Josephine County
2000 Ordinances

#	Date Signed	Date Effective	Description
~~2000-3~~	~~9/20/00~~	~~12/19/00~~	~~Amending the Goals & Policies of the Comprehensive Plan for Josephine County (Ord. 81-11) to repeal and replace Goal 7, Natural Resources, to add Policy K to Goal 10 enabling the Mineral and Aggregate Resource Zone (MARZ), and to amend the Rural Land Development Code (Ord. 94-4) to add and replace definitions to Article 11, the addition of Article 66.1 (Mineral & Aggregate Resource Zone), and the repeal and replacement of Articles 72.040 (special setback requirements) and 91 (standards for development of aggregate operations).~~ See Ord 2000-7 and 2000-8
2000-4	9/20/00	12/19/00	An ordinance amending Goal 11 of the Josephine County Comprehensive Plan Goals & Policies by deleting the word "significant" from Policy 2.c(6) and amending Policy 5 regarding the definition of the term "significant," and to amend the Rural Land Development Code, Articles 47, 48, and 49 to conform.
2000-5	11/8/00	2/7/00	An ordinance amending the Zoning Map of Josephine County (Ord. 85-1) from Rural Commercial to Rural Commercial Center for 1.40 acres of property located at 5119 and 5123 Williams Highway, identified as Assessor's Map **37-5-7-13, TLs 2800 & 2900.**
2000-6	11/22/00	2/21/01	An ordinance amending the Comprehensive Plan for Josephine County (Ord. 81-11 as amended) from Agricultural to Residential and amending the zoning map of Josephine County (Ord. 85-1 as amended) from Farm Resource to Rural Residential-Five Acres for property identified as **Assessor's Map 36-6-25-40, Tax Lot 3700.**
2000-7	11/22/00	2/21/01	**Repeal of an ordinance (Ordinance 2000-3)** amending the goals and policies of the Comprehensive Plan for Josephine County

			(Ord. 81-11) to repeal and replace Goal 7, Natural Resources, to add Policy K to Goal 10 enabling the Mineral and Aggregate Resource Zone, and to amend the Rural Land Development Code (Ord. 94-4) to add and replace definitions to Article 11, the addition of Article 66.1 (Mineral and Aggregate Resource Zone), and the repeal and replacement of Articles 72.040 (Special Setback Requirements) and 91 (Standards for Development of Aggregate Operations).
2000-8	1/17/01	4/17/01	An ordinance amending the Goals and Policies of the Comprehensive Plan for Josephine County (Ord. 81-11) to repeal and replace Goal 7, Natural Resources, to add Policy K to Goal 10 enabling the Mineral and Aggregate Resource Zone, to amend the Rural Land Development Code (Ord. 94-4) to add and replace definitions to Article 11, the addition of Article 66.1 (Mineral and Aggregate Resource Zone), and to repeal and replace Articles 72.040 (special setback requirements) and 91 (Standards for development of aggregate operations). This Ordinance re-adopts the provisions previously contained in Ordinance 2000-3 (now repealed) without certain stream side setback requirements.

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

Ordinance No. 2000 - 3

AN ORDINANCE AMENDING THE GOALS AND POLICIES OF THE COMPREHENSIVE PLAN FOR JOSEPHINE COUNTY (ORD. 81-11) TO REPEAL AND REPLACE GOAL 7, NATURAL RESOURCES, TO ADD POLICY K TO GOAL 10 ENABLING THE MINERAL AND AGGREGATE RESOURCE ZONE, AND TO AMEND THE RURAL LAND DEVELOPMENT CODE (ORD. 94-4) TO ADD AND REPLACE DEFINITIONS TO ARTICLE 11, THE ADDITION OF ARTICLE 66.1 (MINERAL AND AGGREGATE RESOURCE ZONE), AND THE REPEAL AND REPLACEMENT OF ARTICLES 72.040 (SPECIAL SETBACK REQUIREMENTS) AND 91 (STANDARDS FOR DEVELOPMENT OF AGGREGATE OPERATIONS).

WHEREAS, in accordance with the procedures of the Josephine County Comprehensive Plan (hereinafter called plan) at Goal 11, Policy 1, and the Rural Land Development Code (hereinafter called code) at Article 49, the Rural Planning Commission conducted a public hearing regarding the amendments as set forth herein, after notice by publication and mailing as therein required; and

WHEREAS, in accordance with the procedures of the plan and code, the Board of County Commissioners also conducted a public hearing to consider the recommendation of the Planning Commission, after providing the required notice by publication and mailing; and

WHEREAS, the County is required by Oregon Revised Statutes, Chapter 197, and Oregon Administrative Rules, Division 660-19, to make periodic revisions to its plan and code to address changes in circumstances and law; and

WHEREAS, the County is now obligated pursuant to an approved periodic review work program, dated April 10, 2000, under the heading of Task #1, to revise Goal 7 of its Comprehensive Plan Goals and Policies to comply with Statewide Goal 5, regarding riparian and aggregate resources, and to implement revised riparian and aggregate resource policies with revision of its Rural Land Development Code;

NOW, THEREFORE, based on the foregoing authority and procedures, the Board of County Commissioners for Josephine County, Oregon, hereby takes the following legislative action to amend the plan and code in the following respects:

Section 1. Repeal

The existing language contained in Goal 7 of the Josephine County Comprehensive Plan's Goals and Policies is hereby repealed in its entirety.

The existing language for Section 11.030 defining aggregate processing, aggregate use, and processing of extractive resources; Section 72.040 - Special Setbacks; and Article 91 - Aggregate Standards are hereby repealed in their entirety.

Section 2. Adoption

GOALS AND POLICIES OF THE COMPREHENSIVE PLAN

The following language is hereby adopted into Goals 7 and Goal 10 of the Josephine County Comprehensive Plan:

GOAL 7: PRESERVE VALUABLE LIMITED RESOURCES, UNIQUE NATURAL AREAS AND HISTORIC FEATURES

OVERVIEW

Josephine County is especially rich in natural and cultural resources and these resources are important to the vitality of the local economy and the general livability of rural areas. These resources include mineral and aggregate deposits, riparian areas (rivers, streams, lakes, wetlands and adjoining land areas), groundwater resources, historic and archaeological sites, and scenic, recreation and wildlife areas. Many of these resources have been identified in a system of inventories for the purpose of planning for their preservation and enhancement. It is therefore the purpose of this goal to develop a system of policies, supported by implementing land use regulations, that will provide a process for the protection and enhancement of the county's natural and cultural resources in balance with individual property rights and competing land uses.

POLICIES

1. Aggregate Resource Policies

A. Base Information. The policies contained within this goal are based in part upon documentation contained in the publications *Josephine County Goal 5 Resources: Issues and Opportunities in Policy Formation, by Kevin Preister (October, 1996); Applegate Resource Committee Interim Report (July, 1997); and Aggregate Resources in Josephine County — A Goal 5 Overview*, by Grace M. Zilverberg, PhD (1995)[1]. These publications are attached to this ordinance as Appendixes A, B and C and are made a part of county's comprehensive plan data base by this reference.

B. Collaborative Regional Problem Solving Agreement and Oregon Administrative Rules. The basic aggregate policies contained in this goal derive from Collaborative Regional Problem Solving authority (ORS 197.656) and Oregon

[1]The document *Aggregate Resources in Josephine County — A Goal 5 Overview*, by Grace M. Zilverberg, PhD (1995) contains regulatory information based on the old Goal 5 Rule, OAR 660-016) and policy recommendations that are outdated. It is included for its background and economic data.

Administrative Rule, Chapter 660, Division 23 (Procedures and Requirements for Complying with Goal 5). OAR 660-23 is attached to this ordinance as Appendix D.

C. Basic Aggregate Policy. Given the increasing demand and limited supply of aggregate resources, and given the extreme importance of a stable and adequate supply of these materials to the local economy, the necessity to permit mining will often result in conflicts with existing land uses and other resources. Therefore the following policy statements shall guide the permitting of aggregate mining in Josephine County.

[1] Aggregate mining shall be permitted only where conflicts with existing land uses have been minimized.

[2] Conflicts between aggregate mining and other acknowledged significant Goal 5 resources shall be minimized.

[3] For new aggregate mining proposals Josephine County 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 aggregate site, only for significant aggregate sites which have been designated and mining permitted under the procedures contained in OAR 660-23-180.

[4] Apart from existing significant aggregate sites referenced in Policy 1.C(7)(b) below, Josephine County 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 aggregate site, only for those new significant aggregate sites where the aggregate operator has made an effort to reach agreement with surrounding property owners over the terms under which mining will be conducted (impact area agreement). However, considering the importance of the aggregate resource, mining will not be denied after the miner has made an effort solely because he is unable to achieve an agreement with surrounding property owners.

[5] The county shall adopt clear and objective standards for the development of mining operations. These standards shall be applied to all aggregate mining operations except where supplanted by other clear and objective standards derived from an impact area agreement or from the process for permitting mining found in OAR 660-23-180 (4).

[6] The county shall maintain its existing inventory of significant aggregate sites. A site may be added to the inventory by the PAPA process

contained in OAR 660-23-180. Sites on the inventory shall be removed from the inventory when depleted, if not locatable, or accessible, or by request of the property owner.

[7] 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 either of the criterion set forth below in subsections [a] or [b], except as qualified by subsection [c]:

[a] Based on a set of samples which in the judgement of an Oregon Registered Geologist is representative of aggregate material in the deposit, the material on the site meets:

[i] Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, and abrasion; and

[ii] For material to be used in concrete, Portland cement and asphaltic concrete, the Oregon Department of Transportation (ODOT) specifications for sodium sulfate soundness (ODOT TM 206 test); and

[iii] The estimated amount of material is more than 60,000 cubic yards; or

[b] The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

[c] An aggregate site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I, Class II, or of a combination of Class II and Class I or Unique soil on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996.

[d] Paragraph [c] above does not apply to an expansion area of an existing site if the operator of the existing site had on March 1, 1996 an enforceable property interest in the expansion area.

2. **Riparian Corridor Resources**

These resources include but are not limited to waterways, wetlands and fish and wildlife habitat. The riparian area provides a habitat with the greatest diversity of species in our inland landscape. Because it is continuous through all elevations from mountain top to the bottom of river valleys it provides a continuous corridor through

which wildlife can move through the landscape. This is particularly important where the landscape has been modified by human activity. The riparian area also provides significant water quality benefits by filtering sediment and capturing nutrients from overland flow; by stabilizing stream banks subject to erosion, and by reducing water temperature by providing shade. The riparian area buffers the impact of flooding by serving as a natural detention area which helps to reduce peak flows during flood events and captures sediment and debris. It shall be the policy of Josephine County to protect the resources and functions of the riparian corridor with application of the following policies.

A. The Department of Forestry Stream Classification maps are adopted as the inventory of significant riparian corridors.

B. The county shall adopt measures to protect the significant riparian corridor based on the size of streams and the presence of fish.

C. As much as possible riparian corridors shall be left in an undisturbed state. Removal of native vegetation shall be limited and the establishment of native riparian vegetation shall be encouraged.

D. To provide for all of the above functions riparian corridors shall be established with setbacks within which development activities are limited.

3 **Archeological Sites.**

Prior to the land use development of archeological sites in Josephine County, the Board of County Commissioners shall encourage the identification and preservation of such sites. When an archeological site is identified by a qualified archaeologist, Josephine County will evaluate the site for significance and protection using the provisions and procedures of Article 93, *Archeological Resource*, of the Rural Land Development Code.

4. **Natural Areas.**

The Board of County Commissioners shall support the identification of significant natural areas and shall implement measures for evaluation and protection of sites as provided by federal or state rule or law.

5. **Historic Sites.**

Prior to the land use development of historic sites in Josephine County, the Board of County Commissioners shall encourage the identification and preservation of such sites. A Historic Review Committee shall be established to mitigate adverse impacts to primary historic sites by reviewing development proposals affecting such sites

according to the provisions and procedures contained in Article 94, *Historic Buildings & Sites*, of the Rural Land Development Code.

6. Wildlife Sites.

A. BIRD HABITAT. The County shall encourage the identification and preservation of bird habitat sites. Significant bird habitats located on federal lands or within National Wild and Scenic River or Oregon State Scenic Waterway corridors shall be protected pursuant to the regulatory requirements of these entities. Osprey and Blue Heron rookery sites located on private properties outside of the aforementioned scenic programs shall be inventoried and identified by the Oregon Department of Fish and Wildlife. All inventoried sites shall be protected by special setback restrictions as set forth in Article 72.040.C of the Rural Land Development Code.

B. DEER HABITAT. The County shall encourage the identification and preservation of sensitive deer habitat sites. Sensitive deer habitat areas shall be identified and mapped in conjunction with the Oregon Department of Fish and Wildlife. The density of residential development within the areas so mapped shall be restricted pursuant to the requirements of Article 69.2 of the Rural Land Development Code.

GOAL 10 of the Josephine County Comprehensive Plan shall be amended with the addition of the following policy statement:

K. Mineral and Aggregate Resource Zone (MARZ). Property which has been determined to be a significant aggregate resource site under Oregon Administrative Rule 660-23-180, on which mining has been approved subject to Oregon Administrative Rule 660-23-180, and where the mine operator has entered into an impact area agreement with property owners affected by mining, or attempted to do so, shall be zoned Mineral and Aggregate Resource. The County 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 aggregate site for sites in the Mineral and Aggregate Resource Zone. These sites are most commonly found in river flood plains where alluvium is mined for aggregate, but may also occur in upland areas and authorize the mining of bedrock formations for aggregate.

RURAL LAND DEVELOPMENT CODE

The Rural Land Development Code, Section 11.030, *DEFINITIONS*, shall be amended by the inclusion of new definitions or the replacement of existing definitions, to include renumbering, as follows:

New Definitions:

AGGREGATE RESOURCES. Naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials used in road building and general construction.

CHANNEL STABILITY ANALYSIS. A study which addresses the short and long term stability of the stream channel relative to the impacts of a mining operation. The study shall address a potential acceleration of stream channel change due to the mining operation. Such a study shall meet the requirements of the Oregon Department of Geology and Mineral Industries and shall be submitted to that agency for review and approval. The study could include an evaluation of hydrology, hydraulics, fluvial geomorphology, and sediment transport capacity of the existing channel and potential effects of the mining operation on these channel characteristics, subject to the following additional definitions:

A. HYDROLOGIC ANALYSIS. An analysis which defines the magnitude and frequency of channel discharges including but not necessarily limited to the mean annual runoff, 5-, 10-, 25-, and 100- year, 24 hour discharge events. Some statistical analysis may be appropriate.

B. HYDRAULIC ANALYSIS. An analysis based on the above described hydrologic events and may include an evaluation of pre- and post-mining: (1) flood flow depths and water surface elevations; (2) channel and floodplain velocities and depths of inundation.

C. FLUVIAL GEOMORPHIC ANALYSIS. An analysis which defines the relevant geomorphic characteristics of a stream channel and its adjacent flood plain. It is the intent of this study to address the potential for channel change due to proposed mining.

D. SEDIMENT TRANSPORT ANALYSIS. An analysis which addresses the sediment transport capacity of existing stream channels and any potential changes in their ability to transport sediment. This analysis shall address aggradation and degradation potential for both the short and long term (i.e. pre- and post-mining) conditions.

CONCEPTUAL RECLAMATION PLAN. A written and graphic proposal for the reclamation of land area disturbed by a mining operation. The plan shall address the measures for rehabilitation of mined lands, disposal of mining refuse, erosion control and slope stabilization. The plan need only present the concepts for achieving reclamation, but must do so with sufficient detail that the Review Body can determine the expected post mining landscape of the site. At a minimum the conceptual reclamation plan shall include: a scale; a north arrow; approximate post mining topography; any vegetative treatment; and physical site features. The approach to reclamation must be consistent with the proposed post mining use of the site, and with the subsequent DOGAMI approved reclamation plan, but should not be subject to the reclamation requirements in ORS 517.750 through 517.900.

CONFLICTING USE. A land use, or other activity subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)- "Conflicting Use"). Agricultural practices are not considered conflicting uses. In regard to a significant aggregate resource 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 (as specified in OAR 660-023-0180(4)(b).

ESEE ANALYSIS. The analysis of positive and negative economic, social, environmental and energy consequences that may result from allowing, limiting, or prohibiting future conflicting uses in the protection of a significant Goal 5 resource site.

IMPACT AREA. A geographic area within which conflicting uses could adversely affect a significant Goal 5 resource or uses of adjacent property could be affected by a Goal 5 resource. For significant aggregate resources the impact area shall be large enough to include the uses listed at OAR 660-23-180 (4) (b), 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.

IMPACT AREA AGREEMENT An agreement between a mine operator and owners of property within the impact area of the mine.

INACTIVE As applied to an aggregate mine inactive means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

MINIMIZE A CONFLICT. With regard to the implementation of Statewide Goal 5, to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels) to "minimize a conflict" means to ensure conformance to the applicable standard.

MINING AREA. The area at a mineral and/or aggregate site in which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.

MINING SITE. The area at a mineral and/or aggregate site in which mining is permitted or proposed, including undisturbed buffer areas or areas on a parcel where mining is not authorized.

NOISE OR DUST SENSITIVE USE OR STRUCTURE. A term used to refer to uses or structures authorized in the vicinity of mining operations which are sensitive to the noise and dust impacts because they involve human occupation. Examples of such uses are residences, churches, hospitals, care facilities, schools, libraries, campgrounds and other uses generally open to the public. Forest and farm uses are not considered to be noise or dust sensitive unless

a contrary determination is established in the Goal 5 process. Noise or dust sensitive uses or structures are a conflicting use with regard to aggregate mining.

PAPA. A "post-acknowledgment plan amendment."

PROTECT. To adopt land use regulations for a Goal 5 resource in order to limit or prohibit new conflicting uses within the impact area of the site.

RESTRICTIVE COVENANT. An enforceable promise or declaration given by the owner of real property resulting in the release of some right associated with the use and enjoyment of the property encumbered by the covenant. A restrictive covenant may involve a promise not to object to impacts resulting from resource uses existing or authorized on neighboring lands. The restrictive covenant shall be in writing, signed and notarized and recorded in the real property records for Josephine County, and is intended to bind the heirs and successors of the owner.

RIPARIAN AREA. The area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

RIPARIAN CORRIDOR. A Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

RIPARIAN CORRIDOR SETBACK. A certain horizontal distance upland from the top bank of a stream as specified in Article 72.040 (*Special Setback Requirements*) creating an imaginary line demarking the upper boundary of the regulated riparian area. This riparian area between the setback lines on each side of a stream is the "significant riparian corridor" under Statewide Goal 5.

SIGNIFICANT AGGREGATE RESOURCE SITE. 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 (B) of this section, except as provided in subsection (C) of this section:

A. Based on a set of samples which in the judgement of an Oregon Registered Geologist is representative of aggregate material in the deposit, the material on the site meets:

1. Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, and abrasion; and

2. For material to be used in concrete, Portland cement and asphaltic concrete, the Oregon Department of Transportation (ODOT) specifications for sodium sulfate soundness (ODOT TM 206 test); and

3. The estimated amount of material is more than 60,000 cubic yards; or

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

C. An aggregate site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I, Class II, or of a combination of Class II and Class I or Unique soil on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996.

D. Paragraph C above does not apply to an expansion area of an existing site if the operator of the existing site had on March 1, 1996 an enforceable property interest in the expansion area.

STREAM. A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

TOP OF BANK. The elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the top of bank.

Replacement Definitions:

AGGREGATE PROCESSING. Aggregate processing is the crushing, washing, milling and screening, as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete.

MINERALS (INCLUDING AGGREGATE). Any substance excavated from natural deposits in land or water for industrial, commercial or construction purposes. The term includes soil, coal, clay, stone, sand and gravel, lime, metallic ore and any other similar solid substance. Deposits of sand and gravel, stone, shale, lime and other hard minerals may also be referred to as aggregate.

MINING. The extraction and processing of mineral or aggregate resources in all zones where it may be permitted including the Exclusive Farm Zone, in the manner provided under ORS 215.298(3) (*Mining in Exclusive Farm Zones*) as it is described on the effective date of this code or as it may be amended. That is, mining of aggregate resources includes all or any part of the process of extraction by the removal of overburden and the extraction of aggregate deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. Mining does not include the following activities:

A. Excavation conducted by a landowner or tenant on the landowner's or tenant's property for the primary purpose of reconstructing or maintaining access roads to the property.

B. Excavation or grading occurring in the process of farm or cemetery operations at the site of the farm or cemetery.

C. Excavation or grading conducted within a road right-of-way or easement for the primary purpose of road construction, reconstruction or maintenance of the road right-of-way or easement where the excavation or grading occurs.

D. Excavation of minerals in conjunction with site preparation for other development which has been authorized by a county development permit. The excavation may be in conjunction with plans for building pad, parking, landscape and drainage improvements, or other similar development activities.

STRUCTURE. Anything constructed, erected, installed or portable, the use of which requires a location on the ground or is attached to something having a location on the ground, including a gas or liquid storage tank that is principally above ground. Outside of riparian corridors decks, paved or concrete slabs, patios or walkways which are constructed less than 30 inches above grade are not considered structures and development permits are not required. Fences which meet the height requirements set forth in Article 73 (*Fences, Walls & Screens*), utility poles, flagpoles, or irrigation system components are not considered structures in any location and development permits are not required.

The Rural Land Development Code shall be amended to add a new Article 66.1, *Mineral & Aggregate Resource Zone (MARZ)*:

ARTICLE 66.1 - MINERAL & AGGREGATE RESOURCE ZONE (MARZ)

66.110 - PURPOSE

The purpose of this zone is to implement the objectives of the state of Oregon and the Josephine County Comprehensive Plan to conserve, protect and facilitate the use and development of aggregate resources within the county. It is the intent of this zone to provide county compliance with OAR 660-23-180 (*Mineral and Aggregate Resources*) and to prescribe, through the process for adopting the MARZ, standards for the development of individual sites which reasonably mitigate impacts to surrounding lands and conflicting resources while allowing the fullest utilization possible of the county's mineral and aggregate resources.

66.120 - OUTRIGHT USES

The following uses shall be allowed outright (no county permit required however state and federal permits may be required):

E. Agriculture, farming, and related farm use, as defined in ORS 215.203

F. Conservation and management of fish and wildlife resources

G. Fish and wildlife habitat enhancement

H. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvest of forest tree species, application of chemicals, and the disposal of slash where such uses pertain to commercial forest activity:

1. If the volume of wood exceeds 8 commercial truck loads per day, any access road, service road, or unpaved public road, while used for log-hauling, shall receive daily dust abatement or shall be treated with an oil surfacing by the operator, for a distance of 500 feet from a surfaced road or highway or residence located on adjoining property;

2. If more than one commercial log-hauling operation uses the road for log hauling purposes, all operators shall be jointly responsible for dust abatement as previously described

I. Temporary on-site structures and physical alterations to the land which are auxiliary to and used during the term of a particular forest operation or practice. Alterations include but are not limited to those made for the purposes of mineral exploration, mining,

gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities:

1. For the purposes of this subsection, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, is temporary in nature, and is not designed to remain for the forest's entire growth cycle. An auxiliary structure is removed when a particular forest practice has concluded

J. The creation of, restoration of or enhancement of wetlands

K. Uses to conserve soil, air and water quality and watershed management

66.130 - PERMITTED USES

A. Exploration for mineral and aggregate resources as defined in ORS Chapter 517

B. Mining and processing of mineral and aggregate resources subject to the conditions under which mining is permitted in the MARZ approval, or the Special Property Development Standards contained in Article 91.030 (*Special Property Development Standards for Aggregate Operations)*

C Private hunting and fishing operations without any lodging accommodations

D. Temporary, portable facilities for the primary processing of forest products

E. Uninhabitable structures accessory to fish and wildlife enhancement

F. Water intake facilities, canals and distribution lines for farm irrigation and ponds

66.140 - CONDITIONAL USES

G. Caretaker or night watchman's manufactured dwelling when used in conjunction with the uses listed in Articles 66.120 (*Outright Uses*) 66.130 (*Permitted Uses*) and 66.140 (*Conditional Uses*)

H. Cement and asphalt batching, rock processing and crushing (requested independently of a mining operation approved under Article 66.150, and subject to the special property development standards for aggregate operations specified in Article 91.030 of this code)

I. Dog kennels

J. Home occupation

K. Log scaling and weight stations

L. Permanent facility for the primary processing of forest products

M. Personal use landing strips used in conjunction with a use permitted by this Section

N. Propagation, cultivation, maintenance and harvesting of aquatic species

O. Public and private utilities

P. Solid waste disposal at site approved by the governing body of the county and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation

66.150 - ESTABLISHING THE MINERAL AND AGGREGATE RESOURCE ZONE

The Mineral and Aggregate Resource Zone implements a decision to allow mining for a site that has been determined to be a significant aggregate site conforming to the definition in Article 11.030 of this Code. The MARZ shall be applied only to the property containing a significant aggregate site and associated on site buffer area (mine site) in the control of the mine operator or owner, and not to adjoining lands that may be within the impact area. A Mineral And Aggregate Resource Zone shall be established with approval of a PAPA which demonstrates compliance with OAR 660-23-180 (*Mineral and Aggregate Resources*) and including the following provisions:

A. In addition to the requirements for an adequate PAPA found at OAR 660-23-180(6), an application for a PAPA and zone change for the Mineral and Aggregate Resource Zone shall contain an impact area agreement between the proposed mine operator and those owner's of property within the impact area of the mining site, or meet the requirements of subsection C below. The impact area agreement or evidence of compliance with subsection C below may be submitted up to 60 days subsequent to submission of the PAPA to complete the application.

B At a minimum an impact area agreement shall provide for the following:

1. Mitigation of significant potential conflicts with properties within the impact area;

2. Whether new conflicting uses shall be allowed, limited, or prohibited within the impact area;

3. Post mining use of the mine site in compliance with OAR 660-23-180 (4) (f) (*Local Government Determination and Provisions for Post-Mining Use*);

4. Operational standards in addition to or which modify those in Article 91.030 (*Special Property Development Standards for Mineral and Aggregate Operations*);

5 A process for modifying the agreement;

6. Duration of the agreement;

7. A method to resolve conflicts between the parties to the agreement; and

8. The agreement shall be binding on the property owners involved and their successors in interest.

C. Where the mine operator has made an effort to enter into an impact area agreement, but has been unable to reach an agreement with property owners within the impact area, his effort shall be supported with the following documentation in the application:

1. Copies of certified mail receipts to all impact area property owners showing the arrangement of at least three meetings between the mine operator and impact area property owners; and,

2. Copies of written or recorded minutes from the meetings described in paragraph 1. above, together with a written itemization of the time, date, location, list of attendees. The minutes shall accurately represent the discussion and shall document any issues raised by parties and any response to these issues; and,

3. The Board of County Commissioners may require a written report by an independent and qualified professional mediator setting forth the history of the meetings and other relevant communications between the participants, to include a explanation and analysis of the unresolved issues.

D Owners of properties within the impact area including the owner of the mine site which do not participate in the impact area agreement shall be subject to the provisions of Article 72.040 (A) (*Aggregate Setbacks*), Article 91.030 (*Special Property Development Standards for Mineral and Aggregate Operations*), and provisions for limiting or preventing new conflicting uses within the impact area of a significant aggregate site adopted in compliance with OAR 660-23-180(5).

E. Mining proposals considered under this section shall demonstrate that all conflicts with acknowledged significant riparian corridors have been minimized. In addition to the notice requirements otherwise required by Chapters 2 and 4 of this Code, applications for mining which may impact the acknowledged significant riparian corridor shall be noticed to the Oregon Departments of Geology and Mineral Industries (DOGAMI), Division of State Lands (DSL), Environmental Quality (DEQ) and Fish and Wildlife (ODFW).

66.160 - SPECIAL MULTI-AGENCY REVIEW CONFERENCE

In addition to the requirements for a pre-application review contained in Article 21, the applicant is encouraged to hold a conference with the planning office and DOGAMI, DSL, DEQ and ODFW to determine the scope of issues, the need for any special studies (such as archaeologic surveys, sensitive species inventories, or a channel stability analysis), and coordination of the application between involved agencies regarding the PAPA. A goal of this conference is to minimize the applicant's expense during the initial county approval process

while making all of the information developed for the proposal available to all of the involved agencies.

66.170 - SITE RECLAMATION

No mining operation authorized pursuant to this Article shall commence without the operator furnishing to the Planning Director a copy of a DOGAMI operating permit and approved reclamation plan, or a certificate of exemption, issued pursuant to the requirements of ORS 517.750 through 517.900 (*Reclamation of Mining Lands*) and implementing administrative rules. The county shall defer to DOGAMI regarding all aspects of the reclamation plan and its administration. However, the reclamation plan shall be substantially consistent with the conceptual reclamation plan presented to the county during the PAPA proceedings to comply with OAR 660-23-180 (*Mineral and Aggregate Resources*). For these reasons the applicant is encouraged to make concurrent applications with the county and DOGAMI.

66.180 - GENERAL PROPERTY DEVELOPMENT STANDARDS

All uses authorized by the Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this Code. The following is a list of Articles that are or may be applicable:

A. Permit Review Requirements

Basic Review Provisions – Article 20

Pre-Application Review – Article 21

Permit Review Procedures – Article 22

Basic Application Requirements – Article 40

Administration of Permits - Article 41

Site Plan Review – Article 42

Variances – Article 44

Conditional Uses – Article 45

B. Property Development Standards

Access - See Article 81

Aggregate Standards - Article 91

Erosion and Sediment Control - See Article 83

Flood Hazard Overlay - See Article 69.1

Minimum Lot Size – *No Requirement*

Parking - See Article 75

Setback Requirements - See Section 72.040

Utilities - See Article 85

Water Standards - See Article 84

ARTICLE 72 - HEIGHTS, SETBACKS & ACCESSORY STRUCTURES

72.040 - SPECIAL SETBACK REQUIREMENTS

The following special setback requirements shall apply to development within protected areas for significant aggregate sites and riparian corridors:

A. Significant Aggregate Site Protection Area. The following special rules relate to aggregate mining or processing at significant aggregate sites. These setbacks are intended to provide a minimum level of protection from future conflicting uses at those significant aggregate sites existing on the date of the adoption of this provision where the application of OAR 660-023-180 (5) (ESEE for new conflicting uses) has not resulted in the adoption of different measures. Property owners within the vicinity of an aggregate operation should assume the effects of mining on other properties may extend beyond the protected area around the mine.

1. The protected area around a significant aggregate site that is or has been in lawful operation shall extend from the mine area out to 500 feet, where the mine owner or operator has provided the planning office with a map designating the mining area.

2. In all cases involving the permitting of new conflicting uses or structures, or the modification of existing conflicting uses or structures, within the protected area, the permit shall be conditioned upon the execution by the landowner of a restrictive covenant containing an agreement not to object to the mining or processing of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

3. There shall be no protected area around a significant aggregate site which has not been in lawful operation and where the mine owner or operator has not provided the planning office with a map designating the mining area.

   a. At such sites, when mining is authorized, the mine area shall be a minimum of 500 feet from the nearest existing conflicting use.

   b. Once mining is authorized within the protected area of these sites the permitting of any new conflicting use shall be conditioned on the upon the execution by the landowner of a Restrictive Covenant containing an agreement not to object to the mining or processing of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

c. The above provisions may be modified or waived subject to:

[1] An aggregate impact area agreement between the operator or owner of the significant aggregate site and the owner or owners of any property within the aggregate impact area determined under OAR 660-023-180 (5) (ESEE for new conflicting uses) and demonstration that conflicts with mining have been minimized; or

[2] Measures determined during the adoption of a PAPA to minimize conflicts or address new conflicting uses.

B. Riparian Corridor Setback . The riparian corridor setbacks are established to protect the acknowledged significant resources of the riparian corridor. These resources include but are not limited to waterways, wetlands, fish and wildlife habitat. The riparian area provides a habitat with the greatest diversity of species in our inland landscape. Because it is continuous through all elevations from mountain top to the bottom of river valleys it provides a continuous corridor through which wildlife can move through the landscape. This is particularly important where the landscape has been modified by mans activities. The riparian area also provides significant water quality benefits by filtering sediment and capturing nutrients from overland flow; by stabilizing stream banks subject to erosion; and by reducing water temperature by providing shade. The riparian area buffers the impact of flooding by serving as a natural detention area which helps to reduce peak flows during flood events and capture sediment and debris. To provide for all of the above functions the riparian corridor is protected with the following special setbacks:

1. At a minimum the riparian corridor setbacks shall be:

a. Along all streams labeled large (10 cfs or greater) on the Department of Forestry Stream Classification Maps the riparian corridor setback shall be 75 feet upland from the top of each bank.

b. Along all streams labeled small (2 cfs or less) and medium (more than 2 cfs but less than 10 cfs) on the Department of Forestry Stream Classification Maps and along all lakes, the riparian corridor setback shall be 50 feet from the top of each bank.

c. Along all other small streams not containing fish the county may require a riparian corridor setback of 25 feet from the top of each bank.

d. Where the riparian corridor includes all or portions of a significant wetland as set out in OAR 660-023-0100 (*Wetlands*), the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.

2. Within the riparian corridor setback the permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces is

prohibited, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area and removal of native vegetation, and subject to issuance of a development permit:

a. Streets, roads, and paths;

b. Drainage facilities, utilities, and irrigation pumps;

c. Water-related and water-dependent uses;

d. Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area;

e. Reclamation activities intended to enhance riparian habitat;

f. Improvements to fish habitat or fish passage

g. Aggregate mining between the banks of the stream; and

h. Forest practices in the farm or forest resource zones where the forest practice is authorized by a permit issued under the Oregon Forest Practices Act.

3. To the greatest extent possible the riparian corridor shall be maintained in an undisturbed state. No vegetation, soil or minerals shall be removed or altered without first obtaining a development permit for the activity. Issuance of a development permit for removal of riparian vegetation is limited to:

a. Removal of non-native vegetation and replacement with native plant species; and.

b. Removal of vegetation necessary for the development of the uses listed in subparagraph 2 above.

4. Exceptions may be authorized which permit the permanent alteration of the riparian area by placement of structures or impervious surfaces within the riparian corridor boundary established under paragraph 1 of this subsection. Exceptions shall be processed subject to quasi-judicial procedures under Article 22 - of this code. An exception to the provisions of this section may only be granted upon findings:

a. That equal or better protection for riparian resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures; and

b. The exception will not permit alterations to occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor.

5. A variance to the setback provisions of paragraph 1 of this subsection may be considered for any existing lot or parcel demonstrated undevelopable by application of this Article. Variances shall be processed subject to quasi-judicial procedures under Article 22, and the variance process under Article 44 of this code. Granting of a variance may be subject to conditions requiring the mitigation of impacts to riparian resources.

6. An application for an exception or variance to the provisions of this subsection shall be noticed to the Oregon Department of Fish and Wildlife, the Division of State Lands, and the Department of Environmental Quality.

C. There shall be a structure setback of 300 feet from significant rookeries or nest sites identified by the Oregon Department of Fish and Wildlife and located as a Goal 5 Resource on the Official Zoning maps for Josephine County. The Department of Fish and Wildlife has mandated consultation with them to mitigate adverse impacts for all development closer than 300 feet.

ARTICLE 91 - STANDARDS FOR DEVELOPMENT OF AGGREGATE OPERATIONS

91.010 - PURPOSE

The purpose of this Article is to provide for clear and objective development standards and review procedures for the approval and operation of aggregate mining and processing sites located in any zone.

91.020 - REVIEW PROCEDURES

A. All applications for the mining or processing of mineral and/or aggregate resources in zones other than the Mineral and Aggregate Resource Zone and the Aggregate Resource Zone shall be processed as a Conditional Use Permit (Article 45) with a Site Plan Review (Article 42) using Quasi-judicial Review Procedures as set forth in Article 22 (*Review Procedures*).

B. Mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource Zone which was lawfully permitted by Josephine County and DOGAMI but has been inactive (see definition of inactive) for up to twelve years may reopen operations without issuance of a new conditional use permit subject to the following:

1. Demonstration the owner or operator was issued and continuously renewed the DOGAMI surface mining permit for the mine area; or,

2. Demonstration the owner or operator has received and maintained a DOGAMI exemption from surface mining regulation; and,

3. The owner or operator applies for a site plan review and is issued a development permit.

C. Mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource and the Aggregate Resource Zone which have been inactive for twelve years or more must obtain a new conditional use permit before initiating operations, or submit and have approved a PAPA for designation as a Mineral and Aggregate Resource Zone.

D. New mineral and aggregate batching or blending into asphalt cement shall not be permitted in Exclusive Farm Use Zones when the batching or blending site is within 2 miles of a planted vineyard. A planted vineyard is one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching or blending is filed. Operations for batching or blending which are approved on or before October 3, 1989, including subsequent renewals, are exempt from this subsection.

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91.030 - SPECIAL PROPERTY DEVELOPMENT STANDARDS FOR AGGREGATE OPERATIONS

The following standards shall be the default standards applied to the mining and processing of mineral and/or aggregate resources in all zones which permit aggregate mining. The standards contained in this section shall be considered the minimum standards for operation. In the case of mining authorized with a conditional use permit additional and/or more stringent standards may be applied even though mandatory or permissive language is used in this section. For operations authorized under the Mineral and Aggregate Resource zone (MARZ) standards must be established and adopted for the site with the adoption of the zone. Therefore, in the case of MARZ these standards may be added to, modified or deleted by measures to minimize conflicts, special conditions, or procedures regulating the mining, or provisions of any impact area agreement adopted as part of the PAPA process establishing the zone. Any additional or modified standards must be clear and objective. The following standards shall be applied:

A. A development permit shall be obtained before any mining and/or processing of mineral or aggregate resources occurs. The applicant shall also obtain additional permits as may be required by other licensing or permitting entities having jurisdiction over the operation. The continuance of additional permits and approvals in good standing shall be a condition for the continuance of the county's development permit. The performance of the standards contained in this Article shall also be conditions to the issuance and continuance of the development permit.

B. An access or service road from the extraction site to a public road shall meet the following standards:

1. Meet applicable standards from Oregon Administrative Rules Chapter 340 Division 35 for vehicular noise control for a distance of 500 feet from any public road or any conflicting use located along the access road.

2. Meet the most current air quality standards from Oregon Administrative Rules Chapter 340 Divisions 20, 21, and 28 for ambient air quality for a distance 500 feet from any public road or any conflicting use located along the access road if the mining traffic is the primary cause of the road dust. Where more than one mining operation uses the same road, all operators shall be proportionately responsible for the cost and management of dust abatement measures based on vehicle trips per day.

C. Conflicts due to noise, dust or other discharges with regard to existing and approved uses which are sensitive to such discharges shall be minimized to ensure conformance to the applicable local, state, or federal standards.

D. The extraction area shall be substantially screened from the view of existing conflicting uses, subject to the following specifications:

1. Mining and processing equipment, whether in use or in storage, shall be screened. Stockpiles of aggregate do not need to be screened and may themselves function as screening.

2. Screening may consist of natural vegetation and landscape features, or may be supplied by planting vegetation or placement of berms, fences or other similar development features. If vegetation is used as screening it shall be maintained alive.

3. Earthen berms shall be stabilized with ground cover.

4. Visual screening may not be required if the topography, growing conditions or other circumstances at the site make it impractical or otherwise unnecessary to shield the site from the view of conflicting uses.

E. On-site parking shall be provided for all employees, customers and official visitors.

F. A safety fence may be required to be constructed to protect the extraction site from vehicular or pedestrian intrusion whenever the site is within 200 feet from a public road or an off-site residence, or where the quarry is developed with hazardous vertical cuts.

G. All mining and processing of mineral and/or aggregate resources shall meet and maintain the permit requirements of the Oregon Departments of Geology and Mineral Industries (DOGAMI), Division of State Lands (DSL), and Environmental Quality (DEQ).

H. All mining and processing of mineral and/or aggregate resources shall comply with OAR noise emission standards. Compliance for the purpose of issuing a development permit can be demonstrated by a report from an acoustical engineer attesting that the circumstances of the site and/or proposed mitigation will bring the site into compliance.

I. All mining and processing of mineral and/or aggregate resource sites shall meet the erosion control and site drainage standards contained in Article 83 (*Erosion Control & Storm Drain Facilities*) of this Code, as well as any permit requirements imposed by DOGAMI, DSL, DEQ, or any other state or federal regulation.

J. The discharge of contaminants and dust caused from the mining and processing of mineral and/or aggregate resources shall comply with applicable DEQ ambient air quality and emission standards. The operator shall cease all mining and processing operation within one hour of the malfunction of any air pollution control equipment, and shall not resume operation until the malfunction has been corrected in compliance with applicable DEQ rules and standards.

K. Excavation and stockpiling shall be set back from property lines so that the lack of lateral support and the angle of repose of the geologic deposit will not undermine or intrude onto adjoining lands. An additional setback may be required to allow the placement and maintenance of fencing.

L. Mining and processing of mineral and/or aggregate resources shall be set back from the top of the bank of any stream in compliance with Article 72.040 (B) (*Special Setback Requirements*). Existing native vegetation shall be maintained in the setback area.

M. Mining and processing of mineral and/or aggregate resources occurring in Flood Hazard Areas as defined in Section 11.030 (*Terms Defined*) shall comply with the standards contained in Article 69.1 (*Flood Hazard Overlay*) of this Code.

N. The hours of operation for the mining and processing of mineral and/or aggregate resources shall occur between 8 am and 6 pm for conditional uses, and 7 am to 9 pm for MARZ. The days of operation shall be Monday through Saturday, excluding the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Maintenance of equipment may take place at any time.

1. Upon written request from the mine operator the Planning Director may authorize exceptions to the above operating hours and days for asphalt or concrete batch plants subject to the following limitations:

   a. The additional hours must be a requirement of a state, local, or federal government contract;

   b. Not more than three exceptions may be granted in a calander year; and

   c. The total duration of exceptions may not exceed 90 days in a calendar year.

2. The Planning Director may approve additional or different operating hours and time periods for asphalt or concrete batch plants than those specified in

subsection [a] above. Any such approval must use quasi-judicial land use decision procedures specified in Article 22 (*Permit Review Procedures*), to include neighborhood notice and the right to appeal the decision for a *de novo* hearing.

O. Blasting at an extraction site shall be limited to the hours between 10 am and 3 pm for conditional uses, and 7 am to 6 pm for MARZ. The permitted days shall be Monday through Friday, excluding the holidays listed in subparagraph 14 above. The mine operator shall provide advanced notification of all blasting subject to the following requirements:

1. The notification shall be given in writing to all property owners and/or occupants residing within the impact area (or 1500' if an impact area has not been established) at least 48 hours prior to the blasting. The notice shall be delivered to a mail receptacle or to the residence or structure. The operator shall maintain a journal showing when and how notice was accomplished.

2. If blasting is on-going on a predictable schedule the operator may provide written monthly notice of the schedule delivered at least 48 hours before the first scheduled blast. The delivery and record keeping requirements specified in subsection (a) above shall also apply.

3. The notice shall specify the day or days and hour or hours the blasting is to occur.

P. Water used in the mining or processing of mineral and/or aggregate resources shall be appropriated from a source authorized by permit from the Oregon Department of Water Resources. With the exception of onsite process water released to onsite settling ponds turbid water shall not be released into lakes, ponds or watercourses.

Q. A development permit for the mining or processing of mineral and/or aggregate resources is conditioned upon the operator obtaining and maintaining all state agency permits required for the operation. The operation of a mining or processing site in violation of this requirement shall render the development permit immediately void.

91.050 - SITE RECLAMATION

No mining operation authorized pursuant to this Article shall commence without the operator furnishing to the Planning Director a copy of a DOGAMI operating permit and approved reclamation plan, or a certificate of exemption, issued pursuant to the requirements of ORS 517.750 through 517.900 (*Reclamation of Mining Lands*) and implementing administrative rules. The county shall defer to DOGAMI regarding all aspects of the reclamation plan and its administration. An reclaimed land use must be an allowed use in the underlying zone.

91.060 - NOTICE

In addition to the notice requirements of Chapters 2, 3 and 4 applications for mining which impact the acknowledged significant riparian corridor shall be noticed to DOGAMI, DSL, DEQ, and ODFW.

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Section 3. Affirmation

Except as specifically amended by the provisions of this ordinance, the Josephine County Comprehensive Plan (Ord. 81-11) and Rural Land Development Code (Ord. 94-4), as lawfully amended, are hereby affirmed.

Section 4. Effective Date

First reading by the Board of County Commissioners this 30th day of August, 2000

Second reading and adoption by the Board of County Commissioners at least thirteen days from the first reading on this 20th day of September, 2000, This ordinance shall take effect ninety days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COMMISSIONERS

Frank Iverson, Chair

Jim Brock, Vice-Chair

Harold L. Haugen - Opposed
Harold L. Haugen, Commissioner

ATTEST:

N/A
Georgette Brown, County Clerk

Recording Secretary

APPROVED AS TO FORM:

Steven E. Rich, Legal Counsel

The Rogue Institute
for Ecology and Economy

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Ashland, Oregon 97520
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Josephine County Goal 5 Resources: Issues and Opportunities in Policy Formation

by
Kevin Preister
The Rogue Institute for Ecology and Economy

October, 1996

Appendix A to
Ordinance 2000-3

Josephine County Goal 5 Resources: Issues and Opportunities in Policy Formation

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Acknowledgments

Heartfelt thanks to two Applegate Valley residents who demonstrate first-hand what democracy is about through their steadfast involvement in this project. Pat Foley and Lynn Peterson have graciously given huge amounts of their time to sit on the Applegate Resource Committee which has managed this Goal 5 review process. They also helped us directly with the community outreach work, calling, organizing meetings, and talking to residents about their concerns. Thanks also to Kathy Helmer of the Rogue Institute staff for her assistance in the community. Thank you to all Applegate Valley residents who shared your concerns and ideas with us.

List of Acronyms Used

DEQ, Department of Environmental Quality
DOGAMI, Department of Geology and Mineral Industries
ESEE, Environmental, Social, Economic and Energy Study, accomplished to obtain a MARZ designation.
MARZ, Mineral Aggregate Resource Zone

Josephine County Goal 5 Resources: Issues and Opportunities in Policy Formation

SECTION ONE: BACKGROUND AND PURPOSE

Recognizing that as growth continued, many resources could be depleted or lost, the State of Oregon developed a series of land use planning goals in the early 1970s. The objectives of Goal 5 are to: 1) ensure open space; 2) protect scenic and historic areas and natural resources for future generations; and, 3) promote healthy and visually attractive environments in harmony with the character of the natural landscape.

The Goal 5 rules charge local governments with making inventories of and protecting a variety of natural resources (riparian corridors, ground water, wetleands, fish habitat, wildlife, and aggregate resources). After developing an inventory of the natural resources, the county is directed to resolve conflicting land uses and to develop zoning ordinances that assure protection of important natural resources.

Mineral and aggregate resources are included in Goal 5, and their mining has caused conflict throughout the state. The county's recent effort to address aggregate resources was presented to the public in 1995 and was met with objections on a number of issues. A collaboration of unlikely interests, including environmental, aggregate (gravel) operators, property rights advocates, fishermen and residents came forward to petition Josephine County about a different approach to policy considerations.

A proposal by the Applegate River Watershed Council to the Josephine County Planning Department to develop an innovative, **community-based** planning process was funded by the Land Conservation and Development Commission as a "regional problem-solving" pilot program. Matching funds were offered by Copeland Sand and Gravel, The Applegate River Watershed Council, and the Rogue Institute for Ecology and Economy. The Applegate Resource Committee (ARC) was formed by representatives of all interest groups to steer the effort. The project involves community representatives, natural resource interest groups, aggregate owners and operators, state agencies, and county planning representatives.

It was obvious from the beginning that an over-emphasis on aggregate, at the expense of other Goal 5 resources (water, riparian corridors, fish habitat), was not going to address the conflict. Rather, people from all walks of life were telling us that a "balance" or a "happy medium" was the way to go. The ARC committed itself to balance the need for aggregate against other Goal 5 resources of fish and wildlife habitat, riparian corridors, and waterways, as well as to address the concerns of local residents. It is committed to citizen help in understanding and reconciling conflicting uses.

The Applegate Resource Committee contracted with the Rogue Institute for Ecology and Economy to provide assistance in community outreach and education. The idea has been not to rely on meetings as a way to gauge public opinion, but rather to seek out citizens directly, and to contact the wide range of individuals who have an interest in the outcome of this process. Consequently, our contacts included all geographic areas of the watershed and we contacted all "types" of individuals: newcomers, oldtimers, farmers, aggregate owners and producers, and residential dwellers. We always asked, "Who else should we talk with?" so that we could expand the reach of our contact.

Two residents, Lynn Peterson and Pat Foley, as well as two staff members of the Rogue Institute, Kevin Preister and Kathy Helmer, called and visited people in the Josephine County portion of the Applegate Valley for the past few months. In addition, numerous small gatherings were held in people's homes throughout the valley. We also held four public meetings at the following dates and places:

Thursday, August 1, Lincoln-Savage School

Wednesday, August 14, Williams Elementary School

Tuesday, August 20, Provolt Grange

Thursday, September 5, Wilderville Methodist Church

This combination of methods yielded contacts with about 319 people. Appendix A contains a list of the individuals who volunteered their names when we called or visited with them, and the names of those who signed the guest book at the public meetings.

This report summarizes the issues and opportunities identified by residents during this process. Many residents told us that it was important to separate out legitimate issues from those wanting to complain or exaggerate. We consider an issue to be a statement people make that can be acted upon. If someone said they were against all forms of aggregate (and a few did), we noted that, although there is little by way of negotiation that can happen in such a case. If someone said that they were troubled by aggregate mining because of impacts to fish habitat along the river, we probed to get more information about the concern and the issue was targeted for further attention.

This report not only represents a listing of the most important concerns raised by community members, but it represents new and developing relationships between members of the Applegate Resource Committee and residents. We now have a good idea of who the people are that have the issues, which issues are strongest in what areas, and a means to get back with residents as policy options are considered. The numbers in brackets in this report refer to fieldwork notes which contain the names of people with the issues. We thus have a means to keep residents informed as this process goes forward, and to continue to get their ideas about various courses of action.

In addition to community outreach, the ARC has also been very active in compiling resource inventories. The inventories will include the location of potentially-significant aggregate sites, important wildlife and riparian areas, and sensitive areas of fish habitat. The data will be mapped, and when these maps are overlaid with population density and zoning maps, a powerful tool can be created to anticipate conflicting uses in the future.

The ARC has also contacted other interests who have a stake in Goal 5 policy--aggregate industry associations, small operators in Josephine County, and county, state and federal agencies which have responsibility related to Goal 5, including Division of State Lands, Oregon Department of Fish and Wildlife, Oregon Department of Transportation, Josephine County Public Works, Department of Environmental Quality, and Department of Geology and Mineral Industries.

During the fall, the ARC will have a series of working meetings whose purpose will be to develop policy which is most responsive to the issues of residents and the management concerns of industry and responsible agencies. As this discussion proceeds, numerous contacts in the community will assure continued public participation. When preliminary alternatives are developed, a further round of public meetings will be scheduled.

Section Two draws major conclusions from the community outreach effort and makes a series of recommendations designed to promote responsiveness to local interests as the policy deliberations move forward. Section Three summarizes the issues and opportunities identified by residents in five major categories:

1. Property rights
2. Environmental effects
3. Impact mitigation
4. Enforcement
5. Policy questions
6. The interests of potential developers and small operators

It is our hope that a sense of fairness will continue to dominate discussions around this issue. Although emotions have tended to run high in some settings, and the resolution of some of these issues will have profound effects on the future of Josephine County, residents expressed a strong value for a common sense and fair play between the various parties involved in the project.

SECTION TWO:
CONCLUSIONS AND RECOMMENDATIONS

Changes are underway in the Applegate Valley. The area is growing. More people are moving in. They are people who are retired or who work in trade and services jobs. They have little experience with the land, but have strong environmental values. They have created a changing settlement pattern on the land. Small farms and households with some links to living off the land are giving way to newer, larger suburban homes, and a gradual break-up of land into smaller parcels. Residents pointed out how "farming is losing out," how the Redwood Avenue area went from farms to houses. Farmers and loggers are becoming rare, and the fast "woosh" of commuting traffic has become common. Pickups and Fords have given way to BMWs and Mercedes.

An understanding of Goal 5 conflicts must occur in the context of these changing social and economic conditions. One resident claimed that the conflicts could be seen as the city encroaching into the country. The new settlement patterns indicate one strong conclusion--conflicts regarding Goal 5 resources are not going to go away, and are likely to intensify. More people, different values and lifestyles, and increased aggregate demand add incentive to find productive ways to handle these various and sometimes contradictory interests.

> "Gravel operations used to work. We knew it was folks working which was good. We felt it was no one's business what others did. Check out the site near the golf course on New Hope. Why is that site working?" [69]

A second conclusion from our community contact is that residents want participation in the decisions which affect them. Residents commonly reported some past issue which is still angering them. May feel ignored, or that no one is listening, or, worse, that officials do not care what they think. These feelings feed the high emotions observed in some segments of the community, and make collaborative problem-solving difficult.

Recommendations

The following recommendations are ideas for making Goal 5 policy responsive to the interests of local residents. They are the "common sense" ideas that residents proposed in the course of our contact with them. In the coming months, the Applegate Resource Committee will take citizen input and inventory data and begin to develop Goal 5 policy on the basis of state direction. This process will assure that ideas for resolving Goal 5 issues are appropriate and legal.

Key Principles of Development Emerging From Citizen Discussions

1. Notify early.

Effective means of notifying residents of their proximity to potential aggregate sites are essential. Prospective property buyers also must know their situation in determining

whether to buy in the area. Such a move will increase predictability and stability for all parties.

2. Address impacts.

Common sense and fair play dictate that impacts from aggregate operations which truly worsen the quality of life for others be resolved in some ways. Such mitigations are best developed in conjunction with affected residents. The most crucial aspect of mitigation is enforcement which currently does not receive high citizen confidence.

3. Each site should be handled individually.

Residents are very wary of blanket prescriptions that are supposed to fit every situation. They want their concerns to be listened to, and solutions to be tailored to each situation. Among the useful ideas we heard were:

> Use a set of criteria that everyone can see [109]
> Non-populated sites first [71; 76]
> Community assessment to identify issues (not just newspaper ad)
> Identify timelines. [71]
>
> "It's impossible to write a blanket prescription for land use. Each place needs to be looked at." [95]

4. Protect environmental resources (wildlife, fish, water).

The concept of balance is important to Applegate residents. They want their concerns for environmental quality balanced against the need for more aggregate. They want reclamation agreements which work and with which they can have confidence. They want aggregate mining to enhance habitat when possible. Finally, the notion of cumulative impacts is important so that the total picture is accounted for in looking at the impacts of a single project. Many Applegate residents made it clear that they do not view Goal 5 deliberations as a *zoning* issue as much as a *systems* issue, "How are other values/ resources affected by the proposed change?"

5. Early discussion and agreement between operators and residents should be fostered.

The Goal 5 policy that emerges from the Applegate Resource Committee must provide "common sense" requirements to foster direct communication and agreement between residents and aggregate operators. "Negotiate and mitigate" are the watchwords from residents.

6. Tie production to enforcement and restoration.

A real and substantive effort must be made to address concerns about enforcement and restoration. If the differences in perception between regulators and residents cannot be resolved, public confidence in Goal 5 policy will remain low. If the real barriers to enforcement and restoration cannot be addressed, then local interests in a balance between use and protection of resources cannot be realized. One person suggested a severance tax of production activities for this purpose. Presumably, a regulatory agency could bill directly against such a fund for costs of regulating a particular site.

SECTION THREE:
ISSUES AND OPPORTUNITIES IDENTIFIED BY RESIDENTS

1. Property Rights

Concerns about how Goal 5 policy would affect property rights were the most widespread of the issues we heard. More than any other issue, this one was shared across all social segments in the community, from newcomers to oldtimers, and from Williams to Wonder. Strong concerns were sparked by the County proposal in January. Following the state's lead, it said that when a site was designated as "significant", then some uses would be restricted in the "impacted area," regardless of whether the site was operational or not. The impact zone was stipulated to be 750-1500 feet from the property boundary, and numerous uses, from campgrounds to church facilities, were prohibited. Restrictive covenants were to be recorded on the deeds of properties neighboring aggregate sites.

> "There should not be a restrictive covenant." [145, common]
>
> "If there is an existing home, and a site becomes MARZ designated, you won't be affected legally (although you will experience the project impacts), but down the road, to get an approval for an addition or for a septic, you have to sign away your right to complain." [184]
>
> "When I have to sign a document agreeing not to sue, something isn't right. That's not what we fought the wars for." [31]
>
> "The idea that MARZ means no further challenges to the operation is possible, or that impacts will not be addressed, is not acceptable and is possibly legally flawed." [8]
>
> "Old mines should be protected. I should be able to do what I want, as long as I'm not bothering the neighbors." [63]
>
> "Having development options limited without compensation is not fair." [common, 8, 103, 106, 116, 145, 148]
>
> "I should not have to defend property for an undeveloped site." [8]
>
> "Property rights should not be limited just to keep access to aggregate. There has to be a better way." [31, 59, 69]
>
> "Property rights are king." [101]
>
> "The property owner should not suffer any restrictions for a commercial operation." [59]

"Property rights ought to remain property rights. So long as I obey all laws, I should be able to do whatever I want, as long as I don't hurt the land." [93]

Opportunities to Address Property Rights Issues

"If the home is pre-existing, isn't a grandfather clause OK?" [184]

"What if sites come in after I'm there?" [74]

"If the gravel site is pre-existing, residents should not have a right to complain, except for infractions." [59]

"If there are to be restrictive covenants, they should apply to the mine, as a condition of operation, since the mine is the impacting force." [100]

2. Environmental Effects

Environmental concerns for some were great enough as to warrant no aggregate activity in the Applegate River.

"The River should not be impacted further." [8]

"Fewer and fewer areas are left in their natural state. We should protect what's left." [95]

"Riparian areas should not be used for aggregate mining." [104]

"Aggregate removal should be banned from the Applegate River." [7]

How will Goal 5 affect fish habitat and riparian corridors?

"My first priority is to protect the fish, streams and forest. The salmon are jeopardized. Aggregates are just one more nail in the coffin." [61, 102, 157]

"Fish habitat should be protected or enhanced through this process. The River has been damaged by mining in the past." [9]

"If salmon and steelhead are listed, how will Goal 5 be affected?" [7, 75, 103]

"If aggregate is done right with sensitivity to location, fish will do OK." [7]

"Define the high water mark to protect habitat." [13]

"Fish get stranded in aggregate ponds." [74]

"Slate Creek is the number one salmon production creek on the Applegate River. We want fish back in Slate Creek. It used to be such a good producer. If the Waters Creek site is mined, how will fish be affected?" [16, 56]

"If they have to mine near the streams, have them do it in the less sensitive areas, where they won't hurt the fish so much. Pollution or sediment in the streams is not acceptable." [82]

"Those small channels warm the water, the fish get stuck in the side channels. I see thousands of smolt and salmon there. Is it good? That causes other fish to breed that aren't normally in the Applegate, ones that are suited to warmer water. Like the Umpqua--it's just bass and suckers--it's too warm." [90]

"We need them both--aggregate sites and fish and wildlife." [93]

"Make sure the riparian areas are protected." [94] "What setbacks are proposed?" [109]

"How will spawning be affected?" [103]

"Aggregate mining should be prohibited in riparian areas." [104a, 104b]

Water Impacts

"People use surface water in this area because the wells are saline. How will water be affected with aggregate mining?" [47]

"Everybody on Slate Creek draws out of the creek for water. We'll have silt in the houses if aggregate is mined." [55; 77]

"Water runs down the middle of the Waters Creek [aggregate] site. Bear Creek drains into Waters Creek. How will mining affect it?" [56]

"Impacts to domestic water supply from aggregate are unacceptable." [59]

"Water is an undervalued resource. It's all we have. Make sure the true cost of disturbance is factored in." [110]

"During the long rainy season when waters are released from Lost Creek and Applegate Reservoirs into the Rogue and Applegate Rivers, and Slate Creek is running high and over its banks, the area is turned into another Lake Applegate. [How will aggregate operations be affected by these conditions?]" [146]

"How will the water table and drinking water be affected by aggregate operations?" [154, 185]

"The state assured us there would be no air or river pollution." [108]

Wildlife Impacts

"I'd like them to take a look at the wildlife corridors to the streams. They need to leave the corridors alone." [95]

"Keep unfenced areas for wildlife [don't intrude further in untouched areas]." [103]

"Protect wildlife." [172]

Reclamation

"Sites should be returned to their natural state." [74, 75, 92, 103]

"Riparian areas should be defined as 100 feet minimum from stream and protected. Plantings in riparian areas should be encouraged." [9]

"Full data should be required of developer to inform the decision process." [7]

"It's good they realize they have a responsibility to get things back to where they were. They should put the land back as they found it." [62]

"Make reclamation part of the permit." [75]

"Once mined, fish and scenic values should be returned."

"It remains to be seen what they consider restoration. If you are going to damage or harm the environment, you have a responsibility to restore it." [87]

"This land is trashed from the old mine. It's a mess." [90]

"It's shocking what they're allowed to do. They've stripped all the trees out, there's no vegetation left. No cover for fish. There used to be a stream. Now there's fingers spreading out in the sun like the Sahara Desert. They ought to be required to restore it, with native vegetation." [90]

"They're supposed to do settling ponds. And sometimes mining operations are not prepared for 5-year events--bad storms--and then stuff drains into the creeks." [95]

"Review reclamation provisions in other states to see if they can be applied here." [103c]

"The ponds raise the temperature of the water, warms up the river. Get those sites away from the river." [107]

"The operation by my place is a strip mine, lots of damage. It's washing down the soil. Will reclamation be effective?" [109]

"Has reclamation in other areas ever succeeded in returning fish to the area?" [180]

Health

"I don't think shale is environmentally correct. All you get is dust from black shale. They should go to hard rock. People keep talking about allergies....there's sulfides that make it not healthy. Then the sulfides go into the drainage and turn into sulfuric acid." [45]

"It's hazy after Copeland starts his operation. I can view this brown cloud at 6:45 a.m. Whatever scrubbers they must have I think are turned off at that time. It just builds up. It's hot because it rises. It looks like dust, not smoke. I can taste it. It tastes sharp and acidy." [107]

Vegetative Issues

"Aggregate brings in Starthistle--you buy the gravel and seeds come along." [34]

"Applegate River aggregate is contaminated with Port Orford Cedar (POC) root rot. Without heat treatment, the spore will spread if the rock is used." [59]

Soils

"It is important that non-renewable agricultural resources, namely the rich soils, are not destroyed. Soil maps will help you." [91]

Visual

"Tell them that tourism is a big business around here and if you degrade the looks and make a lot of noise, it hurts the peace and quiet that supports tourism." [82]

"The eyesores created on a hill can be seen for a long way." [92]

"How can it be all right to haul rock from the river, but cows can't drink there?" [45]

Opportunities to Address Environmental Effects

As some of the above quotes attest, residents have suggested identifying sensitive areas, such as water, riparian and wildlife corridors, as higher priority areas. These areas should become apparent as the Applegate Resource Committee completes map overlays of the various resources.

> "They should intensively do one small area, restore it and move on to the next. And ideally create spawning areas. Tree planting is important, too. There's a blue heron rookery over there [he points] with 50 nests." [91]

> "Don't let them mine large strips of contiguous river bed because this makes it difficult for the fish to find refuge as they move up the river. You should have areas of minimal disturbance between mined areas, thus providing for the fish." [92]

With regard to reclamation, include a timeframe with reclamation plans, the bond must cover walkouts, be site specific, include native species, meaningful fines. [109a]

Monitoring of riparian habitat: use the Applegate Watershed Council or agencies if their enforcement is effective. [109b]

> "The permitting should include a time element so that reclamation is done as quickly as possible. The bond should be binding and set at a cost higher than actual in case the developer walks." [103a]

> "Review permits for adequacy of reclamation. Find a way for citizen input into this process, especially preventive aspects. Citizen input should be allowed on operation plans and reclamation plans." [103b]

> "There should be no open connection between aggregate ponds and stream or intakes. No return to stream of wash water." [9]

> "Are seasonal operations possible to help fish?" [185]

The use of aggregate operations to create favorable effects on the environment was discussed actively in citizen conversations.

> "What are the effects of the ponds on the river and fish? Can the ponds be constructed to create side channels for winter habitat?" [49]

> "Mine in a manner that creates habitat, that re-creates the side channels that fish like." [185]

> "Do a cost/benefit analysis of recreation/fish benefits to the area as a way to compare priorities with aggregate." [185

3. Impact Mitigation

Impacts refer to legitimate negative effects on someone's life from a development activity. In the case of aggregate operations, residents can experience impacts related to noise and dust, truck traffic, loss of privacy, lower housing values, or loss of recreation opportunities.

Applegate residents expressed the value several times that if people regularly experience negative effects from aggregate operations, the operator has some responsibility to address or "mitigate" the problem.

> "Aggregate mining should not occur at the expense of quality of life." [71]
>
> "We were here first. We have our life savings here." [55]

The value for fairness cut both ways. Residents were quite concerned that the costs of mitigation not exceed the capacity of operators to pay. Many also expressed the concern that issues had to be real, not the complaining of an isolated few who would never be pleased.

> "Applying conditions to aggregate is OK, if they are reasonable and do not prevent the operation." [59]
>
> "Used to be, a guy was working, didn't have time to complain. Now people are retired at home and take 2 or 3 trips a day. Those most affected should get a voice, but some opinions are just complaining." [98]
>
> "They're not paying my taxes." [meaning that resisters have no right to complain] [101]
>
> "Sites should not be subject to unfounded harassment from neighbors. There should be a process that gives both sides adequate protection." [148]
>
> "Usually I shoot deep, but this time I didn't. This guy comes up and says, 'You knocked me out of my chair.' Well, I didn't believe it. We were 150 feet away and nothing knocked out with us. This guy was a quarter mile away!" [149, operator]

In keeping with local notions of "common sense," most people recommended direct communication between operators and residents to resolve concerns. "Mutual agreements" could be built into the process, it was widely felt.

> "We want to develop our aggregate site, since it will provide an income for my family. There are two possible access points, and we believe any concerns of

neighbors can get worked out. Maybe we could shut down in the summer if it's a problem." [56]

"Keep access to gravel. It's like fishing where access is cut off by others. Why? You can work out concerns with neighbors." [69]

"Mining is OK as long as there are mutual agreements with neighbors. If not, there will be hell to pay. It's worth it to do it right." [100]

"Somebody should check on impacts to see if they're real. Not just take them at face value." [117, 149, both operators]

Noise and Dust

"Why couldn't _____ get a berm up like Copeland has in Murphy? That really helps." [31]

"What are we supposed to do, close the window?" [59]

"Yes, noise and dust have bothered me, but _____ has been a good corporate neighbor. He dug a pond for me and we've always gotten along." [73]

"I hate that 'beep, beep' from the Copeland site. It's worse than the dust." [113]

"We get Copeland's dust." [102]

"I'm concerned about noise and dust from gravel operations where I live." [79, 102, 103]

"I don't owe a living to anyone. They tortured people who live down the road for a month, chewing up the side of the hill, blasting, with trucks going down the road from 6 a.m. to 5 p.m. for weeks." [97]

"The north side of the Murphy site which is not behind a berm creates noise for the adjacent homes." [145]

Truck Traffic

"Truck traffic affects us all. It's a safety issue with kids on the road." [45, 55]

"The traffic is already tremendous, even on the side roads." [59]

"There are so many trucks on the road now, and some of them go faster than I do." [66, 99] "One day I counted a truck every 15 minutes." [104]

"Access to 199 is a problem off Slate or Waters Creek Roads. Fast traffic and curves make it dangerous." [55]

"This road could not handle the truck traffic. Will it be upgraded?" [55]

"Around here, you always experience being behind a truck. You never know how early you should start for work." [87]

"We already have the logging trucks. If we had aggregate trucks too, there's only one road through Williams--it would be awful." [89]

"Rock from Copeland's trucks have hit our windshield. They denied it. Can't they cover their trucks, as they are required to do in California?" [65, 67, 86]

"The marble limestone quarry near Williams was allowed in without a formal process. The guy did what he wanted. It just flabbergasted us. Until we complained, there were no conditions about hours per day they worked the mine, noise limits, dust control measures, or the number of trucks on the road." [64]

"How much traffic will be generated and will the costs be covered by industry?" [90]

"They've gone from 5 ton trucks to double ten's. I worry about that but don't want to see anyone not have a chance to earn a living. We never used to have 'traffic hours' but now traffic is especially heavy from 7-8:30 in the morning and 4-6:30 at night." [98]

"There is a growing traffic problem in the area of Riverbank Road and Redwood Highway 199. Both roads in this area are narrow (2 lanes) with speeding the norm. Heavy trucks entering or leaving would only exaggerate the problem." [146]

Loss of Privacy

"Peace and quiet will be gone. I'll have less privacy." [79, 101, 106 142]

Conditions of Operation

Typically, conditions of operation include such aspects as annual amount of material permitted to be removed, times of day, week and year of operation, limits on crusher operations (which are noisier than extraction operations) and explosives. The enforcement issues described below apply to these specific measures included in typical permits.

"I think a person should really respect his neighbors, forewarn them if he's going to shoot [blast], and not do it after dark or on the weekends." [84, operator]

"_____ was given far too much latitude. He was allowed to operate a large number of trucks and our kids are on that road to get to school. The noise was significant." [112]

"We testified about our concerns at the hearing. I thought we were reasonable. We never heard from anyone again, never got to review the permit, then later noticed that our concerns were not included." [106]

Housing Values

"Let's measure the effects of aggregate on housing values." [90]

"To say that this would not impact property values is ridiculous." [146]

"I'm concerned housing values will go down." [152]

Recreation Values

"It would create an attractive nuisance [i.e., swimming holes] for young people in the area." [146]

"What would be the environmental impact on the Applegate/Slate Creek area? This popular swimming and fishing area would be ruined." [146]

Other Impacts

"Though currently prohibited at the Murphy site, I'm concerned that soil remediation will occur there." [119]

Opportunities To Address Impact Mitigations

Foster an approach that encourages the aggregate operator and residents to communicate about the issues, to reach clearly understood agreements, including a timeline. [102, common]

Some residents who understood more than others the policy steps already outlined by the state suggested using the ESEE process to see if conflicts can be mitigated. [184] A property owner or operator who wishes to obtain the Mineral Aggregate Resource Zone (MARZ) designation for a significant site must perform an ESEE study (economic, social, environmental, energy) to document project impacts. Residents suggested that this would be a way to encourage direct communication between operators and residents and to address issues early. Many citizens suggested mediation.

"The County should be a mediator. Don't make decisions but insist on workable agreements between miners and residents." [100]

"A mediator representing both sides should be present when an aggregate producer and the people owning the land in the impact area meet to work out conditions." [116, 185]

"An interested third party should act as a mediator between operator and neighbors to determine operating conditions. The third party should be an expert on gravel extraction." [183]

Residents were aware of the difficulty in mitigating truck traffic since it is not the only source of traffic. It's not like an on-site impact which can be contained, but affects a much larger area. Traffic complaints are very common in the Applegate and do not apply just to aggregate trucks.

4. Enforcement

Current quarry and gravel sites number very few in the Applegate Valley. All of them have their detractors, whose issues are listed here. Both operators and agency people have pointed out that a citizen observation of an infraction does not necessarily mean that an infraction has in fact occurred. Operators have pointed out that sometimes citizens' complaints are based on perceptions that, "This must be against the law," when, in fact, observed conditions may be within the law. It is obvious the more communication is necessary around these issues. In our view, citizen confidence in effective enforcement is very low. It may be that direct communication would resolve some of these differences in perceptions. Remaining issues then might be dealt with more effectively by all parties than is currently the case. We believe that low confidence in enforcement is one of the greatest stumbling blocks to resolving Goal 5 issues. Citizens want regulations enforced. [110]

"What do we do when we notice violations?"

"Conditions are not enforced. The crusher is to operate only during certain hours, but it runs on weekends and holidays. On labor day, the cat ran all day and we couldn't have our picnic." [31]

"Public Health tested this site, but they didn't get to the closest house and they tested when only one piece of equipment was operating." [32]

"The _____ site has no settling ponds to keep the sediment from the water. This should be a condition of the permit." [46]

"The operation near us exceeds the tonnage listed in their permit. The dust is not controlled and they use explosives when they are not supposed to. They get turned in but nothing happens. The site is subject to periodic review but no one has thought to do it." [58]

"_____ put in a rental two years ago, within 1500 feet of his operation. Why was this allowed?" [59]

"As mining moves up the Applegate River toward Williams Creek, habitat on both sides of the river is destroyed. When ODFW was asked about it at a meeting, he said he had to cover 3 counties." [72]

"Let me show you this site. There's water running down the middle of it onto the road. That's got to be a violation." [106]

"The county should take notice of the operation near me. Obvious sediment damage is taking place." [185]

"The _____ site has no enforcement. He takes out three times the amount he's permitted, runs his trucks way over weight. The rock face is way too steep--it's supposed to be stepped in for erosion control and safety. A stream runs right through the middle of the site. His permit should be pulled for non-compliance." [93]

"I went to a meeting where neighbors showed a video of a [dust] plume from a rock crusher. They wanted it watered, or a buffer built, to deal with it. The agency person from Salem was asked what they would have done had they seen conditions like those in the video and he said, 'We would have cited him,' but then admitted that they never had." [107]

"I reported my neighbor when sewage sludge was draining into my pasture. I could not get action out of the local DEQ [Department of Environmental Quality] and had to go to Roseburg before I got any action." [108]

"We call about fish kills, but nothing is done. No one gets fined." [183]

Opportunities to Address Enforcement Issues

"Get Applegate River designated as scenic river. Then it can be controlled for other values." [72]

"Have the permit treated as a contract with neighbors so that residents can blow the whistle with violations. There has to be a mechanism for citizen control." [31]

"Operations plans are filed with DOGAMI. Why can't they deal with the concerns of residents at this stage and then use their enforcement power to make them stick?" [185]

5. Policy Issues

The Applegate Resource Committee must address specific policy questions in order to ensure that citizen wishes are consistent with state law. The major questions are listed below, with ideas from residents included.

A. How should the priority of sites be determined?

> "Riparian values, fish and homesites are higher priority uses than aggregate." [104]
>
> "Existing homes should have exceptions." [75]
>
> "A list of potential sites should be part of your report. It should incorporate the 1975 county survey." [103]
>
> "Sites should be significant only if there is more than 400,000 cu.yds. Then prioritize the sites." [106] "Maybe do bids as a way to determine next sites." [109]

B. How should the required setback or impact zone be determined?

> "Why a 1500 foot setback? Why not 500 feet?" [69]
>
> "The impact zone should be specific for each site, depending on the type of operation and on site conditions." [89]
>
> "The setback should extend from the processing or extraction area, not from the property line." [145]
>
> "Authorities have changed the riparian setback from 50 to 75 feet. Who asked us?" [183] "We won't even be able to build anymore." [184]
>
> "Is 1500 feet legal? I'd like to be asked." [183]

C. How can citizens be notified of Goal 5 information?

Residents are not well informed of impending zone changes or the potential of mining development in the future.

> "I moved in and there was no aggregate around." [103]
>
> "Residents whose property will be affected should be personally notified early." [9, 77, 100]
>
> "No one was notified when they bought their homes that they lived next to a potential aggregate site." [33]

"Two parcels were bought by a church recently who wanted to develop a school and church center. Then they learned they were next to an aggregate site and could not develop." [33]

"In the rural areas, they should put something in the mail to all homeowners for a wide radius, put in the newspapers, TV, on the radio, and put it on the agendas for the local town council. If somebody lives next door to a proposed mine, it should be a personal contact, by phone, or knocking on your door, by a government worker or in cooperation with the mining company." [61, 82]

"They should have to notify people personally, either by mail or phone. And tell tenants, not just owners. Legal notices in the paper are worth nothing!" [90]

D. How will sites be protected from future challenge? How long should the MARZ designation last?

No protection should be offered, some felt.
Protection should be offered for a 5-10 year limit.
Give permanent protection only if all 12 Goal 5 elements are satisfied. [76]

Overlays will help anticipate conflicts and long-term prospects.
Show all potential sites
"Clarify which sites are likely to develop." [74]

"Aggregates need protection from challenge to have a strong, healthy industry. We must be careful that Goal 5 protection does not protect other types of activities at the site." [119]

"New residential areas are happening. What will the county do?" [89]

E. How will supply/demand questions be treated?

DOGAMI has researched supply and demand questions at the state level (Whelan 1995). That information, as well as local concerns, will be reviewed by ARC as policy alternatives are developed.

"Can impacts be limited by limiting the amount mined per year?" [55]

"Applegate River aggregates are critical to our area. It's the highest quality available." [77]

"We have to have aggregate for our economy and infrastructure." [95, 115]

"Reduce the demand for aggregate." [97, 147] "Close more roads so we need less aggregate." [97]

"Aggregate should be recycled to reduce demand." [109]

"How much gravel is needed? How much is exported? How much do transportation costs affect demand? How many jobs are truly created? For how long?" [184]

"The issue is defined too narrowly. Find alternatives to aggregate. Reduce lifestyle demands for it." [185]

"Has the demand for aggregate been adequately documented?" [185]

F. How will the location of sites determine priority?

Upland Sites

"You can't just pick sites along the river. Use the hills. Adequate quarry sites are available." [72, 75, 104, 109]

"Who checks mountain sites for significance? Have you checked federal lands for sources of aggregate?" [76,184]

"Reclamation is easier on riverside sites than hillside quarry sites." [77]

"Aggregate sites in the hills are probably the future. It'll be more expensive to crush rock to get sand and other products." [55]

"We should get aggregate from other sites, away from streams and rivers. The riparian and fish areas need protection." [61, 103] "Added costs are OK to stay out of the river." [109]

"Do a cost/benefit analysis to explore the feasibility of upland sites. Maybe added transportation costs are not that great." [185]

High Environmental Values

"Williams is mostly zoned farm and forest and Williams Creek is a Class I stream. Isn't that a rationale for avoiding this area?" [109]

"Preferences should be given to sites that are renewed by the river's action. Gravel is renewable in that sense." [91]

Low-Density Population

"Aggregate sites should be located in low density areas, even if it means higher cost." [79, common]

G. What about transportation and cost issues?

"We're going to have to pay the cost of protecting our natural resources. We have to cut back or pay the true price for what something costs. Transportation costs should not be the only consideration in locating an aggregate site." [61]

"In Oklahoma, aggregate was shipped in from quite a distance and it didn't appear that expensive." [45]

"Transportation costs are cited by the County, but it's not an issue in California. They worry about a few miles, but what will the cost be to us?" [68]

"If aggregate costs more because of environmental controls, that represents the true price of minerals. I would pay that cost." [82, 86]

H. How will dormant, older sites be treated?

Must stick to rules, ensure enforcement to maintain public confidence.

Review each site individually.

Place a 5 year limit on old sites before requiring them to enter the new process.

If sites do not receive the MARZ designation, drop them off.

I. What aggregate standards should apply?

"Shale should not be part of MARZ designation because it's not scarce. It should be handled under a conditional use permit (CUP)." [43, 106]

"I want good criteria for hard rock. The shale around here is not adequate for road use." [45]

"What are the ODOT [Oregon Department of Transportation] specifications for aggregate?" [103]

J. How will Goal 5 affect growth and county relations?

"Lack of aggregate might curtail growth and some slowing would be good." [55]

"If we didn't grow so fast, we wouldn't need it [aggregate]." [61]

"There are more people here now." [28]

"We are being preyed upon by the County. It doesn't care for residents; it cares for growth." [68]

"We've been getting to know our neighbors better, since Goal 5 has come along." [68]

"There are too many people here now. The powers that be should slow growth, keep lands agricultural, and then we wouldn't need so much aggregate." [82]

"Citizens should vote on the policies that your group develops." [103]

"How will we make our choices if the leadership is just saying, 'Keep the gravel coming.'?" [109]

K. Other

"How long can we expect operations to last? Is there a way to know ahead of time?" [55]

"Other elements identified in Goal 5 are being ignored in this process, such as _____." [72]

"How does the County being designated an Enterprise Zone affect aggregate and Goal 5?" [75, 120]

"Do other activities in the area affect the significance of a site?" [75]

"Keep the state out of it." [73]

"How will policy be written to satisfy concerns for the spatial balance of developed and undeveloped corridors along the Applegate River?" [104]

Opportunities to Address Policy Issues

Setbacks

"Why not make the 1500 foot setback go the other way, that is, put it on the operator in the case of a pre-existing house?" [184]

Notification

"Consult with Board of Realtors, title companies and the tax appraiser to develop the most appropriate method of notification for prospective property buyers." [74, 100]

"Real estate companies probably could not help, but realtors on a voluntary basis could." [154]

Others we consulted with said a two-level effort is needed. Once the MARZ designation is formally adopted, information attached to the deed seems sufficient to alert new property buyers to the proximity of potential aggregate operations. However, for sites known to be significant but whose owners have not yet sought the MARZ designation, how can prospective property buyers be informed of the *potential* of development in the future? In other words, to insure notification, it must be on the deed, but some sites will never be developed, so effective notification is not easy to address. Some residents suggested postcards to every household in the area. There were strong views that more than just immediately adjacent neighbors should be notified, and that a typical newspaper ad was clearly inadequate. Residents wanted plenty of notice. One resident even suggested a phone tree of citizens to inform others.

Institute local committees without politicians to work out solutions. [72]

6. Interests of Potential Developers and Small Operators

Potential developers

"Can they force you to develop? What happens to taxes? Can we specify which areas we want mined? If it's zoned aggregate, are there more taxes or less?" [74]

Small Operators

"You need to protect the rights on both sides. I have to have a way to proceed if all reasonable objections have been met... I should be able to do what I want, as long as I'm not bothering the neighbors. I think a person should really respect his neighbors, forewarn them if he's going to shoot, and not do it after dark or on the weekends." [83]

"Your program isn't very balanced. You are allowing too many negative statements and some of them aren't even true. You are being dominated by the complaint people and those with personal vendettas. You have to ask, 'Are the issues legitimate?' Aggregate impacts are not great, even for your fish." [117]

"DOGAMI has too much authority. They are making me re-claim an area now that I plan to go back into in a few years. It doesn't make any sense." [149]

Residents supported the importance of local economic activity:

"Let's hear from operators, those making a living at this. Let's show the county we can take care of it in our back yard." [183]

"_____ should be able to make a living, if the [legitimate] concerns of nearby people are taken care of." [98]

"It's OK to mine if you don't impact the way of life, property values or livestock." [99]

"What's so bad about the quarries? There is a right to make a living on your property," oldtimers say. [118, 185]

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APPENDIX A
PEOPLE CONTACTED DURING THIS PROJECT

My apologies for omissions or misspellings.

John	Ahlstrom	Peter	Gleysteen
Melanie	Anderson	Claire	Golden-Fields
Myra	Anderson	Jack	Goldwasser
Bill	Anderson	Ola	Goodrich
Andrea	Applegate	Ted	Gould
Eugene	Armbruster	Rita	Grauer
Bob & Sherry	Armstrong	John	Griffith
Steve	Ausland	Michael	Hale
Gretchen & Bill	Bayer	Herb	Harlen
Claudia	Beausoleil	Del & Phenice	Harris
Judy & Craig	Benedetti	Tom	Hart
Ted	Berge	Jette	Havens
Jerry	Bertagnolli	Michael & Jeannine	Hawk
Daisy	Biller	Bill	Hernon
Phil & Annette	Boersma	Bridgette	Hindermit
John	Briggs	Bud	Hopper
Jim	Brock	Lisa	Horn
Judith	Brown	Robert	Howard
Russ	Burch	Shirley	Hull
L.D.	Campbell	Lynn	Husky
Randy	Carey	Don	Jackson
Robert	Cole	Daryl	Jackson
Nick	Colter	John & Marilyn	Jacobs
Veda	Conner	Joella	Jacobsen
Herb	Cox	Lani	Jacobson
Chuck	Dahl	Michael & Margaret	Jacubcin
Ed & Edith	Dahlin	Paul	Jaromscak
Betty	Dameron	Chuck & Terry	Jessup
Denise	Davis	Dan	Kyern
Bob	Davis	Gayle	Laint
Ted & Josie	Dennis	Michael	Lanier
Steve	Doob	Jim	Larrabee
Cal	Dunlop	Jo	Larson
Bob	Ettner	Nancy	Lenault
Norma	Ewing	C.J.S.	Logging
Ron	Fields	Dave	Lommel
Richard	Fiske	Johnny	Long
Paula	Fong	Marilyn	Luttrell
Walt	Frizzell	Denise	Maas
Mike	Gallagher	Irla	Marshall
James	Gemmrig	Karen	Mastel

Joseph
Martha
Meghan
John
Bill
Lee
Ralph & Carol
George
Terra
Leonard
Matt
Ralph
Jean
Richard
Al
Sharon
Ken
Bob
Larry
Louis
Carolyn
Helen
Cricket
Ron
Rich & Marcia
Rob
Pat
Tom & Melinda
John & Lorraine
Scott
June
Evelyn
Louise
John
Alice
Don
Eric
Chick
Robert
M.
Zane
Jack
Douglas
Nance
John

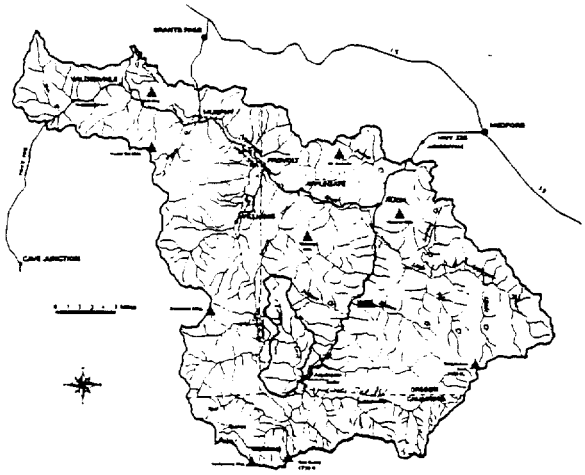
McAleavey
McDonough
McGuire
McMahon
Mignot
Miles
MIller
Moffett
Morkner
Morrison
Morsa
Moulten
Mount
Murdoch
Murray
Papasthatis
Pearson
Perguson
Peterson
Pratt
Proctor
Quigley
Raus
Ray
Reichle
Reynolds
Rickert
Roach
Roach
Roberts
Rodgers
Roether
Ross
Rowe
Runge
Sauer
Schehen
Schilder
Scott
Scott
Searles
Shipley
Simpson
Sledge
Sliger

Gerald
Raven &
Vicky
Peter
Jonathan
Dave
Pat
Dam
Sukus
John
Warren
Marvin
Bill & Joan
Dennis & Sheri
Ben
Robert
Glen
Percy
Mark
Larianne
Jack
Jamie & Donna
Jessie
Connie
Henry

Sorenson
Souka
Source
Spericino
Spero
Staley
Stanford
Stoner
Stout
Taft
Troy
Updike
Vaughters
Waltman
Watts
Weber
Welden
Wetherbee
Wheeler
White
Wilantt
Wilson
Wolf
Young
Zimbalist

Applegate Resource Committee

Interim Report
July 1997



Appendix B to
Ordinance 2000-3

Integrated Natural Resource Planning
Applegate Watershed
Josephine County, Oregon

APPLEGATE RESOURCE COMMITTEE
INTERIM REPORT
JULY 1997

REGIONAL PROBLEM SOLVING

Oregon's bounty of natural resources, fertile farm land, extensive forests and growing population often creates conflicts and difficult choices for state and local planners and regulators. The mining of sand, gravel and rock (aggregate) necessary to sustain the needs of growing communities for new roads and buildings is a prime example of a land use problem that Oregon has struggled with for years. The steady encroachment of residential development into rural areas where farmers and loggers have previously accepted aggregate extraction is an indication that this problem will continue to intensify.

In the fall of 1994, public hearings in Josephine County during periodic review for aggregate resources met with widespread public criticism. The county sought to gain strong protection for aggregate resources. Nearby private property owners expressed concern that they had not been notified of the county's planning effort or its potential impacts on the use of their land. Others voiced concerns that impacts to fish, water quality and wildlife were not being considered, especially in light of the potential listing of coho salmon in the Rogue Basin under the Endangered Species Act. It seemed that a protracted battle might ensue, when instead the county agreed to consider a new process to include more public participation and a wider range of issues. A diverse community group, the **Applegate Resource Committee (ARC)**, was chosen by the community to study these issues and develop recommendations to improve the existing process.

Oregon's land use planning system is touted as one of the best in the nation, however, the existing rules and processes to guide counties in land use issues may not work equally we in all areas of the state. In 1995, the legislature acknowledged this situation and passed ***Regional Problem Solving (RPS)*** legislation in SB 1156 to provide an opportunity on a trial basis for a few local governments to experiment with the development of solutions to difficult land use issues using collaborative efforts. The aggregate issue in Josephine County seemed suited to this approach and was included in a proposal with several other projects from Josephine County that were subsequently funded under the ***Regional Problem Solving*** legislation. ***RPS*** provides local government the opportunity to explore innovative solutions to local problems, which may include new processes and structures to best serve their community.

This fortunate eventuality allowed the community and the county to proceed with the development of a new process with little delay. In addition to the stakeholders such as the aggregate owners and operators, the adjacent private landowners and environmental

concerns, two elements that were critical to the ARC process were the involvement of the community and the state and local agencies.

Over 200 residents participated in the ARC process at one time or another. The agencies that were involved in the process included:

County

- The Josephine County Planning Department participated in every phase of the project through the participation of board member/planner John Renz. Suggestions and reviews by the planning department director, Bruce Bartow and the associate director, Michael Snider were also very helpful.

- The Josephine County Public Works Department reported their needs and concerns to the ARC board.

State

- Department of Land Conservation and Development representatives Janet Hohle, Gary Munsterman and Mike Rupp provided valuable suggestions to ARC, recommending contacts and avenues to obtain assistance. They provided encouragement and helped the Board sort through complicated issues.

- From the Department of Geology and Mineral Industries, Gary Lynch clarified the relationship between the county's zoning process and the state's permitting process regarding aggregate sites. ARC has identified the separation of the two processes as a major procedural constraint to developing collaborative solutions between landowners and aggregate owners. DOGAMI has expressed interest in participating in a pilot project where the two processes would be interrelated. Peter Wampler provided excellent information regarding existing information on aggregate sites. He is also familiar with the individual sites and can speak to site-specific questions.

- The Department of Environmental Quality was represented by Pam Blake and local DEQ representatives. They provided an excellent explanation of DEQ's water quality and air quality regulations. Pam Blake has been very encouraging regarding reach-based planning efforts, including aggregate sites.

- Bob Brown from the Division of State Lands attended a board meeting to discuss the roll of the Division in the permitting of aggregate sites.

- Governor's Watershed Enhancement Board representatives Mark Grenbemer and Ken Bierly have provided occasional comments and reviews.

- Oregon Department of Fish and Wildlife holds a position on the ARC board but attended only occasionally due to their heavy workload. They provided input into the riparian setback issue in the policy document and participated in occasional public

meetings. The potential fisheries impacts on aggregate extraction sites are evaluated by ODFW personnel. We are hoping to update the deer winter range inventory with the local office in the near future.

- The Oregon Department of Transportation participated in the process from an aggregate producer/user perspective. Their concerns centered on specific sites in the Applegate for short-term project implementation.

Federal

- Neither the National Marine Fisheries Service, U.S. Fish and Wildlife or the Army Corps of Engineers participated in this process to date; however ARC would benefit by soliciting comments from these agencies. The recent ESA listing of coho salmon in the Rogue Basin will bring federal reviews into most planning processes which could impact fisheries.

As the ARC board listened to each stakeholder describe their role and experiences with the Goal 5 process and permitting processes, the complexity of the issue began to unfold. The existing systems separate people and pigeonhole processes rather than encouraging collaboration and integration. Jurisdictional boundaries and agency directives often supercede or side-track the potential for developing mutually agreeable solutions.

RPS enabled ARC to look for improvements to processes that in some cases inherently provoke dissention where agreement could often be attained. There was strong support to work to develop a new process to replace the current contentious process. Nearly all participants embraced these common goals:

- The process should be fair to all interests.
- Private property rights should be considered on the same level as aggregate protection.
- Reasonable procedures to protect natural resources such as fish are acceptable.

ARC proposes a process that encourages links between processes and links between people. The planning, zoning and permitting processes should be interconnected and provide frequent opportunity for public comment. The process should be flexible to accommodate individual sites and circumstances. ARC hopes to test this new process in two pilot projects as a follow up to this work. Adjustments to the process will be made as the pilots proceed.

PROJECT NEED

Recognizing that as growth continues, many resources could be depleted or lost and the quality of life diminished, the State of Oregon developed a series of land use planning goals in the early 1970s. The objectives of Goal 5 are to: 1) ensure open space, 2) protect scenic and historic areas and natural resources for future generations, and 3) promote healthy and visually attractive environments in harmony with the character of the natural landscape.

The Goal 5 rules charge local governments with making inventories of and protecting a variety of natural resources, such as riparian corridors, ground water, wetlands, fish habitat, wildlife, and aggregate resources. After developing an inventory of the natural resources, the county is directed to resolve conflicting land uses and to develop zoning ordinances that assure protection of these natural resources.

Aggregate resources are an essential element in many aspects of our community infrastructure. Aggregate extraction can, however, create significant environmental impacts on other natural resources and is often seen as an untenable intrusion on adjacent neighbors' quality of life. Many have questioned whether aggregate resources should be included as a Goal 5 resource. Aggregate is the only natural resource included that gains its value through extraction rather than being protected and left in place. The benefit of its inclusion as a Goal 5 resource is that it provides a vehicle for resolving the potential conflicts between aggregate, other resources and private property rights. The inclusion of aggregate has also provided a way to protect aggregate resources for use in the future by limiting uses on lands adjacent to aggregate resources which could conflict with aggregate development. Unfortunately, plans to provide long-term aggregate resources through this process have been largely unsuccessful in almost every county in the state and have pitted neighbor against neighbor and industry against other interests. Completed periodic review documents are commonly appealed and end up in lengthy and costly court cases.

Considerable latitude is given to counties to make the choice of how much protection should be provided to aggregate resources. Josephine County began its periodic review of aggregate resources in the fall of 1995 with the premise of favoring aggregate over other conflicting uses. During the hearings landowners, aggregate producers and owners, community groups, and interest groups expressed dissatisfaction with the process. Concerns included:

- The process heavily favored aggregate resources over other resources and private property rights of nearby neighbors.
- lack of communication with affected landowners;
- lack of community participation in the process as required under Goal 1;
- inadequate inventory of aggregate resources;
- inadequate analysis of significance;

- lack of adequate analysis of the other impacted resources;
- lack of consideration for private property rights and a perception that property values are decreased by nearby aggregate operations;
- adverse long term impacts to the Applegate River; and
- lack of consideration of the economic and ecological importance of other resources.

During the periodic review process, dissenters with different perspectives began to talk amongst themselves. They agreed that there must be a more equitable way to plan the future of aggregate resources.

PROJECT INITIATION

At the urging of the community and the Applegate River Watershed Council, Josephine County agreed to set the current process aside and to support the development of a new, balanced approach to Goal 5 directed by the community.

A large group of interested community members attended a meeting in January 1996 to discuss the prospect of undertaking a new process. They voiced strong community support for the project and for the county's willingness to have the community involved in formulating planning issues.

Later, volunteers willing to contribute significant time to the project met and selected interest groups that would comprise a balanced Board (Figure 1). The following groups and persons serve on the Board:

- Josephine County Planning Department (John Renz),
- Oregon Department of Fish and Wildlife (David Haight later replaced by Chuck Fustish),
- aggregate owners and operators (Bob Copeland),
- Applegate River Watershed Council (Jan Perttu and Jack Shipley),
- community views and property rights (Pat Foley and Lynn Peterson),
- environmental concerns (John Roach), and
- agriculture (Jim Larrabee).

The Board decided to focus on only the Goal 5 resources that were most interrelated with aggregate including:

- aggregate resources,
- fish habitat,
- wildlife habitat, and
- water and riparian areas.

The Board decided that the geographic scope of the project should be limited to the Applegate watershed in Josephine County as a pilot project that could be extended to other areas in the future. Participants from other areas of the county were encouraged to participate.

After much discussion, the Board decided to name the group the Applegate Resource Committee (ARC), to reflect the diversity of resources being considered even though controversies surrounding aggregate resources had initiated the project.

PROJECT OBJECTIVES

ARC proposed to:

- Develop a process to protect aggregate resources in balance with other Goal 5 resources and private property rights.
- Provide for community ample participation and review during both the development of the process and in its future implementation.
- Develop inventories of selected Goal 5 resources.
- Ask state and local agencies to analyze the regulatory framework, the land use planning process, and their interrelationship.
- Consult with private, state, and federal scientists about the best approach to address resource concerns.

PROJECT FUNDING

The ARC benefited greatly by the opportunity to submit a grant proposal to the newly authorized "regional problem solving" program funded through DLCD. This process recognizes that collaborative efforts between citizens and agencies can often produce innovative solutions to difficult land use planning issues. The ARC proposal was submitted along with a package of other Jackson and Josephine County projects. The requested ARC funding of $88,000 was reduced to $46,400 which was matched by $6,000 from the Applegate River Watershed Council and by $5,500 by the Rogue Institute for Ecology and Economy and by $30,000 by Copeland Sand and Gravel, and by $10,800 in in-kind services and materials.

PROJECT PROCESS

Jan Perttu was hired as project coordinator through Josephine County. Jim Labbe, also with ARWC, was hired to assist with inventory and outreach. (He has also done a great job of taking minutes at meetings.)

Figure 2 shows a graphic representation of the ARC process.

Board Meetings

The ARC Board made a phenomenal commitment to the project volunteering more than 900 hours of time. They met publicly 2 to 4 times each month to guide all aspects of the ARC process. The Board's diverse composition allowed for the crafting of new ideas to balance natural resource values and the private property rights of landowners with the right to develop aggregate resources. The guiding principle of the group was to develop a fair process. The Board also participated in outreach meetings to identify community concerns, share information regarding the land use planning process in general and present new ideas for improving the current system. The Board attended several field trips to familiarize themselves with the aggregate site characteristics and to better understand the issues.

Special meetings and field trips

The ARC Board benefited greatly by presentations or special meetings held to explore certain issues:

- Local resource scientists including botanists, fisheries biologists, wildlife biologists and hydrologists suggested criteria for the development of natural resource inventories and suggested approaches to educate landowners and to protect natural resources.

- State agency representatives from the Department of Environmental Quality (DEQ) and the Department of Geology and Mineral Industries (DOGAMI) attended meetings to clarify the process of acquiring permits and to explain the regulations.

- Local realtors and title companies met to review our ideas on ways to make new landowners aware of potential aggregate sites and of other Goal 5 protection strategies.

- Aggregate owners and operators reviewed our recommendations and provided their perspective.

- The tax assessor and other county officials consulted with the ARC Board to clarify county processes and requirements.

- Josephine County planning staff met to review our recommendations and provide suggestions. These will be incorporated into our final recommendations.

- The ARC board visited many aggregate sites for which a MARZ (mineral and aggregate resource zone) designation would provide protection from potentially conflicting adjacent land uses.

- Jan Perttu attended a workshop on aggregate permitting, design, operation and reclamation hosted by DOGAMI in Medford.

- Jan Perttu also attended a week long workshop sponsored by University of California Berkeley titled Geomorphology in Restoration which covered many of the inventory and stream function topics that ARC is dealing with. ARC covered $350 of the $1700 total cost.

Community Outreach

Kevin Preister of the Rogue Institute for Ecology and Economy directed the ARC's outreach efforts. His previous experience and contacts in the Applegate enabled Kevin to develop an outreach strategy quickly. ARC Board members Lynn Peterson and Pat Foley assisted Kevin with the outreach. They conducted many interviews with individual landowners and small groups to let people know about the project and to learn about their concerns and experiences.

In addition to these small meetings, four large meetings were held in separate areas of the Applegate:
- Thursday, August 1, 1996 at Lincoln Savage School,
- Wednesday, August 14, 1996 at Williams Elementary School,
- Tuesday, August 20, 1996 at Provolt Grange, and
- Thursday, September 5, 1996 at Wilderville Church.

At these meetings, the Board explained the purpose of the project, the process we were following and our progress to date. We shared our initial ideas for a new collaborative process and the inventory information being developed. The document *Josephine County Goal 5 Resources: Issues and Opportunities in Policy Formation,* summarizes landowner concerns identified through this outreach.

After ARC developed proposals to address the primary issues, we took our ideas back to the community for their consideration. A document describing our proposals was mailed to all that participated in the earlier meetings. Three large meetings were then held in Murphy, Williams and Wilderville. The additional suggestions made at these meetings will be incorporated into our final recommendations.

Issue identification and analysis

The primary issues identified through our outreach were :
- Property rights,
- Environmental effects,
- Impact mitigation,
- Enforcement,
- Notification,

- Interests of potential developers and small operators, and
- General mistrust of the planning process as open and fair.

Inventory Development

Josephine County adopted an aggregate inventory in 1985. No inventories of the other Goal 5 resources selected by ARC had been completed. Because inventories of other resources had not been adopted by the County, these resources were not considered as potentially conflicting uses.

A primary objective of ARC is to compile resource inventories. The inventories will include potentially significant aggregate sites, important wildlife and riparian areas, fish habitat, water quality and channel characteristics. The resource data maps can be compared with one another and with population density and zoning maps to identify where conflicts may be present or could occur in the future. The 1997 New Year's flood changed the course of the Applegate River significantly, accentuating the complexity of compiling resource inventories in dynamic river systems.

Balancing Resource Protection and Private Property Rights

With information gathered from the community regarding their concerns and issues and with some preliminary resource information available, the ARC Board began to consider options for creating an equitable process to protect natural resources, provide opportunities for aggregate operations, and honor private property rights. The foundation of this effort was to create a system which would be fair to all parties. The process relies heavily on early communication and education.

Communication

Stories describing the ARC project and its progress were written for the *Applegator* newspaper, which is distributed to all landowners in the Applegate watershed. Stories were also run in the *Williams News*. One on one conversations, neighborhood and larger meetings, and mailings to interested landowners were the primary method of transmitting information. This combination provided good communication with interested parties.

Information regarding the ARC project was also shared with other watershed councils and interest groups in Seaside at the biennial meeting of the Governor's Watershed Enhancement Board (GWEB).

INVENTORIES

In the Applegate large quantities of high quality aggregate are located in or near the river floodplain. Due to the dynamic nature of fluvial processes and the often complex interconnections between fish and wildlife habitat, riparian vegetation, hydrology, and

geomorphology, ARC sought to integrate the analysis of aggregate with the analysis of riparian corridors.

ARC recognized the dual importance of inventorying riparian characteristics: (1) to measure and compare the current habitat quality from one area to another, and (2) touse the inventory information as a comparison over time. ARC also recognized that the dynamic nature of river systems does not lend itself to the development of static inventories. Many landowners recalled river channel and vegetation changes over their lifetimes and the consequent changes in their land management practices. Aggregate operators described changes in the methods of aggregate extraction and the increasing frequency of disputes.

Historically the floodplains of the Applegate River and its tributaries have been used for primarily agricultural uses. Over the last 20 years, Josephine County has experienced accelerated growth. River front property for residential development has become a highly valued commodity. This period also coincided with a drought and the construction of the Applegate dam that controls the flow of the mainstem of the Applegate River. The infrequent high water events, the perception that the dam could control floods and the settlement of the area by families unfamiliar with historic natural river functions have changed the types of use along the river. The construction of high-priced homes within the floodplain has increased the risk of major economic and human losses from natural river functions such as flooding. The increased development has also increased the need for aggregate resources.

Current and historic inventories are important to show the changes that occur over time and the interrelationships between human activities and the changes in function and structure of the natural system.

Aggregate Inventory

Because of budget limitations, the aggregate inventory used in the 1995 periodic review was based on an inventory compiled in a 1975 assessment of aggregate resources. In many cases, the information was out-dated and inaccurate and did not include many of the sites that the aggregate industry planned to mine in the near future. In some cases, sites were listed as significant without the knowledge of the aggregate owners or adjacent residents. The lack of notification to adjacent landowners when sites were identified as significant sites was one of the most contentious issues discussed in the 1995 hearings.

At the onset of this project, ARC planned to develop an inventory of significant aggregate resources and to identify them clearly so neighbors and prospective landowners would know of the potential for nearby aggregate mining. During the course of this project, LCDC revised Goal 5 and discontinued the requirement that counties must produce an inventory of significant aggregate sites. A credible inventory of significant sites was difficult for the County to prepare because there was no funding to conduct the technical analysis needed to determine significance. Under the revised Goal 5, aggregate owners

(not the County) must provide information substantiating that their deposit meets the requirements to receive the designation of significance if they wish to receive protection.

Because of these state-wide changes, ARC decided not to produce an inventory of significant aggregate sites. Aggregate resources occur commonly in the Josephine County portion of the Applegate watershed. The planning issue is not so much to identify rare resource sites and protect them, but rather to set some sites aside for the future that will not be compromised by the continuing growth. The revision of Goal 5 makes a long-term, county-wide planning approach less likely. A more likely scenario is that individual aggregate owners who can afford to go through the process will request protection on selected sites to provide short to medium range assurance that they will be able to continue to operate.

In addition to cataloguing these sites on an inventory, ARC would like to show areas in the county where geologically suitable aggregate resource rock types occur. The 100-year floodplain roughly corresponds to the potential location of fluvial (river) deposits. Fluvial deposits on terraces could also be shown but are quite limited in the Applegate. Certain rock types occurring in upland areas have characteristics that make them more likely to be used eventually as aggregate resources. Showing these resource sites in an inventory and on a map will provide notification to residents and future property owners of the location of potential aggregate mining areas. Having this information widely available should substantially reduce future disputes.

In the long term, the prevailing market forces will drive aggregate development. As availability decreases and prices climb, alternatives such as recycling and the use of alternative materials will come to the fore to fill the demand.

The listing of coho salmon as threatened under the Endangered Species Act will require assurance that any mining in or near rivers with habitat critical for coho will not harm them or their habitat. ARC is working with aggregate producers and state and federal agencies to develop mine plans which create or enhance habitat for fisheries. The National Marine Fisheries Service and the Oregon Department of Fish and Wildlife support the development of trial projects using this approach on the Applegate River.

Evaluating upland sites to provide aggregate resources is important to provide the needed supplies of aggregate. Potential sites are widespread but are often of low quality. Matching the quality of the resource to the necessary specifications of the project could be a way to use the highest quality fluvial rock only as needed, thus reducing the potential impacts to the fishery.

ARC is currently discussing with the Josephine County Planning Department staff the best way to represent the inventory of aggregate resources. This document should serve as a planning and informational resource for both landowners and the aggregate industry.

Definition of significance

The ARC believes that a volumetric measure is more appropriate than a weight measure in determining resource significance. A significant site should be one that has 100,000 cubic yards or more of the resource (quantity criterion). Aggregate resources should be determined to be significant if they meet the specifications of the Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness (quality criterion) and must be located on a map (location criterion).

The site is not considered significant if more than 35% of the proposed mining area consists of soil classified as Class I or II or is a Unique soil on Natural Resource and Conservation Service (NRCS) maps. If the applicant believes soils maps are in error, site-specific soils information can be submitted by a soil scientist with acceptable credentials (under OAR 603-80-0030, meeting the standards of OAR 603-80-0040).

The Applegate Valley has little agricultural land that is classified as Class I or II soils. Most of the agricultural operations occur on lands classified as Class III or IV. It was recommended that ARC consider protecting these soil types to protect agriculture in the valley. ARC will review the impact of this proposed change by comparing the locations of these soil types and aggregate resource locations.

The determination of significance does not automatically provide protection of the aggregate site as was proposed in the 1995 periodic review process. That is done through the MARZ process as shown on Figure 3. The ARC recommends that restrictions currently imposed on properties adjacent to significant sites that are not zoned MARZ should be removed. This would include properties zoned AR (Aggregate Resource) that have not undergone the MARZ process.

Wildlife Inventory

The Goal 5 rules define "wildlife habitat" as an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction.

On November 5, 1996, state, federal and private scientists met at the Star Ranger Station to provide professional suggestions regarding the source information and the data interpretation for riparian corridor and wildlife inventories. They recommended that the best protection for fish and wildlife would be to protect riparian vegetation and to establish continuity within that corridor and between the mainstem corridor and tributary corridors.

Several mentioned that large black cottonwoods were a marker for stable riparian areas and were important to many bird species. Conifer stands were also deemed very important. These scientists recommended mapping units containing these vegetative

types along with the usually younger and more transient willows, alders and blackberries to assess to quality of wildlife habitat.

They also recommended that the deer winter range map be updated to reflect development changes and new scientific interpretations that have occurred since the last iteration. ARC hoped to have the deer winter range map updated with the assistance of the Oregon Department of Fish and Wildlife (ODFW); however, ODFW did not feel it was a priority due to the low level of requests for information from the County and the low level of adherence by the County to the advice given by ODFW. ARC will attempt to update the deer winter range habitat inventory in Phase II of the project.

Riparian Corridor Inventory

According to Goal 5 rules, 'Riparian corridors' are a Goal 5 resource that includes water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary. The riparian boundary is defined as an imaginary boundary measured a certain distance upland from the top bank of a stream.

When following the standard Goal 5 inventory process, counties shall collect information on all these resources, defined as follows:

- "Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.
- "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
- "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels and excluding man- made irrigation and drainage channels.
- "Water area" is the area between the banks of a lake, pond, river, perennial or fish- bearing intermittent stream, excluding man-made farm ponds.

A major challenge in inventorying riparian corridors and their related resources stems from the dynamic nature of stream, river, and flood plain systems and their associated riparian areas. The nebulous definition of the riparian area as a transition area between aquatic and terrestrial ecosystems along with the arbitrary distance measurements imposed by existing county ordinances that have no connection to the biologic definition makes it difficult to identify the resource within precise spatial boundaries. There are also temporal dynamics that complicate the inventory process. Natural disturbance, primarily involving flood events, plays a crucial role in providing a diversity of plant communities, cycling nutrients, establishing channel heterogeneity, and maintaining the overall ecological integrity of aquatic and riparian habitats. Riparian corridors and their associated resources are defined as much by fluvial processes functioning over time as they are by the presence and absence of vegetation at any single moment. Ultimately, inventorying "riparian corridors" and determining their boundaries depend on what spatial and temporal scale is used.

ARC repeatedly encountered these issues in conducting the riparian corridor inventory in the Applegate. For example, the majority of sources used in the inventory documented riparian area conditions between 1991-1996. Thus, the inventory provides a "snap-shot" of "present conditions" defined roughly within this time frame. Unfortunately a large flood in the Applegate, called the 1997 New Year's Flood, dramatically changed the channel structure and location and the vegetation distribution along the mainstem of the Applegate in Josephine County. The flood made substantial portions of the vegetation inventory "out of date" and in some cases created whole new areas that could be considered "significant resource sites." As discussed below, the dynamic nature of the resource and the challenges of the inventory process had important consequences for ARC's proposals for protection and future inventory work.

Despite these challenges ARC did produce a low-cost baseline inventory that provides a "snap-shot" of riparian corridor resources in the Josephine County portion of the Applegate watershed. Much was learned in the process of conducting the inventory which will be useful in updating it in the future. The basic methodology was as follows:

- Document and classify current geomorphic and vegetation conditions along streams and rivers in the watershed.
- Collect information on the distribution of fish and their habitat in the watershed.
- Collect information on known wildlife habitat sites within the riparian corridor.
- Consult with state, federal and private natural resource professionals to obtain additional information and to review the methodology for developing the inventory.
- Synthesize this information into a riparian corridor inventory that spatially defines the riparian area, channel and channel structure, fish habitat, wildlife habitat, wetlands, and water areas.
- Incorporate this information into a GIS (Geographic Information System).

The geographic scope of the inventory was the riparian corridor along all fish bearing streams in the Josephine County portion of the watershed as identified by the Oregon Department of Forestry stream classification maps. ARC assembled a number of existing sources documenting riparian corridor conditions. They included:

- Aerial photographs. Three sets of aerial photographs were used: a.) 1:400' section wide aerial photographs of Josephine County from the County Assessor's Office; b.) 1991 1:24,000 color aerial photographs; c.) 1982 1:58,000' color infrared aerial photographs. See Figure 4. Historic photos from 1939 and the 1950s were also made available through the Josephine Soil and Water Conservation District.

- BLM 7.5 minute quadrangle orthophotos. The BLM has produced these composite aerial photographs georeferenced to USGS 7.5'quadrangle maps in portions of the Applegate River watershed. Unfortunately, these are not available along the mainstem Applegate River in Josephine County at this time. The great advantage of the orthophotos is that they have excellent resolution and have been digitized. Mapping of features can be done directly on the orthophoto, thereby eliminating errors in subsequent digitizing and the extra costs of digitizing. ARC is compiling Williams watershed data on an existing orthophoto base.
- Oregon Department of Fish and Wildlife Aquatic Inventory Data. Stream habitat data produced by ODFW Research exists for portions of Williams Creek, Cheney Creek, and Slate Creek.
- LANDSAT7 Thematic Mapper Imagery (TM). The Star Ranger Station provided this satellite imagery for the Applegate watershed. It is available for the entire State of Oregon.
- Oregon Department of Forestry Stream Classification Maps. Maps show stream size and fish presence on a base map constructed from the USGS 7.5' base upon which the ARC riparian setbacks are based.
- United States Geological Service (USGS) 7.5 Minute quadrangle maps.
- National Wetland Inventory Maps.
- Oregon Department of Fish and Wildlife Maps indicating fish habitat.
- Federal Emergency Management Agency (FEMA) 100-year flood map.
- Oregon Division of State Lands, Essential Indigenous Salmonid Habitat maps.

In addition to these existing sources, ARC produced the following sources:

- Aerial video taken from 500'-2500' elevation. ARC contracted with a local resident, Daryl Jackson, to provide an aerial video of the mainstem Applegate River from Provolt to the confluence with the Rogue River. The aerial video was taken in August of 1996 (Figure 5).
- On-site vegetation surveys. ARC contracted the Nature Conservancy to survey 6 sites distributed throughout the project area: a portion of Slate Creek, the Slate Creek Bar, Wolf Bar, a portion of Williams Creek, and the stretch along the mainstem Applegate including Moore Bar upstream to the Rogers and Jackson properties. Marie James, the Nature Conservancy plant ecologist, surveyed these areas during the summer of 1996. An example survey of the Moore Bar are is shown on Figure 6.
- Site visits with ODFW fish biologists.
- Local knowledge and other information provided by landowners.

Standard procedures for aerial photo interpretation were used to document geomorphic conditions and classify riparian area vegetation. All available sources were used to corroborate existing conditions. This primarily entailed using the vegetation surveys as a base from which to extrapolate (using the aerial photographs, aerial video, and other sources) to adjacent reaches and sub-watersheds. Extrapolation did not attempt to reproduce the same level of detail provided by the on-site vegetation surveys. Instead the purpose was to map and classify vegetation based on either the dominant structure or primary composition of commonly occurring plant communities. The location of geomorphic and hydrologic features (cobble bars, channels, and ponds) were also mapped.

ARC will transfer the inventory into GIS in Phase II of the project.

RESOURCE PROTECTION PROCESS

Aggregate protection

ARC is still discussing the need to protect aggregate resources. While resources such as fish habitat and wildlife have intrinsic values and provide non-market amenities to society at large, aggregate is the only Goal 5 resource that gains its value by being extracted and sold on the market. Under the county's previous proposal, the protection granted to significant sites created substantial outrage in the community. The protection measures created, rather than prevented, conflicts. Many felt that the lack of notification to adjacent landowners, rather than the protection of the aggregate site, had created much of the hostility. Many also felt that the county's decision to heavily favor aggregate where conflicts occurred also created hostility where mutually acceptable solutions might have been possible.

At a meeting with ARC, aggregate operators expressed strong support for continuing some form of protection for aggregate properties. Most felt that if the new process proposed by ARC, described below, was successfully implemented, protection would be acceptable to both landowners and aggregate interests. Some had concerns as to whether the process would work. ARC hopes to conduct one or two pilot projects to test these ideas as a follow-up to this project.

ARC MARZ designation process

The evaluation of whether a site is "significant" is an early step in the MARZ process to gain protection for the aggregate resource. The criteria for significance are listed in the inventory section. ARC developed the following process to provide an equitable way to protect significant aggregate resources with as little imposition on private property rights and impacts to other natural resources as possible. ARC's proposal would eliminate Goal 5 protection for significant sites unless they have conducted an ESEE (economic, social, environmental and energy) analysis as part of their application for a MARZ designation. Figure 3 illustrates this process. Two types of MARZ designations can be applied for: an extraction-only zoning or extraction and processing zoning.

Previous determinations of significance would no longer give a site protection. Only sites earning the MARZ designation would be given protection. ARC recommends that restrictions currently imposed on properties adjacent to significant sites that are not zoned MARZ should be removed. This would include properties zoned AR (Aggregate Resource) that have not undergone the MARZ process. This would not prohibit mining on these sites, but would remove requirements on adjacent properties to receive special approval for the development of permitted uses.

Negotiated impact zone agreement between landowners and aggregate interests

This process provides an opportunity for adjacent landowners to participate in the project planning process and to share their concerns early, at a time when design changes can be more easily incorporated. This collaborative process to address landowner concerns and aggregate owner objectives will be expressed in a negotiated, "good faith" "Impact Zone Agreement."

- ARC determined that an effective remedy is to change the Development Code to require an effort on the part of owners/operators to conclude an Impact Zone Agreement with affected residents.

- The effort to conclude an Impact Zone Agreement at a minimum should include these steps: 1) Notification by the aggregate owners/operator with a letter to all property owners within 1500' of an aggregate property boundary. 2) Informal contact (phone, visits) with impacted property owners sufficient to identify the range of concerns in the community. 3) At least two meetings, one for all residents and property owners within 1500 feet of the aggregate property boundary, in order to negotiate an agreement, and a second for the public at large, to be held at a traditional meeting spot for the community. 4) Signs posted on roads in the area telling of public meeting. 5) Documentation by aggregate owners/operators of the steps taken (time, date, people contacted, minutes reviewed by all participants), as well as a summary of agreed upon elements and those conflicting uses for which no agreement was reached. It is recommended that the owner/operator use the services of a trained mediator for this effort.

- Legitimate issues to be covered under the agreement are those concerned with the impact zone itself: noise, dust, explosives, truck traffic (within one mile of the site), riparian corridors, wildlife and visual impacts. Wherever possible, impacts must be quantified. At a minimum, parties to the Impact Zone Agreement are those who reside in the impact zone and relevant public officials.

- If agreement is not reached, county standards will apply. These standards are more stringent than those that must be applied in an Impact Zone Agreement.

- Citizen issues not related to the impact zone, such as truck traffic at key arterial intersections and environmental concerns, are not considered elements of the impact zone agreement but can be directed to responsible county and state agencies.

- Elements of the agreement are left to the discretion of the participants but should include these elements:

- The delineation of the impact zone. Setbacks will be measured from the aggregate extraction boundary or from a pre-existing development on adjacent properties sensitive to aggregate extraction impacts.
- Definition of site depletion (When is mining complete?).
- Restrictions on impacted properties and timeline for ending.
- Restrictions on aggregate owners and operators:
- Operations and reclamation plan (including visual impacts, equipment parking, noise, dust, and nuisance issues).
- A timeline for termination of the agreement.
- Enforcement rights.
- Provision for access to the site; necessary property easements, usually handled through royalty payments.
- When re-zoning should occur and the appropriate subsequent zoning
- Royalty payments appropriate for level of impact.
- Provisions for additional review at some future time.

- The owner/operator must record and notarize the contract with county records, so that the agreement "runs with the land." This measure would be a way to inform prospective property buyers or inheritors of property that the property could be affected by an aggregate operation. However, information that is within the "chain of title" still offers no guarantee that people will notice or do the necessary follow-up to get full information. Indeed, it was the belief of the ARC, through consultation with realtors, assessors and title companies, that no guarantees of notification are possible.

  ARC had hoped that the negotiated agreement could be recorded directly on the deed. This was identified as the most foolproof method of assuring notification, particularly with respect to future purchasers of a particular property. Unfortunately this approach was unfeasible. The title companies reported that such an approach for notification would require resurveying and risk clouding the title of each property.

- The product of an Impact Zone Agreement is a legal, enforceable document that becomes part of the formal application of the owner/operator. In the event of partial agreement, the default standards of the County Development Code will apply.

Incentives for Impact Zone Agreements

For aggregate owners and operators:

- The protection from additional legal challenge by receiving MARZ designation.

- A less hostile public hearing process.

- Protection against unsubstantiated claims.

- Better community relations.

For residents and property owners:

- For any property that is entirely or partially restricted, tax incentives should be provided, as per those given to other resource land (Woodland Resource or Exclusive Farm Use), during the period of MARZ designation, provided there is an Impact Zone Agreement in place. (Many of these properties may already be zoned EFU or Woodland Resource so this may amount to no change. Perhaps a tax exemption or some compensation from the operator/owner could be provided). After the reclamation process is complete, the property would revert back to normal taxation rates. Legislation would be required to implement this change.

- A means to reduce restrictions on their land

- A chance to influence operations and reclamation plans.

- A system of enforcement and accountability.

- A means to express concerns.

ESEE process

To obtain protection for an aggregate resource, ARC recommends that an accurate assessment of the economic, social, environmental and energy (ESEE) consequences of the site development must be provided. These evaluations known as ESEEs should occur before or simultaneously with the development of the negotiated agreement. They should be useful documents that evaluate conflicting uses and assist decision-makers in making good decisions.

Historically throughout the state, ESEEs have been produced by county planning staff. A meaningful ESEE analysis deals with many technical issues, which are usually outside of the scope of county planning staff. The previous ESEEs have been rudimentary at best. The new Goal 5 requires the aggregate owner to provide the ESEE analysis rather than the county.

To accurately assess the impacts of an aggregate operation, a plan of operations and a reclamation plan must be developed. Under the previous county proposal this information was usually not available because the ESEEs are completed during the county zoning process rather that during project planning. Normally this type of planning does not occur until the owner wants to mine the property, which might be several years after the zoning decision has been made.

Cumulative impacts

The riparian corridor inventories produced by ARC will provide a means for aggregate owners to better assess the impacts of their development on other natural resources. Aggregate owners will be able to place their property into a framework that illustrates the abundance of different resource characteristics on a large scale and the abundance of these characteristics on their own property. A clearer understanding of river and ecosystem functions will also be an end result of the resource inventories.

County Zoning and Development Approval and State Permitting of Aggregate Mining

Many conflicts are created because county zoning and permitting processes and the state permitting process that are required to occur separately.

Oregon's two-tiered process for regulating aggregate mining involves County land use approval and State permitting:

> The *County Planning Process* determines appropriate land use for a particular site. This is the stage of formal citizen involvement. This occurs in the development of the comprehensive plan and periodically with plan review as well as in public hearings for conditional use permits and development permits (Post-acknowledgment Plan Amendments).
>
> The *State Permitting Process* permits the operation based on professional judgment, environmental quality standards, and state regulations. This is primarily a process of technical evaluation with no explicit opportunity for citizen involvement. State agencies require a land use compatibility statement before permitting site specific activities. DOGAMI is supported largely by permitting fees and is not allowed to charge a fee unless the county land use compatibility statement is signed. DEQ and DOGAMI do not consider county planning issues beyond requiring a land use compatibility statement for sites that require a permit.

According to Gary Lynch from the Department of Geology and Mineral Industries, (DOGAMI), the original intention of the two-tiered process was to provide a degree of public participation while sufficiently isolating professional judgment from local bias. Theoretically it also allowed owners/operators to gain local approval and with it a degree of certainty before investing time and resources into the state permitting process (i.e., plans for development of the site, reclamation, and mining). This system effectively requires all public comments to be provided before development decisions are made. This has left the public with the perception that they do not have a voice in critical aspects of the development or the potential environmental and cumulative impacts.

The temporal separation between the two processes can be many years, which has resulted in cases where recent landowners are unaware that aggregate mining may occur nearby. Often zoning decisions are requested years before any development occurs. This sometimes results in expectations from landowners that a project can be permitted on a site before the state's permitting decision is made. Considerable investments can be lost in some cases.

When the ESEE process and the negotiated agreement are completed, and if state permitting issues are addressed in the same timeframe, the needs of the aggregate operator, the adjacent landowners and other natural resources should be satisfied.

Pilot programs

ARC proposes to undertake one or two pilot projects that bring together the state and county permitting processes. The pilot process will explore the institutional barriers to getting state agencies involved in the ESEE process and attempt to achieve a cooperative interdisciplinary approach between agencies. The pilot will seek to:

- Provide public participation opportunities during zoning and permitting processes.
- More thoroughly address cumulative environmental impacts and reclamation during the county approval process when citizen concerns are greatest,
- Expedite state permitting for the operator; and
- Develop recommendations for improving state agency coordination agreements, which are pending periodic review.

DOGAMI would like to participate in this pilot process. In these cases the ESEE analysis will be more complete and will allow for citizen input to develop the planning process.

Riparian corridor protection

A naturally functioning riparian corridor and its associated floodplain store and convey floodwaters, recharge groundwater, maintain or enhance surface water quality, provide fish and wildlife habitat and provide opportunities for recreation. These qualities provided by river systems are not always obvious to landowners or casual users; however, the protection of these resources benefits the entire community by providing essential natural processes for present and future generations. For these reasons, it is appropriate for counties to provide protection for riparian corridors.

The new Goal 5 mandates counties to follow one of two processes for protecting riparian corridors: the standard inventory process or the "safe harbor" method. The first option involves conducting an inventory of the various resources by locating and classifying them, then determining which are most significant. Measures to protect these resources would then be developed. With this option only special riparian areas would be protected.

The safe harbor option may be adopted in lieu of the standard inventory process. It allows local governments to determine the boundaries of significant riparian corridors within their jurisdictions using a standard setback distance from all fish-bearing lakes and streams. Measures to protect resources within this setback are then followed.

There are benefits to each process. ARC decided to combine the two options to provide a baseline riparian corridor inventory (one product of this project) for use in ESEEs, cumulative impact studies, and long-term analyses to direct future regulatory actions and planning efforts. The safe harbor approach was deemed most appropriate as a regulatory basis. It should be emphasized that ARC's proposals for protecting riparian corridors do not relate exclusively, or even primarily, to aggregate operations. The safe harbor riparian setback will apply equally to residential, agricultural and forest lands.

While ARC saw a value in inventorying all significant riparian corridor resources under the standard inventory process, it recognized that the accompanying decision determining significance was costly, cumbersome, and ultimately an inadequate strategy for protection. The standard inventory process for protection seems ill-suited for riparian corridor resources which are difficult to identify as distinct units or to protect in a static isolated condition. Maintaining the ecological integrity of riparian corridor resources requires protection as a continuous geographic system representing interconnected fluvial and ecological processes. Using the standard inventory process could result in the long-term fragmentation of the resource. Moreover, the standard process for protection potentially creates a disincentive for conservation by restricting the property of landowners that have conserved riparian corridor habitat on their land; nor does it provide either requirement or incentive for the protection or restoration of degraded areas. The standard process for protecting riparian corridors is meritorious in its inventory process but problematic in its strategy for protecting the resource.

Alternatively the safe harbor provision of Goal 5 provides protection of riparian corridors with a standard setback. Thus, it can apply protection equally to all properties along any fish-bearing stream. The safe harbor provision is also easier and more cost effective to administer.

Table 1: Goal 5 Processes for Inventorying and Protecting of Riparian Corridor Resources

	Advantages	Disadvantages
(A) Safe Harbor Provision	• Provides continuous protection to riparian areas along streams. The setback is determined by fish presence and average annual stream flow as described on ODF's fish presence maps. • Is equitable and creates no disincentives for conservation.	. • Does not identify special areas for special protection. Does not protect riparian corridor resources beyond the limited and arbitrary riparian setback boundary.
(B) Standard Inventory Process	• Develops a comprehensive inventory, which can be used for many purposes. • Protects significant resources and habitats.	• Does not protect resource as a continuous corridor. • Potentially creates disincentives for conservation and restoration. • Involves a costly process for determining protection. • Leaves degraded areas unprotected.
(C) ARC's Proposed Process	• Provides the advantages of (A) and (B). Uses the inventory as an educational and outreach tool for the voluntary and cooperative protection of riparian corridor. Also encourages restoration in damaged areas.	• Does not give regulatory protection to significant riparian corridor resources outside a riparian setback.

ARC'S recommendation for riparian protection and aggregate site permitting

ARC's proposal for protecting riparian corridors in Josephine County combines and modifies the two approaches provided by existing Goal 5 rules. ARC recommends the following actions for integrating the protection and production of aggregate with the protection of riparian corridor resources:

- Adopt the riparian corridor inventory as part of the Josephine County Comprehensive Plan and develop a system for periodically updating the inventory. ARC recommends an ongoing

partnership between the Applegate River Watershed Council and the County to maintain the riparian corridor inventory.

- Use the inventory as a source of information in assessing environmental impacts and developing reclamation plans in authorizing aggregate operations. This is consistent with the Goal 5 rules that mandate the consideration of other Goal 5 resources in the process of authorizing mining of significant resource sites. Figures 7, 8, and 9 show how overlaying inventory information can identify potential areas of conflict.

- As a part of the MARZ application, require that aggregate owners/operators develop a draft ESEE and demonstrate evidence of consultation with relevant state agencies. The draft ESEE should include:

  - A conceptual plan for operations and reclamation.

  - A preliminary assessment of impacts to riparian habitat, fish habitat, channel stability, adjacent property, and overall fluvial processes.

  - State agency consultation sufficient to assure that the resource site could be permitted before receiving Goal 5 protection.

  - Issues included in the negotiated agreement.

  - A program for monitoring effects. Some of these activities could be used to update inventory information. This could include such items as running transects in established areas or measuring water temperatures.

Riparian protection and other land uses

ARC's proposals for riparian corridor protection also address conflicts with other land uses. To this end, ARC attempted to balance protection with concerns for property rights. ARC's strategy provides (1) a minimum threshold of regulatory protection necessary to maintain the ecological integrity of the resource, and (2) the necessary information to make voluntary and incentive-based solutions possible for the landowner.

This proposal assumes that the responsibility for protecting riparian corridors must come from a collaborative effort supported by the community and voluntary landowner actions, working with state and county government. The basic tenets are:

- Adopt a modified safe harbor riparian setback ordinance applicable to all zones including resource lands. Fish-bearing streams labeled large (greater than 10 cubic feet per second (cfs) average annual flow) on the Oregon Department of Forestry Fish Presence maps should have a 75-foot riparian setback. Small and medium fish-bearing streams should have a 50-foot setback with all other streams having 25-foot setbacks. Figure 7 shows a segment of an

ODF map on which the setbacks are based. The classification used in the amended Goal 5 provides a 75-foot setback only for streams larger than 1000 cfs average annual flow. In the Applegate watershed, no streams meet this size criteria. Using the ODF criteria significantly increases the width of the riparian protection area within the watershed. Hardship variances will be included in the ordinance.

- Develop a program for making the riparian corridor inventory accessible to the public for educational and outreach purposes. The goals would be to:

  - provide site-specific information to landowners when issuing development permits to encourage voluntary compliance of the riparian setback,

  - encourage participation in cooperative, incentive-based protection efforts for areas outside the setback,

  - provide assistance through watershed councils, Soil and Water Conservation Districts and other groups to assist landowners with corridor protection and restoration,

  - make landowners aware of the way their property fits into the larger ecological system and a broader strategy of protecting riparian corridors in Josephine County, and

  - better represent the benefits of riparian habitats in property values.

ARC recommends that the watershed council periodically update the riparian inventory.

OTHER IMPORTANT ISSUES

Notification

Residents identified the lack of notification of potential aggregate sites and activities as a primary concern during ARC's outreach. Public notification requirements are often no more than a small notice in the newspaper. During the 1995 hearings, residents commonly complained that they were not informed that they had purchased property next to a significant aggregate site. ARC struggled to develop a solution to this problem and propose improvements to the existing system but did not find any solution that is completely satisfactory.

The following approaches will improve citizen notification:

- Real estate and title companies identified a number of measures that would better inform the real estate agents working in the area. First, aggregate resource maps showing significant sites and potentially suitable aggregate areas could be distributed in real estate offices throughout the area. Second, information could be distributed to realtors through training sessions offered by the association of realtors and through

various broker forums including a regular "information sheet" distributed to real estate agents, realtors and brokers.

If tax deferrals are granted for properties for the period of time in which a MARZ designation applies, then the state would direct the coding system for tax assessment printouts to include a code which would alert title companies to the proximity of the property to a present or future aggregate site. Consequently, the preliminary title report would inform prospective property buyers. Unfortunately, many transfers of property such as inheritance or private transactions do not involve real estate agents.

- Notice of the proposed zoning changes should be sent by the county in writing to affected property owners within 1500 feet of the proposed change.

- The Impact Zone Agreement will serve to better inform citizens of Goal 5 issues, designated impact zones, and impending aggregate development

- A means should be developed by which the various inventories compiled for this project can be used to raise awareness with the public and with agencies regarding sensitive resource issues.

- The development permit can be used to provide appropriate maps and inventory data to the public, for example, a map of significant aggregate sites (which may be developed in the future) or a riparian resource map.

- County planning staff should receive training in watershed health.

Enforcement

Residents' perception is very widespread that local enforcement of various laws and regulations is poor. Residents simply do not believe there is an effective way to "blow the whistle" when they believe infractions of county permit conditions or standard regulations are observed. This belief is not only associated with infractions during aggregate operations but also to other types of development such as agricultural, logging or residential. Successful implementation of Goal 5 depends on offering citizens a process to respond to concerns and developing effective and timely agency response.

Recommendations to assure compliance on aggregate operations

- The process should be fair to all parties. A means must be ensured of separating legitimate from non-legitimate issues.

- Both citizens and operators should have enforcement authority, either through the Impact Zone Agreement or through the new MARZ ordinance.

- The costs of compliance must be borne by the development.

- County and State permitting should be brought closer together to allow for adequate citizen input.

- As a condition of the permit, the operator shall open an escrow account of $5,000 (per site per year) for use by the county. This should only apply to larger operators.

- The county handles citizen complaints (dust/opacity, noise, water quality, truck traffic, other issues) and contracts necessary monitoring/compliance services, such as a water laboratory, county zoning administrator, police, mediators. The enforcement officer of the county would have responsibility for this function. If the operator is found to be in compliance, the operator does not have to pay back into the escrow account. If the operator is found to be in violation, the violating conditions must be addressed and the escrow account repaid to the $5,000 level.

- A complaint log shall be kept by the enforcement officer and forwarded on a regular basis to the Planning Department.

- A brochure, outlining for citizens which state and county agency they should call for which type of violation, should be developed.

- A pilot project is proposed which would experiment in the sequencing of permit applications in order that DOGAMI, DSL and other relevant state agencies are brought into the process earlier and in such a way as to foster greater community participation

- As a condition of getting the county development permit, operation and reclamation plans consistent with state guidelines and regulations must be included. The notion is to anticipate and include what the state is going to require, so that citizens have the opportunity of participating in the review of operation and reclamation plans. Citizen input into operation and reclamation plans will improve them and improve compliance.

Many landowners and aggregate operators have commented that the escrow account is an unfair burden on the aggregate producer. ARC is also concerned that the operator be protected from frivolous complaints. ARC will consider other recommendations, which may be more equitable.

Aggregate Review Board

ARC discussed at length the formation of a technical board that would meet periodically to deal with enforcement issues as they arose. This "Aggregate Review Board" would judge the compliance of aggregate operations, investigate and arbitrate citizen

complaints, and act as a liaison to State agencies. The goal of the Aggregate Review Board (ARB) would be to provide the County with the necessary technical resources and knowledge for informed and accountable enforcement. ARC reviewed proposals to establish a similar board in Humboldt County. ARC decided the ARB would be unfeasible due to the lack of resources and local expertise to establish and maintain such a group.

ARC supports specific agency efforts to improve the regulatory process. The proposal currently under consideration by DEQ and DOGAMI to have DOGAMI conduct the required water quality monitoring procedures makes good sense and would result in better understanding of on-site conditions. The DEQ should consider reviewing its air quality permits for portable crushers, asphalt plants, or ready mix plants. Both portable and non-portable equipment require a land use compatibility permit but only the non-portable equipment requires public notice and a 30 day comment period. Since most aggregate processing equipment is portable, the permitting of most aggregate operations does not involve public comment. ARC supports re-examining this process to assure adequate citizen review.

Recent incidents in Josephine County have magnified the continuing problems inherent in enforcing natural resource protection policies. These goals are often the responsibility of several different agencies depending on nuances in any particular situation. Determining the appropriate agency to notify when incidents occur or questions arise is virtually impossible for most landowners. Often if the appropriate agency is located, it is understaffed and unable to respond. An additional problem arises when agency personnel are requested to pass judgement on issues that are outside their area of expertise. Many agencies cover such a broad variety of concerns that the specialized knowledge required to make a decision is not available at the needed time. Large loopholes for certain types of land uses erode the potential for fairness and consistency in enforcing existing regulations. This morass creates tension between agencies and between landowners. The development of new approaches and rules is meaningless unless consistent interpretation and enforcement occur.

This issue is especially pertinent now in light of the recent listing of coho salmon in the Rogue Basin. Oregon's Coastal Salmon Restoration Initiative provides Oregon with the opportunity to lead recovery efforts rather than turn to federal leadership. The Plan is based largely on a series of commitments from state agencies to strengthen and uphold regulations affecting habitat protection. A unified consistent effort towards education and enforcement, involving agencies at the local, state and federal levels, is necessary for success.

ARC recommends that a study of river functions and an analysis of cumulative and site-specific impacts of human activities should be undertaken to form the basis for prudent county and state permitting and regulatory decisions. The Applegate River Watershed Council would like to coordinate this effort.

ARC BOARD

Oregon Dept. of Fish and Wildlife

Aggregate Operators and Owners

County Planning

Environmental Concerns

Community Interests

Applegate River Watershed Council

Agricultural Concerns

Private Property Rights

Figure 1 ARC Board Composition

APPLEGATE RESOURCE COMMITTEE
GOAL & PROCESS

IDENTIFY COMMUNITY CONCERNS
property rights & resource protection

↓

DEVELOP INVENTORIES
(refine based on community knowledge & other information)

↓

Aggregate

Riparian Corridors
fish habitat, riparian vegetation & water areas

Wildlife

↓

DEVELOP & COMPARE OVERLAYS
INDENTIFY CONFLICTS

↓

Land Use

DEVELOP IDEAS TO RESOLVE CONFLICTS

Private Property Rights

↓

DEBATE ISSUES OPENLY

↓

DEVELOP LAND USE PLANNING POLICIES
(provide the best balance & future for Josephine County)

This process depends on the involvement of the community, technical experts and agencies at each stage. We hope you will participate.

Steps in Proposed Goal 5 Process: Mineral Aggregate Resource Zoning (MARZ)

1. Owners/operators desire to develop aggregate resources

2. The ESEE Study
a. Economic, Social, Environmental,Energy
b. Coordination by owners/operator, county, state on operations & reclamation
c. Citizen participation

3. Impact Zone Agreement between residents and owner/ operator
a. Citizen participation

4. Application for MARZ
a. "Significance"

***5. MARZ designation* granted through public hearings**

6. State Permitting–Regulatory Agreements
a. Operations plan
b. Reclamation plan

7. Operator sets up County escrow account for complaints

8. Operations

9. Monitoring
a. By citizens
b. by responsible agencies

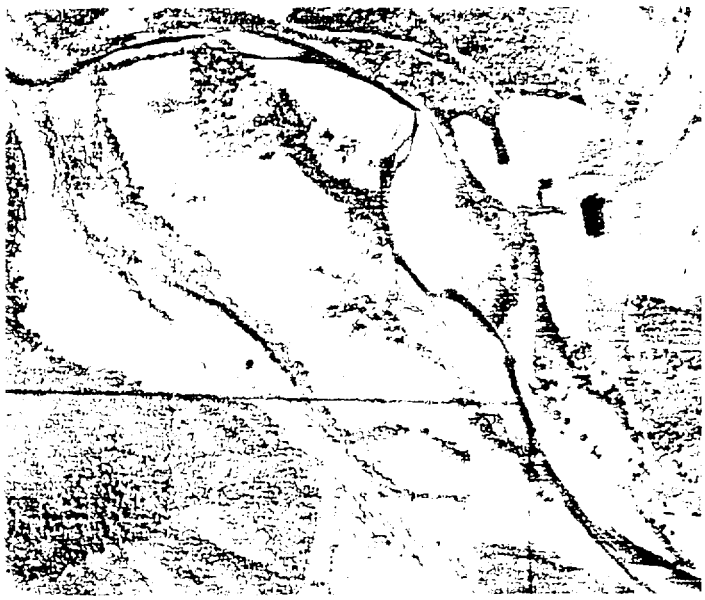
10. Reclamation

11. Reclamation monitoring
a. by citizens
b. by responsible agencies

12. Re-zoning

Figure 3 MARZ Process

Draft for comments



Moore Bar 1959

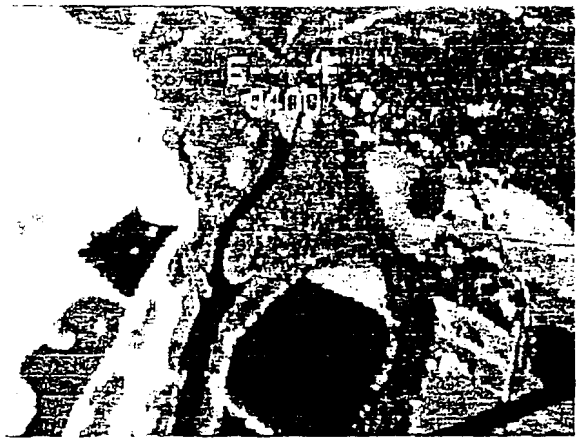
Moore Bar 1982

Moore Bar 1991

Moore Bar 1997

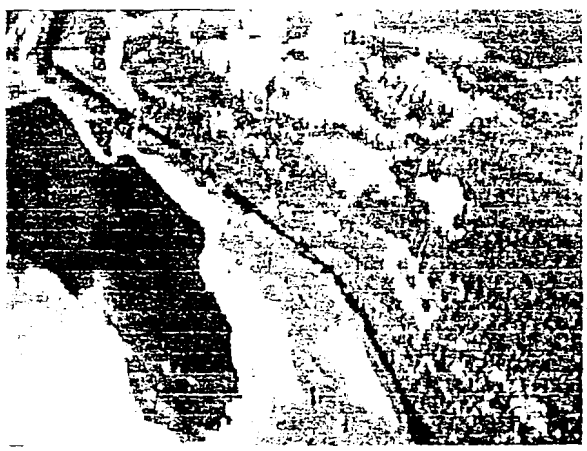
Figure 4 aerial photographs used in inventory: Selected historic and current aerial photographs illustrate some human and natural caused changes to channel structure and riparian vegetation at the Moore Bar (T37SR5WS21) along the mainstem Applegate River.

Aerial Video Screen Captures



I

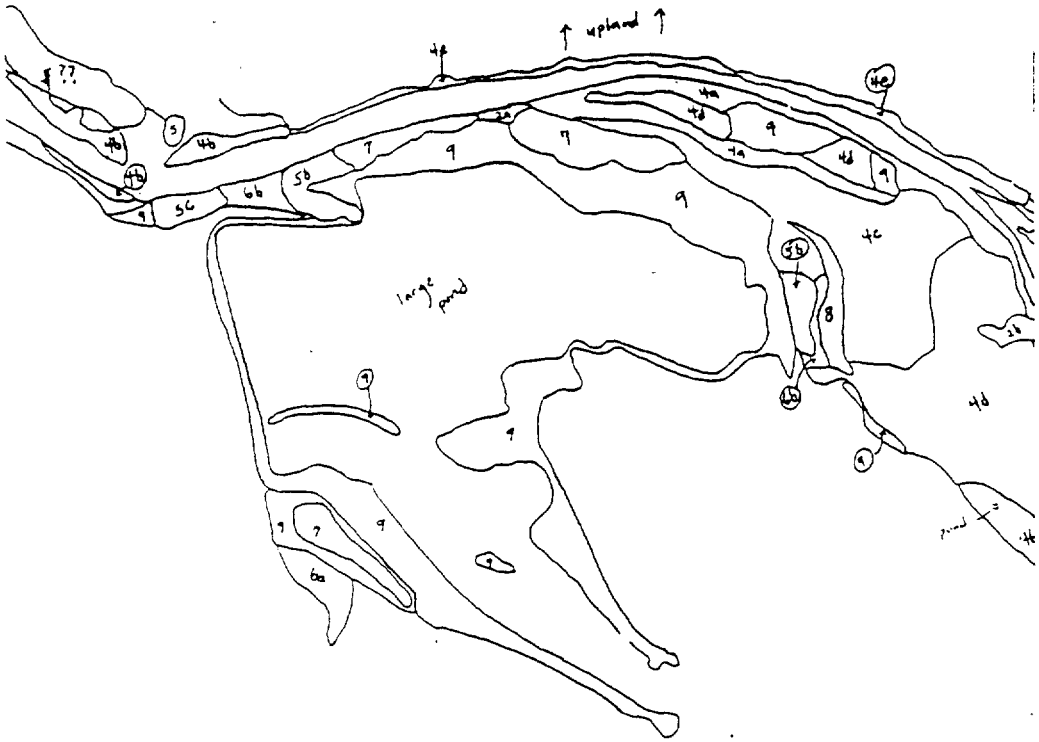
II



III

Three screen captures of the aerial video at Moore Bar.
Images I, II, and III progress downstream.

Figure 5 Aerial Video clip



5b. Red alder along overflow channels (VCC: 111).

Unit 5b is primarily the same as *Unit 5*, but occurs along the banks of overflow channels rather than along the main river course. Tree canopy = D; Tree strata = E; Condition = B; Seral status = 5. Major species:

frequent: T = $ALNRUB_{T, 44}$; S = RIBDIS

occasional: S = RUBURSM, SALEXI; GS = PHAARU

infrequent: T = $FRALAT_T$, $POPTRI_T$; S = SALRIG, SALMEL; F = CONMAC

5c. Red alder along narrow, steep banks (VCC: 115).

Unit 5c is primarily the same as *Unit 5*, but occurs along narrow, steep banks, on the east side of the river near the south end of the Wolf property, rather than along the broader, flatter banks along the majority of the main river course. In addition, big-leaf maple (ACEMAC), black cottonwood (POPTRI) and Oregon ash (FRALAT) are more abundant in this unit. *Unit 5c* is somewhat disturbed by adjacent agricultural activities. Tree canopy = D; Tree strata = E; Condition = C; Seral status = 5. Major species:

frequent: T = $ALNRUB_{T, 44}$

common: T =$ACEMAC_{T, 44}$, $FRALAT_{T, 44}$; S = RUBDIS, SALEXI

occasional: T = $POPTRI_{T, 44}$

infrequent: S = SALLUCL, SALSIT; F = CONMAC, PTEAQU, SOLDUL; GS = PHAARU

Sample of vegetation survey map and documentation from the Moore Bar site. The surveys provided site specific information about vegetation structure and composition used with other sources to classify adjacent reaches of the riparian corridor.

Figure 6 Detailed vegetation survey

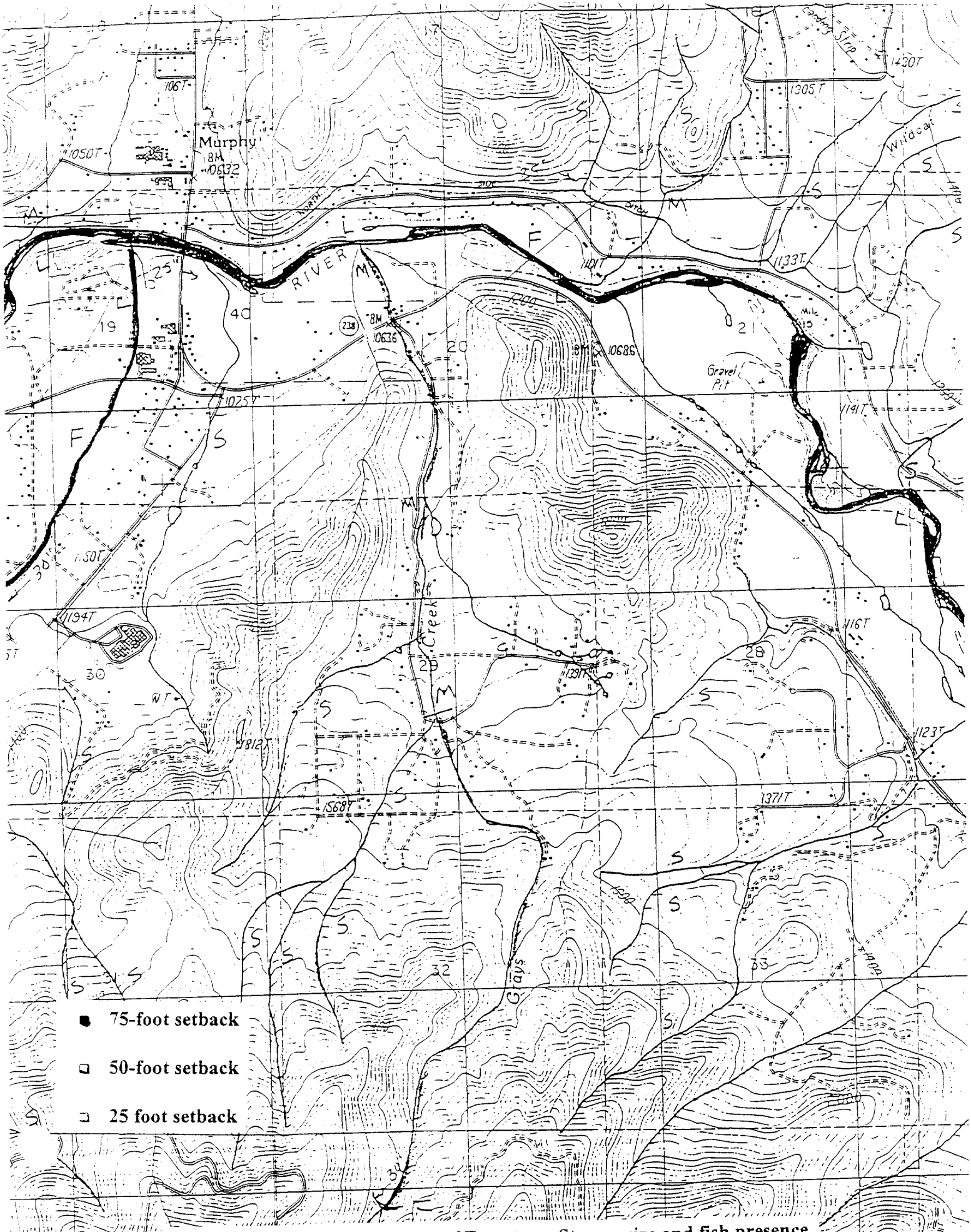


Figure 7 Oregon Department of Forestry – Stream size and fish presence

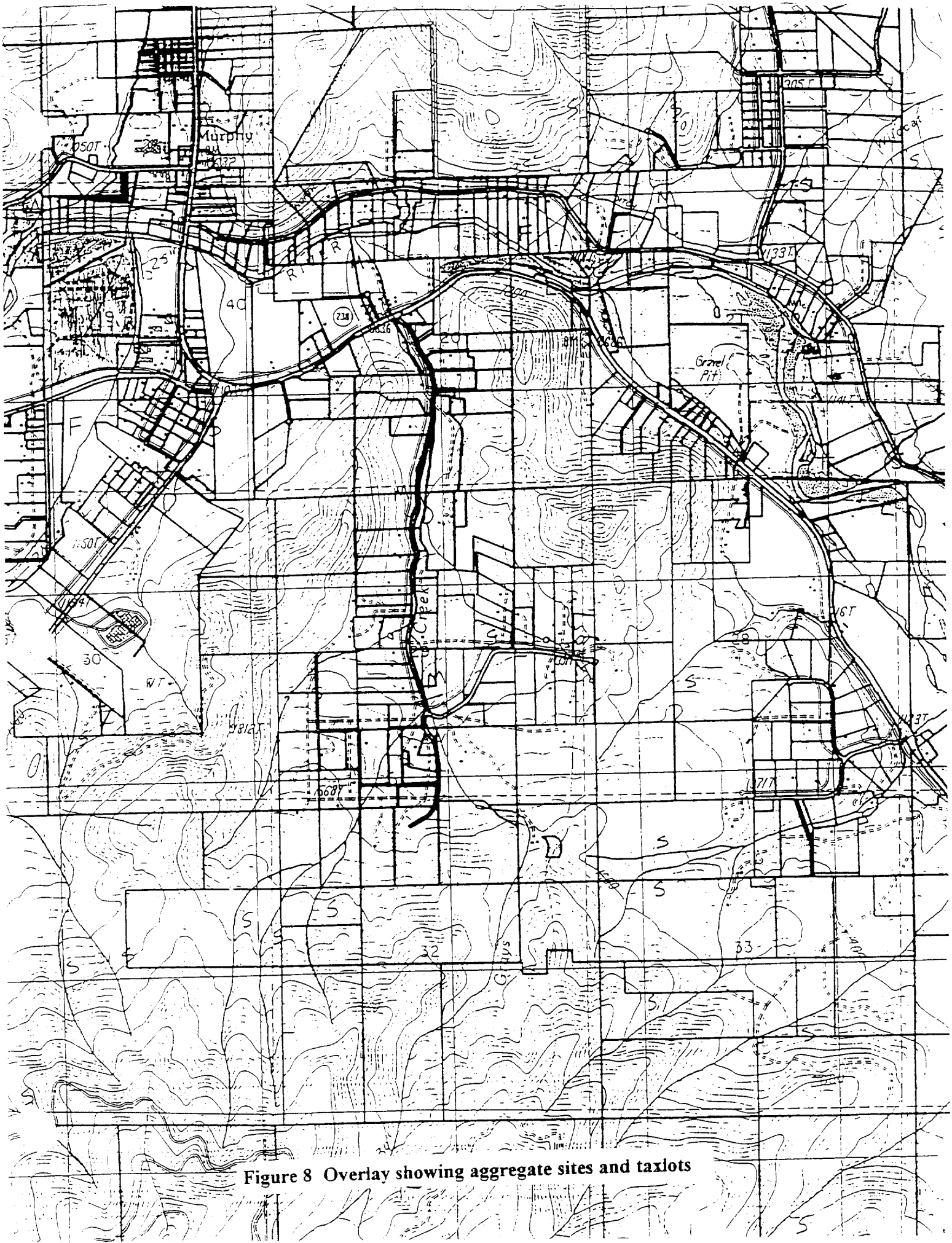


Figure 8 Overlay showing aggregate sites and taxlots

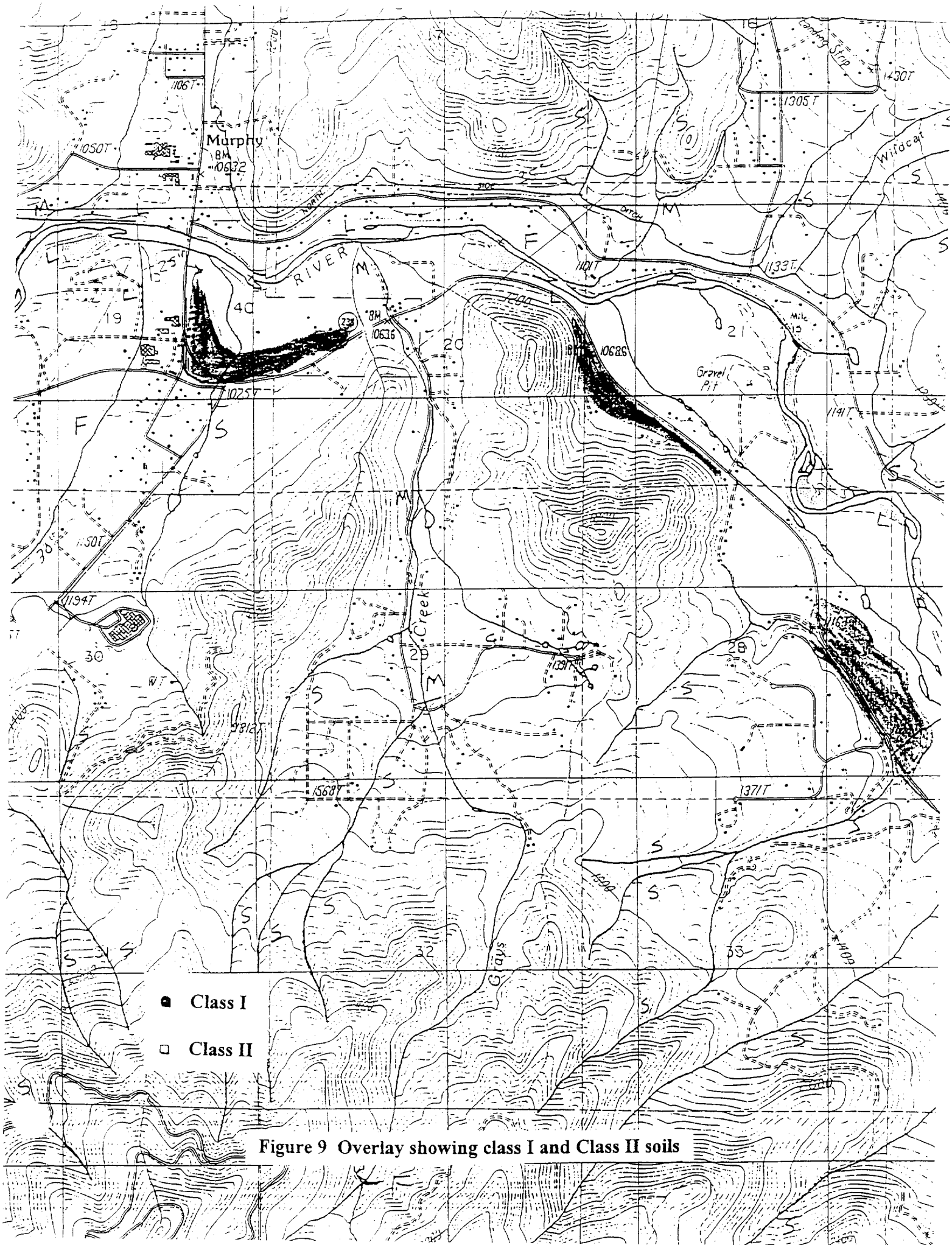


Figure 9 Overlay showing class I and Class II soils

AGGREGATE RESOURCES

IN

JOSEPHINE COUNTY

❖

A GOAL 5 OVERVIEW

1995

by

Grace M. Zilverberg, PhD
Aggregate and Mineral Specialist

Appendix C to
Ordinance 2000-3

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1.0 AGGREGATE IN JOSEPHINE COUNTY AND PERIODIC REVIEW

1.1 Josephine County Comprehensive Plan and Periodic Review

In 1981, the document entitled Aggregate Resources of Josephine County, Oregon (1975) was adopted as the Goal 5 Inventory. It identifies 310 aggregate and quarry sites. In December 1985, the Land Conservation and Development Commission acknowledged the Josephine County Comprehensive Plan to comply with the Statewide Planning Goals. The plan identifies eighteen significant (1C) Goal 5 mineral and aggregate resource sites. Of these, the Economic, Social, Environmental, and Energy (ESEE) analyses and findings completed at that time designated sixteen sites as 3C (conflicting uses allowed provided that measures are taken to protect the Goal 5 resource site) and two sites as 3A (no conflicting uses allowed).

Josephine County is currently in Periodic Review of the Comprehensive Plan and Map. As one aspect of that process, the County is revising the original Aggregate Resource Site ESEEs, the Goals and Policies as they pertain to mineral and aggregate resources, and the Mineral and Aggregate Resource Zone standards (Article 66). After reviewing the current status of aggregate resources throughout the county in terms of overall quality, quantity, and location, the County has determined to protect its aggregate resource sites by rezoning the mine extraction areas[1] to the Mineral and Aggregate Resource Zone. Simultaneously, site-specific operating standards may be applied to each site in the ESEE findings included in this document.

1.2 Legislative Action

This Goal 5 analysis, then, proposes to amend the Josephine County Comprehensive Plan and Zone map by (1) by revising the original Goal 5 Inventory ESEEs; (2) by revising the original Goal 5 Inventory of significant aggregate resources; (3) by applying the Mineral and Aggregate Resources Zone (Art. 66) to the Goal 5 Inventory sites; and (4) by applying the ESEE analyses, the Goals & Policies, and the standards of the Mineral and Aggregate Resources Zone to the revised Goal 5 Inventory sites.

1.3 The State of Aggregate Resources in Josephine County

Josephine County is protecting its aggregate resource sites for the following reasons: (1) population growth and economic development in the county depends upon aggregate resources to meet the increasing demand for road building and maintenance and for the growing construction industry; (2) the currently available supply is decreasing and

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[1] Extraction Area: The area in which mining, crushing, processing, batching, hauling and stockpiling occur at a mineral and/or aggregate site (Article 11.030).

Josephine County is a net importer of aggregate[2]; (3) the high costs of transporting aggregate long distances directly effects the financial burden to taxpayers, homebuilders, and businesses; and (4) the potential for conflict between encroaching residential land use and resource protection is increasing.

1.31 Increasing Demand

The population of Josephine County grew by 75.3% between 1970 and 1990[3]; and it is projected to grow by another 31.2% by the year 2010.[4] As the population grows, the demand for more homes that require foundations, mobile home pads, or septic drainage fields will also grow. Total housing units in the county, however, have grown at more than twice the rate (16%) that the population grew (6.4%) between 1980 and 1990.[5] At the same time the need for more streets and sidewalks to accommodate new housing development will also increase, and the increased traffic will require intensified road and bridge maintenance. Economic development will need to keep pace with the population as well in terms of construction of business and manufacturing structures and the roads and sidewalks that will accommodate employee, customer, and/or tourist traffic.

According to the Comprehensive Plan, 460,000 cubic yards of aggregate were consumed in Josephine County in 1973, and it was estimated that approximate 350,000 cubic yards were consumed a year at that time in the Grants Pass area. The majority of that volume was produced from alluvial deposits adjacent to the Applegate River. It was anticipated that annual consumption in the county would be 700,000 cubic yards by 1990.[6] In 1993, the amount of aggregate actually consumed in Josephine County is estimated at around

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[2] Telephone conversation (12/28/94) with Robert Whelan, author of Oregon's Mineral Industries: An assessment of the size and economic importance of mineral extraction in 1993, State of Oregon Department of Geology and Mineral Industries (DOGAMI), Open-File Report 0-94-31, 1994. Mr. Whelan's data indicate that Josephine County is importing aggregate, while many of the aggregate owners and operators complain that the county is running out of aggregate.

[3] Oregon Census Abstract (Table 5) by Michael F. Murphy and Karen Seidel, Oregon Housing and Community Services Department, July, 1993.

[4] Provisional Projections of the Population of Oregon and Its Counties 1990-2010. Produced by the Center for Population Research and Census, School of Urban and Public Affairs, Portland State University, Portland, OR, July, 1993.

[5] Southern Oregon Regional Services Institute (SORSI), 1990 Census Data, Josephine County, Oregon, June, 1993.

[6] Aggregate Resources of Josephine County, Oregon by Herbert G. Schlicker *et al*, DOGAMI, 1975.

802,000 cubic yards - a low consumption year for the county (see Attachment A).[7] 1973 consumption amounted to about 12.3 cubic yards per capita,[8] and 1993 consumption amounted to about 12.2 cubic yards per capita.

While we can safely assume that average aggregate consumption over time is about 12 cubic yards per capita in Josephine County, that is assuming a constant annual growth rate of about 1.5%. Should the county experience a fast growth rate in the future, however, aggregate consumption could increase up to three times this amount.[9]

1.32 Decreasing Supply

While annual consumption of aggregate has doubled over the last twenty years, the supply of aggregate has decreased. The majority of the aggregate produced for the county has been produced from alluvial deposits adjacent to the Applegate River.[10] So important were the Applegate River deposits that the County Board of Commissioners designated two large aggregate sites at the confluence of the Applegate and Rogue Rivers as 3A Significant sites[11] in 1985. According to the owners of Copeland Sand and Gravel and Star Concrete, those sites have, at best, two more years of gravel left unless there is a major flood or unless a technology can be developed that can cost-effectively extract the gravel from the clay at the lower strata.

Of the other sixteen sites in Significant Aggregate Resource Inventory established in 1985, one will change from 1B to 1A because the site cannot be located (Garcia Prospect). Two will have their status changed here from 3C to 3B (Russell Road and Pruitt Bar); that is, from balancing both the Goal 5 aggregate resource and conflicting uses, to protecting the conflicting uses only. The Pruitt Bar site is now a county park and the Russell Road site has been overwhelmed by residential development. Two of the remaining sites are really one (Coyote Creek and Golden Bar), leaving the county with only eleven viable "significant" sites.

twelve

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[7] Personal communication from Robert Whelan, *op cit*, telephone conversation, 12/28/94. Whelan's figures are in tons. Although pounds/cubic yard range from 2,545 to 2,890 depending on the size of the aggregate, 2,600 pounds per cubic yard is an acceptable average according to Josephine County Public Works engineers.

[8] Schlicker, *ibid*, page 5.

[9] Schlicker, *ibid*, page 5.

[10] Comprehensive Plan, Josephine County, 1981, page 3-9.

[11] The Goal 5 aggregate resource will be fully protected and conflicting resources will not be protected.

Further complicating the picture of the supply is that not all aggregate is the same. There are three general types of aggregate used for production purposes: **small rounded river rock** used for concrete and for septic drain fields; **crushed rock** used for roads and ditches; and **rip rap**, or large 2-8 foot boulders, used for erosion, flood, and slope control. In general, the rounded river rock is better for concrete for construction purposes because it pours, pumps, and finishes better, and the crushed rock, from quarry and river sites, is better for road-building purposes. All of these aggregate types are essential to the economic development needs of Josephine County. Josephine County is, however, a net importer of aggregate; that is, we consume more aggregate than we produce.[12] If left unaddressed, that factor will contribute considerably to increased costs of development in the county in the future.

1.33 Increasing Costs

The value of aggregate as a commercial commodity is a highly localized phenomenon in the sense that it is an extremely bulky and heavy good and therefore transportation costs are extremely high. The closer the source of the aggregate to its use, the more it is economically feasible to produce roads, bridges, home-foundations, septic fields, etc. The farther the resource from its use, the higher the costs of transportation and the lower the economical feasibility of construction and road-building activities.

According to Schlicker,[13] in the 1970s the

> "delivered cost for aggregate will double if it is hauled about 10 miles to its place of use. About 30 miles is the maximum distance it can be truck hauled and still be competitive, and many feel that 15 miles may be a more reasonable haul limit."

That estimate continues to hold in the 1990s.

Josephine County Public Works estimates that the average costs to maintain a road is $5,500 per mile per year (Attachment B). We estimate that aggregate hauling costs for the construction of one mile of double-lane paved road are approximately $3-3,500 per mile transported.[14] Aggregate hauled ten miles would then cost $30-35,000 per one mile of road constructed, twenty miles would cost $60-70,000, and so on. The costs of

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[12] Whelan, *op cit,* personal communication, 12/28/94.

[13] Schlicker, *op cit,* page 5.

[14] 36-40' wide road X 1' deep = 14,500-16,000 tons X $0.22/ton-mile transportation cost. Figures provided by the Josephine County Department of Public Works and the Oregon Concrete and Aggregate Producers Association (OCAPA).

maintaining 580 miles of road, 117 bridges, and 1450 cross-drainage pipes in the county, then, could become prohibitive if the county were unable to locate and protect enough aggregate sites. The county cannot import aggregate for the northern part of the county from Douglas County because Douglas County also has to import much of its aggregate, and White City in Jackson County would be our closest source for the southern part of the county.[15]

The costs of construction and road-building and maintenance could become especially high in Josephine County as aggregate becomes less available and accessible. In addition, as residential use encroaches upon aggregate resource sites and neighborhood appeals against the operations increase as described in the following section, the costs of defending the operations are transferred to the consumer. Robert Copeland, Vice President of Copeland Sand and Gravel, estimates that the company's costs to fight an appeal can add as much as fifty cents per cubic yard to the costs for the consumer.

Protection of the resource, then, is critical for future public and private economic development, for affordable growth with minimum costs to local business, home-owners, and tax payers.

1.34 Increasing Potential for Conflict

As the population of Josephine County grows and demand increases and as residential use encroaches on aggregate resource sites, so too will conflict increase between the growing need for construction and road materials and property owners who may anticipate objectionable noise, dust, increased truck traffic, and unsightly views of quarries in their neighborhoods. The county has responded to these objections by imposing strict standards on mineral and aggregate operations (Articles 66 and 91). Those standards, described in Section 2.21 below, go to great lengths to mitigate these negative impacts and to ensure that all DEQ environmental quality standards are met.

Perhaps the most basic neighborhood fear is fear that the mining operation will cause adjacent land values to go down. According to David Kellenbeck, Chief Appraiser, in the Office of the Assessor, there is no Real Estate Market evidence that land values in the county fall as a result of aggregate removal operations.[16] In addition, the Josephine County Office of the Assessor has been conducting an ongoing study of the market values of property adjacent to the active Copeland Sand and Gravel operation on the Applegate River southeast of Murphy. The study indicates that one river property and five non-river properties, altogether, sold for $41,950 (7.6%) over the assessed Real Market Values

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[15] Personal communication from Dick Angstrom, Managing Director, OCAPA.

[16] Letter dated April, 24, 1992. See Attachment C.

(RMVs) in 1993 and 1994 (Attachment C)[17] It appears then that aggregate and mineral operations have a neutral impact on land values and that people's fears are unwarranted.

Neighborhood complaints and appeals do, however, have a costly impact on the aggregate operations who transfer that cost to consumers - up to fifty cents per cubic yard as indicated in Section 1.33 above. Taxpayers are also impacted as they pay for lengthy court cases from the county to the state levels. For example, in 1975 the Board of County Commissioners issued a permit for a gravel crusher and asphalt batching plant at the Leland Placer site to repair and upgrade I-5 between Sunny Valley and Hugo. The decision was challenged and appealed by a neighbor, and the delays forced the contractor to find an alternative gravel source. Consequently, by the time the appeal reached the Circuit Court of the State of Oregon for Josephine County the case was withdrawn as a "moot question of law and fact."[18]

Later in 1992, at the same site, the owners filed a new application to reopen the site for aggregate removal, crushing and asphalt batching to supply an I-5 repair project. The county approved the request after two lengthy public hearings but neighbors appealed the approval to LUBA. LUBA sustained the decision on five of the six assignments of error.[19] This decision was appealed to the Court of Appeals and the court sustained LUBA's decision.[20] This decision was in turn appealed to the Oregon Supreme Court, but review was denied.[21] The county thereafter entered modified findings of fact in a remand proceeding without changing the conditions of operation. This decision was not appealed and the county's approval became final a little more than two years after the application was initiated. Despite the failure of the appeals, the owners incurred an expense of almost $100,000 in fees and costs.[22] The contractor who operated the site reported losing approximately $300,000 because of delays and other complications arising from the controversy. Had the contractor not had a good relationship with the site owners, the

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[17] The individual home value changes were: River Sale: +9%; Non-River Sales: -10.3%, +2.3%, +4.9%, +12.1%, and +17.1%. The formula used was (actual sale price minus Real Market Value) divided by Real Market Value.

[18] McKie vs. Josephine County, Circuit Court of the State of Oregon for Josephine County Case No. 75-464-L.

[19] LUBA No. 93-172 and No. 93-192.

[20] CA No. A83525.

[21] SA No. S41490.

[22] See the Leland Placer ESEE. Cost estimates were supplied by Phil Biencourt, one of the aggregate operation owners.

company would have withdrawn leaving only one company to bid on the project.[23] There is no control over project prices without competition.

A similar scenario occurred in another location in the county about the same time, when the Copeland Sand and Gravel Company sought a permit to extract and process aggregate from the state's Powell Bar site on the Applegate River near the community of Murphy. Again, the county approved the operation and neighbors appealed the approval. LUBA remanded the approval because the findings inadequately supported the county's conclusions regarding certain criteria and/or standards.[24] The applicant submitted modified findings in a remand hearing, the county re-entered its approval without changing the conditions of operation, and this decision became final when the appeal period expired without challenge. Robert Copeland of the Copeland Company reports a cost of approximately $50,000 every time it must fight an appeal.

In both of these cases, the processing of the original application, the appeals to LUBA and the remand applications involved countless hours of county staff time and overhead costs in the Planning Department, the Commissioners Office and by the county's Legal Counsel, the expense of which is borne by county taxpayers. Direct costs to the site owners and contractors totaled nearly half a million dollars, while indirect and hidden businesses losses by subcontractors, local businesses, and employees cannot be calculated.

2.0 COUNTY-WIDE GOAL 5 ESEE ANALYSIS

2.1 Inventory Requirements

According to OAR 660-16-000(2), a "'valid" inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the location, quality, and quantity of each of the resource sites." A characteristic of aggregate is that all of the criteria (location, quality, quantity) have relative values depending on (1) the *purpose* of the aggregate or the use(s) to which it will be put; (2) the *distance* of the aggregate source from its use(s) or proposed projects; (3) the *demand* for the aggregate; (4) the *supply* of aggregate available; and, equally important, (5) the *accessibility* to the aggregate source. All of these factors are subject to variability and change across the county's geographical space and as the county's needs change through time or in the future.

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[23] Greg Basel, Vice President, Keiwit-Pacific Co., Vancouver, WA. Telephone conversation, 3/8/95. Kiewit-Pacific reconstructed the Azalea-Jump Off Joe section of I-5 for ODOT during the summer of 1994.

[24] LUBA 93-187.

OAR 660-16-000(3) indicates that the "determination of *quality* requires some consideration of the resource site's relative value," and that a "determination of *quantity* requires consideration of the relative abundance of the resource (of any given quality)." The determination of the values of both *quality* and *quantity* at a specific site is heavily dependent on its *location* relative to the point of delivery (delivery cost) and competing sites (market need); and the values of all three of these criteria are contingent on supply and demand factors that change through time.

The inability to accurately predict market dynamics in future (*i.e.*, supply, demand, neighborhood resistance, business preferences of owners and operators) strongly supports the wisdom of analyzing *relative,* as opposed to *absolute,* values in the determination of site significance. Therefore, the following sections are meant to provide guidelines only as county officials analyze the data and weigh the location, quality, and quantity criteria for each aggregate site in the context of current and anticipated needs.

2.11 Location

Location is of critical importance because of the high costs of transporting bulky and heavy aggregate as noted in Section 1.33 above. There are occasions when it is more competitive to use a lower quality aggregate from a small source where the project is located at a distance from a major road or a larger aggregate source. Thus, location must be seriously weighed in the consideration of which aggregate sites to give added protection and which sites should have at least minimal protection.

In 1975 Schlicker[25] indicated that "about 30 miles is the maximum distance [aggregate] can be hauled and still be competitive, and many feel that 15 miles may be a more reasonable haul limit." As Schlicker and our data (Section 1.33) indicate, "the delivered cost for aggregate doubles if it is hauled about 10 miles to its place of use." Given this information, and in light of dwindling supply in the face of increased demand, the County concludes a larger market area is needed to meet demand. As more convenient supplies become exhausted, more remote sites will become more important. This means the Grants Pass area, as the principle point of demand, will require aggregate from more remote sites located in places like Wolf Creek or Cave Junction. Therefore, the County will use the distance of 30 miles as a rule of thumb in determining the significance of the location for individual sites. The distance can be measured from historic project locations, from processing locations, from rural communities, or any other considerations that might bear on market conditions.

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[25] Schlicker, *op cit,* Aggregate Resources of Josephine County, Oregon, page 5.

2.12 Quality

County and state road departments[26] use four criteria to determine the quality of an aggregate source for road building and maintenance projects: (1) *Grading* or size of rock as determined by the AASHTO T 27 test; (2) *Fracture* or the percentage of angular rock as determined by the OSHD TM 213 test; (3) *Durability* or hardness as determined by the AASHTO T 96 abrasion test and degradation as determined by the OSHD TM 208 test; and (4) *Sand Equivalent* as determined by the AASHTO T 176 test.

These criteria are not only assessed interdependently, but the levels at which an aggregate source meets the criteria are dependent upon the use for which the aggregate is intended. The *grading, fracture,* and *sand equivalent* criteria are relevant to the type of project or use under consideration, e.g., driveways, chip sealing, concrete, etc. The *durability* criterion, however, pertains to the *quality* of the aggregate and is, therefore, the only criterion that county officials need to consider in the ESEE process (see Attachment D for a summary of Josephine County's durability standards).

Durability has three general levels: (1) a percentage of wear of no more than 35% for road surfacing and base purposes including asphalt concrete, concrete, structural foundations, and backfill *(AASHTO T 96 Abrasion test)* and a degradation of no more than 30% *(OSHD TM 208 test)*; and (2) a greater allowable percentage of wear (45% maximum abrasion) for sub-base road-building materials and no degradation requirement; and (3) a slake durability index of at least 90% based on a 2-cycle slake durability test (ASTM D 4644) for durable rock used for road subgrade, embankment and erosion control purposes. In the absence of 2-cycle durability test results, the rock durability is visually evaluated. Thus, while a high level of durability is critical in the base course and wearing surfaces of roads, the quality requirements for material used for road sub-base, road subgrade, and for erosion control is less important. Nevertheless, the availability of and the accessibility to the lower quality aggregate is essential in road construction.

2.13 Quantity

While it is important to protect large sites with quality aggregate, it may be the case that a smaller aggregate source of a lower quality is more valuable than the larger site because of its location and need. In this case, the transportation costs saved by using the smaller site that is located closer to the aggregate's end use far outweighs the loss in quality. Josephine County Public Works finds that 50,000 cubic yards of aggregate in a site is a

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[26] Josephine County Public Works (JCPW) and the Oregon Department of Transportation (ODOT).

significant quantity, and aggregate operators indicate that an aggregate operation that extracts 5,000 cubic yards per year can be a viable business.[27]

Thus, the county will use the rule of thumb that an estimated 50,000 cubic yards of aggregate at a site is a significant quantity. The quantity criterion will be weighed along with the location of the site, the quality of the rock, the project needs, and the increasing demand for and decreasing supply of aggregate in the county.

[27] Sheri Waltman, co-owner of Double Eagle Excavating Company.

2.14 Conclusion

The Goal 5 rule requires that in determining quality, the *relative value* of Goal 5 resources must be considered; and that in determining quantity, the *relative abundance* of the resource must be considered (OAR 660-16-000(3)). The circumstances of location, quality, and quantity are highly variable with aggregate sites. The criteria then must be weighed not only in relationship to other available and *accessible*[28] aggregate sites but also in the context of current and anticipated supply and demand in the county. It is therefore impossible to implement hard-and-fast rules in situations where evaluations must by definition be flexible. This means conclusions about whether individual sites are *"significant"* must do two things. First, the analysis must focus on the circumstances of the site under consideration by applying minimum standards. To this end the county concludes the following minimum standards shall be used to deciding whether sites are significant:

[1] Location: Is the resource within 30 miles from its potential market use area?

[2] Quality: Does the aggregate meet durability requirements in accordance with Attachment D for various categories of aggregate uses?

[3] Quantity: Is there an estimated quantity of 50,000 cubic yards or more of aggregate deposited at the site?

It is understood these standards are meant to operate as guidelines only, and that individual standards will slide up or down based upon the relative strength of the other standards, as well as supply and demand considerations in the area to be served.[29] For example, a extremely large deposit of very high quality aggregate may justify a determination of significance even though the site is more than 30 miles from market. Or a small high-quality deposit very close to a market may also be significant. Under this approach the standards become "factors" or "rules-of-thumb."

The second step in the analysis of significance must look to market factors external to the site itself. What is the demand or supply circumstances of the county as a whole? What is the supply and demand circumstances for the region surrounding the site? Are there other more "significant" sites in the area which can meet projected needs? If other sites

---

[28] It is important to understand the importance of accessibility in determining the significance of aggregate resources. Although large quantities of high quality aggregate may exist throughout the county, they may not be accessible in terms of distance, narrow and windy roads, the wishes of the property owners, or other factors.

[29] It is important to note that a determination that an aggregate site is significant does not necessarily qualify the aggregate in the site for an agency's specific project or use on a job.

currently meet market needs, how long will this situation continue? Does the site need to be preserved for a future time when shortages are anticipated either on a county-wide or regional basis?

One final element needs to be added to the county's approach in measuring significance. This ESEE has already established the dwindling supply of aggregate in the face of increasing demand on a county-wide basis. The vital importance of aggregate to the local economy has also been established. In this context, history has clearly demonstrated a high level of difficulty and cost experienced by producers in establishing the operation of sites within the land use system over neighborhood opposition. All of these concerns support the value of the "significant" determination (along with the resulting benefits inherent in the county's land use regulations) as the first important step in protecting and promoting the aggregate resources at individual sites. In view of this, the county determines that the three standards listed above for location, quality and quantity shall also act as a presumption of significance. This means any site meeting the three basic standards shall be considered significant without the necessity of additional findings regarding location, quality or quantity. This presumption, of course, shall not prevent specific findings of significance where any one or more of the circumstances of a site fall below the thresholds.

2.2 Conflicting Uses

Identifying conflicting uses to a significant resource site requires two principal steps: (1) designating and justifying an impact area surrounding the resource and (2) determining conflicting uses allowed by the zoning ordinance and identifying conflicts with other significant Goal 5 resources.

2.21 Impact Area

The impact area is the area in which identified conflicting uses may adversely affect the resource or in which the resource may adversely affect conflicting uses. As indicated in Section 2.223 below, conflicting uses are typically residential, recreational, and natural resource related. Aggregate operations are highly regulated in order to protect and to mitigate the impact on fish and wildlife areas and habitat; on the conservation of soil, air and water quality; and on watershed management (see Section 2.224). Conversely, natural resources have little impact on aggregate operations. Therefore, natural resources are not taken into account in the determination of the impact area.

The factors that are most important in the establishment of the extent of an impact area are largely related to human residential and recreational use because of the noise, dust, and blasting effects of the mining. Although the amount of dust produced by crushing depends on the hardness of the rock, crushers are equipped with (water) spray bars to suppress the dust to within DEQ acceptable standards. Asphalt batchers are highly regulated, must

have a DEQ air pollution permit to operate, and are regularly checked for compliance. Dust from crushers and asphalt plants is strictly controlled to within acceptable limits. Most dust from aggregate operations is from truck traffic on access roads, which can be paved, treated, or watered to bring dust emissions into compliance within 500 feet of a public road or residence (see Article 66.030(B)).

The distance noise travels depends upon the weather, the terrain, the type of noise, and the amount of berming and screening around the site. The sound of backup beepers of a loaders travels farther than other aggregate equipment - 800 feet over flat, open terrain if the site is not bermed or screened.[30] Sound readings at the Cheney Creek Quarry taken at the residence nearest to the quarry at 600 feet registered between 48-52 decibels while the mine was in operation, well within DEQ standards.[31] Other readings supplied by Copeland Sand and Gravel for the Murphy site indicate that with good berming and screening sound emissions from aggregate operations can be controlled to well below acceptable environmental standards at 900 feet (see Attachment E).

In conclusion, the dimensions of the impact area around an extraction area will vary depending on the specific conditions existing at both the site and in the area surrounding it. A number of factors shall be considered in the determination:

[1] What is the nature of the mining and processing?

[2] How important is the site?

[3] What kind of equipment is likely to be employed at the site and what kind of impacts will result?

[4] What kind of natural buffers exist or are reasonably available?

[5] How close are conflicting uses located to the extraction area?

[6] What is the extent or density of existing uses?

[7] How sensitive are the existing uses to the impacts?

Given the decreasing supply of high quality aggregate, the increasing demand for it, and the history of expensive and time-consuming litigation associated with the development

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[30] Greg Basel, *op cit.*

[31] Letter to the Waltmans from C. William Olson, Administrator of the Josephine County Environmental Health Department dated April 30, 1992.

of significant sites, the county concludes there is a need to establish impact boundary presumptions for all significant sites. This conclusion is intended to be an important element in support of the county's Goal 5 aggregate program to protect and promote significant sites. The impact area for all significant sites shall be presumed to be 750', and the county concludes this distance is sufficient to mitigate potential conflict without regard to specific findings on the seven factors listed above.

In individual cases where an application of the seven factors indicates a uniquely high potential for conflict, individual ESEE's may establish an impact area greater than 750'. The increased impact area must be supported by specific findings using the seven factors. In no case shall an impact area be greater than 1500' be established.

Another presumption shall be that conflicting uses outside the impact area will not be considered in the ESEE analysis (or any subsequent permit review) for the purpose of imposing special conditions or restraints on the operation of the site. Such uses shall be presumed unaffected by the development of the site, both within the Goal 5 process and in the processing of any subsequent permits under county ordinances or regulations.

The following sections describe the standards that will be required of all aggregate operations and of adjacent land owners. These standards are designed to provide not only mitigating benefits to sensitive uses, but to also furnish justification for the impact area presumptions.

The following sections describe the mitigating standards that will be required of all aggregate operations and of adjacent land owners. (Please refer to Article 66 and Article 91, Attachments F and G, respectively, at the end of this document.)

2.211 Noise and Dust

Noise or dust sensitive use refers "to uses authorized in the vicinity of mining operations which are especially sensitive to the noise and dust impacts because they involve human occupation. Examples of such use are residences, churches, hospitals, care facilities, schools, libraries, campgrounds and other uses generally open to the public." Normal forest and farm operations are generally not noise-sensitive uses (Article 11.030).

The Josephine County Rural Land Development Code (Art. 66.030) requires that mineral and aggregate operations in the Mineral and Aggregate Resource Zone:

- Meet applicable Oregon Department of Environmental Quality (DEQ) standards for vehicular noise and ambient air quality for a distance of 500' from any public road or any residence located along the access road.

- Meet the most current DEQ air quality standards for dust abatement for distance of 500' from any public road or any residence located along the a road if the mining traffic is the primary cause of the road dust.
- All mining and processing of mineral and/or aggregate resources shall comply with DEQ noise emission standards.
- The discharge of contaminants and dust caused from the mining and processing of mineral and/or aggregate resources shall comply with applicable DEQ ambient air quality and emission standards.

In addition to the above, noise and dust impacts on conflicting uses will be mitigated by screening with berms, landscaping or other similar features and by the limitation of operating hours to 7 am to 9 pm excluding Sundays and holidays (Art. 66.030 (C, D, N)).

2.212 Blasting

Negative impacts on surrounding land uses will be mitigated by limiting blasting at an extraction site to the hours between 7 am and 6 pm, Monday through Friday, excluding holidays. The mine operator shall provide advanced notification to adjacent property owners (Article 66.030 (O)).

2.213 Visual

Where practical, the extraction area including mining and processing equipment will substantially screened from the view of existing conflicting uses with natural or p vegetation, landscape features, earthen berms, fences and/or other similar development features (Article 66.030 (D)). In addition, mine operations shall be subject to DOGAMI site reclamation requirements upon termination of the project or project phase (Art. 66.050).

2.214 Traffic

As stated above, all mining operations will be subject to DEQ standards for vehicular noise control, ambient air quality, and dust abatement for a distance of 500' from the access road and from any public road or residence located along the access road (Article 66.030 (B)). As has historically been the county's practice, commercial and industrial developments are only required to improve public roads to make safe entry and exit. Aggregate operations shall be afforded equal treatment.

2.215 Residential Encroachment on the Resource Site

Increased residential development in the vicinity of a site and its concomitant increases in complaints and court costs incurred in defending the resource pose a threat to the viability of a mining operation. Consequently, property development will also be subject to setback and other standards (Art. 66.070). All new structures in the impact area will be

required to be set back 1500' from the boundaries of the extraction area (or the property line if the extraction area has not been determined) (Art. 72.040(2),[32] or owners will be required to sign a restrictive covenant in favor of the mining operation (see Section 3.5 below).

2.216 Conclusion

The above standards requiring screens, berms, setbacks, and DEQ environmental quality requirements that are applied to all mining sites significantly and satisfactorily mitigate the noise, dust, blasting, visual, and traffic effects of active mining operations in most cases. Additional conditions may be applied to individual sites through the ESEE process that further mitigate the potential conflicts unique to each site.

2.22 County-Wide Conflicting Uses

Most of the conflicting uses adjacent to mineral and aggregate resource operations are the same from site to site. In this section, we summarize and briefly discuss those county-wide conflicts so that only the conflicting uses *that are specific to each site* can be addressed in the ESEEs.

A conflicting use is one which, if allowed, could adversely affect operations at a significant mineral and/or aggregate site, or could be adversely affected by extraction and processing activities at a significant mineral and/or aggregate site. Another Goal 5 resource located on or adjacent to a mineral and/or aggregate resource may be considered a conflicting use only if the site is mapped in the acknowledged Goal 5 Inventory as a significant site.[33] If the resource meets these criteria, then it may be considered a conflicting use if that resource could be adversely affected by surface mining activities or force a change in mining activities at the site.

Zones throughout the county that are adjacent to the aggregate sites include Exclusive Farm (EF), Forest Commercial (FC), Woodlot Resources (WR), Serpentine (S), and Rural Residential (RR-1, RR-2.5, RR-5). Many of the same uses are permitted, either outright or conditionally, in all of the zones. Some of those uses never conflict, some conflict occasionally, and some always conflict with aggregate use regardless of the zone. Below are listed those uses in all the zones that (1) are not applicable to the analysis, (2) those that will not conflict, and (3) those that may conflict with the Goal 5 resource.

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[32] See Section 3.5 for a detailed listing of development standards in impact areas.

[33] A 1C site with a 3A or 3C level of protection or listed as a 2A site.

2.221 Allowed Uses Not Applicable to the Analysis

- Exploration for and production of geothermal resources, oil and gas, and mineral and aggregate resources, including, mining, processing, stockpiling, cement and asphalt batching, crushing of aggregate;
- Constructing new and/or improving existing roads.

Activities involving development of a mineral resource cannot conflict with mineral or aggregate resource protection since the purpose of protecting the resource is for its eventual use through mining.

Public roads and highways do not exist on the resource sites and cannot adversely affect protection or use of the resource. Road construction projects, in fact, directly benefit from protection of the sites.

2.222 Allowed uses posing minimal conflict with the aggregate resource

- Conducting forest operations including temporary, portable and/or permanent facilities for processing logs, log storage, and log scaling; and research natural areas for forest research;
- Farm uses including buildings customarily provided in conjunction with a farm use;
- Creation of, restoration of, or enhancement of wetlands;
- Water reservoirs, impoundments, farm ponds and irrigation lines;
- Utility and communication facilities necessary for public service including local distribution lines, commercial power generation, receiving towers, and transmission lines;
- Sanitary landfills (solid waste disposal site) and non-hazardous waste disposal;
- Personal use landing strips;
- Expansion of existing airports;
- Boat landings and docks;
- Open, non-commercial storage of up to 4 motor vehicles with parts removed;
- Cemeteries;
- Signs.

The above uses fail to satisfy the DEQ definition of noise sensitive property and do not have other characteristics that would make them sensitive to quarry operations. These uses, if allowed within the impact area surrounding the site would pose no threat to quarry operations or force a significant change in mining activities.

2.223 Allowed uses that may pose a conflict to the aggregate resource

- Destination and recreation resorts;

- Campgrounds;
- Hunting and fishing operations;
- Archery, rifle and pistol target ranges;
- Parks and playgrounds;
- Public facilities including fire stations and fire attack landing strips, aids to navigation, and communication equipment, emergency protection facilities, and public work yards;
- Public facilities such as water storage reservoirs, pumping or treatment facilities, sewage disposal plants, and fire stations
- Rodeo grounds and golf courses;
- Community centers;
- Churches and schools;
- Single family dwelling and accessory structures and uses including residential care homes and facilities, home occupations, medical hardship dwellings, and caretakers residences;
- Uses to conserve soil, air and water quality and watershed management;
- Wildlife and fishery habitat management including structures;
- Research and interpretative facilities related to the preservation of unique natural conditions or communities and the conservation and management of wildlife resources;
- Mass gathering and conference grounds;
- Stands for display of farm and forest products;
- Real estate tract sales office subject to limitations;
- Kennels and indoor animal husbandry.

The above-listed uses meet the definition of noise-sensitive property in DEQ noise control regulations. OAR 340-35-015 (38) defines noise sensitive property as:

> ...real property normally used for sleeping, or normally used as schools, churches, hospitals, or public libraries. Property used in industrial or agricultural activities is not noise sensitive property unless it meets the above criteria in more than an incidental manner.

If these uses occur in the impact area for specific sites, they will be treated as conflicting uses to the aggregate resource.

2.224 Goal 5 Natural Resource Conflicts

All adopted/acknowledged Goal 5 resource sites in the Comprehensive Plan that potentially conflict with aggregate resources are checked on a site-by-site basis through the ESEE process. The Goal 5 resources that present the most frequent potential for conflict at aggregate resource sites are (1) fish and wildlife areas and habitats; and (2) water areas, wetlands, watersheds and groundwater resources.

2.2241 Fish and Wildlife Areas and Habitats

To mitigate potential disturbance to fisheries by mineral and aggregate operations, the following standards and requirements are imposed:

- Mining and processing of mineral and/or aggregate resources shall be set back from the high bank of any stream a distance of 50 feet (Class 1 streams) or 25 feet (Class 2 streams).... Existing vegetation shall be maintained in the setback area (Art. 66.030(L) and Art. 72.040(B)).
- Turbid water shall not be released into lakes, ponds or watercourses (Art. 66.030(P)).
- No mining operation authorized by this Article shall commence without the operator furnishing to the Planning Director a copy of a DOGAMI operating permit and approved reclamation plan, or a certificate of exemption.... The county shall defer to DOGAMI regarding all aspects of the reclamation plan and its administration (Art. 66.050).

In addition to the above, site-specific operating conditions developed in consultation with the Oregon Department of Fish and Wildlife will also minimize or eliminate negative impacts of the aggregate operation on fish and wildlife areas and habitats (Attachment H).

Often, reclamation of the aggregate site enhances fish and wildlife habitat development with the development of ponds and the maintenance of planting of vegetation. Larger wildlife are often disturbed by mining activities, but that disturbance is usually temporary. Records and observations of the Leland Placer aggregate operation indicate that wildlife and aggregate operations will successfully coexist even after 60 years of intermittent mining (see Leland Placer ESEE).

2.2242 Water Areas, Wetlands, Watersheds and Groundwater Resources

In addition to the above required setbacks, dust-control measures, and maintenance/ development of vegetation, this Goal 5 Resource is protected from aggregate and mineral operations by the following standards and requirements:

- All mining and processing of mineral and/or aggregate resource sites shall meet the erosion control and site drainage standards contained in Article 83 of this Code when it applies, as well as any permit requirements imposed by DOGAMI or DEQ (Art. 66.030(H)).
- Mining and processing of mineral and/or aggregate resources occurring in Flood Hazard Areas as defined in Section 11.030 shall comply with the stands contained in Article 69.1 of the Rural Land Development Code.
- Water used in the mining or processing of mineral and/or aggregate resources shall be appropriated from a source authorized by permit from the Oregon

Department of Water Resources. Turbid water shall not be released into lakes, ponds or watercourses (Art. 66.030())).

Site reclamation by DOGAMI standards often includes the development of ponds and minor wetlands, which enhances the protection and development of water resources. In addition, Oregon Department of Fish and Wildlife recommendations are followed wherever possible (Attachment H).

2.2243 Conclusion

Mineral and/or aggregate mining operations potentially conflict with other Goal 5 Resources. By providing appropriate programs that protect and balance all the resources at each site, Josephine County will meet the Goal 5 mandate to (1) insure open space, (2) protect scenic and historic areas and natural resources for future generations, and (3) promote healthy and visually attractive environments in harmony with the natural landscape character.

2.23 Conclusion

Josephine County is committed to balancing the protection of mineral and aggregate resources with the protection of other land uses and resources. The above standards and requirements should mitigate most conflicting uses. Where they do not, the ESEE analysis and findings for each site will impose site-specific conditions that will complete the mitigation process and program to meet the needs.

2.3 ESEE Analysis

The Goal 5 rule (OAR 660-16-005(2)) requires that if conflicting uses to the resources are identified, the economic, social, environmental, and energy (ESEE) consequences of the conflicts must be determined. "Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate at this stage of the process."

In the following sections, the ESEE consequences that apply to all of the aggregate sites throughout the county are analyzed by examining (a) the effect on use of the aggregate resource if conflicting uses are allowed fully without restriction; and (b) the effect on the conflicting uses if development of the aggregate resource is allowed fully without restriction. ESEE consequences that are specific to each site are analyzed in the individual ESEEs.

2.31 Economic

2.311 Effect on use of the aggregate resource if conflicting uses are allowed fully

Full protection of the conflicting uses precludes aggregate use and would have a negative impact on employment in the mining industry, on the local businesses that service aggregate vehicles and employees, and on economic development in the county in terms of decreased aggregate supply and increased costs for construction and infrastructure development.

2.312 Effect on conflicting uses if develoement of the resource is allowed

By allowing the development of the resource at aggregate sites that are geographically distributed across the county, an adequate, accessible, and affordable supply of aggregate for road-building and construction purposes is ensured. Mining jobs in the county are directly and positively impacted as are jobs in the construction and road-building industries in both the public and private sectors. As the population of the county grows, the resource contributes to the economic development of the county and to the affordability of housing.

Residential uses could be negatively impacted in terms of quality of life by the noise and dust produced by aggregate operations and the increased truck traffic. They are, however, positively impacted by well-maintained roads in their neighborhoods and throughout the county, by minimal taxes for county road maintenance, by the affordability of concrete and aggregate for septic fields, and by the availability of jobs in a healthy economy. The value of property adjacent to mineral and aggregate operations *is not negatively impacted* as illustrated in Section 1.44 above.

The consequences of protecting the aggregate resource in conflict with other natural resources are difficult to determine, since wildlife and open space values do not have measurable economic values. Nonetheless, the county will protect all of its natural resources wherever possible.

2.32 Social

2.321 Effect on use of the aggregate resource if conflicting uses are allowed fully

Not allowing aggregate processing at any of the aggregate resource sites throughout the county positively impacts the quality of life for the individuals ~~in the~~ residing in the adjacent area in terms noise, dust, visual effects, and increased traffic.

It negatively impacts Josephine County residents on the whole and the neighbors of an aggregate site if an insufficient supply of aggregate is preserved. Without an adequate supply of aggregate, roads and highways would deteriorate and the construction of

bridges, sidewalks, foundations, and septic fields would become prohibitively expensive and limited, all of which would negatively impact the liveability and quality of life in Josephine County.

2.322 Effect on conflicting uses if development of the resource is allowed

Preserving the sites for aggregate removal, crushing, and asphalt production would have a negative impact on the quality of life associated with the other land uses in the area as noise, fugitive dust emissions, and increased truck traffic would negatively impact the liveability, scenic quality, and compatibility of other uses in the area. Those impacts are minimized and mitigated, however, through strict environmental standards, requirements, and controls on the operation.

2.33 Environmental

2.331 Effect on use of the aggregate resource if conflicting uses are allowed fully

The environmental consequences of protecting land uses at and near the sites are mixed. Protecting the conflicting land uses would preclude mining and would have positive environmental consequences in that the noise, dust, traffic, and aesthetic impacts associated with surface mining would be prevented. Fish, wildlife and watersheds would be undisturbed by the aggregate operation.

On the other hand, protection of the conflicting uses would also preclude the improvement of wildlife habitat and watershed development in that ponds and small wetland habitats would not be built.

2.332 Effect on conflicting uses if development of the resource is allowed

Protection of the aggregate resource would have both negative and positive impacts on the environment at this site. Noise and dust emissions would have a negative impact on the environment, but would be mitigated by standard operational controls described above.

Deer, elk, and other sensitive wildlife would be disturbed during the duration of aggregate removal projects. However, the disturbance is often temporary and does not have a long-term negative impact. Larger wildlife return when aggregate projects are not in operation and birds and smaller wildlife manage to co-exist with the operation. In addition, the reclamation process of building ponds and small wetlands and of planting trees and other ground cover, fish and wildlife habitat are often improved as a result of aggregate operations.

2.34 Energy

2.341 Effect on use of the aggregate resource if conflicting uses are allowed fully

The protection of conflicting land uses on and near the aggregate resource sites would have a severe impact on energy consumption regardless of where it is located. If another aggregate source had to be found, the consumption and costs of additional fuel and oil for hauling would be exorbitant as indicated in Section 1.43 above.

2.342 Effect on conflicting uses if development of the resource is allowed

Preserving the sites for the production of aggregate would have overall positive energy consequences. Transportation from more distant sites would be prohibitively expensive and energy-inefficient in terms of the fuels required to transport the resource across greater distances.

2.35 Relative Value of the Conflicting Uses

The conflicting resources, the natural resources, and the aggregate resource are important relative to one another based on the following facts:

(1) Adequate local supplies of aggregate are important to the economy of Josephine County;

(2) Aggregate resources are a location-dependent resource and are in limited supply in the County;

(3) Individual pieces of private property are important in that they represent an economic commitment to development with expectations of appreciating economic value, quality of life, and health and safety for the residents.

(4) The protection of fish and wildlife habitat, scenic views, watersheds, historic, cultural, and other Goal 5 resources are important to the county's ecological, economic, and social health.

2.4 Requirements of Other Applicable Statewide Planning Goals

2.41 Goal 1 - Citizen Involvement

The Josephine County Comprehensive Plan ensures citizen participation in all phases of land use activity. Through the process of citizen participation, "citizens' views will be sought in the development of any project affecting land use" (Goal 11, Policy 7).

2.42 Goal 2 - Land Use Planning

Goal 2 indicates that county "plans and actions related to land use shall be consistent with the comprehensive plan...adopted under ORS Chapter 268." The mineral and aggregate resource sites are presently active or have been active in the past and has not been used for farm or forest purposes. By zoning only the extraction area Aggregate Resource, the County provides for the protection of a Goal 5 resource without in any way diminishing the availability of the farm and forest resources. Therefore, the County holds that the "Exceptions" process is unnecessary.

2.43 Goal 3 - Agricultural Lands

Aggregate operations in the extraction area are not expected to conflict with the protection of farmland, farm practices, or other associated farm activities. Unless otherwise specified, soils on the aggregate sites do not qualify as agricultural land by the Goal 3 definition in western Oregon (Classes I-IV).

2.44 Goal 4 - Forest Lands

Aggregate operations are not expected to conflict with the protection of forest land, forest practices, or other activities necessary and appropriate for the management of soil, air, water, fish and wildlife resources, the provision for recreational opportunities and agricultural uses. While the soils at each site are addressed in the ESEEs, they are generally unsuitable for forest production, ~~that~~ they are not even evaluated in the Lawrence Brown CIRR ratings accepted by the Comprehensive Plan and described below.

In order to identify prime forest lands and other forest lands so that they may be placed in an appropriate zone and to conserve the county's forest potential, the Comprehensive Plan uses a comparative rating and evaluation system known as the Composite Internal Rate of Return (CIRR). Using a combination of soil type and harvesting technique analysis, soils were classified as high commercial quality or Forest Commercial with an IRR score of 4.0 and over, as moderate commercial quality or Woodlot Resource with an IRR score of 3.5-3.99, and as generally unsuitable for forest production with an IRR score of 3.49 or less.

2.45 Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources

The Goal 5 resources that could potentially conflict with mineral and aggregate resources (also a Goal 5 resource) include:

a. Land needed or desirable for open space;
b. Energy sources;
c. Fish and wildlife areas and habitats;

d. Ecologically and scientifically significant natural areas, including desert areas;
e. Outstanding scenic views and sites;
f. Water areas, wetlands, watersheds and groundwater resources;
g. Wilderness areas;
h. Historic areas, sites, structures and objects;
i. Cultural areas;
j. Potential and approved Oregon recreation trails;
k. Potential and approved federal wild and scenic waterways and state scenic waterways.

Potentially conflicting uses are identified, managed, and/or mitigated on a site by site basis through the ESEE process. According to the Goal 5 rule:

> Where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. Where conflicting uses have been identified the economic, social, environmental and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.

Fish and wildlife areas and habitats will also be identified, managed, and protected on a site-by-site basis through the ESEE process as indicated in Section 2.224 above.

2.46 Goal 6 - Air, Water, and Land Resources Quality

Compliance with Goal 6 does not necessarily require that compliance with applicable environmental quality standards have been met prior to approval. Compliance with the goal can be shown if the proposed use can meet environmental standards via conditions on operations (see Eckis v. Linn County, 19 or LUBA 15, 34-6 (1990)). As discussed above, environmental quality, water and land resources will be subject to strict DEQ, DOGAMI, and county standards and requirements. All state agency permits are required before a development permit will be issued (Art. 66.030(Q)).

2.47 Goal 9 - Economic Development

The value of aggregate production in Josephine County is estimated at over $3.6 million with a direct economic impact estimated at over $1.6 million in 1993 (Robert Whelan, Oregon's Mineral Industries, 1994). However, an adequate supply of high quality aggregate that is accessible and affordable is essential for the overall economic development of Josephine County. Well-maintained and safe roads provide the infrastructure upon which economic development is based; and available and affordable concrete is the foundation upon which the construction industry and residential development is based. Although the number of full-time jobs in the aggregate industry are relatively few, they are high paying. In addition, the aggregate industry indirectly

generates numerous other types of employment in the asphalt batching and road-building industry (public and private), in the construction industry, and in the businesses that are possible as a result.

2.48 Goal 10 - Housing

Statewide Planning Goal 11 requires that "plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households...." Aggregate is an essential component of and major factor in home construction and housing development. The protection of a sufficient number of accessible and quality aggregate resource sites in the county helps to keep the costs of housing and residential development at affordable levels.

2.49 Goal 12 - Transportation

Statewide Planning Goal 12 requires local governments to "provide and encourage a safe, convenient, and economic transportation system." The primary purpose for the maximum protection of aggregate sites is to ensure the low-cost availability of high quality rock products for highway construction and maintenance, as well as for local road-building and maintenance. Protection of the aggregate sites furthers Goal 12 by assisting economic development of the transportation system.

2.50 Goal 13 - Energy Conservation

Energy conservation benefits depend upon the relationship of the aggregate resource to the places the material will be used. Protection of aggregate sites and the availability of their aggregate throughout the county offers an ideal opportunity to conserve energy. If the these sites were not available, use of other, more distant sites would result in longer transportation distances and greater energy consumption.

3.0 DETERMINATION AND PROGRAM TO MEET THE GOAL

3.1 Findings of Fact

The value of aggregate in Josephine County is exceptionally high in terms of availability, quality, and quantity and because of the importance of aggregate in the economic development of the county. Aggregate use is compatible with farm and forest uses, and the impact on residential uses is minimal.

The consequences of conflicts between the mine and nearby uses are primarily economic and social. Surrounding land uses do not threaten the rock resource itself. Complaints

about the aggregate operation can, however, severely constrain or prohibit the use of the resource. The inability to use the resource for highway and road maintenance and construction projects increases the cost of these projects, and transportation cost is the key factor in the price of aggregate. Forced reliance on more distant sites will dramatically increase the costs of construction, road-building and maintenance, and erosion control in Josephine County.

3.2 Program to Achieve the Goal

The Goal 5 rule (OAR 660-16-010) states: "Based on the determination of the economic, social, environmental, and energy consequences, a jurisdiction must develop a program to achieve the goal."

The rule allows three methods for implementing a program to achieve the goal of resource protection. The first method involves protecting the resource regardless of the effect on conflicting uses. The second method is to allow the conflicting uses fully, regardless of any adverse effects on the resource. The third method involves protecting the resource to a desired extent but allowing identified conflicting uses in a limited fashion. The second choice is permissible only if conflicting uses are found to be more valuable than the resource and there is no ability to mitigate the adverse consequences of conflicts between the resource and uses in the impact area.

The requirements to implement a decision to limit conflicting uses are found in OAR 660-16-010(3). The Comprehensive Plan and Land Use Regulations must specify what uses and activities will be prohibited, what uses are allowed fully, and what uses are conditionally allowed. The implementation program, including development regulations, must include clear and objective standards.

The Josephine County program will include several elements:

(1) The extraction area will be rezoned to Mineral and Aggregate Resource Zone (MARZ);

(2) Aggregate operations in the MARZ will be subject to comprehensive, county-wide development standards pursuant to Article 66;

(3) Aggregate operations will be subject to site-specific development conditions as determined by each ESEE analysis and findings;

(4) Conflicting land uses in the impact area will be subject to development limitations and conditions.

3.3 Mine Development Conditions

Mineral and aggregate mines shall be subject to standards as set forth in Article 66 of the Rural Land Development Code. Further, each aggregate operation may be subject to additional conditions and requirements that result from the site-specific ESEE analysis.

3.4 Uses in the Impact Area

The impact area around the extraction area will not be rezoned. Land uses will be subject to those authorized by the existing zone as well as to conditions set forth below for those uses *only in the impact area.*

3.41 Uses ~~conditionally authorized~~ allowed in the impact area

- Farm or forest uses including buildings customarily provided in conjunction with a such use;
- Boat landings;
- Personal use landing strips in conjunction with a resource use;
- Public utilities including pipelines and transmission lines when floodproofed;
- Exploration, mining and processing of aggregate and other mineral resources or subsurface resources including geothermal resources;
- Permanent placement of cement and/or asphalt batching, rock processing and crushing;

3.42 Uses prohibited in the impact area

- Private hunting and fishing operations without lodging;
- Golf courses and recreation facilities excluding overnight camping;
- Caretaker residences for public parks and fish hatcheries;
- Parks and campgrounds;
- Temporary forest labor camps;
- Destination resorts;
- Private seasonal accommodations for fee hunting operations;
- Private accommodations for fishing occupied on a temporary basis;
- Fire stations;
- Forest management research and experimentation facilities;
- Hospitals, sanitariums, or nursing homes;
- Schools, libraries, colleges, churches, community centers, and museums.

3.43 Uses allowed subject to criteria and standards

- Single family dwellings and accessory structures and uses including residential care homes and facilities, home occupations, dog kennels, medical hardship dwelling, and caretakers residence.
- Manufactured dwelling for a caretaker or night watchman in conjunction with the exploration, mining and processing of aggregate and other mineral or subsurface resources, or in conjunction with a permanent cement and/or asphalt batching, rock processing and crushing operation.

3.5 Impact Area Development Standards

Uses listed in subsection 3.43 above may be allowed in the impact area (750 feet beyond extraction area) upon demonstrating that the proposed use satisfies the following criteria and standards:

(1) The proposed use will not directly interfere with or cause an adverse impact on existing and potential aggregate mining and processing activities;

(2) The proposed use will not directly interfere with or threaten to cause the mining operation to violate environmental standards contained in permits issued by state 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;

(4) The applicant for a use other than the aggregate use that will be sited in the impact area shall submit an analysis prepared by an acoustical engineer demonstrating that the applicable DEQ noise control standards are met or can be met by a specified date by the applicant. Noise impact analysis must address activities proposed through the life of the mine. If noise mitigation measures are necessary to ensure mining activities' continued compliance with noise control standards, such measures shall be a condition of approval. If the applicant for a use sited in the impact area cannot demonstrate that DEQ noise control standards will be met, the use shall not be approved;

(5) As a condition of approval for a new use in the impact area, the permittee shall execute a restrictive covenant in favor of the mining operation at the mineral and aggregate resource site. The restrictive covenant shall specify that owners and tenants of uses within the impact area cannot object to the terms of a permit sought by the mine operation owners or contractors from

the county, a state agency, or a federal agency, and may not object to lawful mining activities at the site.

These provisions satisfy the ESEE condition that residential and other development be subject to setbacks and is sufficient to protect the aggregate resource from conflicting future development. Zoning the sites as Mineral and Aggregate Resource Zones and protecting the sites from future surrounding conflicting land uses, the County's goal of preserving sufficient aggregate resources to meet the needs of the County have been met.

ATTACHMENT A:

Robert Whelan Telephone Conversation

NOTES: Telephone conversation with Bob Whelan, 12/28/94

Author of Oregon's Mineral Industries: An Assessment of the size and economic importance of mineral extraction in 1993. DOGAMI Open-File Report 0-94-31, 1994.

Re: Aggregate in Josephine County and the State

Aggregate in Josephine Co. (Estimates for 1993)*

Consumption:		Employment:	39 FTEs**
ODOT:	600 tons (actual)	Value of Production:	$3,623,044**
BLM/NFS:	1,700 tons (actual)		
Jo. Co. PW:	100,000 tons (actual)	Economic Impact:	$1,682,024**
Private:	940,000 tons (estimated)**		
TOTAL:	1,042,300 tons consumed in 1993		

* Josephine County consumes more aggregate than it produces

** Based on 17% of 3-county total (Josephine, Jackson, Douglas) in report
Employment figures do not include batching or transportation.

Josephine Co. has 17% of the land total of all 3 counties, fewer public roads, and a smaller timber harvest.

Even though Jo. Co. has 20.8% of the population (66,000/320,000), aggregate use is more a factor of road miles. The 2 other counties have more miles of road, more timber harvesting activity on private lands, all have road maintenance activities on public forest land, and Douglas Co. uses almost twice as much aggregate on its coastal roads because of rain-caused deterioration.

Oregon is unusual in that it is the only state in which aggregate production is dominated by small producers and not by large companies. Because Oregon producers are small and isolated, the larger companies outside of the state are looking to take over some or many of the smaller companies. The big companies can afford to do the EISs.

One company in Josephine County produces 5/8s of total aggregate in the county.

Whelan will be doing a demand model that will project consumption over the next 50 years with the exception of the next 5 years (for purposes of confidentiality).

ATTACHMENT B:

Josephine County Public Works Costs and Demand Information

JOSEPHINE COUNTY PUBLIC WORKS

ROBERT W. WEBER, *Director*
201 RIVER HEIGHTS WAY / GRANTS PASS, OR 97527
(503) 474-5460 / Fax 474-5472
TDD # 1-800-735-2900

March 1, 1995

MEMO

TO: GRACE ZILVERBERG
COUNTY PLANNING

FROM: ROBERT WEBER
PUBLIC WORKS DIRECTOR Robert Weber

RE: AGGREGATE RESOURCE SITES
COUNTY PUBLIC WORKS

Below is general information you requested which is related to the current comprehensive planning effort on aggregate resource sites.

1. COST INFORMATION

Construction costs for complete reconstruction to current county rural road standards range from $80/lf to $120/lf. Road widths typically vary between 32 and 40 feet for non-residential standard roads, and the variation in lineal foot costs to a large degree depends on the amount of excavation on a project. It's possible for a narrower road to cost more than a wider road on a per foot basis, if the narrower road has significantly more excavation. Engineering and project administration costs are typically 15% of construction costs. Right-of-way acquisition costs vary too much from project to project to be able to determine as a percentage of construction.

Construction costs for urban road standards range from approximately $200/lf to 275/lf. Road widths typically vary between 36 and 48 feet. All other information mentioned above relative to lineal foot cost variations, and engineering and right-of-way costs also apply to urban standard roads.

Average costs to maintain a road, including all roadside features and appurtenant drainage facilities, is approximately $5,500 per mile per year.

The cost of crushed rock material at the point of production is about $3 to $4 per cubic yard. Haul costs can vary significantly, however, $0.33/cubicyard/mile can be used as an estimate. When contracting for road construction the price of aggregate base rock complete-in-place (furnishing, hauling, placing, and compacting) is about $16 to $20 per compacted cubic yard.

"Josephine County is an Affirmative Action / Equal Opportunity Employer and complies with Section 504 of the Rehabilitation Act of 1973."

2. PAST DEMAND INFORMATION

Over the last 10 years, our annual use of road base aggregate material (including aggregate in asphaltic concrete, concrete, structural foundations and backfill) has varied from an estimated low of 40,000 cy to a current estimated high of 50,000 cy. During this same period, road subgrade and erosion control aggregate material use has annually ranged from about 3,000 cy to a current high of about 4,000 cy.

3. FUTURE DEMAND INFORMATION

Over the next 10 years, we anticipate our annual use of road base aggregate material (including the other types mentioned above) to range from the current estimated 50,000 cy to an estimated high of 70,000 cy. Road subgrade and erosion control aggregate material is anticipated to vary from the current annual estimated use of 4,000 cy to an estimated high of 5,500 cy.

4. STANDARDS

Preferred quality standards for the two general categories of aggregate mentioned in items 2 and 3 above are provided for in the current edition of the Oregon Department of Transportation's "Standard Specifications for Highway Construction". Specific quality test references are attached.

pc: File - quarry/county-pvt sites/general info
\rww\aggrsite.01

ATTACHMENT C:

Land Values

RIVER SALES LOCATED NEAR COPELAND
1993 AND 1994

SALE #	LEGAL	DOS	SALE $	RMV	RATIO	
R-1	37052100 2802	12/93	146500	134380	91.7	
					91.7	MEAN
			146500	134380	91.7	WEIGHTED MEAN
					93.4	MEDIAN

NON-RIVER SALES LOCATED NEAR COPELAND
1993 AND 1994

SALE #	LEGAL	DOS	SALE $	RMV	RATIO	
1	37052100 202	2/94	36500	34810	95.4	
2	37052100 203	3/93	49500	55160	111.4	
3	37052100 1000	10/93	70000	62440	89.2	
4	37052100 1300	5/94	160000	136670	85.4	
5	37052200 904	12/93	129000	126090	97.7	
					95.8	MEAN
			445000	415170	93.3	WEIGHTED MEAN
					95.4	MEDIAN

FEB 1995
RECEIVED

E-6

OFFICE OF THE ASSESSOR

JOSEPHINE COUNTY OREGON

COUNTY COURTHOUSE • GRANTS PASS, OREGON 97526 • (503) 474-5260

April 24, 1992

Dennis and Sheri Waltman
700 Cheney Creek Rd
Grants Pass, Or 97527

Dear Mr and Mrs Waltman,

In response to your letter dated April 23, 1992, the following information is provided concerning the valuation of property in Josephine County in relation to the affects of rock processing.

There are numerous mining and rock processing operations of various types and sizes in Josephine County. Over the years, we have received inquiry from concerned citizens followed by appeals to the Board of Equalization claiming a loss of value resulting from these types of activity. My research could not locate any successful appeals. In order to be successful, proof has to come from the Real Estate Market and be measurable.

My investigation of our current appraisal records confirms that we have not made location adjustments to adjoining properties for any of the rock processing operations in Josephine based on them causing a loss of value. This information spans over the past twelve years with no Real Estate Market evidence to measure a loss.

We research this information annually and each operation is considered individually. I make this statement to alert you that if sales in the area of your operation were to show a loss of value in the future, we will make the location adjustment for your area. We will not apply it to other operations unless sales in their areas showed the same or similar losses of value.

If you have any further questions, please contact me at (503) 474-5260 or write to the above address.

Sincerely,

D Kellenbeck

David Kellenbeck
Chief Appraiser

Copy to: Mickey Rhodes
Josephine County Assessor

Rick Riker
County Planning

ATTACHMENT D:

Aggregate Quality Standards

ATTACHMENT __

SURFACING AND BASE AGGREGATE

Surfacing and Base Aggregate shall meet the following durability requirements:

TEST	TEST METHOD	REQUIREMENTS
Abrasion	AASHTO T 96	35.0% Max.
Degradation (Coarse Aggregate):		
Passing No. 20 sieve	OSHD TM 208	30.0% Max.
Sediment Heights	OSHD TM 208	3.0" Max.

SUB-BASE AGGREGATE

Sub-Base Aggregate shall meet the following durability requirements:

TEST	TEST METHOD	REQUIREMENTS
Abrasion	AASHTO T 96	45.0% Max.

SUB-GRADE, EMBANKMENT, AND EROSION CONTROL AGGREGATE

Sub-Grade, Embankment, and Erosion Control Aggregate shall meet the following durability requirements:

TEST	TEST METHOD	REQUIREMENTS
Slake Durability Test (2 cycle)	ASTM D4644	90.0% Min. Slake Durability Index

STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION

OREGON DEPARTMENT OF TRANSPORTATION

STATE HIGHWAY DIVISION

1991 OREGON

Section 02630 - Base Aggregate

Description

02630.00 Scope - This section consists of the requirements for aggregates in Base Aggregate.

Materials

02630.10 Aggregate for Base Aggregate:

(a) Grading - Base aggregate shall be crushed rock, including sand. Uniformly grade the aggregates from coarse to fine. Sieve analysis will be determined according to AASHTO T 27. The aggregates shall conform to one of the grading requirements of Table 02630-1 as called for in the special provisions or indicated by the pay item in the contract bid schedule.

Table 02630-1
Grading Requirements - Base Aggregates

Sieve Size Passing	Separated Sizes 2-1/2"-0	2"-0	1-1/2"-0	1"-0	3/4"-0
	Percentages (by weight)				
3"	100				
2-1/2"	95-100	100			
2"		95-100	100		
1-1/2"			95-100	100	
1-1/4"	55-75				
1"		55-75		90-100	100
3/4"			55-75		90-100
1/2"				55-75	
3/8"					55-75
1/4"	30-45	30-45	35-50	40-55	40-60
#10	*	*	*	*	*

* Of the fraction passing the 1/4-inch sieve, 40% to 60% shall pass the No. 10 sieve.

(b) Fracture Of Rounded Rock - Fracture of rounded rock will be determined according to OSHD TM 213. Provide at least one mechanically fractured face based on the following percentage of particles retained on the 1/4" sieve for the designated size:

Designated Size	Minimum % of Fractured Particles (by weight) of Material Retained on 1/4" Sieve
1-1/2"-0 and larger	50
Smaller than 1-1/2"-0	70

(c) Durability - Base aggregate shall meet the following durability requirements:

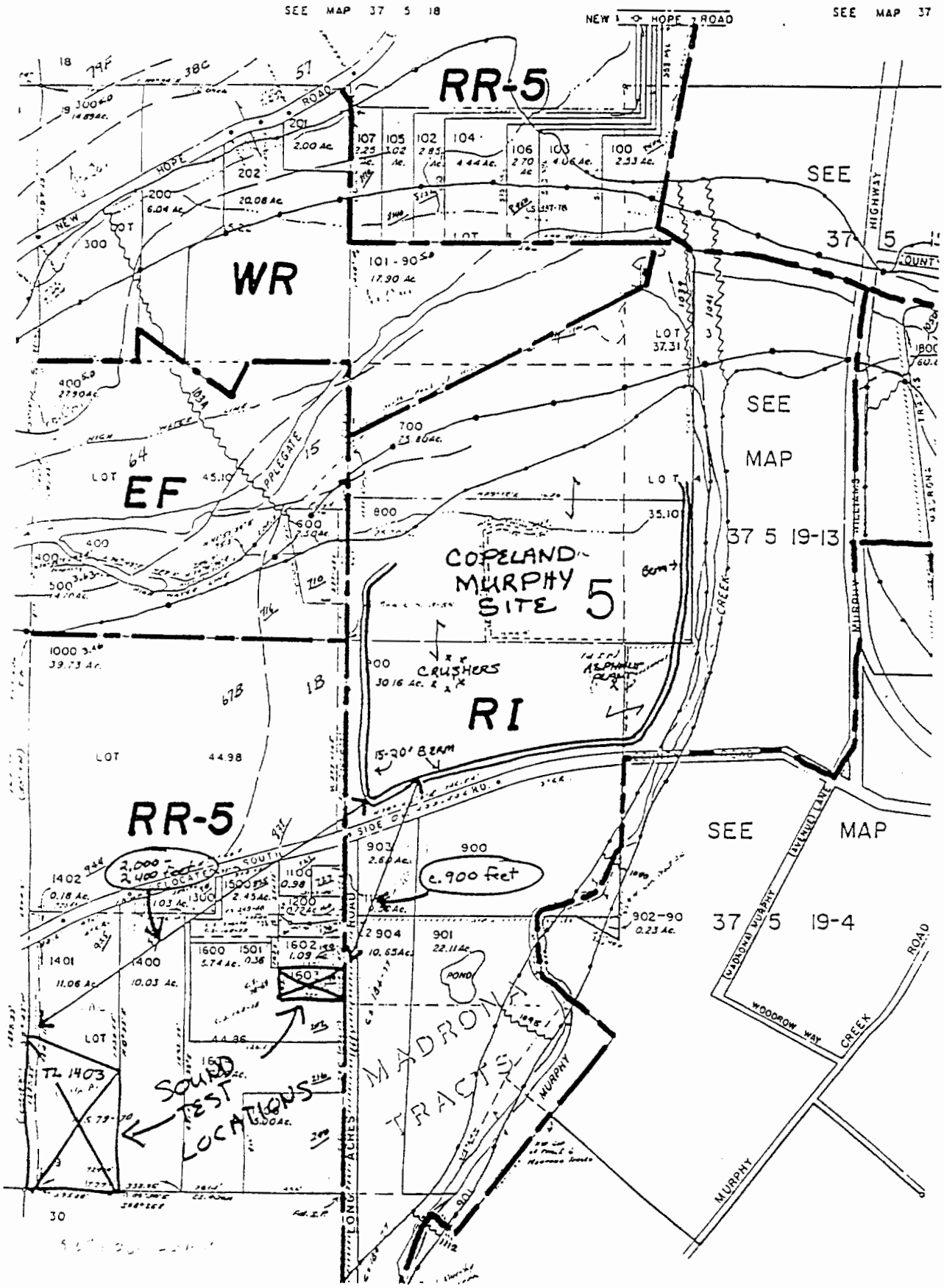
Test	Test Method	Requirements
Abrasion	AASHTO T 96	35.0% Max.
Degradation (Coarse Aggregate):		
Passing No. 20 sieve	OSHD TM 208	30.0% Max.
Sediment Height	OSHD TM 208	3.0" Max.

(d) Sand Equivalent - Base aggregate will be tested according to AASHTO T 176, and shall have a sand equivalent of not less than 30.

ATTACHMENT E:

Sound Test Results

SECTION 19 T.37S. R.5W. W. M.
JOSEPHINE COUNTY
1" = 400'



REPORT
NOISE MEASUREMENTS OF
CRUSHER EQUIPMENT
COPELAND SAND & GRAVEL, INC.
MURPHY, OREGON

March 9, 1995
Job No. 30468-001-020

DAMES & MOORE

Portland, Oregon

DAMES & MOORE
1750 S.W. HARBOR WAY, SUITE 400, PORTLAND, OREGON 97201
(503) 228-7688 FAX: (503) 223-6083

March 9, 1995

Mr. Robert Copeland, President
Copeland Sand & Gravel, Inc.
P.O. Box 608
Grants Pass, OR 97526

Report
Noise Measurements of Crusher Equipment
Murphy, Oregon

Dear Mr Copeland:

This letter will serve as a report of noise measurements taken at residential locations near the Copeland Sand & Gravel facility in Murphy, Oregon on the morning of March 2, 1995.

BACKGROUND INFORMATION

The Copeland Sand & Gravel crusher system equipment is now installed near the center of the Murphy, Oregon site. Some citizen complaints have been made to your firm about the crusher noise. The objective of Dames & Moore's site visit on March 2nd was to take sound pressure level measurements of the noise at the impacted properties to determine compliance with Oregon Department of Environmental Quality (ODEQ) rules. You had identified three locations around the site for measurements.

CHANGE IN SCOPE OF WORK

Moderate but consistent precipitation and a breakdown of equipment in the crusher system changed the scope of work which was intended to be accomplished (refer to the Dames & Moore proposal dated February 16, 1995). Inclement weather was not conducive to the photographs originally planned, and an equipment breakdown prior to mid-day allowed the completion of measurements at only two off-site locations. The results of the those measurements and of measurements close to the crusher units follow.

FINDINGS

Measurements of ambient sound pressure levels (A scale) were made at 1) the driveway entrance off the street at 190 Long Acres Road, 2) the driveway entrance to the garage at 925 South Side Road, and 50 feet south of the three crusher units onsite. The findings are as follows:

1) 190 Long Acres Road, 20 feet north of the driveway intersection with the roadway: the 20 foot offset from the property was selected because a tree was available on which to mount a cotton canvas umbrella for protection from the rain during the measurement period. The berm along the south edge of the Copeland

Sand & Gravel property is visible from the measurement location. All three crusher units were operational during the monitoring period of approximately 43 minutes. Attached data and calculation sheets indicate that the statistical parameters were:

L_1 - 51.0 dBA
L_{10} - 49.6 dBA
L_{50} - 47.3 dBA

I heard very little actual crusher noise, indicating that the sound pressure levels (SPLs) from that source are barely above background. Most often, I could identify positive SPL changes with the noise from on-site heavy vehicles near or on top of the berm.

2) 925 South Side Road, at the opening of the residential garage door: the location was selected because of elevation (same level as living area of adjacent house), the line of site to the Copeland property, the operation of an on-site fan, and the location of South Side Road. Taking all variables into consideration, including protection from the rain, the upper driveway area seemed best for compliance measurement purposes. Attached data and calculations indicate that the statistical parameters were:

L_1 - 45.4 dBA
L_{10} - 45.1 dBA
L_{50} - 44.0 dBA

I heard the crusher once during the monitoring period, but most often I could not ascertain that increased SPLs were caused by activity at the Copeland Sand & Gravel property. Most noise impact at this location seems to be caused by motor vehicles passing by on South Side Road.

3) At approximately 8:45 am that morning, I witnessed startup of the crusher system. All three crusher units were operating with aggregate being processed. After about 10 minutes of continuous operation, I measured the SPL at a point 50 feet south of the center crusher. The level was averaging 89.5 dBA with the SPL meter being hand held at 4.5 feet above the ground surface. The data sheet is attached. The crusher system was turned off at approximately 11:00 a.m.

CONCLUSIONS

From the data obtained during the off-site monitoring, the statistical noise levels are below the level described in OAR 340-35-035, Table 8, and therefore appear to be in compliance with that

rule, which rule has been adopted by Josephine County as a part of the Comprehensive Land Use Plan. In my opinion, the precipitation occurring during the SPL measurements had no effect on the measured levels. A copy of the pertinent ODEQ rule section and table are attached for your information.

Please call me if you have questions concerning the measurements, or their interpretation. If further noise monitoring is required, Dames & Moore would be pleased to assist.

Very truly yours,

DAMES & MOORE, INC.

R. L. Gantenbein, Jr.

R. L. Gantenbein, Jr. P.E
Senior Air Quality Engineer

REGISTERED PROFESSIONAL ENGINEER
6-30-95
8407
R. L. Gantenbein, Jr.
OREGON
AUGUST 22, 1975
R. L. GANTENBEIN, JR.

Enclosures:

E30468-01.01
RLG:lih
30468-001-020

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATISTICAL NOISE SURVEY

SOURCE: CONELAND SAND & GRAVEL — DATE: 3-2-95

BY: RLG

MEASUREMENT SITE: 190 LONG ACRES RD. - 25' NORTH — COUNTY: JOSEPHINE

DRIVEWAY LIGHT RAIN, STEADY (SNOWSTAD) — SHEET: 1 / 4

Time	Cal.	Calibration dB	F dry bulb	F wet bulb	%RH	Press. mm Hg.	Wind MPH	Wind direct.
0855	✓	114	47		4		<5	
0945	✓	113						

INSTRUMENTATION		
EQUT	TYPE	SERIAL
SLM	1933	3345
MIC	1/2"	
CAL	1140B	1000HZ
	1562A	2446
WINDSCREEN: ON (OFF)		

~ Range of Noise: HI ~~48~~ 57 dBA — LOW 48 dBA — Central Tend. 50 dBA

Start Time: 0909 — Sample Interval: 5 10 (15) seconds

NOTE: SPL METER & FIELD CALIBRATOR BY GENERAL RADIO

FINISH 0945

DATA POINTS	SOUND PRESSURE LEVEL dBA					
1 - 6	48	47	50	47	49	50
7 - 12	50	48	47	49	47	50 ✓
13 - 18	47	46	46	47	47	48
19 - 24	47	45	46	47	46	46
25 - 30	46	46	46	46	45	46
31 - 36	45	45	46	46	48	50
37 - 42	47	46	51	47	48	46
43 - 48	47	46	47	47	48	47
47 - 54	47	48	47	48	46	48
55 - 60	46	46	49	47	47	51
61 - 66	49	49	49	49	48	46
67 - 72	48	47	46	46	46	48
73 - 78	47	47	45	— DOG BARKING / DOG REPELLED —		
79 - 84	48	48	50	48	48	49
85 - 90	51	51 DOG	59 DOG	60 DOG	60 DOG	60 DOG
91 - 96	50	50	49	48	47	48
97 - 102	48	46	50	48	48	49
103 - 108	50	48	58 ✓	51 ✓	48	47
109 - 114	51	47	50	47	48	47
115 - 120	51	50	51	49	50	49
121 - 126	48	47	47	49	47	48
127 - 132	50	49	48	51	54 ✓	60 ✓

Figure 4-9
Form NPCS-10-1

Note: See back for the minimum number of samples.
Indicate all missing data points and give an explanation.

NPCS-10-1

2/4

133 - 138	50	50	50	48	50	49
139 - 144	46	49	60 V	50	48	49
145 - 150						
151 - 156						
157 - 162						
163 - 168						
169 - 174						
175 - 180						
181 - 186						
187 - 192						
193 - 198						
199 - 204						
205 - 210						
211 - 216						
217 - 222						
223 - 228						
229 - 234						
235 - 240						
241 - 246						
247 - 252						
253 - 258						
259 - 264						
265 - 270						
271 - 276						
277 - 282						
283 - 288						
289 - 294						
295 - 300						
301 - 306						
307 - 312						
313 - 318						
319 - 324						
325 - 330						
331 - 336						

Figure 4-9
Reverse Side Form NPCS-10-1

Maximum - Minimum Levels (difference in range) V=VEHICLE NOISE

0-8	9	10	11	12	13	14	15	16	17	18	19	20	21
132	138	174	210	246	288	336	384	438	498	558	618	684	756

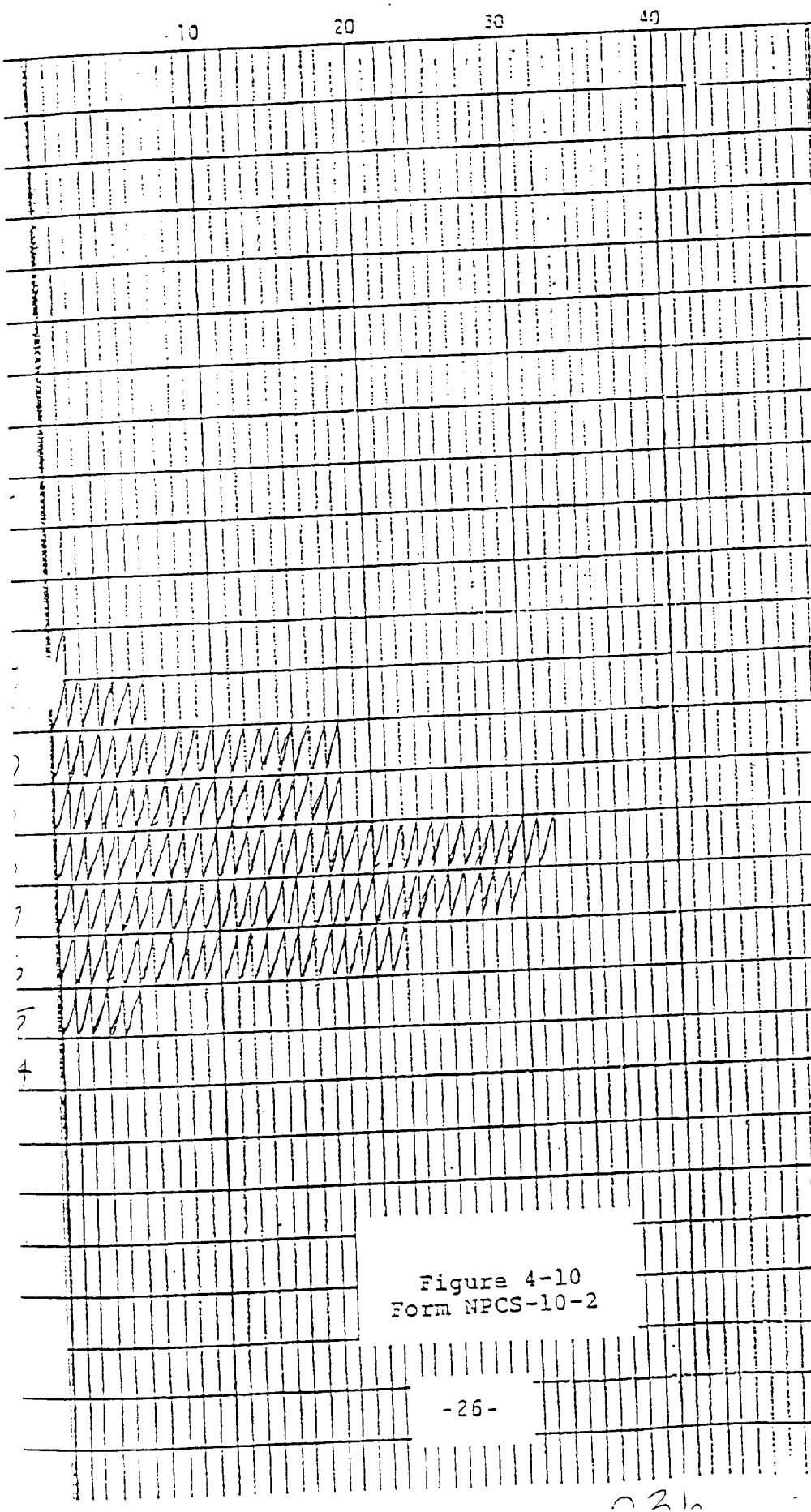
Minimum Number "Good" Samples

Note: Indicate all missing data points and give an explanation. Additional data points may be needed to document an L_1 violation.

NPCS-10-1

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATISTICAL COMPUTATION SHEET

3-2-95 Source: COPELAND SAND & GRAVEL Sheet 3 / 4



No. Readings	No. Greater Than	% Greater Than
0	0	
1	0	0
6	1	1
18	7	5.3
18	25	18.9
32	43	32.6
30	75	56.8
22	105	79.5
5	127	96.2
	132	100

Figure 4-10
Form NPCS-10-2

NPCS-10-2 6/76

DATE: 2 6 88

BY: RLG

SOURCE: COPELAND SAND & GRAVEL

MEASUREMENT SITE: 192 LONG ACRES ROAD

SHEET: 1 / 1

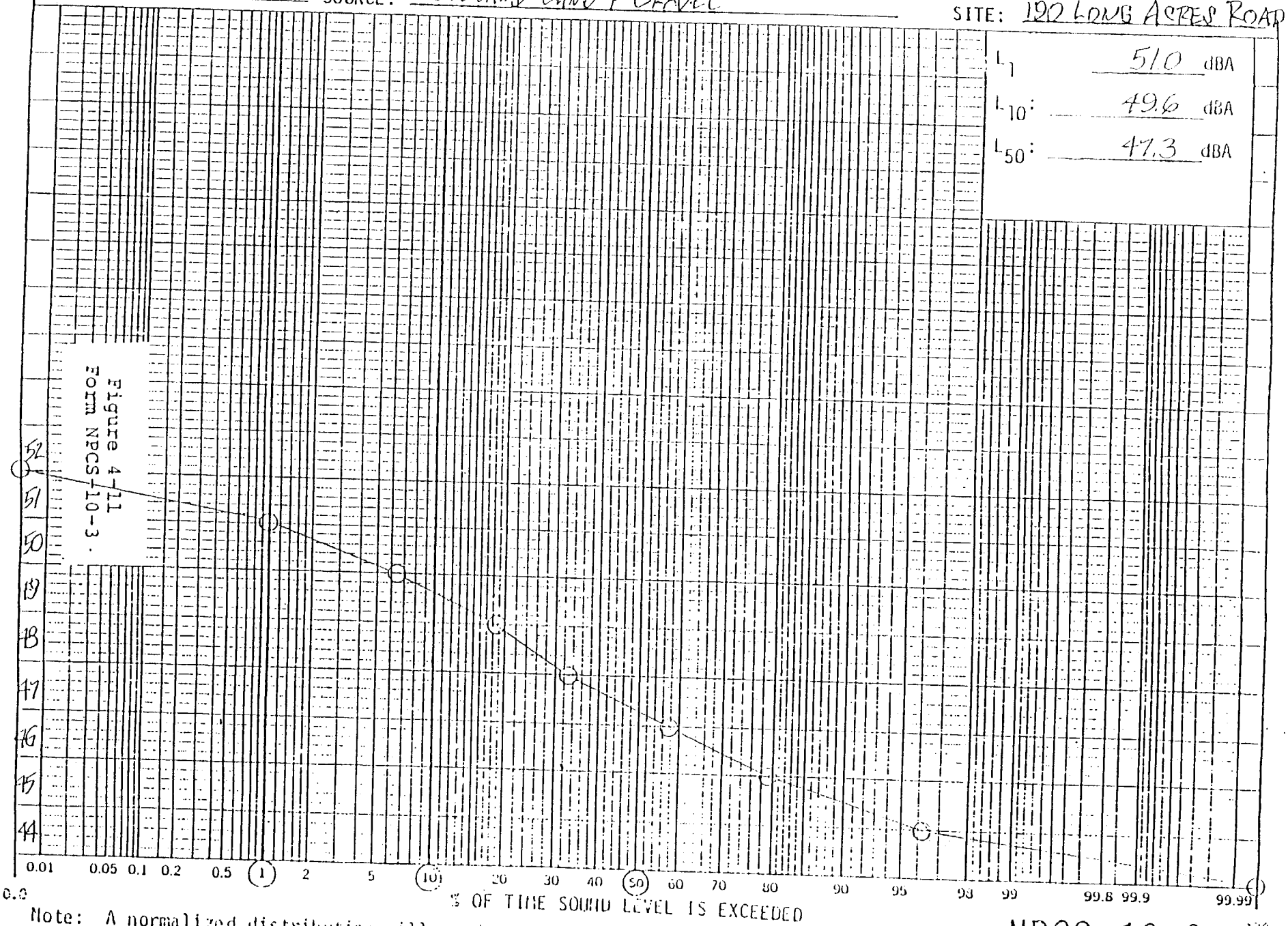


Figure 4-11
Form NPCS-10-3

Note: A normalized distribution will produce a straight line on this graph

NPCS-10-3

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATISTICAL NOISE SURVEY

SOURCE: Cleveland Sand & Gravel

DATE: 3-2-95

BY: RLG

MEASUREMENT SITE: 915 So. Side Rd. (James) - At edge of gravel road - raning steady

COUNTY: Josephine

SHEET: 1 / 4

Time	Cal.	Calibration dB	F dry bulb	F wet bulb	%RH	Press. mm Hg.	Wind MPH	Wind direct.
1004	✓	114	47		H		<5	SW
1009	✓	114						

INSTRUMENTATION		
EQUT	TYPE	SERIAL
SLM	1933	3345
MIC	1/2"	
CAL	1562A	2446

WINDSCREEN: ON OFF

NOTE: SPL METER & FIELD CALIBRATOR BY GENERAL RADIO

~ Range of Noise: Hi 50 dBA Low 45 dBA Central Tend. 46 dBA

Start Time: 1010 Sample Interval: 5 10 15 seconds

FINISH 1047

DATA POINTS	SOUND PRESSURE LEVEL dBA					
1 - 6	55 ✓	46	46	46	46	45
7 - 12	45	45	45	49 ✓	45	45
13 - 18	45	45	45	44	45	46
19 - 24	45	46	45	45	49 ✓	46
25 - 30	46	46	45	46	46	46
31 - 36	49 ✓	45	45	45	45	45
37 - 42	44	44	44	44	44	44
43 - 48	44	47 ✓	43	43	43	42
47 - 54	42	42	42	42	42	42
55 - 60	43	43	42	45	44	45
61 - 66	44	44	45	44	44	44
67 - 72	44	43	44	45	47 J	45 J
73 - 78	45	44	44	45	45	45
79 - 84	46	46	46	46	46	46
85 - 90	45	45	45	45	45	45
91 - 96	44	44	44	43	44	45
97 - 102	47 ✓	45	43	43	43	43
103 - 108	43	43	43	43	47 ✓	43
109 - 114	43	42	42	42	41	41
115 - 120	41	41	41	42	43	43
121 - 126	44	46 ✓	45	44	44	44
127 - 132	47 ✓	44	44	44	45	45

Figure 4-9
Form NPCS-10-1

Note: See back for the minimum number of samples.
Indicate all missing data points and give an explanation.

NPCS-10-1

78 6/76

238

74

133 - 138	45	46	45	45	46	46
139 - 144	47 J	48 J	47 J	46	45	46
145 - 150	46					
151 - 156						
157 - 162						
163 - 168						
169 - 174						
175 - 180						
181 - 186						
187 - 192						
193 - 198						
199 - 204						
205 - 210						
211 - 216						
217 - 222						
223 - 228						
229 - 234						
235 - 240						
241 - 246						
247 - 252						
253 - 258						
259 - 264						
265 - 270						
271 - 276						
277 - 282						
283 - 288						
289 - 294						
295 - 300						
301 - 306						
307 - 312						
313 - 318						
319 - 324						
325 - 330						
331 - 336						

Figure 4-9
Reverse Side Form NPCS-10-1

Maximum - Minimum Levels (difference in range) J = JET AIRCRAFT NOISE

0-8	9	10	11	12	13	14	15	16	17	18	19	20	21
132	138	174	210	246	288	336	384	438	498	558	618	684	756

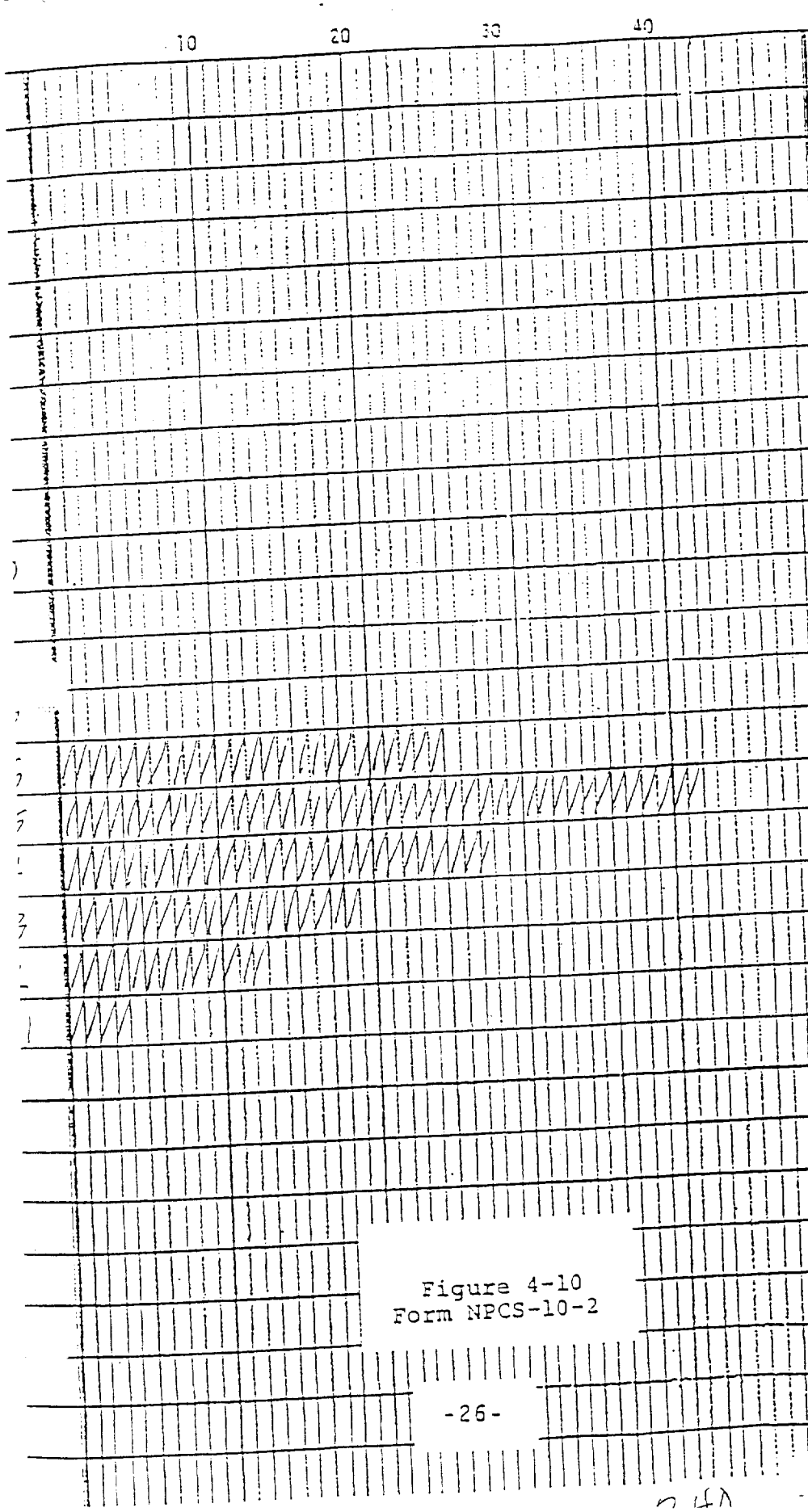
Minimum Number "Good" Samples

Note: Indicate all missing data points and give an explanation. Additional data points may be needed to document an L_1 violation.

NPCS-10-1

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATISTICAL COMPUTATION SHEET

3-2-95 Source: COPELAND SAND & GRAVEL Sheet 3 /4



No. Readings	No. Greater Than	% Greater Than
0	0	
25	0	
42	25	19.0
28	67	51.0
19	95	72.5
13	114	87.0
4	127	96.9
0	131	100

Figure 4-10
Form NPCS-10-2

NPCS-10-2 6/76

80

DATE: 3-7-95

SHEET: 4 / 4

BY: KLG

SOURCE: Cowlitz Sand & Gravel

MEASUREMENT SITE: 225 South Pine Road

L_1 45.4 dBA

L_{10}: 45.1 dBA

L_{50}: 44.0 dBA

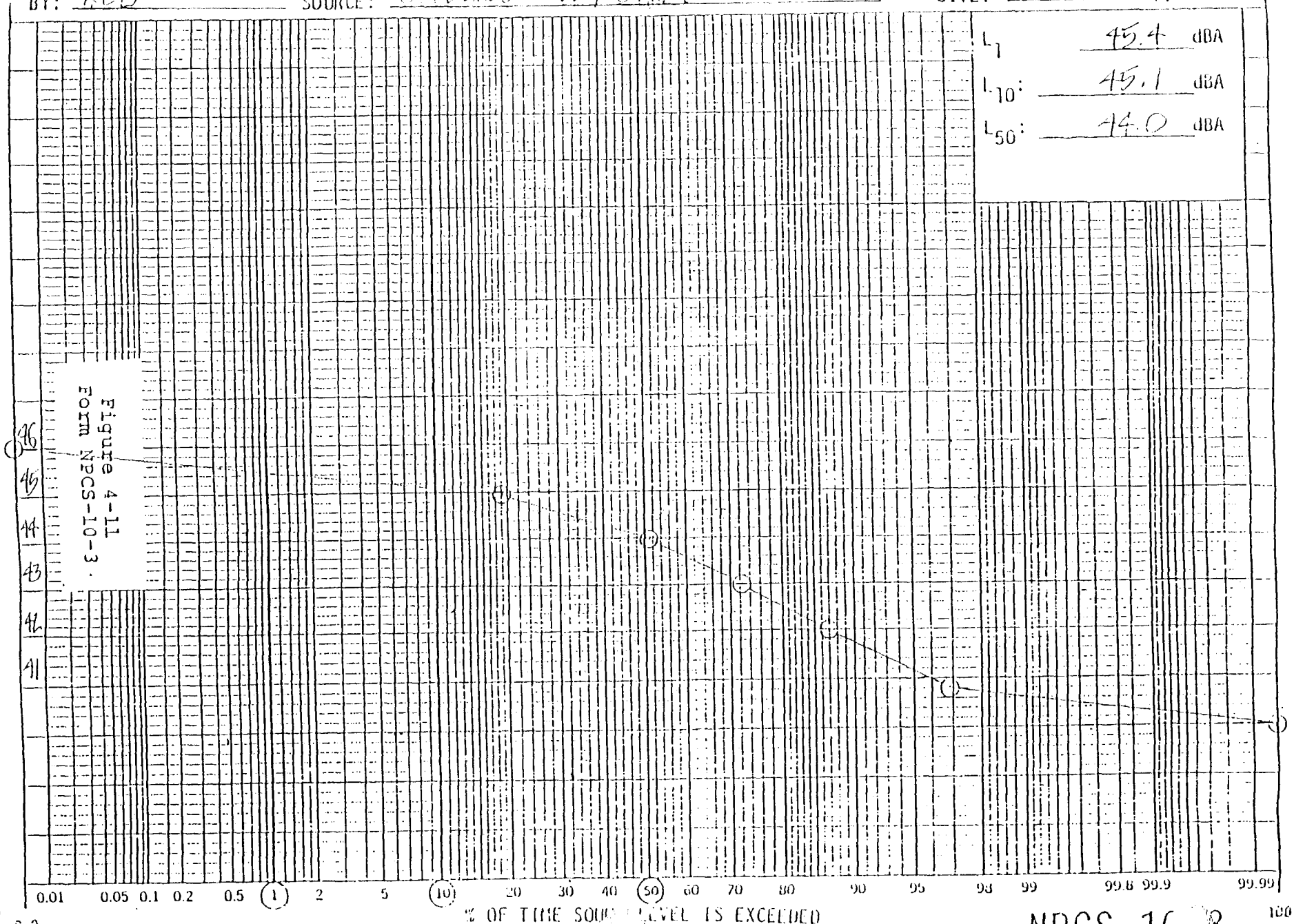


Figure 4-11
Form NPCS-10-3.

NPCS-10-3

No A normalized distribution will produce a straight line on this graph

-27-

81

DAMES & MOORE

NOISE MONITORING DATA SHEET

Project: COVELAND SAND & GRAVEL NOISE
Site: MURPHY, OR

Date: 3-2-95 Time Start: 0830 Time Stop: 0835 Operator: RLG

Site Conditions: CRUSHER SYSTEM OPERATING, METER HELD ABOUT 50' NORTH OF CRUSHERS. LIGHT RAIN, NO DETECTABLE WIND. NO WIND SCREEN.

Noise Monitor: GR 1933, TYPE 1, SPL METER

PEAK:	L1:
MAX P:	L10:
MAX L:	L50:
MIN L:	L90:
SEL:	L25:
Leq:	L8.3:
AVERAGE LEVEL: 89.5 dBA	L2.5:

NOTES:

Noise Control Regulations for Industry and Commerce

340-35-035 (1) Standards and Regulations:

(a) Existing Noise Sources. No person owning or controlling an existing industrial or commercial noise source shall cause or permit the operation of that noise source if the statistical noise levels generated by that source and measured at an appropriate measurement point, specified in subsection (3)(b) of this section, exceed the levels specified in Table 7, except as otherwise provided in these rules.

(b) New Noise Sources.

(A) New Sources Located on Previously Used Sites. No person owning or controlling a new industrial or commercial noise source located on a previously used industrial or commercial site shall cause or permit the operation of that noise source if the statistical noise levels generated by that new source and measured at an appropriate measurement point, specified in subsection (3)(b) of this section, exceed the levels specified in Table 8, except as otherwise provided in these rules.

(B) New Sources Located on Previously Unused Site.

(i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels L_{10} or L_{50}, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule.

(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source, including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsection (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(j), and (5)(k) of this rule, shall not be excluded from this ambient measurement.

(c) Quiet Areas. No person owning or controlling an industrial or commercial noise source located either within the boundaries of a Quiet Area or outside its boundaries shall cause or permit the operation of that noise source if the statistical noise levels generated by that source exceed the levels specified in Table 9 as measured within the Quiet Area and not less than 400 feet (122 meters) from the noise source.

(d) Impulse Sound. Notwithstanding the noise rules in Tables 7 through 9, no person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if an impulsive sound is emitted in air by that source which exceeds the sound pressure levels specified below, as measured at an appropriate measurement point, as specified

in subsection (3)(b) of this rule:

(A) Blasting. 98 dBC, slow response, between the hours of 7 am and 10 pm and 93 dBC, slow response, between the hours of 10 pm and 7 am.

(B) All Other Impulse Sounds. 100 db, peak response, between the hours of 7 am and 10 pm and 80 dB, peak response, between the hours of 10 pm and 7 am.

(e) Octave Bands and Audible Discrete Tones. When the Director has reasonable cause to believe that the requirements of subsections (1)(a), (1)(b), or (1)(c) of this rule do not adequately protect the health, safety or welfare of the public as provided for in ORS Chapter 467, the Department may require the noise source to meet the following rules:

(A) Octave Bands. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceeds applicable levels specified in Table 10.

(B) One-third Octave Bands. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median one-third octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, and in a one-third octave band at a preferred frequency, exceeds the arithmetic average of the median sound pressure levels of the two adjacent one-third octave bands by:

(i) 5 dB for such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

(ii) 8 dB for such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

(iii) 15 dB for such one-third octave band with a center frequency from 25 Hertz to 125 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band.

This rule shall not apply to audible discrete tones having a one-third octave band sound pressure level 10 dB or more below the allowable sound pressure levels specified in Table 10 for the octave band which contains such one-third octave band.

(2) Compliance. Upon written notification from the Director, the owner or controller of an industrial or commercial noise source operating in violation of the adopted rules shall submit a compliance schedule acceptable to the Department. The schedule will set forth the dates, terms, and conditions by which

the person responsible for the noise source shall comply with the adopted rules.

(3) Measurement:

(a) Sound measurement procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1) or to such other procedures as are approved in writing by the Department.

(b) Unless otherwise specified the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source:

(A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source,

(B) That point on the noise sensitive property line nearest the noise source.

(4) Monitoring and Reporting:

(a) Upon written notification from the Department, persons owning or controlling an industrial or commercial noise source shall monitor and record the statistical noise levels and operating times of equipment, facilities, operations, and activities, and shall submit such data to the Department in the form and on the schedule requested by the Department. Procedures for such measurements shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1).

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise tests and measurements. Therefore, when requested by the Department, the owner or operator of an industrial or commercial noise source shall provide the following:

(A) Access to the site,

(B) Reasonable facilities, where available, including but not limited to electric power and ladders adequate to perform the testing,

(C) Cooperation in the reasonable operation, manipulation, or shutdown of various equipment or operations as needed to ascertain the source of sound and measure its emission.

(5) Exemptions. Except as otherwise provided in subsection (1)(b)(B)(ii), the rules in section (1) of this rule shall not apply to:

(a) Emergency equipment not operated on a regular or scheduled basis.

(b) Warning devices not operating continuously for more than 5 minutes.

(c) Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles.

(d) Sounds resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad only to the extent that such equipment or facility is regulated by preemptive federal regulations as set forth in Part 201 of Title 40 of the Code of Federal Regulations.

promulgated pursuant to section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Public Law 92-576; but this exemption does not apply to any standard, control, license, regulation, or restriction necessitated by special local conditions which is approved by the Administrator of the EPA after consultation with the Secretary of Transportation pursuant to procedures set forth in section 17(c)(2) of the Act.

(e) Sounds created by bells, chimes, or carillons.

(f) Sounds not electronically amplified which are created by or generated at sporting, amusement, and entertainment events, except those sounds which are regulated under other noise standards. An event is a noteworthy happening and does not include informal, frequent or ongoing activities such as, but not limited to, those which normally occur at bowling alleys or amusement parks operating in one location for a significant period of time.

(g) Sounds that originate on construction sites.

(h) Sounds created in construction or maintenance of capital equipment.

(i) Sounds created by lawn care maintenance and snow removal equipment.

(j) Sounds generated by the operation of aircraft and subject to preemptive federal regulation. This exception does not apply to aircraft engine testing, activity conducted at the airport that is not directly related to flight operations, and any other activity not preemptively regulated by the federal government or controlled under OAR 340-35-045.

(k) Sounds created by the operation of road vehicle auxiliary equipment complying with the noise rules for such equipment as specified in OAR 340-35-030(1)(e).

(l) Sounds created by agricultural activities.

(m) Sounds created by activities related to the growing or harvesting of forest tree species on forest land as defined in subsection (1) of ORS 526.324.

(6) Exceptions: Upon written request from the owner or controller of an industrial or commercial noise source, the Department may authorize exceptions to section 340-35-035(1), pursuant to rule 340-35-010, for:

(a) Unusual and/or infrequent events.

(b) Industrial or commercial facilities previously established in areas of new development of noise sensitive property.

(c) Those industrial or commercial noise sources whose statistical noise levels at the appropriate measurement point are exceeded by any noise source external to the industrial or commercial noise source in question.

(d) Noise sensitive property owned or controlled by the person who controls or owns the noise source.

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

TABLE 8

(340-35-035)

New Industrial and Commercial Noise Source Standards

Allowable Statistical Noise Levels in Any One Hour

7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
L_{50} - 55 dBA	L_{50} - 50 dBA
L_{10} - 60 dBA	L_{10} - 55 dBA
L_{1} - 75 dBA	L_{1} - 60 dBA

TABLE 9

(340-35-035)

Industrial and Commercial Noise Source Standards for Quiet Areas

Allowable Statistical Noise Levels in Any One Hour

7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
L_{50} - 50 dBA	L_{50} - 45 dBA
L_{10} - 55 dBA	L_{10} - 50 dBA
L_{1} - 60 dBA	L_{1} - 55 dBA

JOSEPHINE COUNT PLANNING OFFICE

WM. BRUCE BARTOW
PLANNING DIRECTOR
510 N.W. 4th ST., GRANTS PASS, OR 97526

MEMORANDUM

TO: RURAL PLANNING COMMISSION
FROM: RICK RIKER, PLANNING ASSISTANT

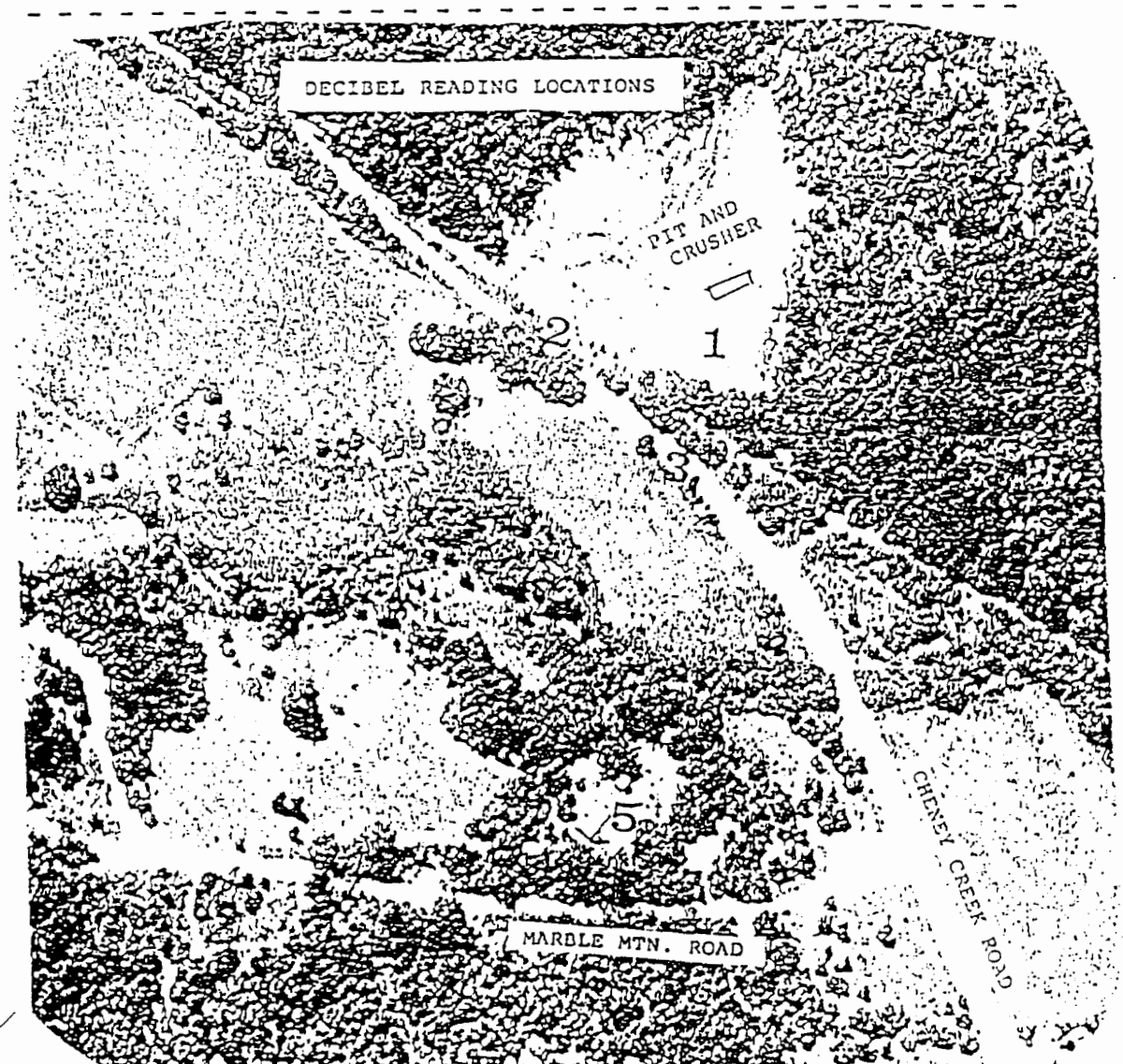
RE: WALTMAN ROCK CRUSHER - 37-6-18

I am forwarding additional information, to clarify material in the staff report:

Page 2 - History: "a few persons expressed concern over the recognition of the quarry." Greg Adams wrote a letter, and verbally expressed concern over the impact the aggregate setback would have to his property immediately to the south. The record has a letter that expressed support from Charles and Lola Swan.

Page 5- Noise: "55 decibels be met at the drive entrance to the pit, and that the reading shows 94 decibels at location #1." The actual driveway entrance is location # 2 with a reading of 65 -67 decibels. See below.

Page 5 - Buffer: "In 1990 the applicant found . . . ." should have a date of 1987.



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ENVIRONMENTAL HEALTH DEPT.
JOSEPHINE COUNTY OREGON
510 N.W. 4th STREET
GRANTS PASS, OREGON 97526
Telephone: (503) 474-5431

April 30, 1992

MAY 1992 RECEIVED

Ms. Sherry Waltman
700 Cheney Creek Road
Grants Pass, OR 97526

Dear Sherry,

The following are my noise observations regarding the rock crusher located at 1010 Cheney Creek Road. A noise meter model GR 1565 D was used. The "A" scale was used to measure noise levels. The measurements were spot checks only. No effort was made to determine the duration of each reading.

NOISE READING LOCATION (1)	NUMBER OF DECIBELS	DISTANCE FROM ROCK CRUSHER (2)
NUMBER 1	84-94	50 FEET
NUMBER 2	65-67	100 FEET
NUMBER 3	55-62	100 FEET
NUMBER 4	48-54	1000 FEET
NUMBER 5	48-52	600 FEET
NUMBER 6	42-44	700 FEET

(1) see attachment A
(2) estimated distances

COMMENTS:

1. The following pieces of equipment were in operation during the noise testing:

   Portable rock crushing unit
   Front end loader - 3 yard
   Rock picker

   Associated equipment not in operation during the noise measurements were:

   Loading of the dump truck
   Bulldozer

   The pneumatic drill is out of operation and has been for an extended period of time.

   All equipment does not operate at the same time.

2. D.E.Q. rules indicate noise measurements for industry and commerce are to be taken on the noise sensitive property, described below, which is further from the noise source:

   A. 25 feet towards the noise source from that point on the noise sensitive building nearest the noise source.

   B. That point on the noise sensitive property line nearest the noise source.

3. The Planning Department's Rural Zoning Ordinance states "The proposed use shall not constitute an excessive nuisance to adjoining properties due to noise ....." (page 84).

4. The Urban Growth Area Zoning Ordinance states " all noise shall be muffled so as to not be objectionable due to intermittent beat frequency or shrillness and, as measured at any property line ....."

5. The County Site Review Committee has made a recommendation that "sound levels shall not exceed 55 dBA as measured on Cheney Creek Road, at the access drive to the quarry and shall meet all other sound regulation established by D.E.Q.".

It appears that the Site Review Committee has established a 55 dBA standard at the crusher site entrance. The Rural Zoning Ordinance does not establish a specific standard. This is more nearly the Urban Growth Area Zoning Ordinance standard.

It is my understanding that D.E.Q. would allow the measurement to be taken 25 feet from the closest noise sensitive building. (location number 5)

Please call if you have any questions.

Sincerely,

Bill

C. William Olson, R.S., M.P.H.
Administrator

cc: County Planning Dept.

Enclosure

EXHIBIT K

EXHIBIT K

RECYCLED PAPER

∠FORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

ORDINANCE NO. 2000-4

AN ORDINANCE AMENDING GOAL 11 OF THE JOSEPHINE COUNTY COMPREHENSIVE PLAN GOALS AND POLICIES BY DELETING THE WORD "SIGNIFICANT" FROM POLICY 2.C[6] AND AMENDING POLICY 5 REGARDING THE DEFINITION OF THE TERM "SIGNIFICANT," AND TO AMEND THE RURAL LAND DEVELOPMENT CODE, ARTICLES 47, 48 and 49 TO CONFORM.

WHEREAS, in accordance with the procedures of the Josephine County Comprehensive Plan (hereinafter called plan), the Josephine County Board of Commissioners (hereafter called Board), conducted certain public hearings regarding amendments to Goal 11, and Articles 47, 48 and 49 of the Rural Land Development Code (hereinafter called code), during the year of 1999; and

WHEREAS, the amendments proposed in the aforementioned public hearings were performed to comply with Task #5 of the county's periodic review work program; and

WHEREAS, the Board adopted the proposed amendments on December 29, 1999, all in conformance with the procedural requirements for periodic review, in the final form of Ordinance 99-8; and

WHEREAS, Steve Doob, a resident of Josephine County, filed objections to Ordinance 99-8 with the Department of Land Conservation of Development (DLCD) on January 20, 2000, wherein he objected to certain uses of the word "significant" and its definition within the ordinance; and

WHEREAS, the DLCD entered a remand order (#001214) on May 31, 2000, wherein it rejected objection #1 entirely and sustained objection #2 in part by requiring the county to amend its definition of the word "significant" to assure the word "serious" can be effectively used to clarify the word "significantly" in all of the instances in which it is used.

NOW, THEREFORE, based on the foregoing authority and procedures, the Board hereby amends the language contained in Ordinance 99-8.

Section 1. Amendment of Policy 2.C[6]

The language contained in Goal 11, Policy 2.C[6], at page 6, shall be amended as follows:

[6] Special circumstances exist at or near the site that justify increased risks, expensive or complex mitigation plans, or higher infrastructure costs to the public from the development. This criterion can be used to consider specific community needs that have arisen within the area since the existing zoning was

implemented at the site. Examples of circumstances which might support the application of this criterion are changes in demographics; the location or discovery of unique natural resources; ~~significant~~ changes in infrastructure that are intended to support and encourage the kinds of development associated with the request; the development of rural communities; and any other circumstance that establishes a special need or benefit to the community that justifies increased risks and costs. This criterion shall not be used to modify the requirements of criterion [1] above.

Section 2. Amendment of Policy 5

The language contained in Policy 5, at page 11, of Ordinance 99-8 is amended to read as follows:

> **MEANING OF THE TERM "SIGNIFICANT."** For the purposes of implementing the provisions of the foregoing policies, the term "significant" **(~~in its various forms~~ as used in the form, "significantly")** shall mean **~~"serious."~~ the proposed change is likely to have considerable influence or effect upon the matter being considered, or that the effect or impacts arising from the change will result in important or weighty consequences or risks.** The term is intended to guide the review body in evaluating the ~~adverse~~ effects certain land use activities may have on other land use activities or on other land use considerations made applicable by these policies or other state or local goals, rules or laws. ~~Effects are significant when they can be accurately described or measured, and they result in significant conflicts with other land use activities or considerations.~~ The review body shall judge the use of the term significant based on what a reasonable person would consider significant given the facts and circumstances being considered.

Section 3. Amend Articles 47, 48 and 49 of the Rural Land Development Code

Articles 47, 48 and 49 of the Rural Land Development Code are hereby amended to conform to the requirements of Sections 1 and 2 of this ordinance.

Section 4. Affirmation

Except as specifically amended by the provisions of this ordinance, Goal 11 (Ord. 99-8) is hereby affirmed.

Section 5. Effective Date

First reading by the Board of County Commissioners this 6th day of September, 2000.

Second reading and adoption by the Board of County Commissioners at least thirteen days from the first reading on this 20th day of September, 2000, This ordinance shall take effect ninety days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COMMISSIONERS

Frank Iverson, Chair

Jim Brock, Vice-Chair

Harold L. Haugen - Absent

Harold L. Haugen, Commissioner

ATTEST:

Georgette Brown, County Clerk

Recording Secretary

APPROVED AS TO FORM:

Steven E. Rich, Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

STATE OF OREGON

ORDINANCE NO. 2000 - 5

AN ORDINANCE AMENDING THE ZONING MAP OF JOSEPHINE COUNTY (ORDINANCE 85-1 AS AMENDED), FROM RURAL COMMERCIAL TO RURAL COMMERCIAL CENTER FOR PROPERTY IDENTIFIED AS ASSESSOR'S MAP T 37, R 05, SECTION 7-13, TAX LOTS 2800 AND 2900.

WHEREAS, the Board of County Commissioners held a public hearings on June 7, and July 5, 2000 to consider, under the criteria of the Josephine County Comprehensive Plan (Ordinance 81-11 As Amended) for the request before them; and

WHEREAS, the Josephine County Planning Commission at a public hearing gave consideration to the applicant's Zone Change request, and made a recommendation to the Board; and

WHEREAS, the Board of Commissioners held a public hearing, heard testimony, received evidence from the Josephine County Staff, the applicant and any remonstrators, and concluded that the applicant had met his burden of proof, and that the Zone Change, as requested did comply with the requirements of Josephine County and State Law pertaining to such matters, and that there was sufficient proof that the property could support a sheet metal shop at a rural level of use.

NOW, THEREFORE, based on the foregoing, the Board of County Commissioners of Josephine County Oregon, hereby ordains as follows:

SECTION 1: Zoning Change

The Josephine County Zoning Map is hereby amended from Rural Commercial to Rural Commercial Center for properties identified as Assessor's Map Township 37, Range 5, Section 7-30, Tax Lots 2800 and 2900 with the following conditions:

1. The commercial use shall be limited to a sheet metal shop.

2. There shall be no access from Williams Highway. Access is limited to Kenwood Drive. Prior to obtaining a development permit for the sheet metal shop the applicant shall obtain an access permit from the Public Works Department and complete the road improvements required by Public Works.

3. All materials and machinery shall be located within an enclosed building or a site obscuring fence.

4. All trash shall be kept in an enclosed sight obscured area.

5. Employees shall be limited so that no more than 5 employees shall be authorized on-site at any time.

6. Sound generated by the business shall be limited to no more than 55 db at any sound sensitive use on adjacent or nearby parcels.

7. The appearance of the site shall be maintained in a neat and workman like manner.

SECTION 2: Affirmation

Except as otherwise provided herein, Josephine County Ordinance Nos 81-11 and 85-1 are hereby affirmed as originally adopted, and heretofore amended.

SECTION 3: Effective Date

First reading by the Board of County Commissioners this 25th day of October, 2000.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 8th day of November, 2000. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD
OF COUNTY COMMISSIONERS

Frank Iverson, Chair

Jim Brock, Vice Chair

Harold Haugen, Commissioner

Recording Secretary

APPROVED AS TO FORM:

Steve Rich, Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

STATE OF OREGON

ORDINANCE NO. 2000-6

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF JOSEPHINE COUNTY (ORDINANCE 81-11 AS AMENDED), FROM AGRICULTURAL TO RESIDENTIAL AND AMENDING THE ZONING MAP OF JOSEPHINE COUNTY (ORDINANCE 85-1 AS AMENDED), FROM FARM RESOURCE TO RURAL RESIDENTIAL-FIVE ACRES, FOR PROPERTY IDENTIFIED AS ASSESSOR'S MAP T 36, R 6, SECTION 25-40, TAX LOT 3700 FOR JOSEPHINE COUNTY.

WHEREAS, the Board of County Commissioners held public hearings on April 12, May 10, and June 7, 2000 to consider, under the criteria of the Josephine County Comprehensive Plan (Ordinance 81-11 As Amended) for the request before them; and

WHEREAS, the Josephine County Planning Commission at a public hearing gave consideration to the applicant's Comprehensive Plan and Zone Change request, and made a recommendation to the Board; and

WHEREAS, the Board of Commissioners held a public hearing, heard testimony, received evidence from the Josephine County Staff, the applicant and any remonstrators, and concluded that the applicant had met his burden of proof, and that the Comprehensive Plan and Zone Change, as requested complied with the requirements of Josephine County and State Law pertaining to such matters.

NOW, THEREFORE, based on the foregoing, the Board of County Commissioners of Josephine County Oregon, hereby ordains as follows:

SECTION 1: Comprehensive Plan Amendment

The Josephine County Comprehensive Plan is hereby amended from Agricultural to Residential for property identified as Assessor's Map Township 36, Range 6, Section 25-40, Tax Lot 3700.

SECTION 2: Zoning Change

The Josephine County Zoning Map is hereby amended from Farm Resource to Rural Residential-Five Acre for property identified as Assessor's Map Township 36, Range 6, Section 25-40, Tax Lot 3700.

SECTION 3: Affirmation

Except as otherwise provided herein, Josephine County Ordinance No.s 81-11 and 85-1 are hereby affirmed as originally adopted, and heretofore amended.

SECTION 4: Effective Date

First reading by the Board of County Commissioners this 8th day of November, 2000.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 22nd day of November, 2000. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD
OF COUNTY COMMISSIONERS

Frank Iverson, Chair

Jim Brock, Vice Chair

Harold L. Haugen, Commissioner

Recording Secretary

APPROVED AS TO FORM:

Steve Rich, Legal Counsel

BEFORE THE BOARD OF JOSEPHINE COUNTY COMMISSIONERS
STATE OF OREGON

Ordinance No. 2000-7

REPEAL OF AN ORDINANCE (ORDINANCE 2000-3) AMENDING THE GOALS AND POLICIES OF THE COMPREHENSIVE PLAN FOR JOSEPHINE COUNTY (ORD. 81-11) TO REPEAL AND REPLACE GOAL 7, NATURAL RESOURCES, TO ADD POLICY K TO GOAL 10 ENABLING THE MINERAL AND AGGREGATE RESOURCE ZONE, AND TO AMEND THE RURAL LAND DEVELOPMENT CODE (ORD. 94-4) TO ADD AND REPLACE DEFINITIONS TO ARTICLE 11, THE ADDITION OF ARTICLE 66.1 (MINERAL AND AGGREGATE RESOURCE ZONE), AND THE REPEAL AND REPLACEMENT OF ARTICLES 72.040 (SPECIAL SETBACK REQUIREMENTS) AND 91 (STANDARDS FOR DEVELOPMENT OF AGGREGATE OPERATIONS).

THE BOARD OF COUNTY COMMISSIONERS OF JOSEPHINE COUNTY ordains as follows:

SECTION 1: REPEAL

Ordinance 2000-3 is hereby repealed.

SECTION 2: EFFECTIVE DATE

First reading by the Board of County Commissioners this 1st day of November, 2000.

Second reading and adoption by the Board of County Commissioners at least thirteen (13) days from the first reading this 22nd day of November, 2000. This Ordinance shall take effect ninety (90) days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

Frank Iverson, Chair

Jim Brock, Vice-Chair

Harold L. Haugen, Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

Steven E. Rich, Legal Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY

Ordinance No. 2000 - 8

AN ORDINANCE AMENDING THE GOALS AND POLICIES OF THE COMPREHENSIVE PLAN FOR JOSEPHINE COUNTY (ORD. 81-11) TO REPEAL AND REPLACE GOAL 7, NATURAL RESOURCES, TO ADD POLICY K TO GOAL 10 ENABLING THE MINERAL AND AGGREGATE RESOURCE ZONE, TO AMEND THE RURAL LAND DEVELOPMENT CODE (ORD. 94-4) TO ADD AND REPLACE DEFINITIONS TO ARTICLE 11, THE ADDITION OF ARTICLE 66.1 (MINERAL AND AGGREGATE RESOURCE ZONE), AND TO REPEAL AND REPLACE ARTICLES 72.040 (SPECIAL SETBACK REQUIREMENTS) AND 91 (STANDARDS FOR DEVELOPMENT OF AGGREGATE OPERATIONS). THIS ORDINANCE RE-ADOPTS THE PROVISIONS PREVIOUSLY CONTAINED IN ORDINANCE 2000-3 (NOW REPEALED) WITHOUT CERTAIN STREAMSIDE SETBACK REQUIREMENTS.

WHEREAS, in accordance with the procedures of the Josephine County Comprehensive Plan (hereinafter called plan) at Goal 11, Policy 1, and the Rural Land Development Code (hereinafter called code) at Article 49, the Rural Planning Commission conducted a public hearing regarding the amendments as set forth herein, after notice by publication and mailing as therein required; and

WHEREAS, in accordance with the procedures of the plan and code, the Board of County Commissioners also conducted a public hearing to consider the recommendation of the Planning Commission, after providing the required notice by publication and mailing; and

WHEREAS, the County is required by Oregon Revised Statutes, Chapter 197, and Oregon Administrative Rules, Division 660-19, to make periodic revisions to its plan and code to address changes in circumstances and law; and

WHEREAS, the County is now obligated pursuant to an approved periodic review work program, dated April 10, 2000, under the heading of Task #1, to revise Goal 7 of its Comprehensive Plan Goals and Policies to comply with Statewide Goal 5, regarding riparian and aggregate resources, and to implement revised riparian and aggregate resource policies with revision of its Rural Land Development Code;

NOW, THEREFORE, based on the foregoing authority and procedures, the Board of County Commissioners for Josephine County, Oregon, hereby takes the following legislative action to amend the plan and code in the following respects:

Section 1. Repeal

The existing language contained in Goal 7 of the Josephine County Comprehensive Plan's Goals and Policies is hereby repealed in its entirety.

The existing language for Section 11.030 defining aggregate processing, aggregate use, and processing of extractive resources; Section 72.040 - Special Setbacks; and Article 91 - Aggregate Standards are hereby repealed in their entirety.

Section 2. Adoption

GOALS AND POLICIES OF THE COMPREHENSIVE PLAN

The following language is hereby adopted into Goals 7 and Goal 10 of the Josephine County Comprehensive Plan:

GOAL 7: PRESERVE VALUABLE LIMITED RESOURCES, UNIQUE NATURAL AREAS AND HISTORIC FEATURES

OVERVIEW

Josephine County is especially rich in natural and cultural resources and these resources are important to the vitality of the local economy and the general livability of rural areas. These resources include mineral and aggregate deposits, riparian areas (rivers, streams, lakes, wetlands and adjoining land areas), groundwater resources, historic and archaeological sites, and scenic, recreation and wildlife areas. Many of these resources have been identified in a system of inventories for the purpose of planning for their preservation and enhancement. It is therefore the purpose of this goal to develop a system of policies, supported by implementing land use regulations, that will provide a process for the protection and enhancement of the county's natural and cultural resources in balance with individual property rights and competing land uses.

POLICIES

1. **Aggregate Resource Policies**

   A. Base Information. The policies contained within this goal are based in part upon documentation contained in the publications on file with the Josephine County Planning Office; and citizen committee discussions and public comment on the subject which took place between February 1996 and the date of adoption of this ordinance. A list of the dates of committee meetings, public workshops, and Planning Commission and Board of Commissioners hearings is attached as Exhibit 1.

   B. Collaborative Regional Problem Solving Agreement and Oregon Administrative Rules. The basic aggregate policies contained in this goal derive from Collaborative Regional Problem Solving authority (ORS 197.656) and Oregon

Administrative Rule, Chapter 660, Division 23 (Procedures and Requirements for Complying with Goal 5).

C. Basic Aggregate Policy. Given the increasing demand and limited supply of aggregate resources, and given the extreme importance of a stable and adequate supply of these materials to the local economy, the necessity to permit mining will often result in conflicts with existing land uses and other resources. Therefore the following policy statements shall guide the permitting of aggregate mining in Josephine County.

[1] Aggregate mining shall be permitted only where conflicts with existing land uses have been minimized.

[2] Conflicts between aggregate mining and other acknowledged significant Goal 5 resources shall be minimized.

[3] For new aggregate mining proposals Josephine County 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 aggregate site, only for significant aggregate sites which have been designated and mining permitted under the procedures contained in OAR 660-23-180.

[4] Apart from existing significant aggregate sites referenced in Policy 1.C(7)(b) below, Josephine County 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 aggregate site, only for those new significant aggregate sites where the aggregate operator has made an effort to reach agreement with surrounding property owners over the terms under which mining will be conducted (impact area agreement). However, considering the importance of the aggregate resource, mining will not be denied after the miner has made an effort solely because he is unable to achieve an agreement with surrounding property owners.

[5] The county shall adopt clear and objective standards for the development of mining operations. These standards shall be applied to all aggregate mining operations except where supplanted by other clear and objective standards derived from an impact area agreement or from the process for permitting mining found in OAR 660-23-180 (4).

[6] The county shall maintain its existing inventory of significant aggregate sites. A site may be added to the inventory by the PAPA process contained in OAR 660-23-180. Sites on the inventory shall be removed

from the inventory when depleted, if not locatable, or accessible, or by request of the property owner.

[7] 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 the either of criterion set forth below in subsections [a] or [b], except as qualified by subsection [c]:

[a] Based on a set of samples which in the judgement of an Oregon Registered Geologist is representative of aggregate material in the deposit, the material on the site meets:

[i] Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, and abrasion; and

[ii] For material to be used in concrete, Portland cement and asphaltic concrete, the Oregon Department of Transportation (ODOT) specifications for sodium sulfate soundness (ODOT TM 206 test); and

[iii] The estimated amount of material is more than 60,000 cubic yards; or

[b] The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

[c] An aggregate site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I, Class II, or of a combination of Class II and Class I or Unique soil on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996.

[d] Paragraph [c] above does not apply to an expansion area of an existing site if the operator of the existing site had on March 1, 1996 an enforceable property interest in the expansion area.

GOAL 10 of the Josephine County Comprehensive Plan shall be amended with the addition of the following policy statement:

K. Mineral and Aggregate Resource Zone (MARZ). Property which has been determined to be a significant aggregate resource site under Oregon Administrative Rule 660-23-180, on which aggregate mining has been approved subject to Oregon Administrative

Rule 660-23-180, and where the mine operator has entered into an impact area agreement with property owners affected by mining, or attempted to do so, shall be zoned Mineral and Aggregate Resource. The County 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 aggregate site for sites in the Mineral and Aggregate Resource Zone. These sites are most commonly found in river flood plains where alluvium is mined for aggregate, but may also occur in upland areas and authorize the mining of bedrock formations for aggregate.

RURAL LAND DEVELOPMENT CODE

The Rural Land Development Code, Section 11.030, *DEFINITIONS*, shall be amended by the inclusion of new definitions or the replacement of existing definitions, to include renumbering, as follows:

New Definitions:

AGGREGATE RESOURCES. Naturally occurring concentrations of stone, rock, sand and gravel, decomposed granite, lime, pumice, cinders, and other naturally occurring solid materials used in road building and general construction.

CHANNEL STABILITY ANALYSIS. A study which addresses the short and long term stability of the stream channel relative to the impacts of a mining operation. The study shall address a potential acceleration of stream channel change due to the mining operation. Such a study shall meet the requirements of the Oregon Department of Geology and Mineral Industries and shall be submitted to that agency for review and approval. The study could include an evaluation of hydrology, hydraulics, fluvial geomorphology, and sediment transport capacity of the existing channel and potential effects of the mining operation on these channel characteristics, subject to the following additional definitions:

A. HYDROLOGIC ANALYSIS. An analysis which defines the magnitude and frequency of channel discharges including but not necessarily limited to the mean annual runoff, 5-, 10-, 25-, and 100- year, 24 hour discharge events. Some statistical analysis may be appropriate.

B. HYDRAULIC ANALYSIS. An analysis based on the above described hydrologic events and may include an evaluation of pre- and post-mining: (1) flood flow depths and water surface elevations; (2) channel and floodplain velocities and depths of inundation.

C. FLUVIAL GEOMORPHIC ANALYSIS. An analysis which defines the relevant geomorphic characteristics of a stream channel and its adjacent flood plain. It is the intent of this study to address the potential for channel change due to proposed mining.

D. SEDIMENT TRANSPORT ANALYSIS. An analysis which addresses the sediment transport capacity of existing stream channels and any potential changes in their ability to transport sediment. This analysis shall address aggradation and degradation potential for both the short and long term (i.e. pre- and post-mining) conditions.

CONCEPTUAL RECLAMATION PLAN. A written and graphic proposal for the reclamation of land area disturbed by a mining operation. The plan shall address the measures for rehabilitation of mined lands, disposal of mining refuse, erosion control and slope stabilization. The plan need only present the concepts for achieving reclamation, but must do so with sufficient detail that the Review Body can determine the expected post mining landscape of the site. At a minimum the conceptual reclamation plan shall include: a scale; a north arrow; approximate post mining topography; any vegetative treatment; and physical site features. The approach to reclamation must be consistent with the proposed post mining use of the site, and with the subsequent DOGAMI approved reclamation plan, but should not be subject to the reclamation requirements in ORS 517.750 through 517.900.

CONFLICTING USE. A land use, or other activity subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)- "Conflicting Use"). Agricultural practices are not considered conflicting uses. In regard to a significant aggregate resource 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 (as specified in OAR 660-023-0180(4)(b).

ESEE ANALYSIS. The analysis of positive and negative economic, social, environmental and energy consequences that may result from allowing, limiting, or prohibiting future conflicting uses in the protection of a significant Goal 5 resource site.

IMPACT AREA. A geographic area within which conflicting uses could adversely affect a significant Goal 5 resource or uses of adjacent property could be affected by a Goal 5 resource. For significant aggregate resources the impact area shall be large enough to include the uses listed at OAR 660-23-180 (4) (b), 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.

IMPACT AREA AGREEMENT An agreement between a mine operator and owners of property within the impact area of the mine.

INACTIVE As applied to an aggregate mine inactive means no aggregate materials were excavated, crushed, removed, stockpiled or sold by the owner or operator of the surface mine.

MINIMIZE A CONFLICT. With regard to the implementation of Statewide Goal 5, to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental

Quality standards for noise and dust levels) to "minimize a conflict" means to ensure conformance to the applicable standard.

MINING AREA. The area at a mineral and/or aggregate site in which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.

MINING SITE. The area at a mineral and/or aggregate site in which mining is permitted or proposed, including undisturbed buffer areas or areas on a parcel where mining is not authorized.

NOISE OR DUST SENSITIVE USE OR STRUCTURE. A term used to refer to uses or structures authorized in the vicinity of mining operations which are sensitive to the noise and dust impacts because they involve human occupation. Examples of such uses are residences, churches, hospitals, care facilities, schools, libraries, campgrounds and other uses generally open to the public. Forest and farm uses are not considered to be noise or dust sensitive unless a contrary determination is established in the Goal 5 process. Noise or dust sensitive uses or structures are a conflicting use with regard to aggregate mining.

PAPA. A "post-acknowledgment plan amendment."

PROTECT. To adopt land use regulations for a Goal 5 resource in order to limit or prohibit new conflicting uses within the impact area of the site.

RESTRICTIVE COVENANT. An enforceable promise or declaration given by the owner of real property resulting in the release of some right associated with the use and enjoyment of the property encumbered by the covenant. A restrictive covenant may involve a promise not to object to impacts resulting from resource uses existing or authorized on neighboring lands. The restrictive covenant shall be in writing, signed and notarized and recorded in the real property records for Josephine County, and is intended to bind the heirs and successors of the owner.

SIGNIFICANT AGGREGATE RESOURCE SITE. 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 (B) of this section, except as provided in subsection (C) of this section:

A. Based on a set of samples which in the judgement of an Oregon Registered Geologist is representative of aggregate material in the deposit, the material on the site meets:

    1. Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, and abrasion; and

2. For material to be used in concrete, Portland cement and asphaltic concrete, the Oregon Department of Transportation (ODOT) specifications for sodium sulfate soundness (ODOT TM 206 test); and

3. The estimated amount of material is more than 60,000 cubic yards; or

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

C. An aggregate site is not significant if more than 35 percent of the proposed mining area consists of soil classified as Class I, Class II, or of a combination of Class II and Class I or Unique soil on Natural Resource and Conservation Service (NRCS) maps as of September 1, 1996.

D. Paragraph C above does not apply to an expansion area of an existing site if the operator of the existing site had on March 1, 1996 an enforceable property interest in the expansion area.

STREAM. A channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

TOP OF BANK. The elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the top of bank.

Replacement Definitions:

AGGREGATE PROCESSING. Aggregate processing is the crushing, washing, milling and screening, as well as the batching and blending of mineral aggregate into asphalt and Portland cement concrete.

MINERALS (INCLUDING AGGREGATE). Any substance excavated from natural deposits in land or water for industrial, commercial or construction purposes. The term includes soil, coal, clay, stone, sand and gravel, lime, metallic ore and any other similar solid substance. Deposits of sand and gravel, stone, shale, lime and other hard minerals may also be referred to as aggregate. [This definition is a slight expansion of the definition at ORS 517.750(7)]

MINING. The extraction and processing of mineral or aggregate resources in all zones where it may be permitted including the Exclusive Farm Zone, in the manner provided under ORS 215.298(3) (*Mining in Exclusive Farm Zones*) as it is described on the effective date of this code or as it may be amended. That is, mining of aggregate resources includes all or any part of the process of extraction by the removal of overburden and the extraction of aggregate

deposits thereby exposed by any method including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits except those constructed for use as access roads. Mining does not include the following activities:

A. Excavation conducted by a landowner or tenant on the landowner's or tenant's property for the primary purpose of reconstructing or maintaining access roads to the property.

B. Excavation or grading occurring in the process of farm or cemetery operations at the site of the farm or cemetery.

C. Excavation or grading conducted within a road right-of-way or easement for the primary purpose of road construction, reconstruction or maintenance of the road right-of-way or easement where the excavation or grading occurs.

D. Excavation of minerals in conjunction with site preparation for other development which has been authorized by a county development permit. The excavation may be in conjunction with plans for building pad, parking, landscape and drainage improvements, or other similar development activities.

STRUCTURE. Anything constructed, erected, installed or portable, the use of which requires a location on the ground or is attached to something having a location on the ground, including a gas or liquid storage tank that is principally above ground. Outside of the stream setback, §72.040.A., decks, paved or concrete slabs, patios or walkways which are constructed less than 30 inches above grade are not considered structures and development permits are not required. Fences which meet the height requirements set forth in Article 73 (*Fences, Walls & Screens*), utility poles, flagpoles, or irrigation system components are not considered structures in any location and development permits are not required.

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The Rural Land Development Code shall be amended to add a new Article 66.1, *Mineral & Aggregate Resource Zone (MARZ)*:

ARTICLE 66.1 - MINERAL & AGGREGATE RESOURCE ZONE (MARZ)

66.110 - PURPOSE

The purpose of this zone is to implement the objectives of the state of Oregon and the Josephine County Comprehensive Plan to conserve, protect and facilitate the use and development of aggregate resources within the county. It is the intent of this zone to provide county compliance with OAR 660-23-180 (*Mineral and Aggregate Resources*) and to prescribe, through the process for adopting the MARZ, standards for the development of

individual aggregate mine sites which reasonably mitigate impacts to surrounding lands and conflicting resources while allowing the fullest utilization possible of the county's mineral and aggregate resources.

66.120 - OUTRIGHT USES

The following uses shall be allowed outright (no county permit required however state and federal permits may be required):

A. Agriculture, farming, and related farm use, as defined in ORS 215.203

B. Conservation and management of fish and wildlife resources

C. Fish and wildlife habitat enhancement

D. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvest of forest tree species, application of chemicals, and the disposal of slash where such uses pertain to commercial forest activity:

   1. If the volume of wood exceeds 8 commercial truck loads per day, any access road, service road, or unpaved public road, while used for log-hauling, shall receive daily dust abatement or shall be treated with an oil surfacing by the operator, for a distance of 500 feet from a surfaced road or highway or residence located on adjoining property;

   2. If more than one commercial log-hauling operation uses the road for log hauling purposes, all operators shall be jointly responsible for dust abatement as previously described.

E. Temporary on-site structures and physical alterations to the land which are auxiliary to and used during the term of a particular forest operation or practice. Alterations include but are not limited to those made for the purposes of mineral exploration, mining, gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities. For the purposes of this subsection, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, is temporary in nature, and is not designed to remain for the forest's entire growth cycle. An auxiliary structure is removed when a particular forest practice has concluded.

F. The creation of, restoration of or enhancement of wetlands

G. Uses to conserve soil, air and water quality and watershed management

66.130 - PERMITTED USES

A. Exploration for mineral and aggregate resources as defined in ORS Chapter 517

B. Mining and processing of aggregate resources. Aggregate mining is subject to the conditions under which aggregate mining is permitted in the MARZ approval, or the Special Property Development Standards contained in Article 91.030 (*Special Property Development Standards for Aggregate Operations)*

C. Private hunting and fishing operations without any lodging accommodations

D. Temporary, portable facilities for the primary processing of forest products

E. Uninhabitable structures accessory to fish and wildlife enhancement

F. Water intake facilities, canals and distribution lines for farm irrigation and ponds

66.140 - CONDITIONAL USES

A. Caretaker or night watchman's manufactured dwelling when used in conjunction with the uses listed in Articles 66.120 (*Outright Uses*) 66.130 (*Permitted Uses*) and 66.140 (*Conditional Uses*)

B. Cement and asphalt batching, rock processing and crushing (requested independently of a mining operation approved under Article 66.150, and subject to the special property development standards for aggregate operations specified in Article 91.030 of this code)

C. Dog kennels

D. Home occupation

E. Log scaling and weight stations

F. Permanent facility for the primary processing of forest products

G. Personal use landing strips used in conjunction with a use permitted by this Section

H. Propagation, cultivation, maintenance and harvesting of aquatic species

I. Public and private utilities

J. Solid waste disposal at site approved by the governing body of the county and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation

K. Mining and processing of mineral resources.

66.150 - ESTABLISHING THE MINERAL AND AGGREGATE RESOURCE ZONE

The Mineral and Aggregate Resource Zone implements a decision to allow aggregate mining for a site that has been determined to be a significant aggregate site conforming to the definition in Article 11.030 of this Code. The MARZ shall be applied only to the property containing a significant aggregate site and associated on site buffer area (mine site) in the control of the aggregate mine operator or owner, and not to adjoining lands that may be within the impact area. A Mineral And Aggregate Resource Zone shall be established with approval of a PAPA which demonstrates compliance with OAR 660-23-180 (*Mineral and Aggregate Resources*) and including the following provisions:

A. In addition to the requirements for an adequate PAPA found at OAR 660-23-180(6), an application for a PAPA and zone change for the Mineral and Aggregate Resource Zone shall contain an impact area agreement between the proposed aggregate mine operator and those owner's of property within the impact area of the aggregate mining site, or meet the requirements of subsection C below. The impact area agreement or evidence of compliance with subsection C below may be submitted up to 60 days subsequent to submission of the PAPA to complete the application.

B. At a minimum an impact area agreement shall provide for the following:

1. Mitigation of significant potential conflicts with properties within the impact area;

2. Whether new conflicting uses shall be allowed, limited, or prohibited within the impact area;

3. Post mining use of the mine site in compliance with OAR 660-23-180 (4) (f) (*Local Government Determination and Provisions for Post-Mining Use*);

4. Operational standards in addition to or which modify those in Article 91.030 (*Special Property Development Standards for Mineral and Aggregate Operations*);

5. A process for modifying the agreement;

6. Duration of the agreement;

7. A method to resolve conflicts between the parties to the agreement; and

8. The agreement shall be binding on the property owners involved and their successors in interest.

C. Where the aggregate mine operator has made an effort to enter into an impact area agreement, but has been unable to reach an agreement with property owners within the impact area, his effort shall be supported with the following documentation in the application:

1. Copies of certified mail receipts to all impact area property owners showing the arrangement of at least three meetings between the mine operator and impact area property owners; and,

2. Copies of written or recorded minutes from the meetings described in paragraph 1. above, together with a written itemization of the time, date, location, list of attendees. The minutes shall accurately represent the discussion and shall document any issues raised by parties and any response to these issues; and,

3. The Board of Commissioners may require a written report by an independent and qualified professional mediator setting forth the history of the meetings and other relevant communications between the participants, to include a explanation and analysis of the unresolved issues.

D. Owners of properties within the impact area including the owner of the aggregate mine site which do not participate in the impact area agreement shall be subject to the provisions of Article 72.040 (A) (*Significant Aggregate Site Protection Area*), Article 91.030 (*Special Property Development Standards for Aggregate Operations*), and provisions for limiting or preventing new conflicting uses within the impact area of a significant aggregate site adopted in compliance with OAR 660-23-180(5).

66.160 - SPECIAL MULTI-AGENCY REVIEW CONFERENCE

In addition to the requirements for a pre-application review contained in Article 21, the applicant is encouraged to hold a conference with the planning office and DOGAMI, DSL, DEQ and ODFW to determine the scope of issues, the need for any special studies (such as archaeologic surveys, sensitive species inventories, or a channel stability analysis), and coordination of the application between involved agencies regarding the PAPA. A goal of this conference is to minimize the applicant's expense during the initial county approval process while making all of the information developed for the proposal available to all of the involved agencies.

66.170 - SITE RECLAMATION

No mining operation authorized pursuant to this Article shall commence without the operator furnishing to the Planning Director a copy of a DOGAMI operating permit and approved reclamation plan, or a certificate of exemption, issued pursuant to the requirements of ORS 517.750 through 517.900 (*Reclamation of Mining Lands*) and implementing administrative rules. The county shall defer to DOGAMI regarding all aspects of the reclamation plan and its administration (per ORS 517.780). However, the reclamation plan shall be substantially consistent with the conceptual reclamation plan presented to the county during the PAPA proceedings to comply with OAR 660-23-180 (*Mineral and Aggregate Resources*). For these reasons the applicant is encouraged to make concurrent applications with the county and DOGAMI.

66.180 - GENERAL PROPERTY DEVELOPMENT STANDARDS

All uses authorized by the Article are subject to certain additional permit, process and property development standards that are contained elsewhere in this Code. The following is a list of Articles that are or may be applicable:

A. Permit Review Requirements

Basic Review Provisions – Article 20

Pre-Application Review – Article 21

Permit Review Procedures – Article 22

Basic Application Requirements – Article 40

Administration of Permits – Article 41

Site Plan Review – Article 42

Variances – Article 44

Conditional Uses – Article 45

B. Property Development Standards

Access - See Article 81

Aggregate Standards - Article 91

Erosion and Sediment Control - See Article 83

Flood Hazard Overlay - See Article 69.1

Minimum Lot Size – *No Requirement*

Parking - See Article 75

Setback Requirements - See Section 72.040

Utilities - See Article 85

Water Standards - See Article 84

ARTICLE 72 - HEIGHTS, SETBACKS & ACCESSORY STRUCTURES

72.040 - SPECIAL SETBACK REQUIREMENTS

The following special setback requirements shall apply to development within protected areas for significant aggregate sites:

A. Significant Aggregate Site Protection Area. The following special rules relate to aggregate mining or processing at significant aggregate sites. These setbacks are intended to provide a minimum level of protection from future conflicting uses at those

significant aggregate sites existing on the date of the adoption of this provision where the application of OAR 660-023-180 (5) (ESEE for new conflicting uses) has not resulted in the adoption of different measures. Property owners within the vicinity of an aggregate operation should assume the effects of mining on other properties may extend beyond the protected area around the mine.

1. The protected area around a significant aggregate site that is or has been in lawful operation shall extend from the mine area out to 500 feet, where the mine owner or operator has provided the planning office with a map designating the mining area.

2. In all cases involving the permitting of new conflicting uses or structures, or the modification of existing conflicting uses or structures, within the protected area, the permit shall be conditioned upon the execution by the landowner of a restrictive covenant containing an agreement not to object to the mining or processing of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

3. There shall be no protected area around a significant aggregate site which has not been in lawful operation and where the mine owner or operator has not provided the planning office with a map designating the mining area.

    a. At such sites, when mining is authorized, the mine area shall be a minimum of 500 feet from the nearest existing conflicting use.

    b. Once mining is authorized within the protected area of these sites the permitting of any new conflicting use shall be conditioned on the execution by the landowner of a Restrictive Covenant containing an agreement not to object to the mining or processing of mineral and/or aggregate resources at the mine area when such activities are lawfully conducted.

    c. The above provisions may be modified or waived subject to:

        [1] An aggregate impact area agreement between the operator or owner of the significant aggregate site and the owner or owners of any property within the aggregate impact area determined under OAR 660-023-180 (5) (ESEE for new conflicting uses) and demonstration that conflicts with mining have been minimized; or

        [2] Measures determined during the adoption of a PAPA to minimize conflicts or address new conflicting uses.

ARTICLE 91 - STANDARDS FOR DEVELOPMENT OF AGGREGATE OPERATIONS

91.010 - PURPOSE

The purpose of this Article is to provide for clear and objective development standards and review procedures for the approval and operation of aggregate mining and processing sites located in any zone.

91.020 - REVIEW PROCEDURES

A. All applications for the mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource Zone and the Aggregate Resource Zone shall be processed as a Conditional Use Permit (Article 45) with a Site Plan Review (Article 42) using Quasi-judicial Review Procedures as set forth in Article 22 (*Review Procedures*).

B. Mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource Zone which was lawfully permitted by Josephine County and DOGAMI but has been inactive (see definition of inactive) for up to twelve years may reopen operations without issuance of a new conditional use permit subject to the following:

   1. Demonstration the owner or operator was issued and continuously renewed the DOGAMI surface mining permit for the mine area; or,

   2. Demonstration the owner or operator has received and maintained a DOGAMI exemption from surface mining regulation; and,

   3. The owner or operator applies for a site plan review and is issued a development permit.

C. Mining or processing of aggregate resources in zones other than the Mineral and Aggregate Resource and the Aggregate Resource Zone which have been inactive for twelve years or more must obtain a new conditional use permit before initiating operations, or submit and have approved a PAPA for designation as a Mineral and Aggregate Resource Zone.

D. New mineral and aggregate batching or blending into asphalt cement shall not be permitted in Exclusive Farm Use Zones when the batching or blending site is within 2 miles of a planted vineyard. A planted vineyard is one or more vineyards totaling 40 acres or more that are planted as of the date the application for batching or blending is filed. Operations for batching or blending which are approved on or before October 3, 1989, including subsequent renewals, are exempt from this subsection.

91.030 - SPECIAL PROPERTY DEVELOPMENT STANDARDS FOR AGGREGATE OPERATIONS

The following standards shall be the default standards applied to the mining and processing of mineral and/or aggregate resources in all zones which permit aggregate mining. The standards contained in this section shall be considered the minimum standards for operation. In the case of mining authorized with a conditional use permit additional and/or more stringent standards may be applied even though mandatory or permissive language is used in this section. For operations authorized under the Mineral and Aggregate Resource zone (MARZ) standards must be established and adopted for the site with the adoption of the zone. Therefore, in the case of MARZ these standards may be added to, modified or deleted by measures to minimize conflicts, special conditions, or procedures regulating the mining, or provisions of any impact area agreement adopted as part of the PAPA process establishing the zone. Any additional or modified standards must be clear and objective. The following standards shall be applied:

A. A development permit shall be obtained before any mining and/or processing of mineral or aggregate resources occurs. The applicant shall also obtain additional permits as may be required by other licensing or permitting entities having jurisdiction over the operation. The continuance of additional permits and approvals in good standing shall be a condition for the continuance of the county's development permit. The performance of the standards contained in this Article shall also be conditions to the issuance and continuance of the development permit.

B. An access or service road from the extraction site to a public road shall meet the following standards:

   1. Meet applicable standards from Oregon Administrative Rules Chapter 340 Division 35 for vehicular noise control for a distance of 500 feet from any public road or any conflicting use located along the access road.

   2. Meet the most current air quality standards from Oregon Administrative Rules Chapter 340 Divisions 20, 21, and 28 for ambient air quality for a distance 500 feet from any public road or any conflicting use located along the access road if the mining traffic is the primary cause of the road dust. Where more than one mining operation uses the same road, all operators shall be proportionately responsible for the cost and management of dust abatement measures based on vehicle trips per day.

C. Conflicts due to noise, dust or other discharges with regard to existing and approved uses which are sensitive to such discharges shall be minimized to ensure conformance to the applicable local, state, or federal standards.

D. The extraction area shall be substantially screened from the view of existing conflicting uses, subject to the following specifications:

1. Mining and processing equipment, whether in use or in storage, shall be screened. Stockpiles of aggregate do not need to be screened and may themselves function as screening.

2. Screening may consist of natural vegetation and landscape features, or may be supplied by planting vegetation or placement of berms, fences or other similar development features. If vegetation is used as screening it shall be maintained alive.

3. Earthen berms shall be stabilized with ground cover.

4. Visual screening may not be required if the topography, growing conditions or other circumstances at the site make it impractical or otherwise unnecessary to shield the site from the view of conflicting uses.

E. On-site parking shall be provided for all employees, customers and official visitors.

F. A safety fence may be required to be constructed to protect the extraction site from vehicular or pedestrian intrusion whenever the site is within 200 feet from a public road or an off-site residence, or where the quarry is developed with hazardous vertical cuts.

G. All mining and processing of mineral and/or aggregate resources shall meet and maintain the permit requirements of the Oregon Departments of Geology and Mineral Industries (DOGAMI), Division of State Lands (DSL), and Environmental Quality (DEQ).

H. All mining and processing of mineral and/or aggregate resources shall comply with OAR noise emission standards. Compliance for the purpose of issuing a development permit can be demonstrated by a report from an acoustical engineer attesting that the circumstances of the site and/or proposed mitigation will bring the site into compliance.

I. All mining and processing of mineral and/or aggregate resource sites shall meet the erosion control and site drainage standards contained in Article 83 (*Erosion Control & Storm Drain Facilities*) of this Code, as well as any permit requirements imposed by DOGAMI, DSL, DEQ, or any other state or federal regulation.

J. The discharge of contaminants and dust caused from the mining and processing of mineral and/or aggregate resources shall comply with applicable DEQ ambient air quality and emission standards. The operator shall cease all mining and processing operation within one hour of the malfunction of any air pollution control equipment, and shall not resume operation until the malfunction has been corrected in compliance with applicable DEQ rules and standards.

K. Excavation and stockpiling shall be set back from property lines so that the lack of lateral support and the angle of repose of the geologic deposit will not undermine or intrude onto adjoining lands. An additional setback may be required to allow the placement and maintenance of fencing.

L. Mining and processing of mineral and/or aggregate resources shall be set back from the top of the bank of any stream in compliance with Article 72.040 (B) (*Special Setback Requirements*). Existing native vegetation shall be maintained in the setback area.

M. Mining and processing of mineral and/or aggregate resources occurring in Flood Hazard Areas as defined in Section 11.030 (*Terms Defined*) shall comply with the standards contained in Article 69.1 (*Flood Hazard Overlay*) of this Code.

N. The hours of operation for the mining and processing of mineral and/or aggregate resources shall occur between 8 am and 6 pm for conditional uses, and 7 am to 9 pm for MARZ. The days of operation shall be Monday through Saturday, excluding the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Maintenance of equipment may take place at any time.

1. Upon written request from the mine operator the Planning Director may authorize exceptions to the above operating hours and days for asphalt or concrete batch plants subject to the following limitations:

   a. The additional hours must be a requirement of a state, local, or federal government contract;

   b. Not more than three exceptions may be granted in a calendar year; and

   c. The total duration of exceptions may not exceed 90 days in a calendar year.

2. The Planning Director may approve additional or different operating hours and time periods for asphalt or concrete batch plants than those specified in subsection [a] above. Any such approval must use quasi-judicial land use decision procedures specified in Article 22 (*Permit Review Procedures*), to include neighborhood notice and the right to appeal the decision for a *de novo* hearing.

O. Blasting at an extraction site shall be limited to the hours between 10 am and 3 pm for conditional uses, and 7 am to 6 pm for MARZ. The permitted days shall be Monday through Friday, excluding the holidays listed in subparagraph 14 above. The mine operator shall provide advanced notification of all blasting subject to the following requirements:

1. The notification shall be given in writing to all property owners and/or occupants residing within the impact area (or 1500' if an impact area has not been established) at least 48 hours prior to the blasting. The notice shall be delivered to a mail receptacle or to the residence or structure. The operator shall maintain a journal showing when and how notice was accomplished.

2. If blasting is on-going on a predictable schedule the operator may provide written monthly notice of the schedule delivered at least 48 hours before the first scheduled blast. The delivery and record keeping requirements specified in subsection (a) above shall also apply.
3. The notice shall specify the day or days and hour or hours the blasting is to occur.

P. Water used in the mining or processing of mineral and/or aggregate resources shall be appropriated from a source authorized by permit from the Oregon Department of Water Resources. With the exception of onsite process water released to onsite settling ponds turbid water shall not be released into lakes, ponds or watercourses.

Q. A development permit for the mining or processing of mineral and/or aggregate resources is conditioned upon the operator obtaining and maintaining all state agency permits required for the operation. The operation of a mining or processing site in violation of this requirement shall render the development permit immediately void.

91.050 - SITE RECLAMATION

No mining operation authorized pursuant to this Article shall commence without the operator furnishing to the Planning Director a copy of a DOGAMI operating permit and approved reclamation plan, or a certificate of exemption, issued pursuant to the requirements of ORS 517.750 through 517.900 (*Reclamation of Mining Lands*) and implementing administrative rules. The county shall defer to DOGAMI regarding all aspects of the reclamation plan and its administration. An reclaimed land use must be an allowed use in the underlying zone.

91.060 - NOTICE

In addition to the notice requirements of Chapters 2, 3 and 4 applications for mining which impact the acknowledged significant riparian corridor shall be noticed to DOGAMI, DSL, DEQ, and ODFW.

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Section 3. Review

This ordinance shall be reviewed by the Josephine County Board of Commissioners one year from its effective date, on or about April 17, 2002.

Section 4. Severability

Should any term or provision of this ordinance be declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions of this ordinance shall not be affected, and shall be construed and enforced as if the ordinance did not contain the particular term or provision held to be invalid.

Section 5. Affirmation

Except as specifically amended by the provisions of this ordinance, the Josephine County Comprehensive Plan (Ord. 81-11) and Rural Land Development Code (Ord. 94-4), as lawfully amended, are hereby affirmed.

Section 6. Effective Date

First reading by the Board of County Commissioners this 22nd day of November, 2000.

Second reading and adoption by the Board of County Commissioners at least thirteen days from the first reading on this 17th day of January, 2001, This ordinance shall take effect ninety days after its adoption by the Board of County Commissioners.

JOSEPHINE COUNTY BOARD OF COMMISSIONERS

Jim Brock, Chair

Frank Iverson, Vice-Chair

Harold L. Haugen, Commissioner

APPROVED AS TO FORM:

Steven E. Rich, Legal Counsel

AGGREGATE WORKSHOPS AND HEARINGS WITH THE RURAL PLANNING COMMISSION

October 9, 1995	Workshop	Continued to October 23, 1995
October 23, 1995	Workshop	Continued to November 6, 1995
November 6, 1995	Public Hearing	Continued to November 20, 1995
November 20, 1995	Public Hearing	Continued to December 11, 1995
December 11, 1995	Workshop & Public Hearing	Continued to January 15, 1996
January 15, 1996	Public Hearing	Continued to January 29, 1996
January 25, 1996	Workshop	
January 29, 1996	Public Hearing	Continued to February 26, 1996
February 26, 1996	Public Hearing	Continued to April 29, 1996
April 29, 1996	Canceled per Mike Snider - To be rescheduled and re-noticed	
March 16, 1998	Workshop with ARC	
June 2, 1999	Public Hearing - Joint Rural Planning Commission and BCC Hearing:	
	RPC - to continue to June 10, 1999	
	BCC - to continue to June 30 and September 15, 1999	
June 10, 1999	Public Hearing	Continued to August 30, 1999
August 30, 1999	Public Hearing	Continued to October 19, 1999
October 19, 1999	Public Hearing	Recommend Approval to BCC

APPLEGATE RESOURCE COMMITTEE

ARC Meeting Dates

1/25/96	PC meeting for comments on original proposal. Request for citizen committee.	04/03/96 04/09/96 04/30/96
02/13/96 02/20/96 03/05/96	ARC formed	05/09/96 06/04/96 06/18/96

07/02/96	
07/16/96	
07/30/96	
08/13/96	
08/27/96	
09/10/96	
09/24/96	
10/08/96	
10/16/96	
10/22/96	
10/25/96	
10/29/96	
11/05/96	
11/19/96	
12/03/96	
12/17/96	
01/07/97	
01/14/97	
01/21/97	
01/28/97	
02/04/97	
02/11/97	
02/18/97	
02/25/97	
03/04/97	
03/11/97	
03/18/97	
04/01/97	
04/02/97	
04/15/97	
04/22/97	
05/06/97	
05/16/97	
05/19/97	Williams
05/27/97	Wilderville
05/28/97	
06/01/97	
06/03/97	
06/05/97	
06/10/97	
06/24/97	
07/14/97	
08/05/97	
08/19/97	
11/05/97	
11/07/97	
11/18/97	
01/06/98	
11/03/98	
02/17/99	First draft of 2000-3
04/26/99	Second draft of 2000-3
05/04/99	Third draft of 2000-3
05/11/99	Fourth draft of 2000-3
05/18/99	ARC workshop in Anne Basker on Aggregate Res & Riparian Corridors
05/26/99	Fifth draft of 2000-3
03/3/00	Staff Workshop on 2000-3
05/18/00	ARC, Small Miners Assoc., Jack Shipley, & Rich Angstrom

BOARD OF COUNTY COMMISSIONER'S

AGGREGATE HEARINGS AND WORKSHOPS

June 2, 2000 -	Joint hearing with Planning Commission -	
	Board of Commissioners continued to June 30, 1999 and September 15, 1999. These hearing dates were subsequently continued to December 15, 1999.	
December 15, 1999	Public Hearing	
February 16, 2000	Public Hearing	
March 15, 2000	Public Hearing	
August 30, 2000	Public Hearing	First Reading of Ordinance 2000-3
September 13, 2000	Public Hearing	Second reading of Ordinance 2000-3 continued to September 20, 2000.
September 20, 2000	Public Hearing	Second reading and adoption of Ordinance 2000-3
October 25, 2000	Administrative Action	Direction to staff to prepare amendment to 2000-3, deleting riparian setback
November 1, 2000	Public Hearing	First reading of Ordinance 2000-7 to repeal Ordinance 2000-3
November 22, 2000	Public Hearing	Second reading and adoption of Ordinance 2000-7 repealing Ordinance 2000-3
		First reading of Ordinance 2000-8 for readoption of aggregate portions of Ordinance 2000-3
January 9, 2001	Public Workshop	Meeting in Cave Junction to explain Statewide Goal 5 and Ordinance 2000-8
January 17, 2001	Public Hearing	Second reading and adoption of Ordinance 2000-8