

PASSED

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1217 (IN THE MATTER OF AMENDING THE LANE COUNTY RURAL
(COMPREHENSIVE PLAN TO REVISE THE "SIGNIFICANT
(MINERAL AND AGGREGATE RESOURCES INVENTORY",
(REDESIGNATE FROM "FOREST" TO "NATURAL RESOURCE:
(MINERAL", REZONE FROM "F2 / IMPACTED FOREST LANDS"
(TO "QM/QUARRY AND MINE OPERATIONS" AND ALLOW
(MINING FOR 40 ACRES OF LAND PURSUANT TO LANE CODE
(16.400 AND 16.252 AND THE GOAL 5 OREGON
(ADMINISTRATIVE RULES (OAR 660-023); AND ADOPTING
(SAVINGS AND SEVERABILITY CLAUSES (FILE PA 02-6065;
(EGGE SAND & GRAVEL LLC)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the planning jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendment of the Rural Comprehensive Plan and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, Oregon Administrative Rules (OAR) Chapter 660 Division 23 sets forth procedures for amendment of the Goal 5 Inventory of Significant Mineral & Aggregate Sites within Lane County as well as addressing requests for a post-acknowledgment plan amendment (PAPA); and

WHEREAS, in October 2002, application no. PA 02-6065 was made for a major amendment to add to the Lane County Goal 5 Inventory of Significant Mineral & Aggregate Sites, redesignate from "Forest" to "Natural Resource: Mineral" and concurrently rezone from "F-2/Impacted Forest Lands" to "QM/Quarry and Mine Operations" a 40-acre portion of tax lots 402 and 500 of map 17-03-03; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearing on March 2, 2004, deliberated on April 6, 2004 and forwarded the matter to the Board with formal Planning Commission recommendations; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted public hearings and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. The subject site, consisting of a 40-acre portion of tax lots 402 and 500 of map 17-03-03 as depicted on Exhibit "A" attached and incorporated here, shall be added to the Lane County Rural Comprehensive Plan Inventory of Significant Mineral and Aggregate Sites identified as Appendix "D" of the "Mineral and Aggregate Resources Working Paper" based on findings and conclusions as described in Exhibit "C" attached and incorporated herein.

Section 2. The Lane County Rural Comprehensive Plan is amended by the redesignation of a 40-acre portion of tax lots 402 and 500 of map 17-03-03, from "Forest" to "Natural Resource: Mineral", such territory depicted on Plan Plot 395 and further identified as Exhibit "A" attached and incorporated herein.

ORDINANCE NO. PA 1217----IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN TO REVISE THE "SIGNIFICANT MINERAL AND AGGREGATE RESOURCES INVENTORY", REDESIGNATE FROM "FOREST" TO "NATURAL RESOURCE: MINERAL", REZONE FROM "F2/NON-IMPACTED FOREST LANDS" TO "QM/QUARRY AND MINE OPERATIONS" AND ALLOW MINING FOR 40 ACRES OF LAND PURSUANT TO LANE CODE 16.400 AND 16.252 AND THE GOAL 5 OREGON ADMINISTRATIVE RULES (OAR 660-023); AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (FILE PA 02-6065; EGGE SAND & GRAVEL LLC)

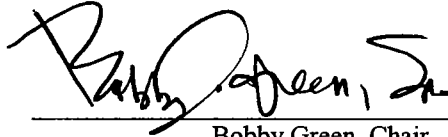
Section 3. A 40-acre portion of tax lots 402 and 500 of map 17-03-03, is rezoned from "F2/Impacted Forest Lands" (Lane Code 16.210) to "QM/Quarry and Mine Operations" (Lane Code 16.216), such territory depicted on Rural Zoning Plot 395 and further identified as Exhibit "B" attached and incorporated herein, and the mining and processing of aggregate resources shall be authorized pursuant to Lane Code 16.216 and subject to the Conditions of Approval contained within Exhibit "C" attached and incorporated herein.

FURTHER, although not a part of this Ordinance except as described above, the Board of County Commissioners adopts Findings and Conclusions as set forth in Exhibit "C" attached, in support of this action.

The prior designation and zone repealed by this Ordinance shall remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

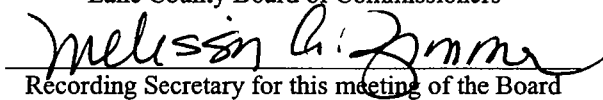
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

ENACTED this 10th day of November, 2004

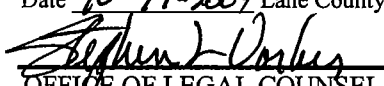


Bobby Green, Chair

Lane County Board of Commissioners

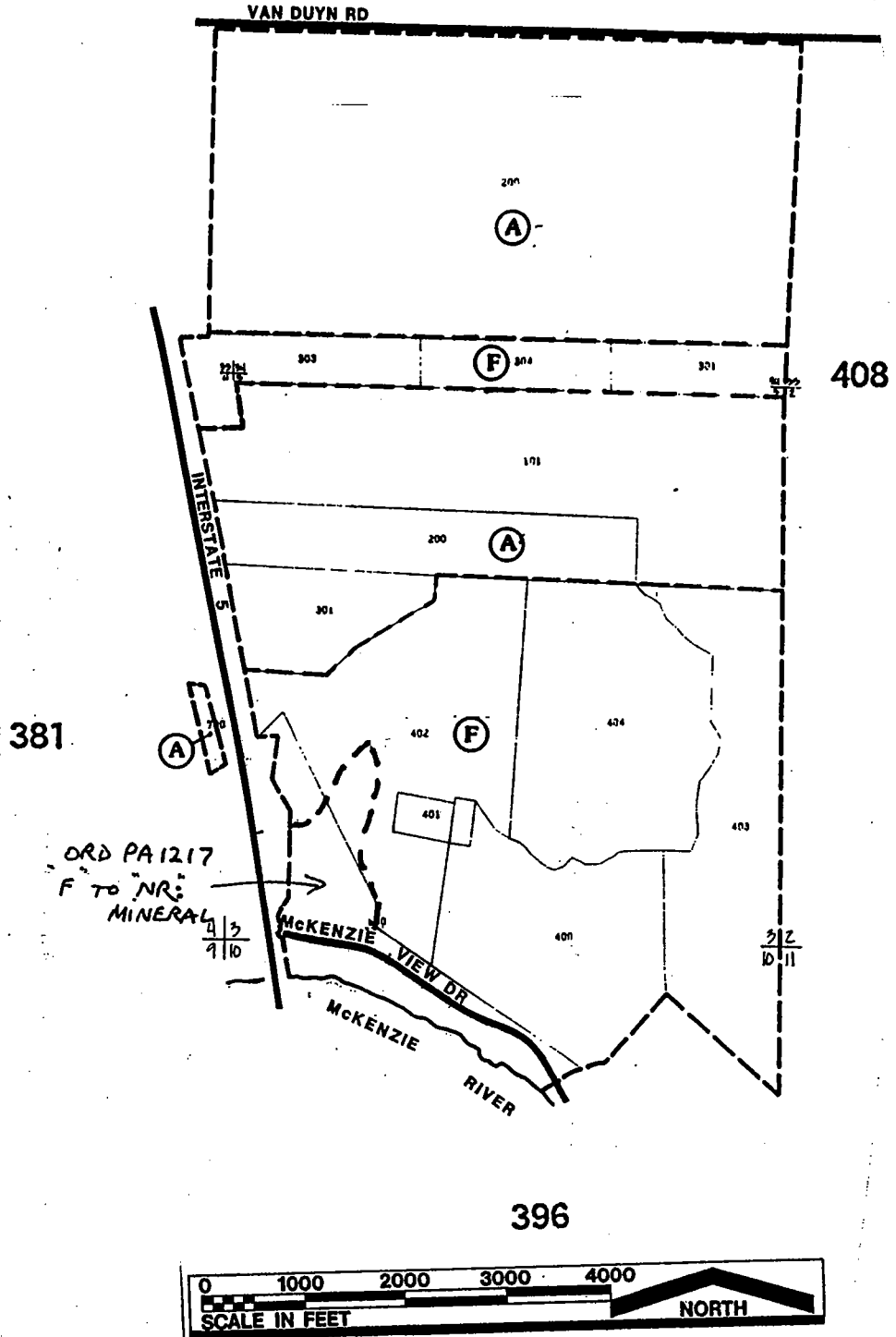


Recording Secretary for this meeting of the Board

APPROVED AS TO FORM
Date 10-19-2004 Lane County

OFFICE OF LEGAL COUNSEL

ORDINANCE NO. PA 1217---IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN TO REVISE THE "SIGNIFICANT MINERAL AND AGGREGATE RESOURCES INVENTORY", REDESIGNATE FROM "FOREST" TO "NATURAL RESOURCE: MINERAL", REZONE FROM "F2/NON-IMPACTED FOREST LANDS" TO "QM/QUARRY AND MINE OPERATIONS" AND ALLOW MINING FOR 40 ACRES OF LAND PURSUANT TO LANE CODE 16.400 AND 16.252 AND THE GOAL 5 OREGON ADMINISTRATIVE RULES (OAR 660-023); AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (FILE PA 02-6065; EGGE SAND & GRAVEL LLC)

394A



lane county



OFFICIAL PLAN MAP

PLOT # 395

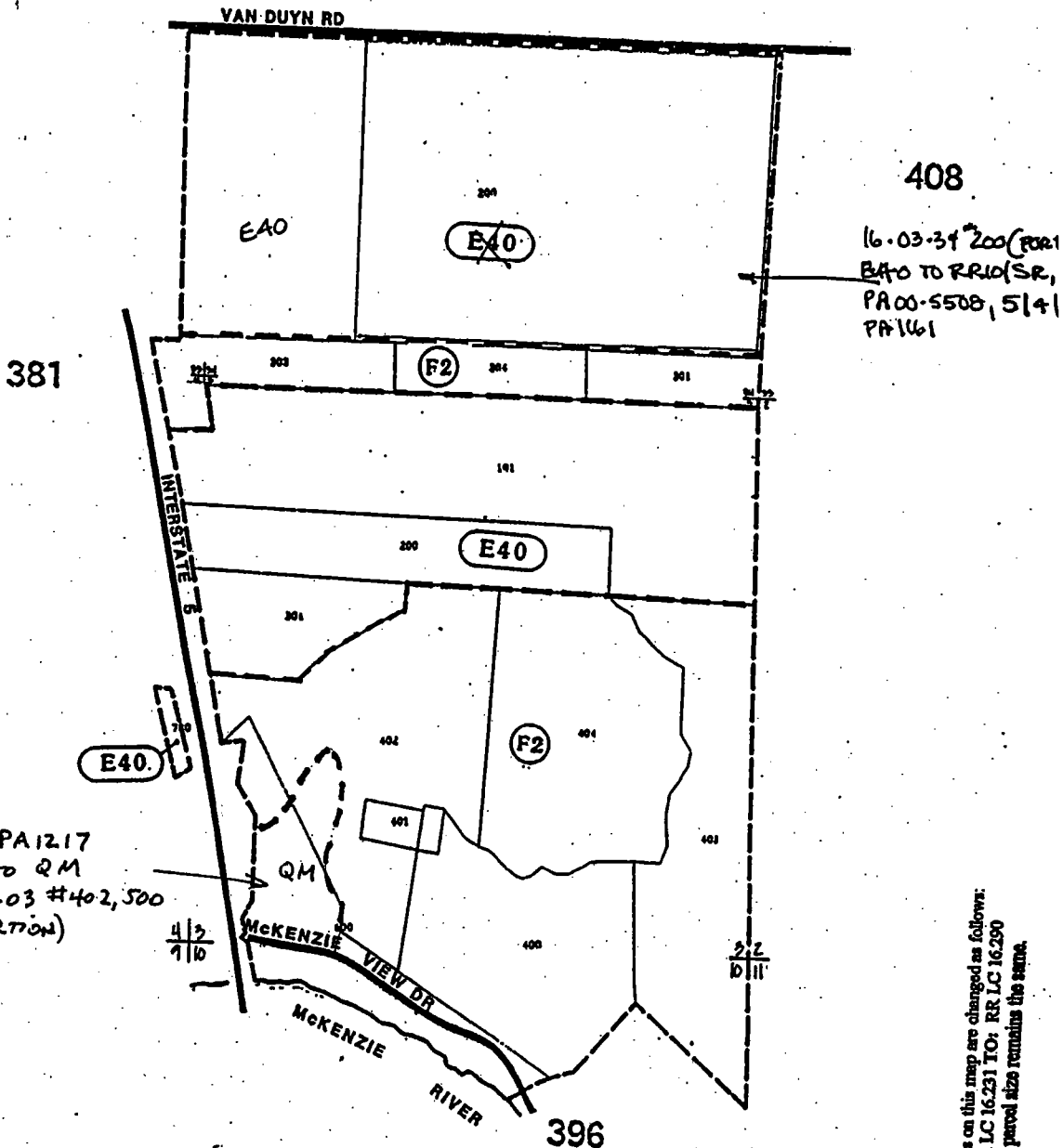
Township Range Section
16 03 34

17 03 03

ORIGINAL ORD. # _____ PA 884 _____ DATE 2/29/1984 FILE # _____

REVISION # _____ ORD. # _____ DATE _____ FILE # _____

394A



The zones on this map are changed as follows:
 From: RG, RA To: RR2
 From: CR, C1, C2, & C3 To: RC Rural Commercial
 From: M1, M2, & M3 To: R1 Rural Industrial
 From: PF To: RPF Rural Public Facility
 From: PR To: RPR Rural Park & Recreation



The RR zones on this map are changed as follows:
 FROM: RR LC 16.231 TO: RR LC 16.290
 The RR zone parcel size remains the same.

lane county



OFFICIAL ZONING MAP

PLOT# 395

Township Range Section

16 03 34

17 03 03

ORIGINAL ORD. # PA 884

DATE 2/29/1984 FILE #

REVISION # ORD #

DATE FILE #

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF
LANE COUNTY, OREGON

IN THE MATTER OF AMENDING THE LANE COUNTY RURAL)
COMPREHENSIVE PLAN TO REVISE THE "SIGNIFICANT MINERAL)
AND AGGREGATE RESOURCES INVENTORY", REDESIGNATE)
FROM "FOREST" TO "NATURAL RESOURCE: MINERAL",)
REZONE FROM "F2 / IMPACTED FOREST LANDS" TO)
"QM / QUARRY AND MINE OPERATIONS AND ALLOW MINING FOR)
40 ACRES OF LAND PURSUANT TO LANE CODE 16.400 AND 16.252)
AND THE GOAL 5 OREGON ADMINISTRATIVE RULES (OAR)
660-023); AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES)
(FILE PA 02-6065; EGGE SAND & GRAVEL LLC))

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND CONDITIONS
IN THE MATTER OF ORDINANCE PA 1217

1. Egge Sand & Gravel, LLC (the Company) is a long-time supplier of sand and gravel aggregates, and concrete and asphalt products, to the Eugene-Springfield metro area and outlying areas. The Company operates from its aggregate excavation and processing site located west of Coburg Road, about a mile south of the city of Coburg. This location on the Willamette Valley floor provides the Company with its source of sand and gravel, and is also the location of its crushing and stockpile activities, concrete and asphalt processing facilities, equipment maintenance operations, and administrative offices. However, certain projects require or specify that basalt rock be used. These include base rock for road construction, ballast in railroad beds, rip-rap for erosion control along stream banks, and stabilizing steep slopes, among others. Basalt rock is found in the volcanic flows that form the uplands that rise above the valley floor. This material is not found in the river-deposit excavations that provide the sand and gravel that is used to produce concrete and asphalt. By using local sources of basalt rock for base rock, rip-rap, and other uses, the local supply of sand and gravel aggregates found on the Valley floor that are used for asphalt and concrete may be prolonged.

2. In order to provide basalt rock, Egge Sand & Gravel proposes to operate a basalt rock quarry in proximity to its existing operation. An available source of this material exists on Coburg Ridge, which rises immediately east of I-5 and north of the McKenzie River. This location is approximately a half mile from the Company's existing processing plant on Coburg Road, using the existing public roads. The location and the existing transportation system makes it economical and practical to transport the basalt material to the existing plant site for processing, and because of this proximity the quarry proposal only involves excavation. It does not include processing activities.

3. The proposed quarry site lies within two properties owned by Vernon Egge. These properties are identified as parcels 402 (114.31 acres) and 500 (27.38 acres) on County Assessor map 17-03-03. The quarry site totals approximately 40 acres within the 141.69 acre ownership. The proposed quarry site includes two old quarries, which supplied rock materials for the construction of I-5. As shown in the application materials, the elevation of the proposed quarry will range from approximately 740'+msl to approximately 500' +msl, whereas the elevation of the valley floor to the west of the ridge is approximately 405' +msl. Access to the quarry site is provided by Egge Road, which is a paved, gated, private road that extends up the north side of the ridge from its intersection with McKenzie View Drive. Egge Road joins McKenzie View Drive near its

intersection with Coburg Road. Because of the limited nature of the proposed operation, its location on the ridge and elevation that separates it from surrounding uses on the valley floor, the private road access, and the short distance to the processing site, the Board of Commissioners (the Board) finds that the potential for conflicts with other uses is far lower than is typically associated with this type of activity.

4. The proposal is to add the proposed quarry site to the Lane County Comprehensive Plan Inventory of Significant Mineral and Aggregate Sites, and to amend the Rural Comprehensive Plan to allow mining, through a Statewide Planning Goal 5 "Post Acknowledgment Plan Amendment" (PAPA), as provided for in OAR 660-23-180; and to amend the Rural Comprehensive Plan Designation from "Forest" to "Natural Resource", and to Rezone Lands from F2/Impacted Forest Lands Zone" to "Quarry and Mine Operations Zone", pursuant Lane Code 16.400 and 16.252.

5. An Operation Plan for the proposed quarry was prepared by EGR & Associates, of Eugene. The Operation Plan is included in the application as Exhibit 3. EGR has extensive experience in researching and designing mineral and aggregate operations in Lane County and in western Oregon, including basalt rock quarries. The Operation Plan shows the proposed mining area, and preliminary cross-sections of the excavation. As shown, mining will begin at the north edge of the site, where the existing access road enters the site. Mining will involve removing material to an initial floor level, then excavating progressively downward into the hillside along a series of stepped horizontal benches. Mining could proceed to the base of the mineable rock, at an elevation of about 500'+msl. A series of figures in the Operation Plan shows geologic cross sections of the site. The mining operation will leave a wall of natural rock on the south, east, and west sides of the excavated area. Mining activity will progress from north to south, and will progress away from the western ridge face.

Rock will be loosened from its natural formation by controlled blasting. Blasting at the proposed site is expected to occur about once a month. Each blast is expected to provide 5,000-10,000 cubic yards of material. Blasting is typical of basalt quarries in western Oregon, and blasting at the site has been reviewed with BJ Equipment Co. This company is well-known for its overall experience with basalt quarries, and has previously prepared blasting plans and conducted blasting for basalt rock quarries that are adjacent to I-5.

Rock will be removed from the deposit by tracked excavators and loaded onto haul trucks for transport to the existing Egge Sand & Gravel processing site on Coburg Road. The operation will only involve extraction. No processing operations are proposed for the site, and the mining plan does not include a permanent operating area for fixed-base equipment, as is normally provided for in operations that include crushers, concrete or asphalt plants, etc. The Company plans to mine the site as market conditions warrant, and the site may not be in use every day. When the site is operated a typical working day will run about ten hours, between 7:00 a.m. and 5:30 p.m.

The access to the proposed quarry site is Egge Road, a private access road. The quarry site will not have direct access to any public road. Egge Road includes a bridge across I-5, which is a part of the private access. This bridge was designed for use by heavy trucks. ODOT has reviewed the use of this bridge by the quarry traffic, and has stated no objections as long as legal load limits are observed. The ODOT comments are included in the record.

The mining area will be enclosed on three sides, the east, west and south, by a wall of the remaining natural material. This will provide a visual barrier and noise buffer. Existing trees and vegetation outside the mining area will provide additional screening. The site is separated from I-

5 and the valley floor by its location on the ridge. With the enclosing wall, the vegetation outside of the mining area, and its elevated location, the view of the mining activities will be minimized.

Site reclamation is also described in the Operation Plan. Overburden of soil and rock removed prior to excavation will be stockpiled either in a previously completed excavation area, or in an area to the northeast of the excavation area. This material will be retained for reclamation. Reclamation will occur progressively, as possible, as mining proceeds, and will consist of spreading the stockpiled overburden and replanting of native vegetation. Any future uses of the site will be determined by the activities allowed by zoning in place at the time.

6. Based on the information in the entire record, the Board finds that the proposed quarry operation will be compatible with, and have no significant affect upon, land uses in the surrounding area. The proposed quarry site is located on the top of Coburg Ridge and along its south face. The existing access road extends along the north face, which will remain as at present. Property on the ridge bordering the quarry site consists of woodland and open fields. Below the quarry site the ridge is bordered by I-5 to the west, vacant land to the north, and by McKenzie View Drive to the south. A narrow river terrace, and the McKenzie River, lie south of the road.

The surrounding lands on the ridge are characterized by scrub woodlands of oak, maple, and fir, open areas in grasses and shrubs, and exposed rock. The open areas are on the moderate slopes on the top of the ridge. There is no commercial farm or forest use on the quarry site or the surrounding ridgeland. The north face of the ridge is woodland, which is not managed for commercial production. Since the access road to the quarry site is a private road which already exists, there will be no additional disturbance to the woodlands that occupy the north side of the ridge as a result of operations at the proposed quarry.

All of this land is zoned F2, as shown on the County zoning map (Plot #395).

The south side of the ridge has been disturbed by the two old quarry sites, which have partly revegetated. The locations of the old quarries relative to the proposed site are shown on the F-N-F and EGR site maps.

Telecommunications towers are located on parcel 601, 1.15 acres, at the top of the ridge. EPUD power lines currently traverse the site, and may be relocated as necessary.

There are scattered dwellings within 1500' of the boundaries of the proposed mining area (the Goal 5 initial "impact area"). One is to the east on parcel 403, which is the residence of Vernon Egge. Another, occupied by David and Lucille Egge, is also located to the east, on parcel 404. A dwelling is located to the south, on the terrace between McKenzie View Drive and the river, on parcel 3200 (17-03-10) (Sherman dwelling). A dwelling located approximately 1000' to the west, across I-5, is on the valley floor along Coburg Road. Several dwellings are located south of the river and west of I-5.

The west face of the ridge borders I-5. A narrow strip of land between the western ridge face and the travel lanes is highway right of way. An open field on the north side of Egge Road, between the base of the ridge and I-5, is owned by Vernon Egge. There are no other bordering land uses between I-5 and the ridge face. The elevation of I-5 adjoining the ridge is about 450'+msl, and the quarry will remain above the road surface elevation. The quarry will have no direct access to I-5.

Egge Road parallels the west side of I-5, west of the Egge bridge. Directly west of Egge Road is

the access drive to a construction contractor's equipment yard. Farm land is located to the west of the contractor's yard. These lands are zoned E40 (Plot #381). Because of the separation provided by I-5 and the difference in the terrain and elevation, there is no relationship in land usage between the lands on either side of the freeway. Due to these factors, the Board finds that the proposed quarry will not affect land uses to the west of I-5.

The McKenzie River runs to the south of the ridge and McKenzie View Drive. The south end of the quarry site is about 150' from the north bank of the river. The quarry will be enclosed by a rock wall or a berm on this side, which will screen quarry operations from view from the river. There will be no access from the quarry directly to McKenzie View Drive. The Board finds that the quarry operation, as described on the Operating Plan, will not affect the McKenzie River.

Armitage Park is located south of the McKenzie River, along Coburg Road and I-5, and is zoned PR. Quarry operations will not affect activities at the park. Noise from quarry operations will not be an intrusion at the park due to the ambient noise conditions generated by traffic on I-5, and traffic generated by quarry operations will travel north on Coburg Road away from the park, and will not impact Coburg Road at the Park access.

The lands surrounding the site to the north, south and east are sparsely settled and are zoned F2, E40 and E30. Armitage Park is zoned PR. The lands to the west, across I-5, are zoned E40. The F2, E40 and E30 zones are resource land zones, which severely limit the opportunity for new conflicting uses including dwellings. All new uses other than resource activity require review and approval by the County. The review requirements of these zones provide a means to evaluate and limit potential conflicting uses.

7. The Board finds that the proposed quarry site is extremely well located with regards to its relative isolation, the small number of surrounding land uses that could result in a potential conflict, the private access road, its access to the local transportation system, and its proximity to the existing Egge Sand & Gravel processing site. The small number of potential conflicting uses on surrounding lands within the Goal 5 impact area helps to make this a valuable resource site, and it can serve as a long-term source of quarry rock through the protection afforded by the Goal 5 process. Including the site on the Comp Plan Inventory of Significant sites will provide the appropriate recognition to preserve the site for long-term resource use.

8. Oregon Administrative Rule (OAR) 660-23-180(6)(a)-(e) lists the information that must be provided with the application in order for it to be considered "adequate". This application is supported by substantial evidence in the case record, which includes extensive technical information that was provided by qualified specialists in fields directly related to the proposed quarry operation. The requirements of OAR 660-23-180 are addressed in a report by Jeffrey R. Tross, Land Planning and Development Consultant, titled Goal 5 Report for Vernon Egge/Egge Sand and Gravel, LLC - Post Acknowledgment Plan Amendment for Coburg Ridge Quarry Site. The technical information that is included in the case record includes detailed Site Plan Maps prepared by Ford-Ness-Fassbinder, Surveyors, and EGR & Associates, Geologists and Engineers, included with the application as Exhibit 1; a report by EGR & Associates, Inc., titled Egge Sand & Gravel L.L.C. Resource Evaluation Lane County March 2001, included as Exhibit 2; a report by EGR & Associates, Inc., titled Operation Plan, Mining and Reclamation at Spores Point, Egge Sand and Gravel, LLC, included as Exhibit 3; a report by Access Engineering, Eugene, titled Egge Sand & Gravel Traffic Impact Study, Lane County, Oregon, August 21, 2001, included as Exhibit 4; a report by Daly-Standlee & Associates, Inc., Portland, titled Egge Sand & Gravel's Egge Quarry Goal 5 Application Noise Study, included as Exhibit 5; and a report by Argentea Environmental, Wilsonville, Oregon, titled Rare Plant Survey of Potential Quarry Site, prepared

for Egge Sand & Gravel, June, 2000, included as Exhibit 6. In addition, an additional report was submitted for the record at the public hearing on March 2, 2004, by Daly-Standlee Associates, to address an additional potential noise impact; an additional report was submitted by Access Engineering with revised traffic volume projections, and an additional statement was submitted by EGR to address the disposition of storm water runoff. In addition, the Lane County Engineering Division submitted as report during the open record period following the public hearing which examined the potential impact of the projected quarry traffic on the structural capacity of Coburg Road and McKenzie View Road. This report concluded that the quarry traffic would not have a significant impact on the structure of these roads. The Board finds that the information that has been provided for the record by the Applicant in support of the application satisfies the requirements of OAR 660-23-180(6)(a)-(e).

9. No information from similar qualified sources, or technical information of any kind, was submitted for the record by any parties other than the Applicant. No testimony from any expert or similar qualified sources other than those appearing on behalf of the Applicant was presented at the public hearing. No information has been presented with a sufficient degree of specificity that contradicts or calls into question any of the information provided by the Applicant. The Board finds that the only substantial evidence in the record has been provided by and on behalf of the Applicant.

10. The Planning Commission held a public hearing on the application on March 2, 2004, at which time the Applicant and its representatives presented testimony in support of the proposal. Two persons appeared in opposition to the application. Donald Nelson expressed concerns about noise impacts to the north of the quarry site, about noise from the trucks going up Egge Road, and for traffic at the intersection of McKenzie View Road and Coburg Road, which he stated was a "blind" intersection. Tina Owens noted a correction that the owner of parcel 404 was David Egge, and expressed concerns that the proposal could cause changes in property values in the Coburg Hills, questioned the effect on water wells, and questioned the cost of relocating the EPUD power lines.

The Applicant responded to these concerns. With regards to the noise questions, Mr. Standlee, the Acoustic Engineer, said the ridge to the north of the quarry will not be removed, leaving a barrier that will mitigate the noise. Mr. Standlee also noted the trucks will not be driving to the top of the ridge, they will load on the quarry floor, and the existing noise from traffic on I-5 will mask the truck noise. Mike Weishar, a Traffic Engineer with Access Engineering, stated that the sight distance at the intersection of McKenzie View Road and Coburg Road was adequate, and during times of darkness the view of oncoming traffic would be actually be easier due to headlights. Mr. Larry Thorp, the Applicant's Attorney, stated that the cost of relocating the EPUD power lines is the Applicant's responsibility. Chris Jeremiah of BJ Equipment, the Applicant's Blasting Engineer, described the way blasting would be conducted, controlled, and monitored to limit ground vibration, air pressure, and fly rock. Ralph Chritiansen, the Applicant's Geologist, submitted a letter date March 2, 2004, which stated that blasting conducted in the manner described and with the blasting controls that were also described, would not adversely affect wells or foundations in the area due to the manner in which vibration associated with blasting dissipates over distance.

The Board finds that the questions that were presented to the Planning Commission in opposition to the proposal were general in nature, and were not supported by specific facts or evidence. The Applicant responded to the questions with information from qualified specialists, and these responses adequately addressed the concerns that were presented. The Board concludes that the Applicant presented sufficient information in adequate detail to address and satisfy the questions

and concerns that have been presented in opposition to the proposal.

11. In addition to the testimony at the public hearing, three communications were received by the Planning Department and made a part of the record. A County "request for comment" sheet was received from David and Lucille Egge on Jan. 12, 2004. Their comments consist of six points, which include the issues presented by Tina Owens at the public hearing, and in addition question the "right of way access" to their home on parcel 404, and noise levels from "truck/blasting operations". The Board finds that these issues have been adequately addressed by the Applicant through testimony at the public hearing, and in the written submittals.

A letter from H. Andrew Clark, Attorney for LeRoy Sherman, dated January 27, 2004 and received by the County on January 28, 2004, raises questions regarding noise impacts, the effects on blasting on Mr. Sherman's home, which is stated as "roughly 400 feet from the southern boundary of the proposed mining site"; dust impacts, traffic impacts, impacts to groundwater, stormwater runoff, and ground stability. Neither Mr. Clark nor Mr. Sherman appeared at the public hearing.

The Board finds that these issues have been adequately addressed by the Applicant, in testimony and in the written submittals. The potential impacts of blasting, dust, and ground stability have been addressed by the Applicant's Geologist and Blasting Engineer. This information shows that with the blasting controls to be employed the impacts will be mitigated. The question of stormwater runoff has been addressed by the Applicant's Geologist. Stormwater will drain to the north of the quarry, not to the south. Traffic impacts have been addressed by the Applicant's Traffic Engineer and by the County Road Department. The affected roads and the intersection are adequate for the projected volume of traffic, and in any case the Sherman residence is located to the east of Coburg Road and the quarry access road, and quarry traffic will be traveling to the west. The potential for impacts to groundwater have been addressed by the Applicant's Geologist, who stated that there will be no adverse impact. The Board finds that record shows that the concerns presented in the letter from Mr. Clark on behalf of Mr. Sherman have been adequately addressed, and that the potential impacts will be mitigated.

An email was received by the County from Donald Nelson on March 3, 2004, during the open record period following the public hearing. The concerns expressed in the email are the same as those Mr. Nelson expressed during his testimony at the public hearing. As noted, these concerns have been adequately addressed by the Applicant.

12. In order to qualify for a PAPA the application must satisfy the requirements of OAR 660-23-180. The Applicant has addressed these requirements in the extensive and detailed materials and testimony that are a part of the record. As previously noted, the Board finds that the information provided by the Applicant satisfies the requirements of OAR 660-23-180(6)(a)-(e). The information provided by the Applicant includes the following:

A resource evaluation for the proposed quarry site was conducted on the property by EGR Associates of Eugene to address OAR 660-23-180(3). This firm has extensive experience in researching and designing mineral and aggregate operations in Lane County and in western Oregon, including basalt rock quarries. The evaluation included an exploration pit, three test drillings, and quality testing on rock from the site. The rock tests confirmed that the material meets the Goal 5 standards for quantity and quality. The results of these explorations and tests are presented in full in the EGR report, Exhibit 2. The research performed by EGR confirms that the site contains a "Significant" quantity of high-quality rock.

A Transportation Impact Study was prepared by Access Engineering of Eugene to determine the traffic impact of the proposed operation on local roads, as required by OAR 660-23-180(6)(c) to address -180(4)(b)(B). The traffic impact analysis was based on a study area that was specified by the County, in addition to the Goal 5 requirement. The traffic study found that the traffic to be generated by the proposed quarry operation will not create conflicts on the local roads that provide ingress or egress to the mining site, or adversely affect the capacity or function of the local transportation system. This report is included as a part of the application as Exhibit 4. In addition, a study was made by the County Engineering Division to determine the structural capacity of the affected roads. This study found that the County roads were capable of supporting the traffic to be generated by the proposed quarry operation.

A study of potential noise impacts from the proposed quarry operation was conducted by Daly-Standlee Associates, Acoustic Engineers, to address OAR 660-23-180(4)(b)(A). This study found that quarry operations will meet the DEQ noise limitations in all but a “worst case” scenario, which would involve the occasional operation of the rock drill or excavator at the top of the rock wall. At these times the applicable DEQ noise standard could be exceeded at three nearby residences (one of which is the home of Vernon Egge, the Applicant). The “worst case scenario” is expected to occur for a week, once or twice a year. Regardless, reasonable and practicable measures can be employed to reduce the noise from even this worst case scenario to meet the applicable DEQ noise standard. These measures consist of constructing berms along the west and south sides of the mining area, as described in the Noise Study. By meeting the DEQ standards for noise the potential conflict is considered to be minimized. The Daly-Standlee report is included as Exhibit 5. An additional study of the noise impacts at a residence located to the southwest of the quarry site found that, with an additional mitigating measure consisting of a higher berm to the west of the excavation, the noise impact would meet the DEQ standards. This report was provided at the public hearing and is a part of the record.

The Comprehensive Plan identifies no other Goal 5 resources at the site, however, the Applicant had a rare plant survey conducted on the site by Argentea Environmental Natural Resource Consulting. The purpose of this survey was to determine whether any listed threatened or endangered plant species were present on the site. None were found. The Argentea Environmental report is included as Exhibit 6.

13. In addition to satisfying OAR 660-23-180(6)(a)-(e), the other requirements of OAR 660-23-180 have been addressed as follows:

OAR 660-23-180(3) presents the Significance Test, and states:

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

This proposal meets the requirements of part (a), as follows:

(a) A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and sodium sulfate soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or 100,000 tons outside the Willamette Valley:

Rock samples from this site were tested at the ODOT Materials Laboratory for the applicable quality factors. The results of the lab tests are provided in Appendix E of Exhibit 2. As shown on the test result sheet, the material meets the ODOT quality specifications.

The volume of material available from this site is estimated at 7.1-9.6 million tons, as detailed in the calculation presented in Exhibit 2. This calculation incorporates data obtained from test drillings performed on the property, which are also described in Exhibit 2. The drill tests show the depth of the rock resource as at least 100'. A mining area of approximately 40 acres is planned. The estimated amount of material from the site exceeds the requirement of 2 million tons for a site in the Willamette Valley (Lane County is included in the definition of the area that makes up the "Willamette Valley", OAR 660-23-180(1)(k)).

By meeting the specified quality and quantity requirements, part (a) is satisfied.

Subsections (b) and (c) do not apply.

Subsection (d) describes exceptions to the significance test of 660-23-180(3)(a-c). The site is not subject to these exceptions, as shown below:

(d) The site is not considered significant, subsections (a) through (c) notwithstanding, if the criteria in either (A) or (B) of this subsection apply, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date:

(A) The site is not significant if the proposed mining area consists of more than 35% Class 1 soils as shown on the NRCS maps, or

(B) The site is not significant if the mining area consists of more than 35% Class 2, or a combination of Class 2 and Class 1 or Unique soils as shown on the NRCS map, unless the average width of the aggregate layer within the mining area exceeds:

(i) 60 feet in...Lane County....

As described in the EGR report, the soil on the proposed mining area is Class 6 Witzel very cobbly loam. There are no Class 1 or 2 soils on the site. Therefore, the site is not subject to these exceptions to the significance test.

Because the material meets the quality and quantity requirements of subsection (a), and the site is not subject to the limitations of subsection (d), 660-23-180(3) is met and the resource must be considered Significant. The Board finds that the site is Significant because it contains a volume of aggregate material that is in excess of the 2 million ton standard, the material meets the ODOT standards for quality, and the mining area is not subject to the exception for Class 1 or 2 soils.

With regards to locational considerations, the Board finds that the site is very well located as a quarry for the basalt rock resource. The site is in an isolated location and the potential for significant conflicts with surrounding land uses is low. The site is served by a private access road, and it is about a half-mile from the processing site. As a result of this proximity, on-site operations will be limited to mining, which reduces the potential for conflicts with other uses in the 1500' impact area. The lands along the public road route to the processing site are zoned for resource use, which minimizes the potential for conflicting uses in the area. The potential impacts of the operation on surrounding uses will be minimized since the only potential conflict, noise, will be diminished by the method of mining the site, the terrain, and existing ambient noise from I-5. For these reasons, the Board concludes that the site is well located for the proposed use.

OAR 660-23-180(4), "Deciding Whether to Allow Mining", states:

For a PAPA application involving a significant aggregate site, the process to decide whether to allow mining is set out in subsections (a) through (g) of this section:

(a) Determine the impact area for the purpose of identifying conflicts with proposed mining and

processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1500 feet from the boundaries of the mining area except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site, and shall not include the existing aggregate site.

The 1500' impact area boundary is shown on the EGR mining site plan map, Exhibit 1. This map shows a 1500' impact area measured from the boundaries of the mining area. The only potential impact that exceeds 1500' is noise, as shown in the report from the Acoustical Engineer, Exhibit 5. The noise impact area extends 1775' to the west of the mining area.

(b) Determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots, and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

(A) Noise, dust or other discharges with regard to those existing and approved uses that are sensitive to such discharges;

(B) Local roads used for access and egress to the mining site within one mile of the entrance to the mining site, unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan;

(C) Safety conflicts with existing public airports due to bird attractants, i.e. open water impoundments;

(D) Other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

(E) Agricultural practices;

(F) Consideration for other conflicts necessary to carry out ordinance that supersede DOGAMI regulations pursuant to ORS 517.780.

The determination of conflicts from the proposed operation is limited to those specified in subsections (A) through (F). The only identified potential conflict from the mining operation is noise. The existing land uses within the noise impact area that could be adversely affected by the proposed operation are dwellings. Two dwellings within the noise impact area are located to the east on the ridge, two are to the west of I-5 on the valley floor, one to the north and one to the south of Coburg Road; one is to the south of McKenzie View Road on the river terrace, and one is to the west of I-5 south of the river. There are no "approved land uses" within the noise impact area.

The original Noise Study, Exhibit 5, and the additional noise report submitted at the public hearing on March 2, 2004, show that noise from the mining operation will meet the applicable DEQ standard at the location of all dwellings within the noise impact area, with the use of recommended mitigation measures. The recommended mitigation measures are reasonable and practicable for minimizing the noise impact. By meeting the DEQ noise standard the potential conflict is considered to be minimized, OAR 660-23-180(1)(f).

With regards to "other discharges", as included in (A), another potential conflict could result if "fly rock" from blasting reached a dwelling or the travel lanes of I-5. Blasting will be utilized at the site to loosen the rock for excavation from its natural formation. Blasting is expected to occur about once a month. Fly rock could potentially leave the site if blasting is not controlled and monitored. However, blasting controls will be utilized to minimize the potential for fly rock to

leave the site, as described in Exhibit 2, and as further explained in testimony by the Applicant's Blasting Engineer at the public hearing on March 2, 2004. These measures will include limiting the force of the blast, using a "bottom loading" blasting technique, and employing mats or soil cover to suppress loose materials from becoming airborne. All blasting at the site will be controlled and monitored by a firm experienced in these matters. By controlling the force of the blasting, employing the appropriate measures to suppress and control the possibility of fly rock, and monitoring the blast, the potential for this conflict to occur will be minimized.

There are no other discharges as provided for in (A) that could cause conflicts with existing or approved uses within the impact area.

With regard to (B), the local roads used for access and egress to the mining site are McKenzie View Drive and Coburg Road. A Transportation Impact Study has been prepared by Access Engineering of Eugene to determine the traffic impact of the proposed operation on local roads, as required by OAR 660-23-180(6)(c) to address -180(4)(b)(B). The traffic impact analysis also addressed a study area determined by the County. The traffic study found that the type and volume of traffic to be generated by the proposed quarry operation will not create conflicts on the local roads that provide ingress or egress to the mining site, or adversely affect the capacity, function, or level of service (LOS) of the local transportation system. This report is included as a part of the application as Exhibit 4. In addition, the Lane County Engineering Division has concluded that the volume of traffic expected to be generated by quarry operations will not have a significant impact on the structural capacity of these roads.

In addition, the dwellings on the ridge will not be directly affected by traffic from the quarry, since Egge Road runs along the north face of the ridge and quarry traffic will not pass these dwellings. The homes along McKenzie View Drive to the east of Coburg Road will not be affected by quarry traffic, because the route to the Coburg Road operation is to the west, away from these homesites. The traffic study determined that the McKenzie View Drive-Coburg Road intersection will not be significantly affected. Quarry truck traffic will travel on Coburg Road between the quarry and the processing site, but the road is classified as a major collector and its structural condition is appropriate for the proposed use.

With regard to (C), safety conflicts with existing public airports due to bird attractants, there are no public airports in the vicinity and the proposal will not create a bird attractant such as a water impoundment.

Part (D) refers to conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated. The McKenzie River is within the 1500' impact area. The proposed mining site does not border the river and extraction will remain at an elevation above the water surface. There will be no withdrawal of water from the river or discharge of water to the river. The mining site will not affect the river banks or riparian vegetation. Noise from the operation will be controlled to meet the DEQ standards. A rock wall or berm will screen mining activity from the water surface. For these reasons the proposal will not adversely affect the river or river users.

The Spores House historic site is located north of Coburg Road, west of I-5. The house burned and no longer exists. The quarry operation will have no effect on this site.

With regards to rare or endangered plants, the Applicant had a rare plant survey conducted on the site by Argentea Environmental Natural Resource Consulting, Exhibit 6. The purpose of this

survey was to determine whether any listed threatened or endangered plant species were present on the site. None were found.

With regard to (E), conflicts with agricultural practices, there are no agricultural practices on the lands surrounding the quarry site on the ridge. There is a farm field within the 1500' impact area located on the valley floor, to the west of I-5 and about 300' below the elevation of the quarry site. This appears to be a grass seed field. The quarry operation will have no effect on the ability to conduct agricultural practices on this farm field. The quarry will not border or intrude on farm field, or use groundwater from a source that could potentially be used for farm irrigation. Because the resource is a basalt quarry located on the ridge, rather than an alluvial deposit, and because of the limited operation that is proposed, the quarry will present no conflicts with the farm uses of the field on the valley floor west of I-5.

With regard to (F), consideration for other conflicts necessary to carry out ordinances that supersede DOGAMI regulations pursuant to ORS 517.780, there are no local ordinances that supersede DOGAMI regulation.

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

Noise from the quarry operation is identified in subsection (b) as a potential conflict. The potential for a noise conflict would occur only under the described "worst case scenario", which involves equipment operating on top of the bench. The potential for a noise conflict affects four dwellings within the impact area. The report from the Acoustic Engineer identifies a mitigation measure, which is a noise control berm along the west and south boundaries of the mine site. This is a reasonable and practicable mitigating measure, which will serve to reduce the noise level to meet the applicable DEQ standard. This recommended noise reduction measure serves to "minimize the conflict" consistent with the definition of this term in 660-23-180(1)(f). Under this definition, meeting the DEQ standard means the conflict is no longer significant.

The other potential conflict is "fly rock" from blasting reaching the travel lanes of I-5. The potential for this conflict can be minimized by controlling the size of the blast, and employing mechanical methods to suppress rock from leaving the site. Prior to operations a blasting plan will be prepared to specify the procedures to be employed to control blasting and minimize fly rock. These are reasonable and practicable measures that would serve to minimize the conflict.

With regards to potential conflicts with agricultural practices, no such conflicts have been identified. However, the requirements of ORS 215.296(1) are addressed to determine whether there are conflicts to agricultural practices, as follows:

(a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

The only surrounding land devoted to farm use is the property to the west across I-5. This appears to be a grass field. The farm use is on the valley floor at an elevation approximately 300' below the quarry site. It is not adjacent to the quarry site, or to the ridge. The quarry will not intrude on the farm land, use water from a source that could be used for farm irrigation, or create traffic conflicts that would interfere with farm vehicles on Coburg Road. There are no farm

stands in this area that sell locally produced farm products and attract customers from outside of the local farm area. For these reasons the proposed quarry will have no effects on the farm practices at this location.

The surrounding lands on the ridge are zoned F-2, a forest zone. However, none of the surrounding F-2 lands are used or managed for commercial forest uses, and there are no forest practices or operations conducted on these lands. These are unmanaged woodlands that do not support a commercial forest operation, and which do not support merchantable timber. For these reasons, the proposed quarry will have no effect on forest practices on surrounding lands.

The farm practices employed for the farm activities in the impact area will not be affected by operation of the proposed quarry. There are no forest practices in the area. The quarry will not occupy farm land or cause surrounding farm land to be removed from production. The operation will not withdraw groundwater from below the valley floor and the availability of groundwater from an aquifer below the valley floor will not be affected. The quarry operation will not be affected by the operation of farm machinery or by the application of agricultural chemicals, and the farming practices associated with the identified farm uses will not be impaired, interfered with, or affected by activities on the quarry site such as drilling, blasting, excavating, and loading. Noise will not affect any of the existing farm activities, or the surrounding forest land, and the quarry operation will not create significant off-site noise levels. Traffic generated by the quarry will use Coburg Road but will not affect the movement of farm traffic in the area. Based on these considerations, the quarry will not force a significant change in accepted farm or forest practices on the surrounding land devoted to farm or forest use.

(b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

For the reasons as described in (a), the proposed quarry will not force a significant change in farm practices on the surrounding lands in farm use. The surrounding farm use appears to be a grass field, located on the valley floor to the west of I-5. The quarry will not create dust that could settle on crops that would require additional handling over present practices, it will not draw down or deplete water from a source that could be used for farm irrigation, and the traffic volumes generated by the quarry will not interfere with farm vehicles on Coburg Road. Farm practices, including the type of crop that is raised, cultivation methods, access to the fields, and water sources, will not be affected. The farm zoning category on the surrounding lands will not change. Without any verified affect on accepted farm practices, their cost will not be affected.

Also as described in (a), there are no surrounding lands that are managed for forest use, on which forest practices are conducted, or which sustain a tract of commercial timber. The surrounding forest lands consist of mixed, scrub timber, which is not being managed for commercial purposes. The quarry will have no affect on these lands or on their ability to be used for forest practices in the future. The forest zoning category will not change.

For these reasons, the use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. Based on these two criteria, the proposed quarry will have no significant affects on accepted farm practices, or their costs, on the surrounding lands that area devoted to farm use.

As specified under this section (660-23-180(4)(c)), reasonable and practicable measures have been identified to minimize the identified conflicts, which are noise within the impact area and potential fly rock from blasting. Therefore, mining shall be allowed at the site and subsection (d) does not apply.

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

Based on consideration of the information provided in entire record, including all of the testimony in the record, the Board of Commissioners concludes that mining shall be allowed and the Plan and its implementing measures shall be amended as required by this decision.

In this case, the identified potential conflicts are noise, and fly rock from blasting. The measures required to minimize these conflicts are to follow the recommendation of the Acoustical Engineer with regards to noise reduction, and to employ the measures recommended by the Blasting Engineer to prevent fly rock from leaving the site. The Conditions of Approval adopted as a part of this decision require these measures. With the recommended noise mitigation measures, noise from the quarry operation will meet the DEQ standard at the affected dwellings within the impact area. Controlled blasting practices will minimize the potential for fly rock to leave the site and reach the travel lanes of I-5, or the nearby residence to the south. These are the only conditions that are required to minimize the potential for conflicts.

(f) Where mining is allowed, the local government shall provide for the post-mining use and provide for this use in the comprehensive plan and land use regulations.

The post mining use will be a function of the site's physical features at the completion of mining. At completion the site will consist of a series of successive benches ascending from the finished floor level. The future use of the site will be limited to uses included in the zone, which at present is F2. In this case, the post-mining use calls for topsoil and overburden that was stockpiled prior to excavation to be replaced within the extraction area as practical, and planted with native vegetation. The site will be left as open space.

(g) Refers only to processing materials from a new site at an existing site, and does not apply to this case.

(5) Local governments shall follow the standard ESEE process of OAR 660-23-040 and -050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site.

The Applicant has addressed the ESEE process of OAR 660-23-040 and -050. Based on the facts and evidence in the record, the Board concludes that the resource site is significant. Based on the examination of the uses allowed outright or conditionally in the zones that occur within the impact area, the Board finds that approval of the mining operation does not need to limit or prohibit new conflicting uses on F2 and EFU land within the impact area. The conflicting use is dwellings within the noise impact area. The potential for new dwellings is already severely restricted by the requirements and standards of the F2 and EFU zones. The existing regulations that serve to restrict dwellings on resource land are sufficient to protect the resource site. With the mitigating measures, noise from the mining site will meet the DEQ standards within the impact area. In this case, the acknowledged policies and land use regulations are sufficient to protect the resource site and no additional measures are needed. This is consistent with OAR 660-23-040(2)(a). Because the potential conflict from the quarry operation will be mitigated, it is not necessary to further limit or prohibit new conflicting uses within the impact area. As a result of the ESEE analysis, the Board concludes that there are no significant conflicts to mining at this

location, and that it is not necessary to impose further restrictions on development in the area beyond the measures that are imposed by current zoning.

14. The Board of Commissioners finds that, based on the facts and evidence in the entire record, the proposed quarry site satisfies the qualifications as a “Significant” resource, that all potential adverse impacts have been minimized, that mining shall be allowed in accordance with the Operation Plan provided as a part of the application, and in accord with the adopted conditions of approval, and that conflicts will be balanced by the review process required in order to evaluate proposals for new dwellings in resource zones within the impact area.

15. Conclusions

Based on the facts and evidence in the entire record, the Board of Commissioners concludes that this quarry site represents a significant quantity of high quality material. The site is located in proximity to the processing plant, and to the Eugene-Springfield metro area, which is a major market for the material. The transportation system that serves the site is adequate to accommodate the proposed use in terms of both its ability to accommodate traffic volume and its structural capability. These quantity, quality, and location factors qualify the site as a Significant aggregate resource under this Rule. Including the site on the Comp Plan inventory of Significant aggregate resources will protect it and keep it available for future utilization, consistent with Goal 5 and the Comprehensive Plan.

The site is surrounded by unmanaged woodlands, farmlands, I-5, scattered residences, a County park, and the McKenzie River. The identified potential noise conflict between the quarry and the existing dwellings in the area can be minimized with reasonable and practicable measures. The potential for new dwellings within the surrounding resource zones in the impact area is severely restricted by the requirements of the zones, and requires review and approval by the County. Due to these measures, the Board concludes that there is no reason to further limit or prohibit new conflicting uses within the impact area.

The addition of the site to the inventory of Significant aggregate sites is consistent with the Statewide Planning Goals and the Administrative Rules. Based on the facts and information that have been provided with regard to its resource characteristics, and the measures to minimize the identified potential conflict, the site qualifies for inclusion on the inventory of Significant aggregate resource sites and mining shall be allowed subject to the conditions of approval..

16. Conditions of Approval

1. No crushing or production of concrete or asphalt shall be conducted on site.
2. Operations shall be conducted between 7:00 a.m. and 5:30 p.m.
3. There shall be a maximum of 80 haul truck round-trips per day.
4. No truck traffic shall use McKenzie View Drive east of Egge Road.
5. Controlled blasting practices shall control the creation of “fly rock”.
6. All mining activities will take place behind the working face or a visual/noise screen (berm). A rock wall shall be retained between the mining area and the residences to the east, west and south.
7. The dozer and rock drill shall not operate at the top surface of the mine at the same time.
8. A ten (10') to fourteen (14') foot high berm shall be constructed along the west boundary of the mining area as shown on Figure 5 of the Noise Study.
9. A berm that is a combination of 15 feet above the surface of the mine and 20 feet above the surface of the mine shall be constructed as shown on Figure 5 of the Noise Study.
10. All dust emissions shall conform to LRAPA standards.