

Hannah Elliott

From: Ropp, Matt <Matt.Ropp@kniferiver.com>
Sent: Monday, November 15, 2021 3:59 PM
To: Hannah Elliott
Cc: Plan
Subject: RE: Please add to the Vanier PAPA record
Attachments: ESEE Analysis and Program to Achieve Goal 5.docx



Please add to the record.

Matt Ropp
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Knife River Corporation – Northwest Region
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Tangent, Oregon 97389
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CROOK COUNTY
NOV 15 2021
PLANNING DEPT



From: Ropp, Matt
Sent: Monday, November 15, 2021 3:10 PM
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From: Hannah Elliott <Hannah.Elliott@co.crook.or.us>
Sent: Friday, November 12, 2021 9:01 AM

Exhibit 63

Crook County Goal 5 Aggregate Resource Inventory

ESEE Analysis and Program to Achieve Goal 5

Resource Site Name: Vanier Property, Site # _____

Summary:

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I. Location and General Description

a) Location

The subject property (the "Site") is located at the intersection of NW Stahancyk Lane and NW Lamonta Road on the north side of Stahancyk and west side of Lamonta, approximately 3 miles northwest of the City of Prineville.

Map ID: T14 R15 Section 14 tax lot 103

Situs: 6487 NW Lamonta Road, Prineville, Oregon

Lat/Long: 44.350424°, -120.888949°

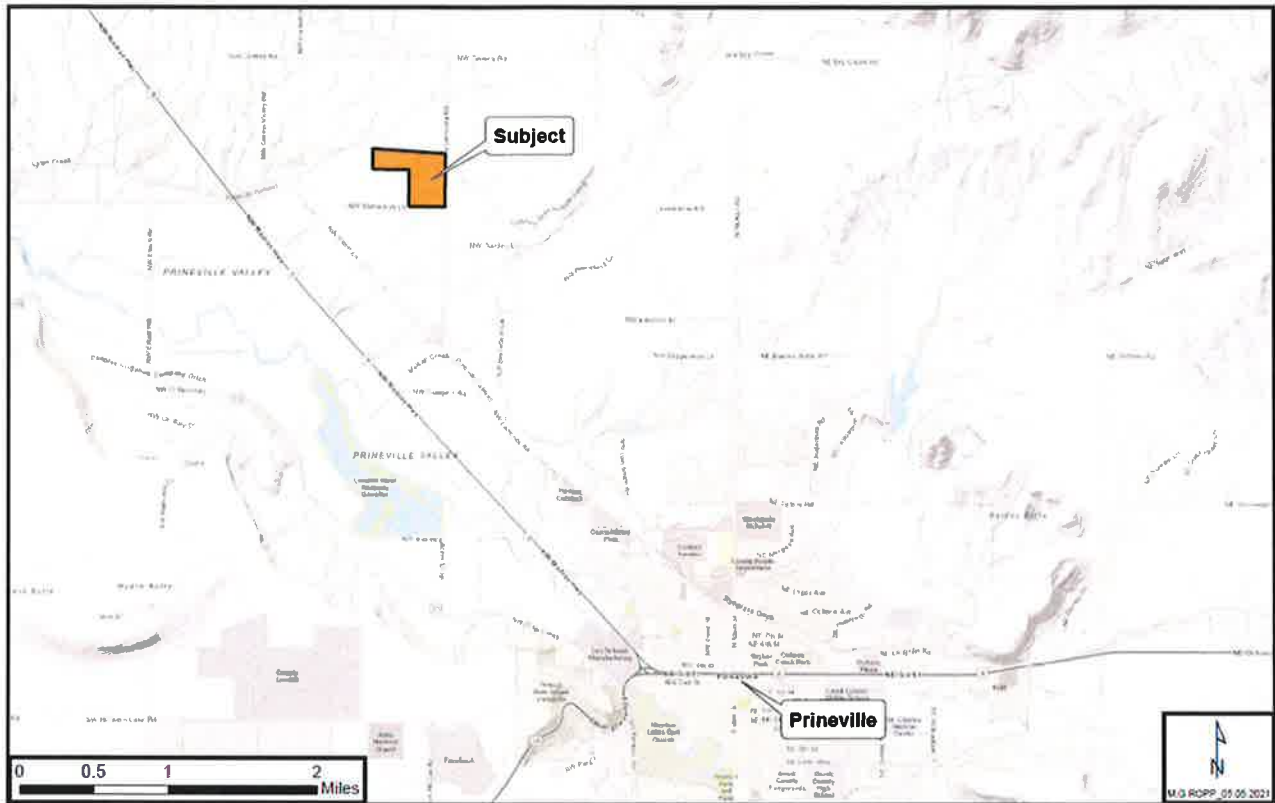


Figure 1.

b) Subject Property Description

1. Subject Parcel Size: 77.98 Acres
2. Parcel Creation: The subject was created in May of 2006 as Parcel 3 of Partition Plat 2006-22, approved by Crook County through Planning case number C-LP-568-06(F).
3. Zoning: Exclusive Farm Use – 2 (EFU-2)
4. Access: The subject has direct frontage on NW Stahancyk Lane and NW Lamonta Road, both County owned and maintained roads.
5. Current and Historic Land Use: The subject property includes one single-family dwelling. The subject is currently - and has been for many years- employed for farm use – irrigated hay and pasture.
6. Tax Assessor Property Class: 551 – Farm Use.
7. Soils: According to United States Department of Agricultural (USDA) Natural Resource Conservation Service (NRCS) Web Soil Survey the subject is comprised of three soil mapping units (SMU), all with an Irrigated Land Capability Class (LCC) of 3. The subject is comprised of the following SMU: 020 – Boyce Silt Loam, 0 to 2 percent slopes, 0.2 acres; 123, Ochoco-Prineville complex, 0 to 3 percent slopes, 75.9 acres; Ochoco-Prineville complex, 3 to 8 percent slopes, 2 acres.
8. Existing Improvements: 2,326 sq.ft single family dwelling, est. 1920; 600 sq.ft. GP building; 480 sq.ft GP building; 3,420 machine shed.

9. Natural Hazards: There are no known natural hazards on the subject property. The subject property is not within a regulatory special flood hazard zone.
10. Wetlands: The National Wetlands Inventory (NWI) does not indicate any wetlands on the subject parcel.
11. Wildlife: Per ODFW, the property is not protected wildlife habitat.

c) Mining and Reclamation Plan

The Site is currently used for grazing and hay production. The property is irrigated using wheel line sprinklers. Post-mining reclamation will return the Property to a condition suitable for continued agricultural use. Mining will occur in cells, approximately 5 acres in size. An average of 13 feet of overburden will be stripped from the surface using excavators and loaders. Topsoil will be saved for surface reclamation. Remaining overburden (silt, clay, fine sand) excavated from the initial cell(s) will be used to construct a minimum 8-foot-high berm along property boundaries. Recoverable aggregates (sand & gravel) will be excavated and transported to the adjacent Woodward site for processing. When the first cell has been mined, the next cell will be started. Overburden from the new cell will be used to backfill the previous cell. Groundwater may be encountered during mining. In the event groundwater infiltration complicates replacement of overburden during reclamation, water will be pumped from open cells to a downgradient recharge trench so that overburden may be replaced safely and efficiently without impacting nearby groundwater rights. Undisturbed areas will remain available for agricultural use until mining commences. As cells are completed, land will be returned to agricultural use. Reclamation will be completed in accordance with a Department of Geology and Mineral Industries' (DOGAMI) approved reclamation plan.

d) Description of Surrounding Area, Uses and Zoning



Figure 2.

II. Applicable Standards and Criteria

Oregon's Statewide Planning Goal 5 protects natural resources and conserves scenic and historic areas and open spaces. It pertains to twelve types of natural resources, including aggregate and mineral deposits. Goal 5 instructs Crook County to adopt programs to inventory and protect natural resources, including locations with significant aggregate resources. Initially, Goal 5 was implemented through OAR Chapter 660, Division 16 ("Division 16"). In 1996, Division 16 was superseded by OAR Chapter 660, Division 23 (the "New Goal 5 Rule"). Although many jurisdictions currently apply Division 23 to implement their Goal 5 program, Crook County applies criteria from its local plan, as permitted by OAR 660-023-0180(9):

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

(a) Such regulations were acknowledged subsequent to 1989; and,

(b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-23-0250(7).

The *specific criteria* in the local plan for consideration of a PAPA to add a site is included in the Mineral and Aggregate Element of the Crook County Comprehensive Plan, initially adopted through Crook County Ordinance No. 43 on January 23, 1991 and amended by Ordinance No. 51 on September 16, 1991 and Ordinance No. 55 on February 26, 1992. Crook County has not since entered periodic review. Therefore, while instructive with respect to Goal 5 planning, OAR 660, Division 23 does not apply directly as criteria for the county's consideration of a PAPA to add the subject property to its Inventory of Significant Aggregate Sites. Order of application of specific criteria in the local plan is as follows:

1. Ordinance No. 55
2. Ordinance No. 51, to the extent it is not in conflict with Ordinance No. 55
3. Ordinance No. 43, to the extent it is not in conflict with Ordinance No. 55 or applicable provisions of Ordinance No. 51.

Key elements of Ordinance No. 55 include:

Goal: To provide for the protection and use, both current and future, of the mineral and aggregate resources of the County consistent with statewide land use planning goals, and its administrative rules, while minimizing any adverse impacts to the surrounding area.

Policy 11: Decisions of the county in determining the significance of the mineral or aggregate resource site, identification and analysis of conflicting uses, and development of a program to achieve Goal 5 with respect to the resource site shall be consistent with state law. To the extent feasible, mitigation of the effects of mining on other uses of land shall occur as part of the

development of a program to achieve Goal 5 with respect to the resource site. These decisions shall be based on substantial evidence.

III. Aggregate Resource Significance (Quantity and Quality)

a) Site Significance

To be considered "significant" an aggregate resource must be of a quality and quantity that the county can find warrants protection. The Comp Plan does not include clear and objective standards specifying the minimum quality and quantity of an aggregate resource that constitutes significant. It describes quality in terms of the site's relative value compared to other examples of the same resources found in the jurisdiction. A determination of quantity requires consideration of the relative abundance of the resource. Although OAR Chapter 660, Division 23 – the New Goal 5 Rule - does not apply directly to this Application, OAR 660-023-0180(3) is instructive in that it provides clear and objective standards (currently applicable in most cases, throughout the state) for the minimum quality and quantity required for an aggregate resource to be considered significant:

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

(a) A representative set of samples of aggregate material in the deposit on the site meets applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;

b) Estimated Quantity

The subject property is 77.98 acres in size. The Geologist's Report estimates the Site contains a total of 1,509,381 cubic yards of aggregate resource. For comparison to the minimum quantity threshold at OAR 660-023-0180(3), cubic yards must be converted to tons: 1 cubic yard = 1.6 tons. The recoverable aggregate resource will be reduced by required setbacks: 100-foot setback from the north, east and south property lines, 50-foot setback from the west property line abutting the Porfily property (TL 701) and no setback (zero) along the west and south property line abutting the Woodward property (TL 703). With these setbacks, there is still more than 1.5 million tons of recoverable aggregate resource. This is more than three (3) times the minimum quantity required to be considered significant under OAR 660-023-0180(3). The county finds that substantial evidence in the record demonstrates the Site contains a significant amount of aggregate resource.

c) Quality Data

Material from the subject property was tested for quality relative to Oregon Department of Transportation (ODOT) specifications for Portland Cement Concrete (PCC) as part of the Aggregate Resource Investigation conducted by Tim Marshall, an Oregon

Registered Professional Geologist. Mr. Marshall's Report describes sample collection and testing protocol and concludes that the aggregate resource on the subject property meets ODOT specifications for resistance to abrasion, sodium sulfate soundness and air degradation. The county finds that substantial evidence in the record demonstrates that the aggregate resource contained within the Site meets quality standards making it a Significant aggregate resource.

IV. Conflicting Uses Analysis

a) Impact Area

Ordinance No. 43, Section Three, B.1.d. states: *Unless otherwise indicated in the text of this Plan or on the respective resource site and impact area map, the impact area is that property extending outward from the resource site boundary to a distance of five hundred (500) feet.*

The county finds the 500-foot impact area depicted in Figure 3. is consistent the with comprehensive plan and is appropriate in this case. Properties and uses in the Impact Area are listed on Table 1.

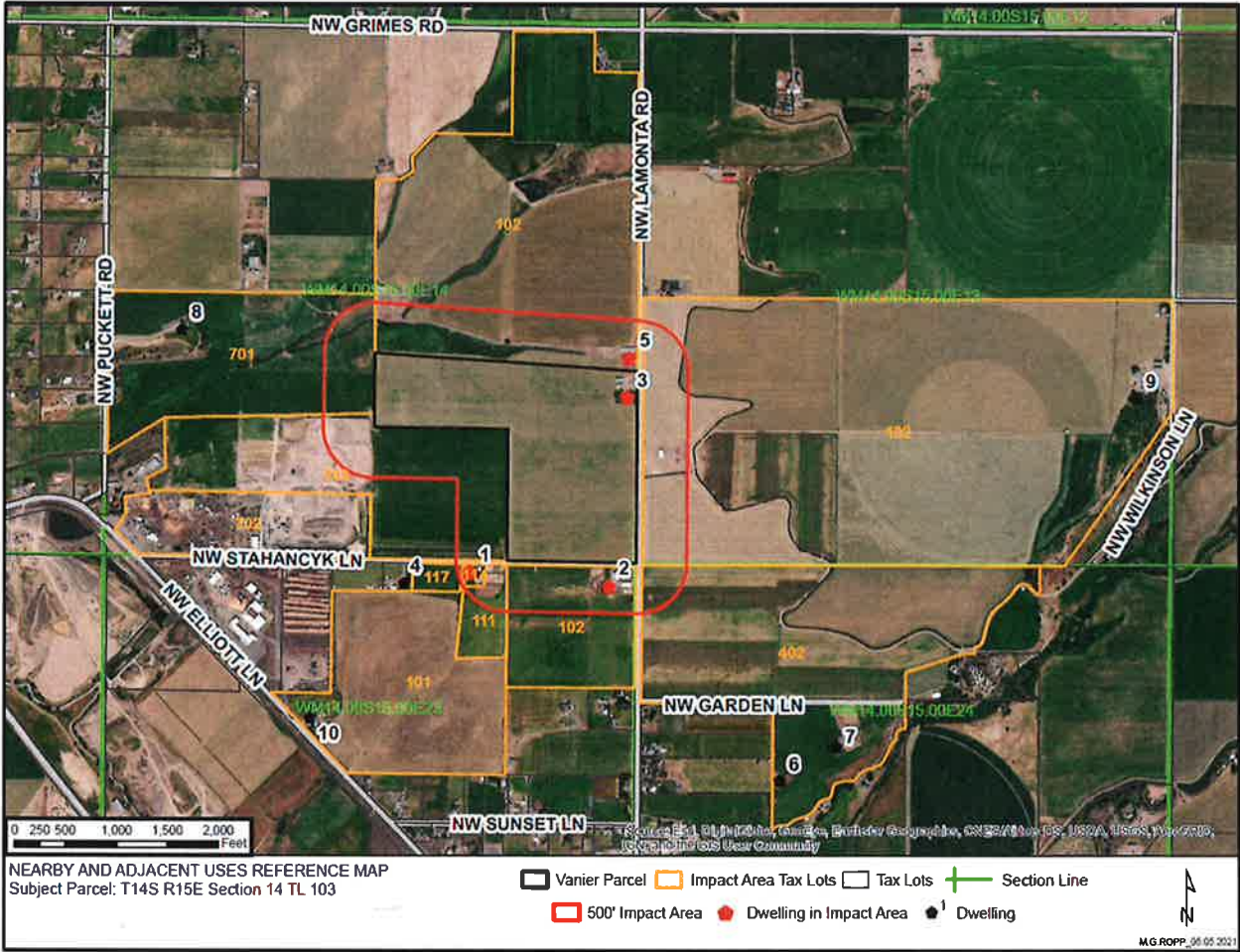


Figure 3.

T-R-S Tax Lot	Direction from Subject	Distance from Mining to Tax Lot	Site Address	Existing Dwelling	ID # on Map	Distance from Mining to Dwelling	Acres	Zoning	Primary Use	Land Owner
14-15-13 TL 102	East	160'	5777 NW Wilkinson Rd	Yes	9	5,010'	286.5	EFU-2	Farm Use - Hay	Mark & Casey McKinnon
14-15-14 TL 102	North	50'	6525 NW Lamonta Rd	Yes	5	245'	156.0	EFU-2	Farm Use - Hay	Dean & Teresa Davis
14-15-14 TL 701	West	0'	5950 NW Puckett Rd	Yes	8	1,845'	76.1	EFU-2	Farm Use - Hay	Scott & Crista Porfily
14-15-14 TL 702	West	1,350'	4755 NW Stahancyk Ln	No	-	-	35.4	HM	Industrial - Aggregate	Woodward Land & Timber LLC
14-15-14 TL 703	West	0'	Stahancyk Ln	No	-	-	76.1	EFU-2	Farm Use & Aggregate	Woodward Land & Timber LLC
14-15-23 TL 101	Southwest	425'	4243 NW Elliot Ln	Yes	10	2,560'	66.8	EFU-2	Farm Use - Hay	Samual Stafford
14-15-23 TL 102	South	140'	3320 NW Stahancyk Ln	Yes	2	320'	33.2	EFU-2	Farm Use - Pasture	Billie Johnson
14-15-23 TL 111	Southwest	140'	Stahancyk Ln	No	-	-	8.8	EFU-2	Farm Use - Pasture	Adam & Karen Mikulski
14-15-23 TL 114	Southwest	245'	3992 NW Stahancyk Ln	Yes	1	390'	0.9	EFU-2	Residential	Adam & Karen Mikulski
14-15-23 TL 117	Southwest	455'	Stahancyk Ln	*No	*4	-	3.0	EFU-2	Residential & Farm Use	Rick Kriege
14-15-24 TL 402	Southeast	205'	2720 NW Garden Ln	Yes (X2)	6 7	2,685' 2,780'	123.3	EFU-2	Farm Use - Hay & Pasture	Simmons Farm, LLC; Elsie & Henry Simmons

* Kriege owns 14-15-23 TL 116, west of TL 117. TL 116 is outside of the 500' impact area and includes a dwelling that is 1,000 feet from the mining area.

Table 1.

b) Conflicting Uses in Impact Area

The entire Impact Area is comprised of land zoned EFU and Heavy Industrial. Tax lots, zoning, current uses, parcel size and proximity to the Site are depicted in Table 1., above. A conflicting use - in the context of Goal 5 planning - is one which, if allowed, could negatively impact the Goal 5 resource site. Therefore, when identifying conflicting uses, the county may only consider allowable uses that could have a negative impact to the Goal 5 resource, including those that limit the viability of operations to utilize the Goal 5 resource. Negative impacts that should be considered in that regard include impacts of social, legal, economic, and environmental nature. If, on the basis of such an impact, the county identifies one or more allowable uses in the impact area as conflicting uses, it must go on to the next step of the planning process, the ESEE analysis. Only in the ESEE analysis does the inquiry expand to encompass assessment of two-way negative impacts, that is, the impacts of the conflicting uses on the Goal 5 resource, as well as the impacts of the Goal 5 resource on the conflicting uses. The record in this case reflects that several neighbors (abutting property owners) in the Impact Area are opposed to mining the Site. Three of the abutting properties include existing single-family dwellings. One of the abutting properties includes an existing dairy operation. In order to minimize impacts to these uses, mining of the aggregate resource will be less efficient and the cost of mining the Site will be increased. The following properties and uses are therefore conflicting uses (Table 2.):

T-R-S Tax Lot	Direction from Subject	Distance from Mining to Tax Lot	Site Address	Existing Dwelling	ID # on Figure 3. Map	Distance from Mining to Dwelling	Acres	Zoning	Primary Use	Land Owner
14-15-14 TL 102	North	100'	6525 NW Lamonta Rd	Yes	5	245'	156.0	EFU-2	Residential/Farm Use - Hay	Davis
14-15-23 TL 102	South	140'	3320 NW Stahancyk Ln	Yes	2	320'	33.2	EFU-2	Residential/Farm Use - Dairy	Johnson
14-15-23 TL 114/111	Southwest	245'	3992 NW Stahancyk Ln	Yes	1	390'	9.7	EFU-2	Residential	Mikulski

Table 2.

In addition to current/existing uses, allowable uses that may occur in the Impact Area must be considered. These include:

1. New Dwellings/Residential Use

2. Home Occupations/Business Use
3. Equine Facilities
4. Schools
5. Churches
6. Private Airports
7. Solar Energy Sites
8. Wind Generation Sites
9. Farm Stands
10. Other uses allowable in the EFU-2 zone.

Based on the limited amount of available land in the Impact Area and criteria and procedural requirements for establishing the potential conflicting uses above, it is unlikely that new conflicting uses will be established within the Impact Area before the aggregate resource at the Site is depleted. The conflicting uses for purpose of the ESEE Consequences Analysis are those uses identified in Table 2.

V. ESEE Consequences Analysis

As discussed in Section IV., conflicting uses have been identified. Therefore, the economic, social, environmental and energy consequences of the conflicting uses must be determined. The ESEE consequences determination must be based on substantial evidence in the record. The analysis considers the economic, social, environmental, and energy consequences in a two-way conflict analysis. Both the impacts from conflicting uses on the resource site and on the impacts from the resource site on conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of Statewide Planning Goals must also be considered. Findings related to applicable Statewide Planning Goals are at Section VI.

1) Economic

a. Impacts to the resource from allowing conflicting uses.

Testimony and evidence in the record illustrate the adversarial position several neighbors have taken and the challenges that mining near residential uses present to full utilization of the Goal 5 resource. Neighbors have expressed fears and objections related to heavy equipment noise, fugitive dust, noxious weeds, reclamation methods and schedule, hours of operation, potential impacts to groundwater, all presumed to impacts to property values. Mining operations are regulated through operating conditions and the site operator is obligated to meet said conditions. However, active adversarial neighbors can cause an increase in costs of a mining operation as more extensive mitigating conditions are applied to mining operations in effort to minimize impacts to neighbors. Increased costs to the operator are necessarily passed onto the consumer, resulting in negative economic consequences to the end user of the aggregate resource product. Adversarial neighbors can discourage other aggregate operators from attempting to permit and develop new sites in the area. This can result in a long-term negative impact to the local economy.

b. Impacts to the conflicting uses from allowing the resource use.

Neighbors have expressed fears and objections related to heavy equipment noise, fugitive dust, noxious weeds, reclamation methods and schedule, hours of operation, potential impacts to groundwater and presumed impacts to property values. While there is no evidence in the record of actual impact to property values, the county accepts the idea that living near an active mining operation is less desirable than living near something less impactful and therefore it can be assumed that property values could be impacted until mining is complete and the land is reclaimed.

2) Social

a. Impacts to the resource from allowing conflicting uses.

Neighbors have expressed fears and objections related to heavy equipment noise, fugitive dust, noxious weeds, reclamation methods and schedule, hours of operation, potential impacts to groundwater and presumed impacts to property values. While there is no evidence in the record of actual impact to property values, the county accepts the idea that living near an active mining operation is less desirable than living near something less impactful and therefore it can be assumed that property values could be impacted until mining is complete and the land is reclaimed. Conflicting uses in the area make continued tension and social conflict more likely.

b. Impacts to the conflicting uses from allowing the resource use.

Negative social impact could include a reduction in the rural quality of life for the adjacent residents. Impacts associated with the site could include continued heavy truck traffic, noise and dust. Applicant proposes to limit impacts by mining and reclaiming the site in cells and by placing screening berms around the active mining site. Vegetated earthen berms will minimize negative impacts by providing visual screening and reducing noise from mining operations. Permit conditions will require that the operator manage fugitive dust: dust control is required as part of the operator's Department of Geology and Mineral Industries (DOGAMI) operating permit.

3) Environmental

Placeholder until final rebuttal –

4) Energy

Placeholder until final rebuttal –

5) Statewide Planning Goals

Goal 1 – Citizen Involvement: Crook County requires notice to adjacent property owners and a public hearing before the planning commission and the County Court prior to adoption of any comprehensive plan amendment. In addition, public notice is provided through the local newspaper. Information relating to the hearing (e.g., the staff report and exhibits) are available on the County's website and hard copies are available to the public when requested.

Goal 2 – Land Use Planning: This decision will be subject to the policies and processes of Crook County's Comprehensive Land Use Plan and the zoning code and will meet the Goal 2 requirements regarding land use planning.

Goal 3 – Agricultural Lands: Conflicts with neighboring agricultural activities will be minimized by the operational design for mining the site. The agricultural use on the site will be temporarily interrupted as actual mining is conducted in phases. The site will be reclaimed to allow agricultural use after mining is complete. The aggregate operation will not force a significant change in accepted practices, nor will it result in a significant cost increase to accepted farm practices. Adjacent property owners may be concerned about the impacts of dust on their crops causing reduced yields and reduction in quality. While there may not be a change in farm practices, there may be reductions in yields and income.

Goal 4 – Forest Lands: There are no forest lands in the vicinity of the subject property. Forest lands will not be impacted. There is no conflict with Goal 4.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Applicant proposes to add this site to the Goal 5 inventory of significant aggregate resource sites. Based on information from ODFW and other resource management agencies, development of this site for aggregate productions does not conflict with any other Goal 5 resources.

Goal 6 – Air, Water and Land Resources Quality: The operation of the aggregate mining site will be conducted in compliance with all other applicable state and local permits and regulations. DOGAMI has oversight responsibility for mining operations and final reclamation. Dust control is a required component of the operating plan. DEQ permits will be required for water management.

Goal 7 – Areas Subject to Natural Disasters and Hazards: The proposed mine site is not recognized as being an area subject to natural disasters or hazards. There is no conflict with Goal 7.

Goal 8 – Recreational Need: The proposed mining operation will not impact recreational needs or areas used for recreation. There is no conflict with Goal 8.

Goal 9 – Economy of the State: Development of the aggregate site is consistent with Goal 9 because aggregate is a necessary commodity for road and building projects. A local source of aggregate provides an economic benefit to the Central Oregon area.

Goal 10 – Housing: Development of the aggregate resource site will have no impact on Crook County's housing needs. Properties zoned for Exclusive Farm Use are unlikely to be approved for residential development.

Goal 11 – Public Facilities and Services: No new public services will be required to support development of the aggregate resource site. Sewer service is not required and water and power are currently available to serve the site. An existing truck route will be used for traffic associated with the site and no new connections to County roads are required. Industrial water will be supplied under an agreement with the Ochoco Irrigation District.

Goal 12 – Transportation: Development of the proposed aggregate resource site does not conflict with the Crook County Transportation Plan or Goal 12. The site is located on an existing designated truck route less than ½ mile(s) from Highway 26. No new access points are needed or requested. The County Road Master has reviewed the proposal.

The proposed use does not trigger a Transportation Impact Analysis under the County's 2005 Transportation System Plan.

Goal 13 – Energy Conservation: Development of an aggregate resource site in Crook County reduces the consumption of energy moving aggregate from locations farther away to projects in Crook County. The proposed site is consistent with Goal 13.

Goal 14 – Urbanization: This proposal does not include expansion of any urban growth boundary. This area has not been considered for UGB expansion. If the area is considered for urbanization in the future, the reclaimed site could be available for development.

(Goal 15 applies to Willamette River communities and Goals 16-19 apply to coastal communities.)

6) ESEE Conclusion

Placeholder until final rebuttal –

VI. Program to Achieve Goal 5

1) The Site is a Significant Aggregate Resource with identified conflicting uses. Therefore, Crook County Ordinance 43, Section Five B. provides the following two options for resolving conflicts and developing a program to achieve Goal 5:

3. **NO PROTECTION TO THE RESOURCE SITE [OAR 660-16-010(2)] Allow fully all zoning uses and applicable requirements of other Statewide Planning Goals that conflict with the 3B resource site:** Based on the analysis of the ESEE consequences and other Statewide Goals, Crook County has determined that the conflicting uses and conflicting applicable requirements of other Statewide Planning Goals should be allowed fully, notwithstanding the possible impacts on the resource site.

In these cases, the mineral or aggregate mining may be disallowed completely and/or the conflicts may be allowed fully. This approach is used when the conflicting use or conflicting applicable requirements of other Statewide Planning Goals for a particular site is of sufficient importance, relative to the resource site. These sites are designated within the Comprehensive Plan as 3B sites.

4. **BALANCING CONFLICTS [OAR 660-16-010(3)] “Limit uses and applicable requirements of other Statewide Planning Goals that conflict with the Resource Site”:** Based on the analysis of the ESEE consequences and other Statewide Goals, Crook County has determined that both the resource site and conflicting zoning uses and conflicting applicable requirements of other Statewide Planning Goals are important relative to each other.

Therefore, the ESEE consequences should be balanced so as to allow the conflicting use or conflicting applicable requirements of other Statewide Planning Goals, but in a limited way so as to protect the resource site to some desired extent.

Limitations or conditions may be placed on the mining and/or on the conflicting uses, but only those necessary to resolve the conflicts as described in the ESEE analysis. These limitations must be “clear and objective.” Finally, as a result of that analysis, Crook County has designated these sites as 3C sites.

Based on its the ESEE Analysis and consideration of evidence in the whole record in this case, the county elects to designate the Site a "3C" site. The purpose of the 3C designation is to balance conflicts, allowing conflicting uses consistent with the county's acknowledged land use plan and ordinance; and, allowing the resource use of the Site subject to mitigating conditions intended to resolve conflicts. The county finds that conflicts between conflicting uses and the resource use will be limited through site specific development and operating conditions. Prior to commencement of aggregate mining at the Site, these requirements shall be applied through a conditional use permit. No mining shall occur at the Site until a conditional use permit consistent with these conditions has been approved.

2) Site Specific Development and Operating Conditions:

Site Plan

1. Prior to commencing mining operations, Applicant shall submit an updated site development plan depicting required setbacks and berms consistent with applicable conditions of final county land use approval.

No Processing

2. Mining activities on the subject property shall be limited to aggregate extraction only. No processing is authorized. Materials from the subject property may be transported via an internal haul road to the Woodward property (tax lot 1415140000702) for processing.

Setbacks

3. Mining shall not extend closer than one hundred (100) feet from property lines on the north, east and south side of the subject property. Mining shall not extend closer than fifty (50) feet from adjacent parcel 141514 TL 701 (Porfily property) on west side of the subject parcel. No setback is required along the boundary common to the Woodward property 141514 TL 703). Berms and groundwater recharge trenches may be placed within the setback area.

Water Rights

4. Prior to use of water (for which a water right is required) on the subject property, evidence that water is being obtained from a legal water source shall be provided to Crook County Community Development Department.

Access

5. Access to the subject property shall be from the existing access at the Woodward site. No new access will be permitted on Stahancyk Lane or Lamonta Road.

Hours of Operation

6. Ordinary operating hours shall be Monday through Friday, June 1 through October 31 from 6:00 a.m. to 9:00 p.m., or sunrise to sunset, whichever time-period is less. Operating hours shall be Monday through Friday, November 1 through May 31 from 7:00 a.m. to 6:00 p.m., or sunrise to sunset, whichever is less.

No aggregate extraction operations shall be conducted on Saturdays or Sundays or on the following legal holidays: New Year 's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day.

Exceptions to the operating hours set forth above may be granted provided the aggregate operator provides written notice to residential neighbors within the 500-foot Impact Area and to the Crook County Planning Department that a project requires additional materials and adequate time to produce them. The notice shall be at least 72 hours prior to the planned extended hours and the time-period for the extension shall not be longer than 30 consecutive days. The exceptions shall not apply to the Saturday, Sunday, and holiday restrictions.

Dust Mitigation

7. The Applicant shall control fugitive dust emissions associated with mining operations on the subject property, consistent with its Dust Management Plan dated August 23, 2021.

8. The internal haul road between the subject property and the Woodward processing site shall be constructed with an aggregate base sufficient to support heavy vehicles and equipment, shall have an all-weather surface, and shall be treated regularly to minimize fugitive dust.

9. A contact person representing the aggregate operator shall be named and all appropriate contact information shall be provided to a neighbor that requests such information. The designated contact person shall be a person authorized to respond to/address concerns/complaints related to fugitive dust.

Noise

10. Noise attenuating berms, consistent with proposed condition 12, shall be constructed where necessary to achieve compliance with DEQ noise limits.

11. Except where prohibited by law, existing back-up "beepers" on mining equipment and vehicles shall be replaced with directional "white noise" back-up alarms.

Berms

12. Required screening berms shall meet the following requirements:

1. Minimum 8 feet in height
2. Maximum slope of 2H:1V.
3. Required berms may be located within the mining setback area.
4. Berms shall be hydroseeded with appropriate grass seed mix.
5. Berm vegetation shall be maintained to prevent the spread of noxious weeds.
6. Berms shall constructed adjacent to mining as mining progresses and shall be removed upon completion of the mining operation.

Site Disturbance

13. No more than 10 acres of ground shall be disturbed on the subject property by mining at any time. The "disturbed area" refers to the active mining and reclamation cells and does not include haul roads, stockpiles or the berm areas.

14. Until final reclamation is completed, the mine operator shall stabilize disturbed areas to minimize dust using hydro-seeding or other soil stabilization methods consistent with its Dust Management Plan.

Reclamation

15. The subject property will be reclaimed concurrently with mining as cells are completed. Upon completion of mining cells, standing water will be removed, overburden will be replaced, the uppermost overburden lift will be ripped and disked as necessary to eliminate compaction, and topsoil will be replaced. At the nearest seeding window (e.g. fall, spring), previously placed topsoil will be ripped, disked and seeded. All reclamation activities will be subject to a reclamation plan approved by the Department of Geology and Mineral Industries.

Groundwater Protection

16. If groundwater is encountered, it may be pumped out of active mining cells and infiltrated on-site.

17. All equipment and trucks operating near exposed water shall be inspected daily and maintained or repaired to prevent hydrocarbon fluid (diesel, oil) leaks. A spill kit designed for containing hydrocarbon releases shall be kept near equipment when operating near exposed water.

18. As a condition of this approval, Operator commits to the following groundwater guarantee:

- A. In the event that corrective action for groundwater necessitates well deepening, well replacement or replacement water, the Operator shall take corrective action as required by DOGAMI or as otherwise agreed between the Operator and the affected well owner without undue delay.
- B. With respect to part "A" above, the Operator shall guarantee the quality and quantity of water available at neighboring wells specified above commensurate with the use—domestic, livestock and/or irrigation. Potable water is required for the replacement of domestic wells. Livestock quality water is required for replacement of any livestock wells. Irrigation quality water is required for the replacement of all irrigation wells. Any interruption in the water service or diminished quality occurring beyond the well head, in delivery or pumping systems is not the Operator's responsibility but remains the sole responsibility of the well owner or users. Maintaining any part of the electrical connections, servicing or replacing pumps within the wells shall also remain the sole responsibility of the well owners or users.
- C. The Operator does not make any representations as to the current or past quality or quantity of the water available to the wells or its suitability or legality for domestic or other use. The well owners or users retain responsibility for compliance with existing or future water standards or requirements except to the extent that the Operator's actions have caused those standards or requirements to be violated.

D. Prior to mining, the Operator shall examine and collect "base line" data for waters of springs and neighboring wells designated on Exhibit 24, Pg. 2, to the extent that permission from the landowner is granted. To ensure that water levels are not lowered or that spring flow is not decreased, the Operator has proposed an infiltration trench or series of infiltration trenches. The Operator shall collect on-site monitoring well water quantity data continuously and on-site monitoring well water quality data quarterly and shall share all collected data quarterly with designated well/spring owners who have granted access and sampling permission. Prior to mining through a trench or a monitoring well, all previously collected groundwater data will be reviewed by licensed professional geologist or engineer. This data analysis shall consider the relocation and placement of the next infiltration trench and monitor wells as well as any potential adverse impacts to surrounding properties. The Operator shall make adjustments to his Mine Plan to minimize or eliminate any mine related adverse impacts. All data shall be maintained on file by the Operator for 5 years and shall be made available to the County, DOGAMI or affected residents upon written request.

Agency Approvals

19. The Applicant shall obtain the required permits from the appropriate state agency (Department of Geology and Mineral Industries and/or Department of Environmental Quality). A copy of the Department of Geology and Mineral Industries operation and reclamation plan shall be provided to the Crook County Community Development Department. If a stormwater management permit is required by the Department of Environmental Quality, a copy of the permit shall be provided to Crook County Community Development Department.

Mosquitoes

20. The Applicant shall obtain approval for a mosquito control plan from Crook County's Vector Control District. A copy of the approved plan shall be provided to the Crook County Community Development Department prior to commencing mining operations.

Weed Control

21. The applicant shall obtain approval from the county Weed Master for a weed control plan. A copy of the approved weed control plan shall be submitted to Crook County Community Development Department prior to commencing mining operations. The operator shall submit annual weed control reports as required by Crook County Code.

END