval.

APPEAL RIGHTS: If you disagree with this decision or findings as found in Section 2, you may appeal the decision to the Clackamas County Land Use and Zoning Hearings Officer. The cost of the appeal is \$250. Your appeal must be received in the Land Use and Zoning office by 4:00 pm on the last date to appeal which is DECEMBER 10, 2012. No permits will be issued until the day after the appeal deadline.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 401, 708 1005, 1006 and 1305.

Location Map

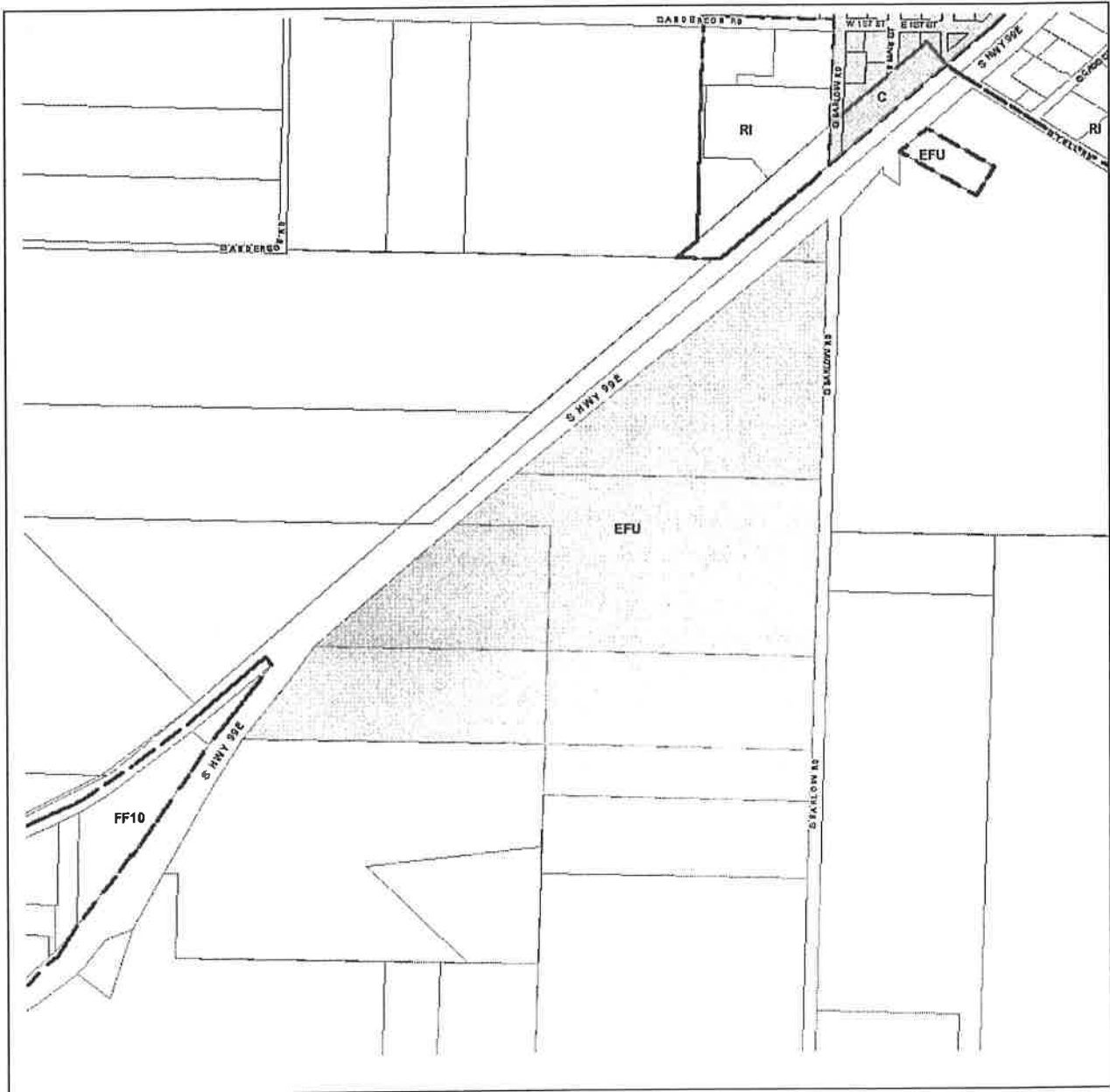


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SECTION 2 – CONDITIONS

A. The following conditions shall be satisfied **prior** to any land disturbance (grading, berm construction, or any other similar activities) associated with this mining operation:

1. The applicant shall submit to the County Planning Division a copy of an Operating Permit and approved reclamation plan from the Oregon Department of Geology and Mineral Industries which covers Phase 3 (either as a separate permit or an expansion of the existing permit for Phase 1 and Phase 2).
2. The applicant shall renew the maintenance agreement with Clackamas County for the applicant's proportional share of the maintenance of Barlow Road between the access drive and Highway 99E.
3. Prior to any land disturbance within the Bonneville Power Administration ("BPA") right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with any conditions included in such Land Use Agreement.
4. The applicant shall obtain a National Pollutant Discharge Elimination System Storm Water General Permit 1200-C (storm water and erosion control) from DOGAMI or by the County Water Environment Services Department. A copy of this NPDES Permit shall be provided to the County Planning Division.
5. The applicant shall maintain an Oregon Department of Environmental Quality Air Contaminant Discharge Permit for the processing activities on Phase 1 for the duration of mining operations. A copy of this permit shall be provided to the County Planning Division.
6. The applicant shall obtain approval for this development by the Oregon Department of Water Resources, of any water resource issues that fall within their jurisdiction, including but not limited to obtaining a ground water right permit for industrial uses.
7. The mining operator shall submit to the County Planning Department any surface water and groundwater studies included in the DOGAMI operating permit application.
8. The applicant shall provide a copy of a letter or e-mail from the Canby Fire District evidencing that the mining operation has been reviewed and approved to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve any provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
9. The mining operator shall submit to the County Planning Division evidence of a general liability policy in the form of a Certificate of Liability Insurance covering mining, and incidental activities during the term of operation and reclamation for the Paradise

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an occurrence limit of at least \$500,000, for a term of one year. A current certificate of insurance shall be submitted to and kept on file with the County Planning Division during the term of operation and reclamation.

10. The mining operator shall be responsible for incorporating Phase 3 into the existing spill prevention and response program. The program shall be reviewed and approved by Clackamas County Planning Department, DOGAMI and DEQ, if applicable, in order to ensure compliance with DEQ water quality standards.

B. The following conditions shall be satisfied **prior** to any aggregate extraction on the site:

1. Prior to extraction within the Paradis properties, the operator shall install three additional monitoring wells in a south to north orientation, as shown on Figure 5 in the Hydrology Report. Installation of these three additional wells shall be completed at least 12 months in advance of dewatering operations on the Paradis site.
2. The operator shall monitor all on-site monitoring wells (the three existing monitoring wells and the three additional wells described in Condition U) on a bi-weekly basis for one year before commencing dewatering operations on the Paradis properties. The purpose of this condition is to assure that there is a full year of accurate data before dewatering commences, and to provide real-time data on groundwater levels as mining progresses. The operator shall share this monitoring data with the City of Barlow and any other interested regulatory agency (e.g., DOGAMI and OWRD). If a trend is observed that could significantly affect the City of Barlow well, the operator shall work with the City of Barlow and regulatory agencies to modify its mining plans to eliminate the problem. Strategies to accomplish this could include:
 - a. establishment of a recharge area at the north end of the Paradis properties so that the recharge activity is directly between the mining activity and the City of Barlow well;
 - b. altering mining cell order and/or the size of the mining cells;
 - c. requiring wet mining for final lift on Cells 1 and 2 or the first or second lift of gravel on Cells 3 and 4 (i.e., further reduce or control dewatering per actual on-site conditions established by monitoring well data);
 - d. reducing mining depths.
3. The applicant shall construct the earthen berms required by the Noise study and landscape the berms with ground cover, evergreen shrubs and trees consistent with the supplied Landscaping Plan. See Tab 20 of the application. All dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates. The east side of the required berm along Barlow road shall include in addition to the required trees, which shall be Douglas Firs, a combination of ground cover or shrubs, which shall include one or more of the following species: Cascara (*Rhamnus purshiana*), Mockorange (*Philadelphus lewisii*), Ocean-Spray (*Holidiscus discolor*), Red Currant (*Ribes sanguineum*) and / or Western Serviceberry (*Amelanchier alnifolia*), planted

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to landscape industry standards. See Tab 20.

4. All dead or dying trees on the landscape berms screening the Pac Rock site shall be replaced.
5. Topsoil shall only be removed from the new mining area between October and May, or at other times using approved dust suppression techniques. The mining operator shall seed and mulch all unvegetated stockpiled topsoil / overburden prior to October 1 of each year. The overburden from the Extraction Area shall be used for reclamation.
6. A minimum setback of 30 feet shall be maintained between the extraction area and the north, south, and west property lines of the subject property. A greater setback shall be maintained if required by DOGAMI or if deemed necessary by Clackamas County to protect the structural integrity and stability of Barlow Road and the natural gas pipeline on the west side of Barlow Road. The applicant and Clackamas County shall coordinate with the natural gas company to ensure mining does not impact the natural gas line. No portion of any berms shall be located within the Barlow Road Right-of-Way.
7. No temporary office, shops or other structures are permitted in the extraction area.
8. No mining products extracted from the site shall be sold in the extraction area. Rock products will be transported by conveyor for processing on Phase I. Products extracted from Phases II and III, may be sold to market from Phase I.
9. The extraction area will be used to store limited pieces of equipment used in conjunction with the onsite mining. This equipment is generally limited to conveyors, a dozer and trackhoe and/or front end loaders. No processing equipment shall be stored or allowed on site.
10. Ongoing access to the processing area shall use the existing paved access road from Barlow Road. The paving on this road shall be maintained in good condition. All other on site haul roads, including those on Phase III, shall be graveled. An operational water truck shall be maintained on-site for dust control (and fire control) for the interior roadways and access road throughout the duration of this mining operation. Consistent with current practice, water spraybars will be used at the crusher to control dust as required by DEQ.
11. The applicant shall generally not allow debris from the site to deposit onto Barlow Road. Should debris be deposited onto Barlow Road, the applicant shall be responsible for cleanup of debris on a daily basis.
12. Within 45 days after extraction operations are commenced on the Paradis properties, the operator shall submit a noise study to demonstrate the extraction operations are in compliance with applicable DEQ standards. The report shall be provided to the County Planning Department.
13. The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned five feet above the pavement surface, at the driveway intersection with Morgan Road. (*Manual on Uniform Traffic Control Devices*)
14. The applicant has indicated an interest in constructing a new driveway approach to Barlow Road via tax lot 41E07 00300. The applicant shall permanently close and remove the

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existing driveway approach to Barlow Road on tax lot 41E07 00300 with approval of a new driveway to this tax lot. The existing driveway approach shall be replaced with matching shoulder, ditch and landscaping. A new access meeting current drainage, sight distance, circulation, surfacing, etc. may be constructed at that time. The applicant shall apply for and obtain a Development Permit for those improvements.

15. At such time that mining operations commence on tax lot 41E06 01900, the applicant will discuss with the gas pipeline company, the possibility of combining driveway access to Tax Lot 41E 06 1800 and 41E 06 1900 and the possibility of a mutual access easement. If applicant and gas company ultimately decide that the driveways can be combined, driveway access to Tax Lot 41E 06 1800 shall be permanently closed and the existing driveway approach to tax lot 41E 06 01900 shall be replaced with a matching shoulder, ditch and landscaping. In the event of a combination of these two driveway access points, the applicant shall apply for and obtain a Development Permit for the improvements.
16. Parking spaces shall meet minimum *ZDO* dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans.
17. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.
18. The applicant shall submit to Clackamas County Engineering Office:
 - a. written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply as applicable. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - b. Written approval from the appropriate surface water management authority for surface water management facilities and erosion control measures.
 - c. A set of street and site improvement construction plan for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
 - d. The permit will be for driveway, drainage, parking and maneuvering area, and other site improvements.
 - e. The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.
 - f. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.
19. The applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD.

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C. The applicant shall comply with and maintain as necessary the following conditions during the life of the mining operation:

GENERAL CONDITIONS:

1. Table III-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add "Pacific Rock / Paradis Property" to the list of Significant Sites.
2. Mining shall be allowed on the property subject to the site specific program in the submitted application to the extent it is consistent with the remaining conditions of approval.
3. The post reclamation use of the subject property shall be limited to fish and wildlife habitat uses consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
4. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

PROCESSING / OPERATING / MONITORING CONDITIONS:

5. Compliance with all operating conditions proposed in the submitted application, to the extent they are consistent with the remaining conditions of approval.
6. The combined level of aggregate and mineral extraction for the Paradis properties, the Rodrigues site, and the existing Pac Rock site (e.g., Phases 1-3) shall not exceed 3 million tons per calendar year.
7. All mining activities on Phase 3, except for routine maintenance, shall be limited to the hours of 7:00 A.M. to 6:00 P.M. Monday through Friday and from 8:00 A.M. to 5:00 P.M. on Saturday. No mining activities shall occur on Sundays and the following legal holidays: New Years Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. No loading and hauling activities are permitted. Loading, hauling, mining and processing hours on Phase 1 and Phase 2 shall remain unchanged.
8. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Paradis properties. No new processing facilities shall be established on the Paradis properties.

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9. Mining operations on Phase 3 shall comply with DEQ noise standards.
10. There shall be no permanent stockpiling of aggregate within the expansion area but the extracted aggregate can be temporarily placed in surge pile within the pit floor prior to be transported for processing on Phase I. The permanent stockpiles for the operation will be on Phase I at the processing site where the crusher is located. The Phase I processing plant includes the radial arm stacker which feeds these permanent stockpiles.
11. All mining operator-owned mobile diesel extraction and loading equipment shall be fitted with the original equipment manufacturer muffler, or its equivalent. All non-operator-owned equipment that will be utilized at this mining site shall be equipped with original equipment manufacturer muffler, or its equivalent. All mining operator-owned mobile diesel equipment shall have original equipment manufacturer engine compartment side panels.
12. Subject to State and Federal warning signal requirements, all backup warning signal devices shall be selected or set to the minimum sound level possible, or shall be the ambient noise sensing type which adjust the sound level to the ambient noise off the rear of the vehicle. Back-up beepers that may be switched to light/strobe mode shall be installed and used on all loading equipment and maintenance vehicles. The back-up beepers shall be switched to the light/strobe mode when allowed under State and Federal Warning Signal Requirements (e.g., After Dark).
13. This mining operation shall utilize mining techniques approved by DOGAMI. Aggregate material shall be transferred to the processing facility by a conveyor system. Transfer points between the conveyors shall be treated to reduce noise. Rubber screens and noise reduction equipment commonly used in the industry shall be employed at this mining site.
14. This shall be an alluvial mining operation. No blasting is proposed or permitted in this mining operation.
15. The mining site may be dewatered for mining individual cells. All water removed from the mining cell as part of dewatering operations shall be reintroduced into the water table by pumping the water to other onsite ponds at the Canby operation, or other onsite or offsite methods approved by DOGAMI.
16. A water truck shall be maintained at the Canby operations for dust control (and fire control) at Phases 1-3 of the mining operation. Access drive(s) for employee access and parking areas shall be graveled. Access onto County roads shall meet County Roadway standards.
17. The mining operator shall be responsible for restoring the water source for any property within the final impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well or caused water quality to not meet health standards in place at the time this mining operation is approved.
18. The operator shall mine the site from south to north utilizing four mine cells, beginning at Cell 1 as shown on Figure 3 in the Hydrology Report. On Cells 3 and 4, the operator shall

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dewater only for the first two lifts of aggregate removal (approximately 28 feet) and shall use an excavator and “wet” extraction for removal of the final lift of gravel.

19. A minimum setback of 40 feet shall be maintained along Highway 99 (westerly boundary) of Phase 3. A minimum setback of 30 feet shall be maintained between the extraction area and the property lines on the remainder of the subject property. A greater setback shall be maintained if required by the DOGAMI or by Clackamas County in the review of the Mineral and Aggregate Operating Permit, if deemed necessary to protect the structural integrity of S. Barlow Road. Berms may be constructed in the setback area. In addition, the operator shall maintain the setbacks required by BPA to protect the structural stability of the BPA transmission lines and towers, pursuant to the BPA Land Use Agreement (also discussed in Condition F of the original PAPA conditions, Board Order 2012-12).
20. In coordination with other sand and gravel operators in the area, the operator will consider joint efforts to periodically clean the exterior of the Barlow House. All mineral and aggregate operators in the general area must contribute an equal share to the cost of such cleaning, if any.
21. The permitted operations on Phase 1 and Phase 2, approved under File Nos. Z1826-97-MAR, Modification and Z0756-06-CP/Z0757-06-Z, may continue to operate subject to compliance with all conditions of the approvals in the relevant files. The asphaltic concrete batch plant approved under File No. Z0652-99-C may continue to operate on the Phase 2 property in the approved location subject to compliance with all conditions of approval in that file.

VISUAL SCREENING CONDITIONS:

22. The applicant shall provide adequate visual screening between any mining activity and Barlow Road and Highway 99E pursuant to Section 708.05B of the ZDO.
23. All lighting on Phase 3, if any, shall be designed to direct light downward and shield adjacent properties from glare, pursuant to ZDO Subsection 1005.05.
24. There shall be strict compliance with the Berm Landscaping Plans required for the Paradis properties. Dead or dying trees shall be replaced at least annually. The trees shall be planted in conformance with industry standards and planted during the fall or early spring to ensure high survival rates. The east side of the required berm along S. Barlow Road shall include in addition to the required trees, a combination of ground cover or shrubs planted to landscape industry standards.

NOISE RELATED CONDITIONS:

25. Noise resulting from all mining activities within Phase 3 shall comply with the Department of Environmental Quality Noise Standards at all existing residences during the lifetime of this mining operation. All berms identified in the Noise Study shall be constructed to mitigate noise. At the operator’s election, Cell 1 may be mined from East (Barlow Road) to West (Highway 99E), or from West to East. The remaining cells (Cell 2-4) must be mined West (Highway 99E) to East (Barlow Road). Before the beginning of any aggregate

extraction on the Paradis properties, the applicant shall submit to the County Planning Division verification that all of the noise mitigation measures have been implemented.

26. All vehicles and equipment used on the subject site shall meet required DEQ Noise Standards.

TRANSPORTATION RELATED CONDITIONS:

27. All material from the Paradis properties shall be sent by conveyor under Barlow Road to the existing processing area in Phase 1. No trucks will be used to transfer gravel across Barlow Road. No loading or hauling shall be allowed from Phase 3. Employees shall generally cross Barlow Road via motorized vehicles except in emergency or unusual situations.
28. The Phase 3 mining operation, in combination with Phase 1 and Phase 2, shall not generate more than 154 weekday AM peak hour trips and 120 weekday PM peak hour trips.
29. The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (i.e. dump trucks with pups, delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site and at the site driveway intersections with Barlow Road. A 15 mile-per-hour speed limit shall be maintained for all vehicles using the access roads within the subject site.
30. The applicant shall generally not allow debris from the site to deposit onto Barlow Road. Should debris be deposited on Barlow Road, the applicant shall be responsible for cleanup of debris on a daily basis.
31. The applicant shall provide and maintain adequate intersection sight distance and adequate stopping sight distance at the driveway intersections with Barlow Road. Adequate intersection sight distance for drivers turning left into the site shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance, at the driveway intersection with Barlow Road, shall be 665 feet along Barlow Road, measured 14.5 feet back from the edge of the travel lane. Minimum stopping sight distance shall be in accordance with AASHTO standards, appropriately adjusted for grades and measured along the middle of the individual travel lanes. Minimum intersection sight distance for drivers turning left into the site shall be 490 feet measured from the driver's location at the intersection to the middle of the oncoming travel lane.
32. The applicant shall provide adequate corner vision. No sight-obscuring structures or plantings exceeding 30 inches in height, measured from the roadway surface, shall be located within a 20-foot radius of the lot corner nearest the intersection of two public, County, or State roads, or from the intersection of a private driveway, access drive, or private road and a public, County, or State road. Trees located within a 20-foot radius of such an intersection shall be maintained to allow eight feet of visual clearance below the

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lowest-hanging branches. The limits of a public, County or State road are defined by the entire right-of-way width.

33. Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.
34. All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

CONFLICTING USES WITHIN MAO BOUNDARY:

35. Property within the Impact Area is subject to Subsection 708.09D of the ZDO.
36. No proposed use will be allowed which would cause the mining operation to violate noise control standards measured at the proposed use. It is the responsibility of the applicant for the proposed use to demonstrate compliance with the noise standards. Mitigation measures necessary to achieve compliance with the noise standards shall be the responsibility of the applicant for the proposed use.

SECTION 3 – FINDINGS

Section 708.07 of the ZDO outlines the requirements for Site Plan Review under the Mineral and Aggregate Overlay District. Site Plan Review is considered a Planning Director Administrative Action and processed pursuant to Section 1305.02(A), (E) and (G) through (I) of the ZDO. Section 708.07B states the County shall approve, approve with conditions, or deny the application for the permit based on the conformance of the site plan with the standards of ZDO Sections 708 (MAO), 1005 (Sustainable Site and Building Design) 1006 (Water Supply, Sanitary Sewer, Surface Water, and Utilities Concurrency) and the requirements of the site specific program to achieve Goal 5 adopted as part of the Comprehensive Plan.

The Planning Staff has reviewed each of these applicable Sections and requirements of the site specific Goal 5 application approved on this property under File Numbers Z0331-11-CP / Z0332-11-ZAP and Board Order 2012-12 and makes the following findings.

1. Section 708.04: Extraction Area Uses. This subsection identifies the specific uses which may be allowed in the mining extraction area. The approved extraction area is approximately a 90 acre site. The extraction site (known as the “Paradis site”) is located west of Barlow Road, to the west and the existing mining and processing operation to the east (“Pac Rock site”). The Paradis site is separated by Barlow Road from the Pac Rock site, and therefore extracted aggregate material will be transported under Barlow Road by conveyor system to the existing processing facility of the Pac Rock site. No processing will occur on the Paradis site.
 - A. Section 708.04A: *The County may allow the following uses subject to standards of ZDO 708.05, and any requirements adopted as part of the Comprehensive Plan.*

1. *Mining*

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SECTION 4: PROPOSED CONDITIONS OF APPROVAL

General Conditions

1. Table 3-2 in the Mineral and Aggregate Resources Section of the Comprehensive Plan shall be amended to add “Cadman – Canby Phase 4 Expansion Area Aggregate Site” to the list of Significant Sites, as the site is identified in **Figure 2, Application**.
2. The Mineral & Aggregate Overlay shall be applied to the area identified as the ~~“DEQ Noise Compliance Boundary”~~ “Mining Permit Boundary (Phase 4)”, as identified in **Figure 72, Appendix C, Application** and comprising 106.5 acres.
3. Mining shall be allowed on the property subject to the site specific program in the submitted application to the extent it is consistent with the remaining conditions of approval.
4. The post reclamation use of the subject property shall be limited to a natural area and lake, consistent with the Clackamas County Comprehensive Plan, Clackamas County Zoning and Development Ordinance and specifically those uses listed under ORS 215.283(1). All plant species used in reclamation shall be native species, and approved in coordination with the DOGAMI and ODFW.
5. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusion by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the Federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the Federal agencies responsible for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

General Operations Related Conditions

5. Compliance with all operating conditions proposed in the submitted application is required, to the extent they are consistent with the remaining conditions of approval.
6. The combined level of aggregate and mineral extraction for the Cadman Canby properties – Phase 1 through 4 shall not exceed 3 million tons per calendar year.
7. All mining and processing activities related to Phase 4, except for routine maintenance, is restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM on Saturday. No mining activities will occur on Sunday.

8. No mining (including but not limited to excavation and processing), shall take place on any of the following legal holidays: New Year's Day, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.
9. Condition #5 of Z0248-93-CP/Z0349-93-Z and condition #23 of Z1826-97-MAR are hereby amended to read: ***All mining shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday. Processing and hauling shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 5:00 PM on Saturday. No mining activities will occur on Sunday.***
10. There shall be no drilling or blasting on the Site.
11. The applicant and/or operator shall not initiate mining and activities on the Cadman –Canby Phase 4 Aggregate Site (“Site”) until the Oregon Department of Geologic and Mineral Industries (DOGAMI) approves the reclamation plan and operating permit for the Site.
12. The Canby Fire District shall review and approve this mining operation to ensure it is acceptable for access by fire and emergency vehicles. The Fire District shall also review and approve any provisions for storage and utilization of both hazardous and flammable liquids in accordance with Uniform Fire Code requirements.
13. The applicant and/or operator shall obtain Oregon DEQ approval of a Spill Prevention Controls and Countermeasures Plan for the site and shall comply with same.
14. Applicant/operator shall obtain or amend its current Stormwater Control permit issued by DEQ and regulated by DOGAMI to include stormwater generated at the proposed extraction site, as necessary.
15. Copies of all permits issued for the Cadman – Phase 4 site shall be provided to the County including, but not limited to, any permits issued by DOGAMI, DSL, DEQ, the Oregon Water Resources Department, the Oregon Fire Marshal's Office, local Fire Marshal’s Office if applicable, and the U.S. Army Corps of Engineers.
16. The Site operator shall carry a comprehensive liability policy covering mining and incidental activities during the term of the operation and reclamation, with an occurrence limit of at least \$500,000. A certificate of insurance for a term of one (1) year shall be deposited with the County prior to the commencement of mining, and a current certificate of insurance shall be kept on file with the County during the term of operation and reclamation.
17. If mining operations disturb any area outside of the permit area or area designated for active mining in the reclamation plan, including but not limited to disturbances caused by landslide or erosion, the operator must restore the disturbed area to a

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condition that is comparable to what it was prior to the disturbance, as approved by DOGAMI.

General Mine Plan Related Conditions

18. Extraction shall be limited to those areas of the identified Extraction Area labeled as appropriate for such activities and depicted on the approved Mining and Operation Plan.

19. The processing plant located on the existing mining operation (Phase 1) shall be used for processing mineral and aggregate materials from the Site. No new processing facilities shall be established.

~~19-20.~~ Berms currently separating Phase 3 from Phase 4 as authorized may be removed upon substantial completion of excavation of Phase III.

~~20-21.~~ All lighting on Phase 4, if any, shall be directional to minimize glare and light intrusion on surrounding properties, pursuant to ZDO Subsection 1005.05.

~~21-22.~~ Identified setbacks from the property lines, utilities, and easements will be maintained in accordance with the Mining Plan. The operator shall maintain a minimum 30-foot property line setback, 30-foot setback from S. Barlow Road except where the 35 foot wide gas line easement occurs and then a 30 foot setback from the easement and a 30-foot setback from S Highway 99E for excavation. The operator shall maintain a minimum 100-foot setback for excavation near the BPA tower.

~~22-23.~~ Security and noise berms, construction of internal access roads and construction of DOGAMI-approved stormwater control measures are allowed within the setback areas.

~~23-24.~~ Prior to any land disturbance within the Bonneville Power Administration (“BPA”) right-of-way, the applicant shall submit to the County Planning Division a copy of a current Land Use Agreement between the applicant and the BPA authorizing mining within the BPA right-of-way. The applicant shall comply with all compatibility requirements included in such Land Use Agreement.

~~24-25.~~ In the event that cultural resources are encountered during the project activities, the applicant shall comply with all applicable State laws and regulations regarding suspension of work activities and recovery disposition of such resources. The State Historic Preservation Office (SHPO) should be notified, and a qualified archaeologist should be called in to evaluate the discovery and recommend subsequent courses of action in consultation with the appropriate tribes and SHPO. An Inadvertent Discovery Plan (IDP) will be put in place prior to ground disturbance to ensure actions and notification in compliance with Oregon State law (ORS 97.740 to 97.760, 358.905 to 358.955, and 390.235).

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~~25-26~~. Slope inclinations will vary from 3:1 (horizontal to vertical) above water level to 1:1 slope below water level with the excavation mining, and shall not exceed 1:1 – (horizontal to vertical) within the excavation during mining, unless approved by DOGAMI.

~~26-27~~. Interior extraction slopes will be graded, shaped, and planted for erosion control purposes.

~~27-28~~. Reclamation with the applicant's proposed submittal and as approved by DOGAMI shall be completed concurrently, as feasible.

~~28-29~~. Dewatering during excavation will be limited to approximately 10 feet below the existing water level throughout the mining area, or approximately 20 feet below the current ground surface-

~~29-30~~. Excavation shall be undertaken consistent with the applicant's excavation plan illustrated Figure 6 of the PAPA: mining shall begin at the northern part of the site moving in a west-east direction progressing to the south, excavating one cell at a time.

~~30-31~~. Installation of four monitoring wells at locations identified by HGSA on Figure 10 of Appendix B is required prior to the initiation of mining. The five existing monitoring wells shall remain until mining requires removal. Wells shall be monitored quarterly for at least one year prior to initiation of mining and the five southern monitoring wells shall have continuous water level recorders for the life of the mine.

~~31-32~~. All monitoring wells should be monitored prior to mining and semi-annually for heavier and lighter hydrocarbons (DX and GX), and polycyclic aromatic hydrocarbons (PAHs) until the wells are abandoned or for the life of the mine.

~~32-33~~. If a trend is observed that could significantly affect nearby wells, the applicant shall work with regulatory agencies to modify its mining plans to mitigate the effects to a level no longer significant within the impact area. Strategies to accomplish this could include:

- establishment of a recharge area constructed at the southern end of the Canby Phase 4 site so that the recharge activity is directly between the mining activity and the nearby domestic and irrigation wells,
- altering the mining cell order and/or size of the mining cells, and/or
- reducing dewatering depths.

~~33-34~~. A report of monitoring data shall be submitted to DOGAMI and Clackamas County, upon request.

34.35. The mining operator shall be responsible for restoring the water source for any property within the impact area where the State Department of Geology and Mineral Industries, in consultation with other State agencies, determines this mining operation has damaged a well of cause water quality to not meet health standards in place at the time this mining operation is approved.

35.36. Recommended impact minimization measures in the HGSA report in Appendix B, dated August, 27, 2019 shall be met if a trend is observed that could significantly affect wells in the Impact Area.

36.37. If water well quantity impacts attributable to the authorized mining within the impact area occurs; and the owner of such wells has requested and provided advance access to the applicant for the purpose of establishing a baseline pre-excavation quantity and quality status for the subject well, the operator shall rebuild to its historic level of production for any well that is demonstrated to be significantly affected by the mining operations.

37.38. A Fuel, Oil Prevention Plan and Response Plan will be in place for operations at the subject extraction site.

38.39. There will be no livestock grazing on the subject site.

39.40. The operator shall salvage, stockpile and retain all available soil and overburden material for final reclamation. Soil and overburden stockpiles and berms must be seeded in a cover crop to reduce erosion.

40.41. The operator shall clearly mark the DOGAMI permit boundary and required setbacks in the field, visible to all equipment operators.

Transportation Related Conditions

41.42. No interior haul roads will be constructed within 250 feet of the any residences unless the haul road is paved.

42.43. The Phase 4 mining operation, in combination with Phases 1 through 3, shall not generate more than 154 weekday AM peak trips and 120 weekday PM peak trips.

43.44. Employees shall park their personal vehicles at the designated parking lot located at the Cadman processing facility or onsite in designated areas. All new pParking spaces shall meet minimum ZDO section 1007 dimensional requirements. Parking spaces for disabled persons and the adjacent accessible areas shall be paved.

44.45. Aggregate trucks shall maintain and utilize the existing truck wheel wash located near the exit driveway connecting to S Barlow Rd from the processing facility as a sediment/dust control method.

45.46. If on-site parking is provided on Phase 4, ~~T~~the applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (dump trucks with pups, delivery trucks, fire apparatus, garbage and recycling trucks), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

46.47. The existing access-exit driveway connecting the existing processing area to S Barlow Rd will be paved for a minimum of 300 feet.

47.48. The operator shall maintain compliance with all conditions of approval in Planning files Z00331-11-CP and Z0332-11-ZAP as they relate to the driveway intersection and access roads that are located on Phase 3 and will be utilized by Phase 4 operations.

Acoustic Related Conditions

48. The mine operator shall comply with all recommended noise mitigation measures concurrent with mining activities which create the need for such measures including barriers/berms and **Figure 6** of the report identified in the noise study prepared by ABD Engineering Design in Appendix C dated August 30, 2019.
49. The overburden berms for noise mitigation and/or safety will be planted in accordance with DOGAMI recommendations to reduce the potential for erosion.
50. Off-road equipment (*i.e.* excavators, front-end loaders, loading trucks, and bulldozers used for internal site operations shall be fitted with broadband rather than traditional narrowband backup alarms.
51. The operator must use factory or enhanced muffler systems.

Air Quality Related Conditions

52. The operator shall maintain vegetative ground cover on stockpiles to reduce dust.
53. The operator shall sprinkle interior roads with a water truck from March 1 to November 1 to reduce dust.
54. The conveyor shall be covered to reduce the potential for dust dispersion.

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55. No more than 5,000 gallons of water per day will be used for dust suppression.
56. A 15 MPH speed limit for onsite truck traffic will be posted on all haul roads within the subject site.
57. Off-road equipment shall meet federal Tier 3 off-road engine standards, and/or equipment to be modified as such.

Cadman, Inc.

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www.cadman.com

Memo

To: Martha Fritzie, Clackamas County **From:** Cadman Materials, Inc.
Copy: Mark Triebwasser, Nursery Manager, Weyerhaeuser Aurora Forest Nursery **Date:** January 17, 2020
Subject: Cadman Canby Mine Expansion Project

During the Clackamas County Planning Commission meeting, the Weyerhaeuser Aurora Forest Nursery Manager provided testimony around potential impacts to groundwater. The Planning Commission directed Cadman and Weyerhaeuser to work together to develop language for conditions which would satisfy Weyerhaeuser's concerns. Cadman, Weyerhaeuser, and other property owners met on Wednesday January 15, 2020 and have agreed on the following five conditions:

1. Cadman will install 5 ground water monitoring wells a minimum of one year prior to the commencement of operations in the Phase 4 expansion area.
2. Cadman will install continuous monitoring devices in each of the five monitoring wells.
3. Cadman will collect the monitoring data on a quarterly basis and share with Weyerhaeuser and other neighbors upon request for the data. The quarterly data will be collected in January, April, July, and October. In addition, Cadman will collect monitoring data in June and August and share with Weyerhaeuser and other neighbors upon request for the data.
4. In the event ground water levels within the Phase 4 Expansion mining area falls more than 10 feet below the natural groundwater level, Cadman will notify Weyerhaeuser immediately.
5. Cadman will implement wet mining methods rather than dewatering lower than 20 feet below ground surface (equal to a 10 foot reduction in ground water level).

Fritzie, Martha

From: McDonough, Christy M (Redmond) USA <Christy.McDonough@LehighHanson.com>
Sent: Thursday, January 23, 2020 8:16 AM
To: Fritzie, Martha
Cc: jeff.mehlschau@weyerhaeuser.com; mark.triebwasser@weyerhaeuser.com
Subject: RE: Cadman Materials Application

Hi Martha,

Answers below.

Regards,
Christy

From: Fritzie, Martha [mailto:MFritzie@clackamas.us]
Sent: Thursday, January 23, 2020 8:04 AM
To: McDonough, Christy M (Redmond) USA <Christy.McDonough@LehighHanson.com>
Cc: jeff.mehlschau@weyerhaeuser.com; mark.triebwasser@weyerhaeuser.com
Subject: RE: Cadman Materials Application

Christy - I do not have an issue with any of these proposed conditions but do have a couple of clarifying questions:

1. Are the 5 monitoring wells in addition to what was proposed in the application (and recommended by your hydrogeologist)? And either way, are there identified locations for these wells?
These are the 4 wells proposed in the application plus one additional well. The well locations are shown on Figure 10 in the Hydrogeologic Report. The location of the additional well will be in the southeast corner of the proposed expansion area.
2. Regarding condition #5 - is this different than what was proposed in the application? My understanding is that the Extraction Area would be dewatered until approximately 10 below the current groundwater level (or approx.. 20 feet below the ground surface) and then wet mined. This is already reflected in the proposed conditions of approval, so I am trying to understand if this is intended to mean something different or if you are just putting it in this agreement so it is clear amongst all the parties.
You are correct, this is the same as what is in the application. The intent of this was to clarify the proposed approach.

Thanks for your work on this,
Martha

Martha Fritzie, Senior Planner
Clackamas County DTD | Planning & Zoning Division
150 Beaver Creek Road | Oregon City, OR 97045
(503) 742-4529
Office hours 8:00am to 6:00pm | Monday - Thursday

The Clackamas County Department of Transportation and Development is dedicated to providing excellent customer service. Please help us to serve you better by giving us your [feedback](#). We appreciate your comments and will use them to evaluate and improve the quality of our public service.

From: McDonough, Christy M (Redmond) USA [<mailto:Christy.McDonough@LehighHanson.com>]

Sent: Monday, January 20, 2020 9:47 AM

To: Fritzie, Martha <MFritzie@clackamas.us>

Cc: jeff.mehlschau@weyerhaeuser.com; mark.triebwasser@weyerhaeuser.com

Subject: Cadman Materials Application

Hi Martha,

In follow-up to the voicemail I left you last week, please find a memo outlining the conditions Cadman and Weyerhaeuser have agreed upon with regard to Cadman's application for mine expansion.

Please let me know if you need any additional information. I have copied Weyerhaeuser on this email in case you need more direct input from them.

Kind regards,

Christy

Christy McDonough

Land Manager, Pacific Northwest

Lehigh Hanson

7554 185th Avenue NE, Redmond, WA 98052

Cell: 425.698.3226 Tel: 425-961-7325

christy.mcdonough@lehighhanson.com

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**CADMAN/CLACKAMAS COUNTY
PROPOSED BOARD FINDINGS FOR ESEE UNDER OAR 660-023-0180(7)
FOR NEW CONFLICTING USES**

OAR 660-023-0180

Mineral and Aggregate Resources

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

RESPONSE: Pursuant to this rule, a local government must conduct a standard analysis of the economic, social, environmental, and energy (“ESEE”) consequences that could result from allowing, limiting, or prohibiting new conflicting uses within the impact area of a significant mineral and aggregate resource site. The local government must then determine whether to allow, limit, or prohibit such new conflicting uses when approving the significant mineral and aggregate resource site. *Rogue Advocates et al. v. Josephine County*, 72 Or LUBA 275 (2015). Accordingly, in the present case, because the County is approving the proposed mine as a significant mineral and aggregate mineral resource site, it must contemporaneously conduct the ESEE and make the determination required by this section (7).

The standard ESEE process under OAR 660-023-0040 and OAR 660-023-0050 proceeds through the following steps:

- (1) Identify conflicting uses;
- (2) Determine the impact area;
- (3) Analyze the ESEE consequences; and
- (4) If conflicts are identified, develop a program to achieve Goal 5.

The Board adopts the following findings in support of its ESEE analysis and conflicting use determination in this case:

STEP 1 - IDENTIFY NEW CONFLICTING USES

As the first step of the ESEE process, the local government must identify new uses that could conflict with the mine. OAR 660-023-0040(2). A “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.” OAR 660-023-0180(1)(b). To identify conflicting uses, a local government must “examine” land uses allowed outright or conditionally within the zones applied to the impact area. OAR 660-023-0040(2). A local government is not required to consider allowed uses that are not likely to be developed because existing permanent uses occupy the site. *Id.*

In the present case, the Board finds that the conflicting uses subject to consideration under this section (7) are uses that could interfere with or adversely affect the mine, i.e., those uses that, if developed, could impose limitations on the mine’s ability to operate in the manner proposed in these applications. The Board finds that those uses would be noise-sensitive and dust-sensitive uses. The following chart identifies potential conflicts with future uses permitted outright or conditionally in the zoning districts that apply to properties surrounding the mine (EFU, FF-10, and RI):

Potential Conflicts with Future Uses Permitted Outright or Conditionally

FUTURE USES IN County: EFU, RI, FF-10	POTENTIAL CONFLICTS?	
	YES	NO
Accessory buildings to industrial uses		X
Accessory dwelling units	X	
Aircraft land uses		X
Bed & Breakfast Inns and residences	X	
Boat & recreational vehicle rental facilities		X
Bulk plants		X
Bus shelters		X
Caretaker residences for farm workers & families		X
Child care facilities	X	
Churches, cemeteries, fraternal lodges & grange halls	X	
Commercial utility & communication facility (e.g., sanitary sewer, domestic water line, generation of power)		X
Commercial activity in conjunction with farm use		X
Conservation areas or structures for the conservation of water, soil, forest, or wildlife habitat resources	X	
Daycare services, adult	X	

EXHIBIT 8

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FUTURE USES IN County: EFU, RI, FF-10	POTENTIAL CONFLICTS?	
	YES	NO
Disposal site for solid waste materials, including composting facilities and accessory uses		X
Dwellings, single-family and farm	X	
Exploration for mineral and aggregate resources		X
Exploration for and production of geothermal, gas, oil other associated hydrocarbons per ORS Chapter 520		X
Facility for primary processing of forest products		X
Farm stand & store		X
Farm use & accessory buildings services		X
Farm & equipment sales & services		X
Fire stations, fire emergency suppression		X
Fish and Game Management		X
Forest management research and experimentation facilities		X
Forest operations, practices, any other uses		X
Golf courses & stables		X
Government uses		X
Guest houses	X	
Home occupation, including to host events	X	
Hydroelectric facilities		X
Improvement of public roads and highway-related facilities		X
Kennel		X
Libraries	X	
Local distribution of utilities (e.g., dams, electricity, telephone, natural gas)		X
Lumber & building materials dealer, sale of wood products		X
Manufactured dwellings	X	
Manufacturing of industrial products		X
Marijuana production		X

FUTURE USES IN County: EFU, RI, FF-10	POTENTIAL CONFLICTS?	
	YES	NO
Meat market, grocery store, feed & seed stores		X
Mobile home parks	X	
Nursery – retail or wholesale		X
Operations conducted for exploration, mining, crushing, or stockpiling of aggregate and other subsurface resources		X
Operations conducted for exploration, mining, and processing of geothermal resources		X
Private hunting and fishing operations		X
Processing of aggregate into asphalt or Portland cement and of other subsurface resources		X
Propagation, cultivation, maintenance, and harvesting of forest resources		X
Public road and highway projects		X
Public or private schools		X
Public & semi-private buildings		X
Public or private parks, playgrounds, hunting and fishing preserves, campgrounds, and community centers		X
Public pumping or treatment facilities		X
Public utility facilities		X
Railroad yards, freight stations		X
Recreational uses		X
Recreational vehicle camping facilities		X
Reservoirs and water impoundments,		X
Residential care home & care facilities	X	
Sanitary landfills, non-hazardous waste disposal site		X
Seasonal/caretaker farm worker & family housing	X	
Service station, auto repair shop, welding repair, junk yards, auto wrecking		X
Schools	X	
Signs		X

FUTURE USES IN County: EFU, RI, FF-10	POTENTIAL CONFLICTS?	
	YES	NO
Slaughter houses		X
Taverns		X
Television, microwave, and radio communication facilities and transmission towers		X
Telephone exchanges		X
Temporary buildings for uses incidental to construction work		X
Temporary helipads created for purposes of forest management or timber harvesting activities		X
Temporary forest labor camps		X
Temporary portable facility for the primary processing of forest products		X
Temporary public road and highway detours		X
Temporary asphalt and concrete batch plants		X
Uninhabitable structures accessory to fish and wildlife		X
Veterinarian Clinic		X
Warehousing, wholesale or storage use		X
Wireless telecommunication facilities		X
Wrecking yards – auto		X

See generally CCZDO Table 316-1, Table 401-1, and Table 604-1.

In summary, the potential conflicting uses are generally: (1) uses that involve residential occupancy such as dwellings, residential care facilities, day care facilities, and mobile home parks; (2) uses that allow large assemblies such as schools, churches, and libraries; and (3) conservation uses.

The Board finds that there are factual and regulatory limitations that make it unlikely that many of the identified conflicting uses would develop and/or that many of the properties would be developed due to existing development (e.g., dwellings on EFU-zoned parcels) and the fact that some properties within the impact area to the north and northeast are already subject to the Mineral Aggregate Overlay due to other mines,

which limits the development of uses that are incompatible in all instances with the mines pursuant to CCZDO 708.08.C.

STEP 2 - DETERMINE THE IMPACT AREA

The Board must define an impact area for purposes of the ESEE analysis under section (7). OAR 660-023-0040(3). The impact area must be limited to the area where allowed uses could adversely affect the significant resource site. *Id.* In the present case, the Board notes that it previously determined that the area in which the mine could potentially interact with off-site uses for purposes of the ESEE analysis under section (5) is within 1500 feet from the boundary of the mining area. As a result, the Board applies a like impact area for this ESEE analysis under section (7).

STEP 3 - ANALYZE THE ESEE CONSEQUENCES

Based upon the identified new conflicting uses within the identified impact area only, the Board finds that the ESEE consequences of allowing, prohibiting, or limiting these new conflicting uses are as follows:

Economic:

Allowing New Conflicting Uses: The positive economic consequences of allowing the full range of conflicting uses in the impact area include increased landowner spending on development, consultant fees and permitting fees, construction materials and contractors; increased work opportunities for consultants and contractors; and increased property values and related ad valorem tax revenues, all associated with allowing landowners to achieve the highest and best uses of their properties. These factors would, in turn, have a multiplier effect through the economy.

The adverse economic consequences of allowing the full range of conflicting uses in the impact area are the loss of the full complement of economic benefits associated with the mine, which will be limited or prohibited by the new conflicting uses. These lost economic benefits could include the total loss or reduction of mining activity, which will result in lower revenues for the mine operator, fewer workers employed at the mine, and a reduction in the supply of aggregate rock for the construction market.

Prohibiting New Conflicting Uses: The positive economic consequences of prohibiting conflicting uses, if deemed necessary, are the realization of the full complement of economic benefits associated with the mine, which will not be limited or prohibited by

the new conflicting uses. These realized economic benefits include optimized revenues for the mine operator, full employment at the mine, and development of additional public and private construction projects in close proximity to the developing urban area with the increased aggregate supply provided by the mine.

The adverse economic consequences of prohibiting new conflicting uses include the loss of the economic benefits of these conflicting uses described above such as increased landowner spending on development, consultant fees and permitting fees, construction materials and contractors; increased work opportunities for consultants and contractors; increased property values and related ad valorem tax revenues; and the related multiplier effect across the economy.

Limiting New Conflicting Uses: Limiting the new conflicting uses will limit the potential nature and magnitude of the positive and negative consequences described above. The degree to which these consequences are limited will be directly tied to the degree that the new conflicting uses themselves are limited.

Social:

Allowing New Conflicting Uses: The positive social consequences of allowing new conflicting uses in the impact area include the positive social esteem for the: (1) homeowners and residents of the new conflicting dwellings; (2) workers employed at the conflicting businesses; and (3) workers employed to construct the conflicting uses.

The negative social consequences of allowing new conflicting uses in the impact area include the loss of the potentially positive employment confidence and social esteem for the workers employed at the mine, which may be curtailed by the new conflicting uses, the potential for reduced aggregate output and mining-related expenditures due to potential operational uncertainties, and the loss of social esteem to the extent allowing new conflicting uses will lead to a loss of open space or a rural “feel” to the impact area.

Prohibiting New Conflicting Uses: The positive social consequences of prohibiting new conflicting uses are the increased employment confidence and social esteem for the workers employed at the mine, which will not be prohibited or restricted because new conflicting uses are not allowed. Additionally, there may be some social esteem associated with not allowing development of conflicting uses to the extent the development restriction has the effect of preserving open space or at least a rural “feel” to the area.

The adverse social consequences of prohibiting new conflicting uses are the loss of the potentially positive social esteem for the: (1) homeowners and residents of the new conflicting dwellings; (2) workers employed at the conflicting businesses; and (3) workers employed to construct the conflicting uses. This positive social esteem would not occur because the new conflicting uses would not be allowed.

Limiting New Conflicting Uses: Limiting the new conflicting uses will limit the positive and negative consequences described above. The degree to which these consequences are limited will be directly tied to the degree that the new conflicting uses themselves are limited.

Environmental:

Allowing New Conflicting Uses: Some conservation-focused conflicting uses, such as conservation and management of fish and wildlife resources, have inherently positive environmental consequences. Additionally, because development of these new conflicting uses could limit or prohibit development of the mine, there could be a reduction in the adverse environmental consequences of developing the mine, including the dust and diesel emissions associated with the mine and the impacts to groundwater (which, while minimized, will still occur).

The adverse environmental consequences of allowing some new conflicting uses include increased carbon footprint, utilization of natural resources, and air, noise, and light pollution.

Prohibiting New Conflicting Uses: The positive environmental consequences of prohibiting new conflicting uses will be the avoidance of the adverse environmental consequences of developing some new conflicting uses, which include increased carbon footprint, utilization of natural resources, and air, noise, and light pollution.

The adverse environmental consequences of prohibiting new conflicting uses include the potential loss of the environmental benefits of conservation-related conflicting uses described above such as conservation and management of fish and wildlife resources.

Limiting New Conflicting Uses: Limiting the new conflicting uses will limit the positive and negative consequences described above. The degree to which these consequences are limited will be directly tied to the degree that the new conflicting uses themselves are limited.

Energy:

Allowing New Conflicting Uses: The positive energy consequences of allowing new conflicting uses include allowing the limited development of properties close to urban areas as opposed to more remote rural locations, which could comparatively reduce vehicle miles traveled and result in a smaller carbon footprint.

The adverse energy consequences of allowing new conflicting uses include that these uses will consume additional energy and the total loss (or reduction) of the energy benefits associated with developing and operating the mine in close proximity to the urbanizing area of the region as opposed to at a more distant rural location. These benefits include a reduction in vehicle miles traveled in supplying aggregate to infrastructure projects.

Prohibiting New Conflicting Uses: The positive energy consequences of prohibiting new conflicting uses include that these uses will not develop and use energy and the realization of the energy benefits associated with the full development of the mine at this location, which reduces aggregate delivery time and costs and facilitates the completion of many needed transportation improvements in the southern Metro region, which will, in turn, provide greater roadway capacity and result in reduced time idling in traffic and/or confronting substandard road conditions.

The adverse energy consequences of prohibiting new conflicting uses include the loss of energy from allowing the development of properties close to urban areas as opposed to more remote rural locations, which will comparatively reduce vehicle miles traveled and result in a smaller carbon footprint.

Limiting New Conflicting Uses: Limiting the new conflicting uses will limit the positive and negative consequences described above. The degree to which these consequences are limited will be directly tied to the degree that the new conflicting uses themselves are limited.

Conclusion: Based upon the findings stated above, the Board finds that, on balance, the ESEE consequences favor allowing the potential conflicting uses within the impact area but not on the subject property (the portion of the impact area closest to the mine). As a result, the Board finds that the MAO boundary should be applied to the subject property (mine site) but not to off-site properties.

STEP 4 - DEVELOP A PROGRAM TO ACHIEVE GOAL 5

If no uses conflict with a significant resource site, a local government may rely upon its acknowledged comprehensive plan and land use regulations to protect the resource site. OAR 660-023-0040(2)(a). Likewise, in the context of a PAPA for a significant mineral and aggregate resource site, if the local government determines that new conflicting uses should be allowed within the impact area, the local government program to achieve Goal 5 for the site may consist of simply relying on its acknowledged comprehensive plan and land use regulations to protect the resource site. *Rogue Advocates et al. v. Josephine County*, 77 Or LUBA 452, ___ (2018). Under these circumstances, a local government is not obligated to adopt a new program to achieve Goal 5. *Id.*

In the present case, as explained above, the Board finds that new conflicting uses should be allowed within the impact area under the County's acknowledged comprehensive plan and land use regulations. As a result, the County is not required to develop or adopt a program to achieve Goal 5 in this context as it already exists under the County's acknowledged plan and implementing ordinances.

The Board concludes that these findings include the required ESEE analysis and determination under section (7).