



RECORD No. 217 24-000870 For Office Use Only PLNG

Crook County Community Development/Planning Division  
300 NE 3<sup>rd</sup> Street, Room 12, Prineville Oregon 97754  
541-447-3211  
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[www.co.crook.or.us](http://www.co.crook.or.us)

**Comprehensive Plan, Map, and Text Amendments**



**PROPERTY OWNER:**

Last Name: Greenbar Excavation, LLC

Mailing Address: P.O. Box 7

City: Prineville \_\_\_\_\_ State: OR \_\_\_\_\_ Zip: 97754 \_\_\_\_\_

Day Time Phone: Lisa Andrach (541) 316-1588 Cell Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Email: [lisa@fitchandneary.com](mailto:lisa@fitchandneary.com)

**AGENT/REPRESENTATIVE:**

Last Name: Andrach

First Name: Lisa (Fitch and Neary, P.C.)

Mailing Address: 210 SW 5th St., Suite 2, Redmond, OR 97756

Day Time Phone: (541) 316-1588 Cell Phone: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Email: [lisa@fitchandneary.com](mailto:lisa@fitchandneary.com)

**PROPERTY INFORMATION:**

Township 16 \_\_\_\_\_ Range 16 \_\_\_\_\_ Section 12 \_\_\_\_\_ Tax Lot 500 2403

Size of property: 4.9 \_\_\_\_\_ acres Zone: RR(M) \_\_\_\_\_

Physical address: Not assigned yet. \_\_\_\_\_

Subdivision name, if applicable: Cimarron Hills Lot 15

**FLOOD PLAIN:**

Is the subject property located within a Flood Plain Zone? Yes \_\_\_\_\_ No X \_\_\_\_\_

If yes, what zone: \_\_\_\_\_

**DETAILED EXPLANATION:** Proposal to add additional area of tax lot 500 to the county basalt inventoried Bartels Site on Appendix A of comprehensive plan which site was added by Ordinance 172 and designated a IC Site by Ordinance 179. See attached Burden of Proof.

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IMPORTANT NOTICE: The Crook County Planning Department is required to review all applications for accuracy and to determine whether the staff and/or the Planning Commission have the information needed to make a decision. The County has 30 days to determine whether the application is complete. Within that 30-day period, the Planning Department will request additional information, if necessary. A decision on your application will be postponed until the information is received. State law requires that all information to support an application be available for public inspection at our office 20-days before a public hearing. Any information submitted after this date may require a postponement of the hearing date if necessary. Please make sure your application is complete. The burden of proof lies with the applicant.

**PROPERTY OWNERS SIGNATURES:**

By signing below, I/WE agree to meet the standards governing the laws as outlined in the State of Oregon's OAR, ORS, Crook County Code, and/or the Crook County Comprehensive Plan. I/We agree that all the information contained in this application is true to the best of my knowledge.

Property Owner Signature: See attached authorization Date 3-28-24  
Print name: \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_ Date \_\_\_\_\_  
Print name: \_\_\_\_\_

Agent/Representative Signature:  Date 3-28-24  
Print name: LISA ANDRACH

## CHECKLIST FOR COMPLETING THIS APPLICATION

1. Complete application form including the appropriate signatures
2. Include a detailed statement describing the proposal
3. Burden of Proof addressing all applicable criteria and supplemental information
4. Payment of fees
5. Submit a copy of the current “deed”

### APPLICABLE CRITERIA

Title 18, Chapter 18.168 (Legislative Amendment)  
Title 18, Chapter 18.170 (Quasi-Judicial Amendment)

### Supplemental Information

**1. COMPREHENSIVE PLAN:**

- a. Describe in detail the proposed “Comprehensive Plan” amendment.
- b. Explain in detail how this request is in compliance with the statewide planning goals.
- c. Explain how this amendment is consistent with the Crook County – Prineville Area Comprehensive Plan.
- d. Explain how this “Comprehensive Plan” amendment would serve the public’s interest.

**2. TEXT AMENDMENT:**

- a. Submit the proposed language of the proposed “Text” amendment.
- b. Explain how this request is in compliance with the Crook County – Prineville Area Comprehensive Plan and purpose of the code in effect.
- c. Explain how this “Text” amendment would serve the public’s interest.

**3. MAP AMENDMENT:**

- a. Describe in detail the proposed “Map” amendment.
- b. Explain how the “Map” amendment complies with statewide planning goals, and how it is in compliance with those statewide goals.
- c. Explain how this “Map” amendment is consistent with the Crook County – Prineville Area Comprehensive Plan.



**Crook County Community Development**  
 300 NE 3rd Street, Prineville, OR 97754  
 Phone: (541) 447-3211 Fax: (541) 416-2139  
 Email: bld@co.crook.or.us Website: www.co.crook.or.us

**AUTHORIZATION FORM**

Let it be known that Lisa Andrach  
 (Print name clearly)

has been retained to act as my authorized agent to perform all acts for development on my property noted below. These acts include: Pre-application conference, filing applications, and/or other required documents relative to all permit applications in regards to this project.

Physical address of property: Not assigned and described in the records of  
 CROOK COUNTY, Oregon as map/tax number: 161612 Lot 500 Acct 2403

The costs of the above actions, which are not satisfied by the agent, are the responsibility of the undersigned property owner.

**PROPERTY OWNER** (Please print clearly)

Printed Name: Greenbar Excavation, LLC Date: 03/26/2024

Signature: Tanner Brown  
Tanner Brown (Mar 28, 2024 17:24 PDT)

Email: greenbarexcavation@gmail.com

Mailing Address: P.O. Box 7

City: Prineville State: OR Zip: 97754

Phone: c/o Lisa Andrach @ (541) 316-1588

eMail: c/o lisa@fitchandneary.com

Individual  Corporation  Limited Liability Corporation  Trust

**IMPORTANT NOTE:** If the property is owned by an entity, include the names of all the authorized signers.  
 If a Corporation: Provide the name of the President, or other authorized signor (s).  
 If a LLC: Provide the names of ALL members and managers.  
 If a Trust: Provide the name of the current Trustee (s).

**In addition,** if you are a corporation, you will need to include a copy of the bylaws, an operating agreement if you are an LLC, or Certificate of Trust if you are a trust that verifies authority to sign on behalf of the entity

**APPROVED AGENT**

Printed Name: Lisa Andrach with Fitch and Neary, P.C. Date: 03/26/2024

Signature: Tanner Brown

Mailing Address: 210 SW 5th St. Suite 2

City: Redmond State: OR Zip: 97756

Phone: (541) 316-1588

eMail: lisa@fitchandneary.com

**Signature:** Tanner Brown  
Tanner Brown (Mar 28, 2024 17:24 PDT)

**Email:** greenbarexavation@gmail.com







# Crook County owner\_authorization

Final Audit Report

2024-03-29

Created:	2024-03-26
By:	Wendy Smith (wendy@fitchandneary.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyFm-4lt0s34AW70JGgYc7bzUgaJwrm1

## "Crook County owner\_authorization" History

-  Document created by Wendy Smith (wendy@fitchandneary.com)  
2024-03-26 - 10:41:23 PM GMT
-  Document emailed to greenbarexcavation@gmail.com for signature  
2024-03-26 - 10:41:55 PM GMT
-  Email viewed by greenbarexcavation@gmail.com  
2024-03-26 - 11:30:21 PM GMT
-  Signer greenbarexcavation@gmail.com entered name at signing as Tanner Brown  
2024-03-29 - 0:24:32 AM GMT
-  Document e-signed by Tanner Brown (greenbarexcavation@gmail.com)  
Signature Date: 2024-03-29 - 0:24:34 AM GMT - Time Source: server
-  Agreement completed.  
2024-03-29 - 0:24:34 AM GMT

**BEFORE THE CROOK COUNTY PLANNING DEPARTMENT**

**BURDEN OF PROOF**

**APPLICANT/:** GREENBAR EXCAVATION, LLC  
**OWNER** Tanner Brown  
P.O. Box 7  
Prineville, Oregon 97754

**ATTORNEY:** Lisa Andrach  
Fitch & Neary P.C.  
210 SE 5<sup>th</sup> St., Suite 2  
Redmond, Oregon 97756

**GEOTECHNICAL ENGINEER:** Watkins Testing & Inspection  
19061 Choctaw Road  
Bend, Oregon 97702

**REQUEST:** An Application to modify the Crook County Basalt Resource Inventory to add approximately 226,000 cubic yards of basalt aggregate volume located on tax map 161612, Lot 500 to the 1-C Bartels Site on the Mineral and Aggregate Inventory of the County Comprehensive Plan, Appendix 5.3, and to make the ESEE findings to allow mining of the additional resource. The Bartels Site was added by Ordinance 172 of the Crook County Court (2006-162);

**I. APPLICABLE CRITERIA:**

The following legal criteria are applicable to review of the proposal to include an approximately 226,000 cubic yard volume of basalt aggregate to the inventory site referenced as the Bartels Site in Ordinance 172, and included in Appendix 5.3 of the Crook County Comprehensive Plan:

- Oregon Administrative Rules (OAR) 660, Division 16.
- Crook County Code 18.168, Legislative Amendments

**II. PROPOSAL:**

The Applicant is requesting amendment to the Mineral and Aggregate Inventory as set forth in Ordinance No. 172, to include an additional approximately 226,000 cubic volume of basalt aggregate located on a 4.9 acre site identified as Tax Lot No. 161612, Lot 500, also identified as Lot 15 of Phase 2 of the Cimarron Hills Subdivision (the "Property") adjacent to the Bartel Site which is identified as T16S, R16E WM, Section 12, Tax Lot 400, Parcel 1 of Partition Plat 2004-

1. The Bartels Site was classified as a 1-C site and added to the County's Basalt Resource Inventory in February 2006. (**Exhibit 16 (CC Ordinance 172)**)

Amendments to the Comprehensive Plan are processed in accordance with the requirements of CCC 18.168 for legislative amendments.

The applicant is submitting compliance with OAR, Division 16, in order to add the area to the County's Goal 5 Surface Mineral & Aggregate Inventory Plan as a site with significant mineral resources, and compliance with the required ESEE analysis to allow for mining activities.

The applicant owns and operates the Bartels Site and will consolidate the Bartels Site and Lot 15 upon approval.

A site resource evaluation has been prepared by Watkins Testing & Inspection, which concluded that, like the "Bartels Site," there is a significant reserve of aggregate and basalt rock suitable for the production of ODOT specification construction materials. (**Exhibits 8-12**)

### **III. FINDINGS OF FACT:**

- A. LOCATION.** The subject property is located at Tax Lot No. 161612, Lot 500, which is approximately 7 miles south of Prineville on Juniper Canyon Road adjacent to an active aggregate quarry located at T16S, R16E WM, Section 12, Tax Lot 400 in the RM-5 zone. (**Exhibit 1, Tax Map**)
- B. ZONING.** The property is zoned RR(M)-5 Recreation Residential Mobile Zone. It is designated Recreation Residential on the Crook County Comprehensive Plan.
- C. SITE DESCRIPTION.** The 4.9 acre area is a landlocked, vacant parcel lying adjacent to and west of the Bartels Site. (**Exhibit 3**) The site has gentle to moderately sloping terrain that is covered in native grasses, brush and trees. The slope is depicted on the Topographic Survey and Volumetric Analysis attached as **Exhibit 7**. The applicant owns and operates the Bartels Site. The Bartels Site has direct access from Juniper Canyon Road, and is the location of all crushing and processing for the mining operation at the base of the quarry floor.
- D. SURROUNDING PROPERTY.** The property immediately to the west and south of the subject property has been subdivided into Cimarron Hills. (**Exhibit 4**) The area of the subdivision was the old Dry Creek Ranch. It was irrigated with cattle grazing. The subdivision was established by Richard Bartels, the prior owner of the Bartels Site. Mr. Bartels required that each sale within the subdivision include a waiver of remonstrance for mining activity.



- a. North: to the north are 3 lots zoned RRM5, TL#s 161601 Lots: 300, 400, 500. Each are improved with a residence. The residence on 300 and 400 was in place prior to adoption of Ordinance 172 and 179 in 2006. The residence on 500 was completed in 2007. The acreage is: 6.62, 4.0, and 3.29 acres respectively. **(Exhibit 3)**
- b. East: Tax Lot 161612, Lot 400, is owned by the applicant, and is an active aggregate quarry pit on a 10.01 acre lot. **(Exhibit 3)**
- c. South: Tax lot 161612, 402, 2.5 acres owned by the Richard Bartels Trust, who previously owned the active pit on Tax Lot 400 (described above), and who developed the surrounding subdivision. Southwest is TL 161612, Lot 04, which is 4.99 acres, zoned RRM5, improved with a residence. **(Exhibit 3)**
- d. West: Tax Lot 161612, Lot 500, which 4.9 acres, zoned RRM5, and improved with a residence. **(Exhibit 3)**

## **A. REQUIRED FINDINGS AND CONCLUSIONS.**

### **Comprehensive Plan Amendment:**

The applicant is requesting to include the resource area of the subject property as a 1-C Site. The Goal 5 Process under the Crook County Comprehensive Plan is a five-step process, which is briefly summarized as follows:

1. The first step is to determine whether the site should be included in the inventory of Goal 5 resources. This requires adequate information on the location, quantity and quality of the Goal 5 resources, which in this case is aggregate, and a determination that the indicated resource site is important or significant.
2. The second step is to identify conflicting uses and any conflicts in the applicable requirements of other state-wide planning goals on the resource site.
3. The third step is to determine the economic, social, environmental and energy consequences of allowing conflicting uses.
4. If conflicting uses have been identified, the fourth step is to develop a program to achieve Goal 5.
5. The fifth step is implementation through the zoning regulations.

## **STEP 1 – INVENTORY:**

### **1. RESOURCE LOCATION:**

A. **Location:** The subject site consists of a total of 4.9 acres located in Section 12, Township 16 S., Range 16 east of the Willamette Meridian. The site is approximately 7 miles south of Prineville on Juniper Canyon Road, adjacent to the Bartels Site. The property is landlocked but will be consolidated with the Bartels Site. **(Exhibit 3)** The Bartels Site is owned by the applicant and that quarry has direct access on Juniper Canyon Road.

B. **Impact Area:** The surrounding area, as described above, is subdivided into Cimarron Hills and other residential lots. Sales within Cimarron Hills include a waiver of remonstrance for mining. **(Exhibit 4)**

### **2. RESOURCE QUALITY AND RANKING SYSTEM:**

A. **Quality.** An aggregate source evaluation has been done by Watkins Testing & Inspection, Geotechnical & Construction Services, 19061 Choctaw Road, Bend, Oregon 97702. Per OAR 660-23-180 samples of aggregate material were tested and exceed Oregon Department of Transportation specifications for 3/4” Base Aggregate. **(Exhibit 8)** The laboratory testing and results are included as **Exhibits 7-12.**

The analysis estimated that the additional area of the site would yield approximately 226,000 cubic yards of aggregate material. **(Exhibit 7)** A conversion factor of 1.9 tons per cubic yard indicates that on the order of 429,400 tons of aggregate is available.

The laboratory testing indicates that the aggregate exceeds ODOT’s specifications for base rock. **(Exhibits 8-12)** The basalt is the same as that which is actively mined at the Bartels Site and is considered high quality aggregate because it is hard and dense compared to much of the rock of Central Oregon.

The County established the Bartel Site as a 1-C resource, and added it to the County’s Mineral and Aggregate Inventory (Ordinance 172 and 179 **(Exhibits 16 and 17)**), the volume of aggregate located in the adjacent resource site is equally as important and significant and should be included in the county’s inventory of Goal 5 resources. The quality and quantity test results for the Bartels Site that the County relied upon are at **Exhibit 15.**

The County Court found that Bartels Site satisfied the requirements for inclusion on the county’s Inventory of Goal 5 Mineral and Aggregate Sites and made it a part of the Inventory pursuant to Crook County Ordinance 172 in 2006 as was unanimously recommended by the Planning Commission. **(Exhibits 15, 16, 17)**

**Crook County Comprehensive Plan:** Appendix “A” of the Crook County Comprehensive Plan addresses Goal 5 Resources (Mineral and Aggregate Elements). There are three basic types of sites:

1. **1A SITES:** “Not Significant”: Based on the best information that is available on location, quality and quantity, Crook County has determined that this particular resource is “not significant” and therefore not important enough to warrant inclusion on the Comprehensive Plan Inventory, or is not required to be included on the inventory based on the specific Goal standards...
2. **1B SITES:** “Significance Not Yet Determined” ...some information is available, indicating the possible existence of a resource site, but that information (is) not adequate for Crook County to identify with particularity the location, quality, and quantity of the resource site...
3. **1C SITES:** “Significant Sites” ...information is available on location, quality, and quantity, and Crook County determines a site to be significant or important as a result of the data collection and analysis process, then the site will be included on its Comprehensive Plan Inventory.

**OREGON ADMINISTRATIVE RULES:** OAR 660-016-000(1) states that a local government must determine which resource sites are of significance and include them on an inventory which constitutes a part of the Goal 5 section of the government’s comprehensive plan.

Subsection (2) states that a “valid” inventory of a Goal 5 resource must include a determination of the location, quality, and quantity of each proposed resource site.

Based on data collected, analyzed, and refined by local government, a jurisdiction has three basic options:

- (a) **Do Not Include on Inventory** – site not important enough or not required to be included.
- (b) **Delay Goal 5 Inventory Process** – inadequate information on location, quality, and/or quantity presently available.
- (c) **Include on Inventory** – adequate information available on location, quality, and quantity, and local government has determined site to be significant or important.

Like in the findings of facts to add the Bartels Site to the county inventory as a 1C site, the following facts are applicable here (See Planning Commission Recommendation No. C-CPA-007-05 (attached hereto as **Exhibit 15**):

## **Quality and Quantity**

The applicant has submitted an engineer's report documenting the quantity and quality of resources available on the site. The specific results of the analysis are incorporated herein from **Exhibit 7-12**.

**Quality:** In accordance with Division 16 of the Oregon Administrative Rules (OAR), representative samples of the basalt on the site were tested for abrasion, air degradation, and soundness. Samples were collected from the property. The rock is similar to the rock on the Bartels Site, which tested as high quality. (**Exhibit 14**) All laboratory tests found that the resource exceeds ODOT requirements for base rock, and can be considered to be of high quality. (**Exhibit 7-12**)

**Quantity:** The proposed mining site measures approximately 4.9 acres. With the required setbacks applied, the analysis determined that the site would yield an estimated 226,000 cubic yards of aggregate. Using a conversion factor of 1.9 tons per cubic yard, this would amount to more than 429,400 tons of aggregate for a total volume of 435,671 for the site when combined with the additional area to be mined on the Bartels Site which lies in the existing western setback area, however the setback area would be removed upon consolidation of the lots. (**Exhibit 7**)

On the basis of the above, the applicant has demonstrated that there is adequate information on location, quality, and quantity of the resource, and that the quantity and quality of the resource are adequate. Therefore, the site qualifies as a 1(c) on the inventory in accordance with OAR 660-016-0000, and Appendix "A" of the Crook County Comprehensive Plan.

## **STEP 2 – IDENTIFICATION OF CONFLICTING USES AND OTHER GOALS**

The County Court adopted Ordinance 179 (attached hereto as **Exhibit 17**) finding "that based upon conflicts and the Economic, Social, Environmental and Energy (ESEE) Analysis the resource is sufficiently important relative to conflicting uses that a mining operation on the site would not negatively affect the conflicting uses and will provide positive economic, social, environmental and energy contributions," and that based upon the ESEE Analysis, the conflicting uses can continue and the Goal 5 resource may also be utilized. The Conflicts Analysis and Findings set forth therein are applicable and relevant to the analysis to include the additional area to the Bartels Site. Since the decision, the Cimmaron Hills subdivision has developed which makes evident that even with the mine nearby, people still bought residential lots and developed homesites thereon, thus continuing the conflicting use even while the Goal 5 resource is utilized just as the County Court concluded.

### **Identification of Impact Area**

The County Court determined that the analyzed Impact Area should be a 1500 foot area surrounding the resource site which is standard under Division 23 Rules of the Department of Environmental Quality, and that having such a consistent standard serves the public interest,

unless compelling circumstances (such as protection of another Goal 5 Resource, such as scenic value) are implicated. (**Exhibit 4**)

Like in the ESEE Analysis of the Bartels Site, “given the current configuration of the resource site the parties most likely to be affected would [be] those within the 1500 foot area (due in part to the existing excavated nature of the resource area) especially with respect to noise and dust impacts. In establishing the Impact Area, the Court conducted a site visit and determined that there is screening of the mine from vegetation and because the mine operates below grade, and because of the topography of the land. Further, the Court stated that the fact that an aggregate mining and processing facility is specifically allowed as a conditional use in the RR(M)-5 zone, there must be a balance between the uses.

The Court found that the record clearly established a need for the aggregate resource in the Juniper Canyon area because the area was one of the fastest developing areas in the County and the demand for aggregate resources is and will remain high. Therefore, the Court concluded that limiting access to this resource will negatively affect the development of the entire area. In addition, the conflicting uses will be beneficiaries of the resource in that material will be available for the support and development of the conflicting uses for road, foundation and other purposes.

The Court also found that the likelihood of complaints and enforcement issues would be remote given the lack of objection by those affected within the Impact Area to the resource use and the commitment of virtually all property owners within the Impact Area (by means of waivers of remonstrance) to not challenge the use. As such, the conflicting uses, while potentially having an impact on the site, will not significantly affect the use of the site.

The site is identified as having potential and actual conflicting uses or conflicting applicable requirements of other state-wide planning goals. The Applicant contends that the proposed site should be included as an inventoried site on the Crook County Comprehensive Plan. The Applicant’s reasons are set forth in the following ESEE analysis:

### **STEP 3 – ESEE ANALYSIS of Consequences of Allowing Mining Use**

Goal 5 and its implementing Rule suggest that the consequences of allowing the Goal 5 use must then be contrasted with the consequences of allowing the conflicting uses. OAR 660-016-005 requires analysis of the economic, social, environmental and energy consequences be considered when reviewing impacts, both to and from Goal 5 resource sites.

A. **Economic Consequences.** The Crook County Comprehensive Plan has already identified some of the economic benefits from the development of aggregate resources. There are, of course, benefits to the landowner, operator and those employed by the mining operations. Central Oregon also benefits indirectly through lower priced aggregate since preserving identified mineral and aggregate resources adds to the available supply of those resources which tends to keep prices lower than prices might otherwise be. Typical impacts of mining are noise, dust, truck traffic to and from the site,

consumption of water, either from wells on-site or off-site or from irrigation ditches, employee traffic to and from the site, and other consequences that might inhibit the operation of conflicting uses within the impact area. The negative economic consequences of such impacts are typically expressed as the potential or loss in property values of nearby land uses and the wear and tear on roads over which the aggregate is transported. These are generally the objections raised in opposition to such sites.

However, the mining of the aggregate provides for well-paying employment at the resource site itself and for the transportation of the aggregate as well as contributes to the continuation of jobs at local development and construction sites. The Court also found that the particular resource is located such as to provide nearby resources in an underserved part of the County in terms of commercial aggregate material and that such material is essential to the existing demand for growth and development of the area. The Court agreed that the existence of the resource at the site will contribute to a competitive rate for material cost to those who need the resource. The Court disagreed that the use of the resource will negatively affect the County Road system, because the use will occur in any event on Juniper Canyon Road, regardless of whether the material originates from the applicant's site or from other site.

**B. Social Consequences.** The Crook County Comprehensive Plan has identified some social benefits of mining activities, including an adequate supply of high-quality aggregate to maintain and expand the Crook County road system, and the resulting employment opportunities from the mining operations.

The Plan also identifies negative social consequences which may include the loss of scenic value, reduced recreational opportunities, degradation of habitat for fish and wildlife. The Court found that the negative social consequences relate chiefly to quality of life impacts suffered by residents of the area, however, in this case there is also the existing mining operation at the Bartels Site within the Impact Area that already contributes to such consequences which must be considered. The Court heard opponent testimony describing the potential loss in value of real property values due to mining operations, however in this case there is already a mining operation in the area, and most of the residential development occurred after the County's consideration of the mining site in 2006, and those purchasing lots within Cimmaron Hills subdivision agreed to a waiver of remonstrance prohibiting objection to the mining operations of the site.

The Court also found that there was no evidence that additional truck traffic will occur as a result of its approval of the application given the fact that the use will result in a substitution of current traffic with traffic from the resource site. This continues to be true for the proposed site. In addition, there is not much remaining to mine at the Bartels Site so the mining operations will be moving towards the additional resource area. Therefore, there will not be an increase in truck traffic, rather it will remain the same.

The Court also found that there is no evidence to support a conclusion that there will be a negative effect upon the residential properties within the Impact Area in terms of

property values, in part because of the waiver of remonstrance that all of the properties within the Bartels prior ownership have agreed to be bound by.

The Court also found that there will be no scenic loss as a result of approval and that the existing vegetative material exists to protect neighbors from any unsightliness associated with the mining effort. The mining occurs below grade, and the crushing and processing will occur on the floor of the existing pit. Blasting is limited to a few days a year under the Bartels Site permit, and crushing will continue to occur only a few weeks per year as set forth in the limitations of the Bartels Site permit.

The supply of aggregate material is a positive result of approval because one result is an ample supply of material for additional residential development.

In this particular situation, there should be no significant loss of scenic value due to excavating the site. There is an existing quarry already on the property. If the Applicant is given approval to proceed, a DOGAMI permit covering the subject area will be required, and the property will have to be reclaimed once mined which will restore any scenic value.

As stated by the County Court in Ordinance 179, since adoption of Ordinance No. 43, Goal 5 Mineral and Aggregate Elements in 1990, the county has consistently approved quarry sites in locations that are visually obscured from roadways and the valley floor. This site is obscured from public view. Therefore, the ability to mitigate the visual impact to surrounding uses in this case meets the County requirements. The area is over 800 feet from Juniper Canyon Road on the west side of the existing quarry. The site itself cannot be seen from the surrounding residences. There should be negligible degradation of habitat for wildlife, if any, in the area since the site has an already existing quarry site.

There will be no reduced recreational opportunities since the land is private. The County Court also found that there was no evidence of a negative impact on any recreational resource or intended plan.

### C. Environmental Consequences.

Environmental consequences of allowing mining generally are recognized in the county's Generic ESEE, including the following:

“Many if not most of the consequences of allowing mining activities might have a negative impact on the environment. The reclamation projects which follow the mining activity [are] designed to mitigate such deleterious effects on the environment. Surface mining may reduce available cover and forage which

may cause increased competition among wildlife species for the remaining forage and cover.”

Social and environmental consequences also include the impacts of noise and dust associated with mining. The consequences of noise and dust are felt primarily by inhabitants of nearby land uses. The Court received opposition alleging that approval of the Bartels Site will lead to heavier truck traffic and air pollution. The Court rejected that argument finding that truck traffic will not be increased as the traffic generated from the applicant’s site will be serving as substitution traffic which would otherwise have to come from at least seven miles away to serve this area’s demand. Here, the applicant also does not expect to increase the number of truck loads because they are limited by the permit for the Bartels Site, and the mining operations are merely moving to new resource areas within the site while the existing Bartels Site is already mined, thus the new area is replacing the mining of the original Bartels Site pit. Therefore, the maximum number of truck trips are expected to remain the same or decrease, but certainly will not increase.

The generation of dust from the site can be mitigated through a dust management program. The applicant will continue to implement the dust mitigation program used on the Bartels Site. All fugitive dust will be controlled by seeding, mulching and/or the addition of water. The reclamation plan calls for live topsoil salvage technique, where possible, to enhance the reclamation potential of these soils. The Court found this plan was adequate to address any such concerns.

Again, the Plan has recognized some negative environmental consequences of allowing mining, including reduction of available cover and forage, relocation of some wildlife, and increased traffic associated with mining. The foregoing analysis regarding these issues is incorporated herein by this reference. The proposed excavation site is unirrigated juniper and sagebrush, and is not used for any pasture or farm uses.

The Court also found that there is a positive environmental consequence in that the applicant will operate only pursuant to a permit from the Department of Geology and Mining Industries. Such a permit requires reclamation of the land and will improve upon the current unreclaimed mining area.

Ultimately, the Court found that while some negative consequences will result from the use of the resource, such consequences can be mitigated and that the overall impact of the use will be environmentally beneficial. The consequences of the additional area are similar.

**D. Energy Consequences.**

Energy consequences of allowing mining are also recognized in the County’s Generic ESEE, including the following:



“Increase in energy consumption might also apply to the fact that more of the transportation system might need upgrading and rehabilitating.”

The location of this Goal 5 Resource is uniquely situated to positively affect energy consequences. The Court noted that the Juniper Canyon area is one of the areas, if not the most rapidly developing areas in Crook County. Currently aggregate material must be hauled at least seven miles to reach applicant’s resource. Other sources of aggregate are located even farther from the demand area. Use of the applicant’s source will significantly decrease trip mileage of loaded trucks on at least this seven-mile section of County Road and will decrease burden on other County Roads over which more distance source materials would be transported. Decreasing loaded traffic will help sustain the life of County Roads and decrease the need to consume energy in their repair.

Further, the relative proximity of the applicant’s resource to the sites currently under development in the Juniper canyon area will allow for decreased travel time, leading to less fuel consumption and achieve a positive energy result by such conservation. The Court found, as did the Planning Commission, that there was no negative impact that occurs with respect to energy consequences.

#### **STEP 4 – PROGRAM TO ACHIEVE GOAL 5**

Based upon this analysis, the Applicant’s contention is that there are potential and actual conflicting uses within the impact area that can be identified. However, through the Applicant’s program to achieve the goal, these conflicts can be mitigated. Therefore, the Applicant is requesting that this site be added to the Bartels Site as a significant 1C site.

#### **COMPLIANCE WITH OTHER STATEWIDE PLANNING GOALS**

ORS 197.175(2)(a) requires that Plan Amendments be adopted in compliance with Statewide Planning Goals. The Goal 5 Rule alludes to consideration of Planning Goals as part of the analysis of allowing conflicting uses to the Goal 5 Resources use. Therefore, the Goals provide independent standards against which to assess the propriety of the Plan Amendment.

#### **Goal 1: Citizen Involvement**

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Goal 1 requires local governments to adopt and administer programs to assure citizen involvement in the land use planning process. In this application process, there is opportunity for citizen involvement in public meetings and through written testimony.

## **Goal 2: Land Use Planning**

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Goal 2 requires that Crook County establish a factual basis for its decisions and ensure that such decisions are coordinated with the appropriate governmental agencies. The county's Comprehensive Plan is consistent with the Statewide Planning Goals and has been acknowledged by the Land Conservation and Development Commission (LCDC). Notice and coordination with appropriate government agencies will occur according to the county's Comprehensive Plan and its implementing Ordinance and Regulations.

## **Goal 3: Agricultural Land**

*To preserve and maintain agricultural land.*

This Goal requires Comprehensive Plans to provide for the preservation and maintenance of agricultural lands. The site and the surrounding area is zoned RR(M)-5 and, therefore, Goal 3 is not applicable. There is adjacent land within the Impact Area that is used for agricultural purposes, but the owner of that property has no objection to the use of the resource. The Court finds that no Goal 3 values are adversely affected.

## **Goal 4: Forest Lands**

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

There are no forestlands on or near the subject site.

## **Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources**

*To conserve open space and protect natural and scenic resources.*

Goal 5 requires plans to conserve open space and protect natural and scenic resources. The Court found that the only Goal 5 Resource listed for the site is the listing of mineral and aggregate resources. Similar to the Court finding in Ord. 179, the rim rock set back requirements do not apply to this parcel either, nor is this property adjacent to Juniper Canyon or is in any way affected by any scenic resources identified in County inventories or maps. There is evidence that the property is in the General Deer Winter Range, but like in the Bartels Site application, the

subject parcel is not irrigated; and is already disturbed by the surrounding residential uses and mining activity on the adjacent parcel and is not used by wildlife.

Like the Court finding in Ord. 179, allowing use of the resource will not negatively affect Goal 5 values.

**Goal 6: Air, Water and Land Resources Quality**

*To maintain and improve the quality of the air, water and land resources of the state.*

Goal 6 raises the issue of whether the proposed mining operation would violate or threaten to violate applicable State or Federal Environmental Quality Statutes, Rules and Standards. Specifically, the impact of the mine in regards to noise, air and water pollution. The applicant must comply with State and Federal Regulations including, Department of Environmental Quality; Oregon Department of Fish and Wildlife; Oregon Department of Water Resources; and DOGAMI. DOGAMI issues the applicable State Regulatory Permits to authorize mining activities. DEQ issues the Erosion Control Permit under the National Pollution Discharge Elimination System. DEQ also issues the Air Contaminant Discharge Permit. These permits must be obtained from the appropriate agencies.

Noise must also be considered and has been addressed as a part of the Goal 5 Analysis above. To the extent legally required, Applicant will be required to comply with DEQ Noise Standards and will be subject to the imposition of appropriate mitigation measures, including monitoring the site to assure ongoing compliance. Compliance with all applicable regulatory requirements is a condition imposed on permit approval for the mining use.

**Goal 7: Areas Subject To Natural Disasters and Hazards/NOT APPLICABLE**

**Goal 8: Recreational Needs**

*To satisfy the recreational needs of the citizens of the state and visitors and where appropriate, to provide for the citing of necessary recreational facilities, including destination resorts.*

Goal 8 requires local governments to plan for the recreational needs of its citizens. The proposed mine site does not include existing recreational facilities. In addition, there are no public recreation facilities known within the impact area.

**Goal 9: Economic Development/NOT APPLICABLE**

**Goal 10: Housing**

*To provide for the housing needs of citizens of the state.*

The subject parcel is landlocked, and the active mine and 30' cut wall in the Bartels mining pit prevent the applicant from taking residential access across that parcel to Juniper Canyon Road. Therefore, there is no feasible access to the parcel. Without access is not suitable for housing and is not "buildable land". Use of the site for mining will, therefore, not reduce the areas available for housing. After combining the parcel with the Bartel Site located on Tax Lot 400, and reclamation of the sites is complete, the parcel may be buildable.

**Goal 11: Public Facilities and Services/NOT APPLICABLE**

**Goal 12: Transportation**

*To provide and encourage a safe, convenient and economic transportation system.*

Safety issues on Juniper Canyon Road caused by additional traffic using the subject site for access to the road, including site distances, is always a concern. However, the existing access to the mine will continue to be the point of access, and has proven not to be problematic. The number of truck trips will not increase, but the additional mining activity will operate within the parameters of the Bartels Site mining operation. The only change is to expand the Bartels Site to add additional resource that is available to mine. Therefore, the traffic entering and exiting the site will not increase the traffic on the road itself, and as stated in the Bartels Site approval, the traffic will be in substitution of traffic that would otherwise be present. The use of Juniper Canyon Road will continue to be "safe and adequate" use of the transportation system. Approval of the application will decrease heavy truck traffic on Lower Juniper Canyon Road, thereby decreasing deterioration of that part of the roadway and will cause shorter transportation distances in the delivery of heavy aggregate to sites where its use is required, leading to a safer, more convenient and economic transportation system.

**Goal 13: Energy Conservation**

*To conserve energy.*

Goal 13 requires that land and uses developed on the land be managed and controlled to maximize the conservation of all forms of energy. As indicated above, due to the shortening of travel distances for trucks hauling aggregate materials to construction and development sites, and decreased heavy truck travel on the approximately seven miles of County Road leading from Prineville to the site, which will lead to a decrease in the need to expend energy for road construction and road improvements on Juniper Canyon Road, approval of the application will lead to energy conservation, like the Court found in its approval of the Bartels Site.

**Goal 14: Urbanization/NOT APPLICABLE**

**Goal 15: Willamette River Greenway/NOT APPLICABLE**

**Goal 16: Estuarine Resources/NOT APPLICABLE**

**Goal 17: Costal Shore Land/NOT APPLICABLE**

**Goal 18: Beaches and Dunes/NOT APPLICABLE**

**Goal 19: Ocean Resources/NOT APPLICABLE**

**B. SUMMARY**

The Applicant believes that compliance with all applicable goals, polices, criteria and standards has been demonstrated. Therefore, the Comprehensive Plan should be amended to include the site on the inventory of mineral and aggregate resources, and mining should be allowed at the site in accordance with the submitted plan. However, the Applicant will gladly provide any additional information deemed necessary to facilitate the County's review of the project.

Respectfully submitted this 29<sup>th</sup> day of March, 2024.



Lisa Andrach OSB# 040012  
Attorney for Applicant

**EXHIBITS:** The Applicant submits the following material in support of this proposal:

1. Tax Map
2. Tax Lot Card 16-16-12 Lot 500 (Account 2403)
3. Aerial Image
4. Impact Area measured 1500 feet from property boundaries
5. Statutory Warranty Deed
6. Oregon Secretary of State Business Entity Data for Greenbar Excavation LLC
7. Topographic Survey and Volumetric Analysis of Proposed Completed Excavation of the Existing Rock Pit located on Parcel of PP 204-11, and Lot 15 of Phase 2 of the Cimmaron Hills Subdivision, Located in the NW ¼ of Section 12, T.16S., R.16E., W.M., Crook County, Oregon.
8. WTI -Watkins Testing & Inspection, Geotechnical & Construction Services. Letter regarding test results.
9. Maximum Density of Aggregate Base Materials (WTI)
10. Field Worksheet for Aggregate
11. WTI-Dry Creek Aggregate Results of ODOT TM 208 Laboratory Tests
12. WTI- Dry Creek Aggregate Results of AASHTO T96 Abrasion Laboratory Tests
13. Greenbar Excavation Test Drill – Borehole Log

14. Bartels Site Report - Aggregate Resource Investigation (Geotechnical Survey) of the site prepared by Carlson Geotechnical, including a Quantity/Quality Assessment of mineral resources on the site.
15. Crook County Planning Commission Recommendation No. C-CPA-007-05 re Bartels Site
16. Crook County Court Ordinance 172 adding Bartels Site as a 1-C to Inventory
17. Crook County Court Ordinance 179 ESEE analysis of Bartels Site
18. Survey of Bartels Site quarry site

## **GREENBAR EXCAVATION, LLC**

### **EXHIBITS**

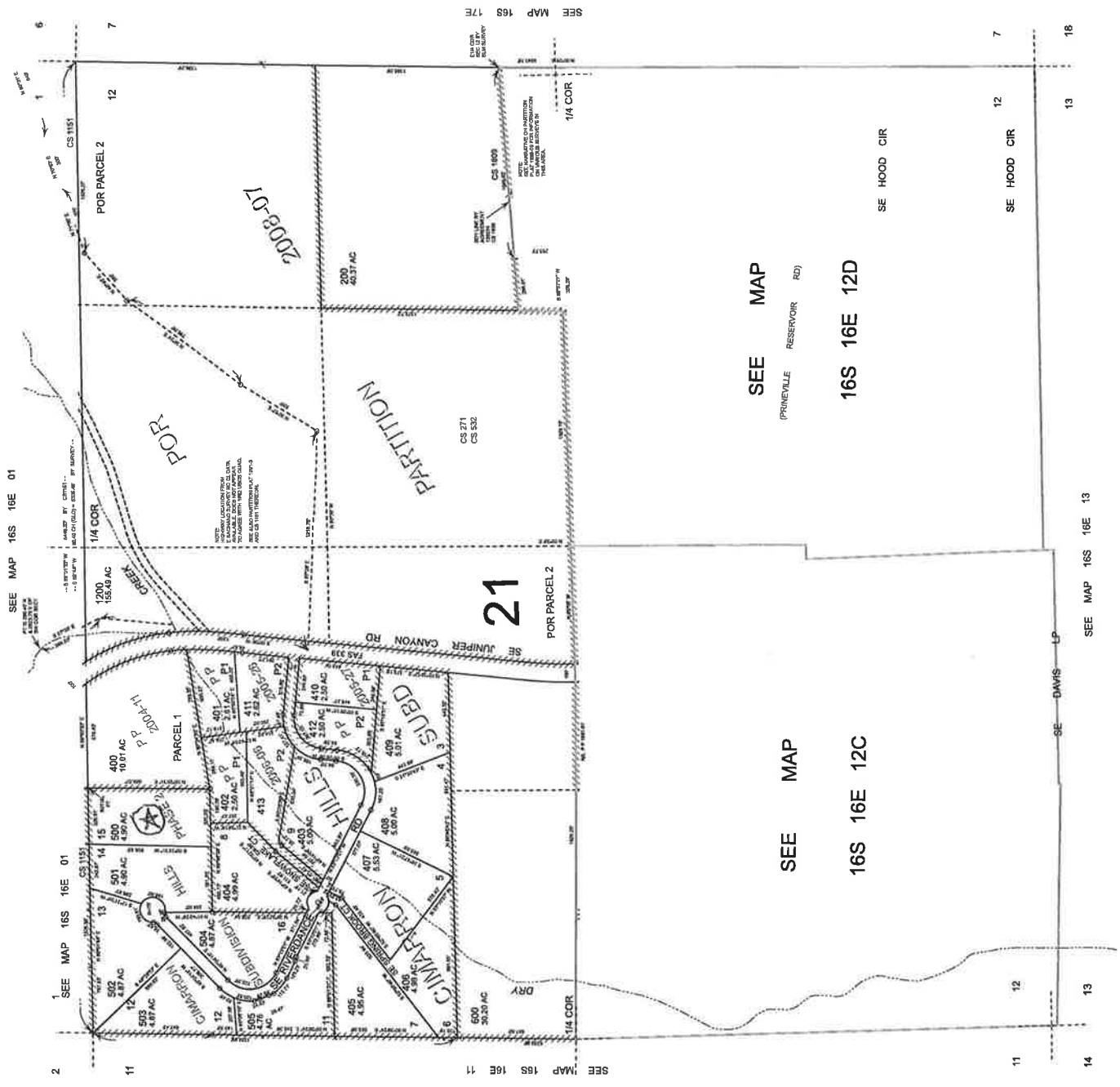
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17. Crook County Court Ordinance 179 ESEE analysis of Bartels Site
18. Survey of Bartels Site quarry site

SECTION 12 T.16S. R.16E. W.M.  
CROOK COUNTY

1" = 400'



THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

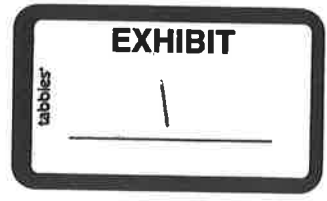


SEE MAP  
(PRINEVILLE RESERVOIR RD)

16S 16E 12D

SEE MAP

16S 16E 12C





OFFICIAL RECORD OF DESCRIPTIONS  
OF REAL PROPERTY  
COUNTY ASSESSOR'S OFFICE

16	16	12		500		29
TWP.	RGE.	SEC.	1/4	1/16	PARCEL NUMBER	TYPE SPEC. INT. IN REAL PROP.
MAP NUMBER				TAX LOT NUMBER	CODE AREA NUMBER	

CROOK

FORMERLY PART OF 16 16 101

INDENT EACH NEW COURSE TO THIS POINT	2403	DESCRIPTION AND RECORD OF CHANGE	RRM2	DATE OF ENTRY ON THIS CARD	DEED RECORD		ACRES REMAINING
					VOL.	PG.	
		T16S R16E WM					
		Sec 12 : N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ ; SW $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$					
		Cox, Joe A. & Clarice				MF19053	
		% Anderton, Clinton W. & Anne B. V#25972 non-contig RNC		11-12-74		MF19939 #1197	30.60
		Cox, Clarice V37030	Decree	10-26-78	CC	11213	
			D Cert	10-26-78	MF	27140	
			Circuit Court	6-25-79	MF	50635	
		Cox, Clarice					
		% Horner, Frank J. V#60286 Memo. Contract		10-5-90	MF#	95350	
		Cox, Clarice, Trustee					
		% Horner, Frank J. V#60316	WD	10-15-90	MF#	96408	
		Cox, Clarice, Trustee					
		% Horner, Frank J.					
		% Hedgecoke, Dale S. V#63555	CONT.	4-14-92	MF#	103258	
			RNC	4-14-92		#2917	
		Cox, Clarice Trustee					
		% Horner, Frank J.					
		% Miller, Jerry J. & Frances J.	ASSIGN	04-06-94	MF#	114406	
		Cox, Clarice Trustee					
		% Horner, Frank J.					
		% Miller, Jerry J., Miller, Frances J., Gibney, Gary D.	B&SD	12-29-95	MF#	124390	
		COX, Clarice TRUSTEE					
		% MILLER, Jerry J; MILLER, Frances J; GIBNEY, Gary D	WD	6-5-96	MF	127798	
		Annex to Crook County Rural Fire Protection District #1 Taxing Zone 3	Order #97-13	4-29-99	MF	136144	
		Miller, Jerry J & Miller, Frances J & Gibney, Gary D	PW	1-31-06	MF	207747	
		Bartels, Richard L	SW	1-31-06	MF	207748	
		LLA from Parcel 404 of 0.01 Acres.	0.01 BS	1/19/2007	MF	209041	30.61

EXHIBIT  
2

**OFFICIAL RECORD OF DESCRIPTIONS  
OF REAL PROPERTY  
COUNTY ASSESSOR'S OFFICE**

16S	16E	12	1/4	1/16	500			21
TWP.	RGE.	SEC.			PARCEL NUMBER	TYPE	SPEC. INT. IN REAL PROP.	CODE AREA NUMBER
MAP NUMBER					TAX LOT NUMBER			

*Crook*  
FORMERLY PART OF **16S16E12 404**

INDENT EACH NEW COURSE TO THIS POINT	<b>2403</b>	DESCRIPTION AND RECORD OF CHANGE	DATE OF ENTRY ON THIS CARD	DEED RECORD VOL.	PG.	ACRES REMAINING
--------------------------------------	-------------	----------------------------------	----------------------------	------------------	-----	-----------------

ALSO: Por of Lot 8 desc as follows:  
 Beg at SW cor sd Lot 8;  
 th N00°32'28"E 62.86' alg W/L sd Lot 8;  
 th S63°13'01"E 29.72' to Nly/L Riverdance Rd.;  
 th alg sd R/W on 60.00' Rad. C.L. 58.73' to POB.

Ac Corr.

0.68 SUB 5/3/2007 MF219604 31.29

Revised Desc

SUB 5/3/2007 5/3/2007

Cimarron Hills Subdivision Phase 2  
 Lots 11-16

EXC: Parcels 501-505 (Lots 11-14, 16)

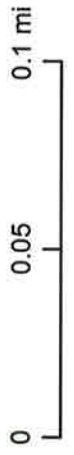
-26.39 SUB 5/3/2007 5/3/2007 4.90

*(This is Lot 15)*

AGREE 1-28-08 MF219781

Release 4-23-18 285594

# Crook County, Oregon



MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR  
IMPLIED, AS TO THE ACCURACY, COMPLETENESS, FITNESS FOR A PARTICULAR  
PURPOSE, OR MERCHANTABILITY OF ANY DATA OR INFORMATION PROVIDED  
HEREIN. THE COUNTY IS NOT RESPONSIBLE FOR POSSIBLE  
DAMAGE TO PROPERTY OR PERSONS, OR FOR ANY LOSS OF DATA OR INFORMATION,  
OR FOR ANY DELAY IN OPERATION, OR FOR ANY OTHER DAMAGE, DIRECT OR  
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RISKS OF ANY DAMAGE TO DATA OR INFORMATION, AND ASSUMES ALL  
LIABILITIES OF ANY KIND. (M-1) 416-3370.

tabbles

**EXHIBIT**

3






THIS SPACE RESERVED FOR RECORDER'S USE

After recording return to:  
Greenbar Excavation LLC  
PO Box 7  
Prineville, OR 97754

Until a change is requested all tax statements shall be sent to the following address:  
Greenbar Excavation LLC  
PO Box 7  
Prineville, OR 97754  
File No. 596681AM

Crook County Official Records	<b>2023-322953</b>
DEED-D	<b>07/06/2023 01:37:01 PM</b>
Pgs=3	\$104.00
\$15.00 \$2.00 \$11.00 \$10.00 \$61.00	
\$5.00	
I, Cheryl Seely, County Clerk for Crook County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Cheryl Seely - County Clerk	



**STATUTORY WARRANTY DEED**

**Richard W. Bartels and Harry E. Bither IV, co-Trustees of the Dick Bartels Trust, dated April 3, 2023,**  
Grantor(s), hereby convey and warrant to

**Greenbar Excavation LLC,**

Grantee(s), the following described real property in the County of Crook and State of Oregon free of encumbrances except as specifically set forth herein:

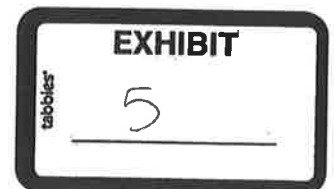
**Lot 15 of Cimarron Hills Subdivision - Phase 2, according to the official plat thereof, recorded March 13, 2007 as Instrument No. 2007-219604 records of Crook County, Oregon.**

FOR INFORMATION PURPOSES ONLY, THE MAP/TAX ACCT #(S) ARE REFERENCED HERE:

**1616120000500 2403**

The true and actual consideration for this conveyance is \$125,000.00.  
The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

**2023-2024 Real Property Taxes, a lien not yet due and payable**



BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.


Dated this 5 day of July 2023.

The Dick Bartels Trust

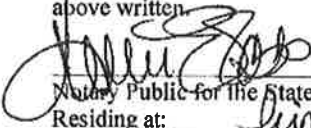
  
Richard W. Bartels, Co-Trustees

Harry E. Bither, IV, Co-Trustees

State of Oregon} ss.  
County of Crook}

On this 5 day of July, 2023, before me,  a Notary Public in and for said state, personally appeared Richard W. Bartels known or identified to me to be the person whose name is subscribed to the foregoing instrument as trustee of The Dick Bartels Trust, and acknowledged to me that he/she/they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

  
Notary Public for the State of Oregon»  
Residing at: Lincoln  
Commission Expires: 12/8/2023



State of Oregon} ss.  
County of \_\_\_\_\_ }

On this \_\_\_\_\_ day of July 2023, before me, \_\_\_\_\_ a Notary Public in and for said state, personally appeared Harry E. Bither, IV known or identified to me to be the person whose name is subscribed to the foregoing instrument as trustee of The Dick Bartels Trust, and acknowledged to me that he/she/they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

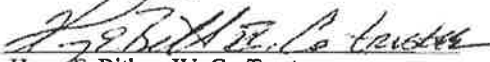
Notary Public for the State of Oregon»  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

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Dated this 5<sup>th</sup> day of July, 2023.

The Dick Bartels Trust

Richard W. Bartels, Co-Trustees



Harry E. Bither, IV, Co-Trustees

State of Oregon} ss.

County of Crook}

On this \_\_\_\_\_ day of July, 2023, before me, \_\_\_\_\_ a Notary Public in and for said state, personally appeared Richard W. Bartels known or identified to me to be the person whose name is subscribed to the foregoing instrument as trustee of The Dick Bartels Trust, and acknowledged to me that he/she/they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for the State of Oregon»

Residing at: \_\_\_\_\_

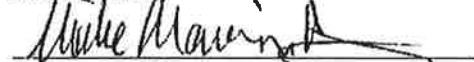
Commission Expires: \_\_\_\_\_

State of Oregon} ss.

County of Umatilla }

On this 5<sup>th</sup> day of July 2023, before me, MIKE MARVIN NUNEZ a Notary Public in and for said state, personally appeared Harry E. Bither, IV known or identified to me to be the person whose name is subscribed to the foregoing instrument as trustee of The Dick Bartels Trust, and acknowledged to me that he/she/they executed the same as Trustee.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for the State of Oregon»

Residing at: HERALSTON, OR

Commission Expires: 3-23-25



HOME

OREGON SECRETARY OF STATE  
Corporation Division



- Business Xpress
- business name search
- oregon business guide
- license directory
- business registry/renewal
- forms/fees
- notary public
- uniform commercial code
- uniform commercial code search
- documents & data services

### Business Name Search

[New Search](#)

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### Business Entity Data

03-26-2024  
15:17

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
1468892-90	DLLC	ACT	OREGON	08-17-2018	08-17-2024	
Entity Name	GREENBAR EXCAVATION LLC					
Foreign Name						

[New Search](#)

[Printer Friendly](#)

### Associated Names

Type	PRINCIPAL PLACE OF BUSINESS					
Addr 1	1426 NW MURPHY CT					
Addr 2						
CSZ	PRINEVILLE	OR	97754		Country	UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

Type	AGT REGISTERED AGENT			Start Date	08-17-2018	Resign Date
Name	TANNER	OLE	BROWN			
Addr 1	1426 NW MURPHY CT					
Addr 2						
CSZ	PRINEVILLE	OR	97754		Country	UNITED STATES OF AMERICA

Type	MAL MAILING ADDRESS					
Addr 1	PO BOX 7					
Addr 2						
CSZ	PRINEVILLE	OR	97754		Country	UNITED STATES OF AMERICA

Type	MEM MEMBER			Resign Date	
Name	TANNER	OLE	BROWN		
Addr 1	684 NE IDLEWOOD ST				
Addr 2					
CSZ	PRINEVILLE	OR	97754	Country	UNITED STATES OF AMERICA

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### Name History











Business Entity Name	<a href="#">Name Type</a>	<a href="#">Name Status</a>	Start Date	End Date
GREENBAR EXCAVATION LLC	EN	CUR	08-17-2018	

Please [read](#) before ordering [Copies](#).

[New Search](#)

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### Summary History

Image Available	Action	Transaction Date	Effective Date	<a href="#">Status</a>	Name/Agent Change	Dissolved By
	AMENDED ANNUAL REPORT	07-20-2023		FI		
	AMENDED ANNUAL REPORT	07-06-2022		FI		
	AMENDED ANNUAL REPORT	07-06-2021		FI		
	AMENDED ANNUAL REPORT	07-13-2020		FI		
	AMENDED ANNUAL REPORT	07-25-2019		FI		
	ARTICLES OF ORGANIZATION	08-17-2018		FI	Agent	

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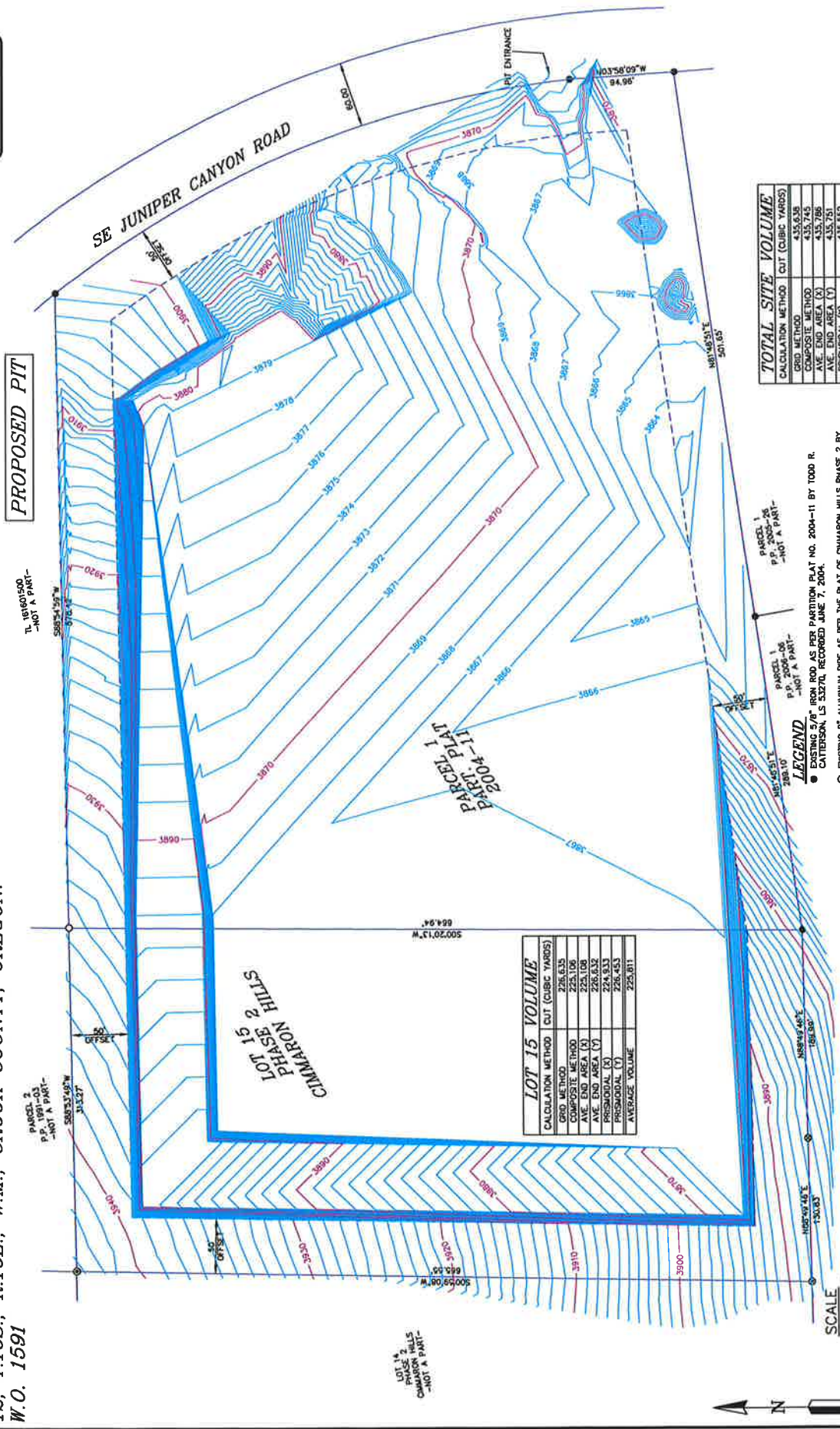
For comments or suggestions regarding the operation of this site, please contact : [corporation.division@sos.oregon.gov](mailto:corporation.division@sos.oregon.gov)

**TOPOGRAPHIC SURVEY AND VOLUMETRIC ANALYSIS OF THE PROPOSED COMPLETED EXCAVATION OF THE EXISTING ROCK PIT LOCATED ON PARCEL 1 OF PARTITION PLAT 2004-11 AND LOT 15 OF PHASE 2 OF THE CIMMARON HILLS SUBDIVISION, LOCATED IN THE NW1/4 OF SECTION 12, T.16S., R.16E., W.M., CROOK COUNTY, OREGON.**  
**W.O. 1591**

**SURVEY FOR**  
 GREENBAR EXCAVATION  
 P.O. BOX 7  
 PRINEVILLE, OR 97754  
 (541) 530-6647

**SURVEY BY**  
 WELSO LAND SURVEYING, LLC  
 765 NW THIRD STREET  
 PRINEVILLE, OR 97754  
 (541) 430-8657

CREATED  
 JANUARY 21, 2022  
 CROOK COUNTY, OREGON



**LOT 15 VOLUME**

CALCULATION METHOD	CUT (CUBIC YARDS)
GRID METHOD	2756.613
COMPOSITE METHOD	2255.106
AVE. END AREA (A)	225.106
PRISMOIDAL (X)	226.632
PRISMOIDAL (Y)	224.933
PRISMOIDAL (Z)	226.453
AVERAGE VOLUME	225.011

**TOTAL SITE VOLUME**

CALCULATION METHOD	CUT (CUBIC YARDS)
GRID METHOD	435,638
COMPOSITE METHOD	435,788
AVE. END AREA (A)	435,788
PRISMOIDAL (X)	435,552
PRISMOIDAL (Y)	435,554
AVERAGE VOLUME	435,671

- LEGEND**
- EXISTING 2 1/2" IRON ROD AS PER PARTITION PLAT NO. 2004-11 BY TODD R. CATTERSON, LS 53276, RECORDED JUNE 7, 2004.
  - EXISTING 2" ALUMINUM PIPE AS PER THE PLAT OF CIMMARON HILLS PHASE 2 BY TODD R. CATTERSON, LS 53276, RECORDED MARCH 13, 2007.
  - ⊗ EXISTING 5/8" IRON ROD WITH YELLOW PLASTIC CAP AS PER THE PLAT OF CIMMARON HILLS PHASE 2 BY TODD R. CATTERSON, LS 53276, RECORDED MARCH 13, 2007.
  - ⊙ EXISTING 3/8" IRON ROD WITH YELLOW PLASTIC CAP AS PER THE PLAT OF CIMMARON HILLS PHASE 1 BY TODD R. CATTERSON, LS 3276, RECORDED MAY 19, 2005.



SHEET 1 OF 1  
 W.O. 1591

**EXHIBIT**  
 7  
 Tables



WATKINS TESTING & INSPECTION

Geotechnical & Construction Services

Tanner Brown  
1426 NW Murphy Ct.  
Prineville, Oregon 97754

October 26, 2023

Dear Mr. Brown,

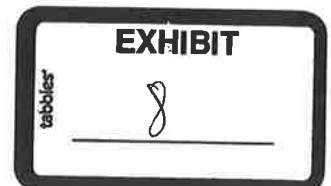
This letter represents a brief summary of the laboratory testing that Watkins Testing & Inspection (WTI) conducted on the 3/4" Base aggregate produced at the Dry Creek Aggregate Pit located at 10955 SE Juniper Canyon Rd., Prineville Oregon 97754.

1. AASHTO T99 Proctor. Sample was collected on May 25, 2023 from a stockpile located at the "Dry Creek Aggregate Pit", sample was returned to WTI laboratory and processed for Maximum Density and Optimum moisture content according to AASHTO T99 test procedures.
2. AASHTO T27 Sieve Analysis, Sample was collected on June 21, 2022 from a stockpile located at the "Dry Creek Aggregate Pit", sample was returned to WTI laboratory and processed for Sieve Analysis results according to AASHTO T27 test procedures.
3. AASHTO T96 Los Angeles Abrasion test (hardness test). Sample was collected on June 21, 2022 from a stockpile located at the "Dry Canyon Aggregate Pit", sample was packaged and sent to Oregon Department of Transportation main laboratory located in Salem, Oregon where it was processed for hardness test according to AASHTO T96 test procedures.
4. ODOT TM208 Degradation test. Sample was collected on June 21, 2022 from a stockpile located at the "Dry Creek Aggregate Pit", sample was packaged and sent to Oregon Department of Transportation main laboratory located in Salem, Oregon where it was processed for degradation results according to ODOT TM208 test procedures.

All the above test results exceeded Oregon Department of Transportation specifications for 3/4" Base Aggregate.

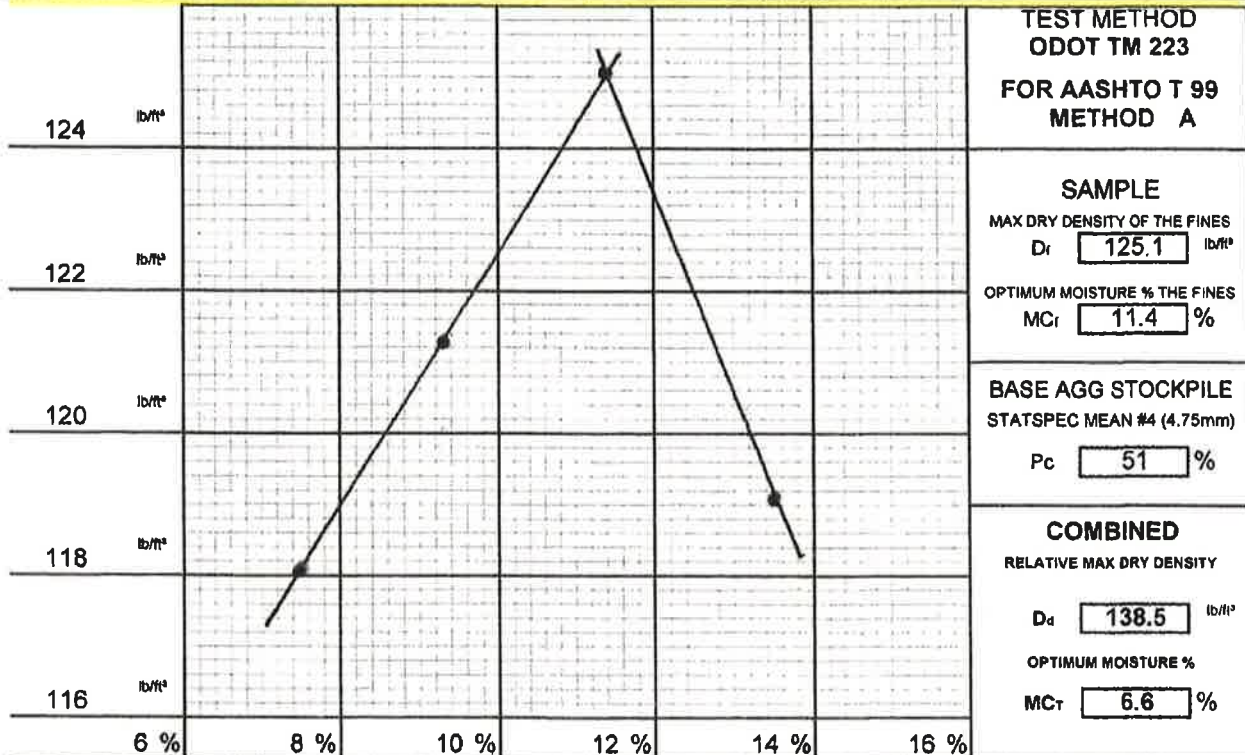
Sincerely,  
Watkins Testing & Inspection

Ron Watkins/President



# MAXIMUM DENSITY OF AGGREGATE BASE MATERIALS E English (E) or Metric (M)

PROJECT NAME (SECTION) <b>Dry Creek Aggregate Misc.</b>					CONTRACT NUMBER <b>122080</b>	
CONTRACTOR OR SUPPLIER <b>Dry Creek Aggregate</b>			PROJECT MANAGER <b>n/a</b>		BID ITEM NUMBER <b>Lab#715</b>	
SOURCE NAME <b>Dry Creek Aggregate Pit</b>			SOURCE NUMBER <b>n/a</b>		MATERIAL SIZE <b>3/4"</b>	
TEST NO <b>1</b>	DATE <b>5/25/2022</b>	TIME <b>3:30PM</b>	SAMPLED AT <b>Pit</b>	MATERIAL DESCRIPTION <b>3/4" Base Aggregate</b>	TO BE USED IN <b>Varies</b>	



**TEST METHOD**  
ODOT TM 223  
FOR AASHTO T 99  
METHOD A

**SAMPLE**  
MAX DRY DENSITY OF THE FINES  
D<sub>r</sub> 125.1 lb/ft<sup>3</sup>  
OPTIMUM MOISTURE % THE FINES  
MC<sub>r</sub> 11.4 %

**BASE AGG STOCKPILE**  
STATSPEC MEAN #4 (4.75mm)  
P<sub>c</sub> 51 %

**COMBINED**  
RELATIVE MAX DRY DENSITY  
D<sub>d</sub> 138.5 lb/ft<sup>3</sup>  
OPTIMUM MOISTURE %  
MC<sub>T</sub> 6.6 %

TEST NO	MASS OF MOLD AND MATERIALS (grams)	MASS OF MOLD (grams)	(M) MASS OF WET MATERIAL	(WD) WET DENSITY lb/ft <sup>3</sup>	OVEN MOISTURE % AASHTO T255 / 265				(D) DRY DENSITY lb/ft <sup>3</sup>	MOLD FACTOR
					Pan Tare (t)	WET(a)	DRY(b)	% M (m)		
1	6121.2	4201.2	1920.0	127	22.4	514.3	479.9	7.5	118.1	0.06614  4" MOLD = 0.06614 101.6mm MOLD = 1.060 WD = (M) x MOLD FACTOR
2	6205.9	4201.2	2004.7	132.6	22.7	488.0	448.5	9.3	121.3	
3	6308.7	4201.2	2107.5	139.4	22.8	562.8	507.6	11.4	125.1	
4	6245.4	4201.2	2044.2	135.2	22.5	595.7	527.7	13.5	119.1	
5										OVEN MOISTURE % (a) - (b) (b) - (t) X100  (D) = $\frac{(WD)}{(m)+100}$ X100
6										
7										
8										

AASHTO T85 SPECIFIC GRAVITY OF COARSE AGGREGATE	Oven Dry Mass (A)	SSD Mass (B)	Weight in Water (C)	G <sub>sb</sub> (A) / [(B)-(C)]	G <sub>sb</sub> SSD (B) / [(B)-(C)]	G <sub>sa</sub> (A) / [(A)-(C)]	ABSORPTION [(B)-(A)]/(A) X 100
	2939.9	2994.4	1925.7	2.751	2.802	2.899	1.9

**ODOT TM 223**  
COARSE PARTICLE CORRECTION      P<sub>r</sub> = 100 - P<sub>c</sub>      k = G<sub>sb</sub> x 62.4      MC<sub>c</sub> = ABSORPTION OR MOISTURE

$$100 / ((P_f / D_f) + (P_c / (k \times 0.9))) = D_d$$

$$100 / (((49 / 125.1) + (51 / 154.5))) = D_d$$

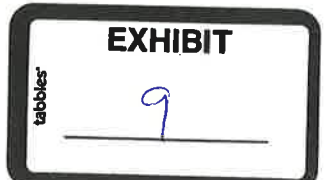
$$100 / ((0.39169) + (0.33010)) = 138.5$$

$$((MC_f \times P_f) + (MC_c \times P_c)) / 100 = MC_T$$

$$((11.4 \times 49) + (1.9 \times 51)) / 100 = MC_T$$

$$((558.6) + (96.9)) / 100 = 6.6$$

<input checked="" type="checkbox"/> QUALITY CONTROL	<input type="checkbox"/> INDEPENDENT ASSURANCE
CERTIFIED TECHNICIAN (PLEASE PRINT) AND CARD NUMBER <b>Ron Watkins #41203</b>	COMPANY NAME <b>WTI</b>
SIGNATURE 	DATE <b>6/29/22</b>



# FIELD WORKSHEET FOR AGGREGATE

**E** English (E) or Metric (M)

PROJECT NAME (SECTION) <b>Dry Creek Aggregate Misc.</b>				CONTRACT NUMBER <b>122080a</b>	
CONTRACTOR OR SUPPLIER <b>Dry Creek Aggregate</b>			PROJECT MANAGER <b>N/A</b>		BID ITEM NUMBER <b>Lab#731</b>
SOURCE NAME <b>Dry Creek Aggregate Pit</b>			SOURCE NUMBER <b>N/A</b>		MATERIAL SIZE <b>3/4"</b>
TEST NO <b>1</b>	DATE <b>6/21/2022</b>	TIME <b>3:30PM</b>	SAMPLED AT <b>Stockpile</b>		TO BE USED IN <b>Misc.</b>

SIEVE SIZE	SIEVE LIMITS	SIEVE ANALYSIS AASHTO T27/11							FM CUMULATIVE % RETAINED
		MASS 1	MASS 2	MASS 3	MASS 4	TOTAL MASS	% RET	% PASS	
1"	100	0.0	0.0			0.0	0.0	100	
3/4"	90-100	64.4	106.3			170.7	3.0	97	
1/2"		463.0	389.3			852.3	14.8	82	
3/8"	55-75	342.8	223.1			565.9	9.8	72	
1/4"	40-60	476.1	399.3			875.4	15.2	57	
#4		289.3	189.3			478.6	8.3	49	
#10		651.8	501.2			1153.0	20.0	29	
PAN	---	808.9	871.3			1680.2	29.1		

**B = INITIAL DRY MASS: 5776.1      D = MASS AFTER SIEVING: 5776.1**

SIEVE SIZE	SIEVE LIMITS	FRACTURE % METHOD 2 AASHTO T 335				ELONGATED PIECES	
		FRAC MASS (F)	QUESTIONABLE MASS (Q)	NON FRAC MASS (N)	INDIVIDUAL FRAC %	TEST MASS	ELONG MASS

SE T 176			
1	2	3	Sample
4.1	3.9	3.9	Clay
2.4	2.2	2.1	Sand
59	57	54	S.E.
AVG.	57	SPEC	30>
PAN TARE			0.0
WET MASS & PAN			5831.8
DRY MASS & PAN			5776.1
AFTER WASH DRY MASS & PAN			

C = AFTER WASH DRY MASS & PAN - PAN      B = DRY MASS & PAN - PAN       DRY       WET      WAQTC AASHTO T-27/T11  
 A = WET MASS & PAN - PAN      RESULT SPEC       Round       Square       Rectangle      12" Size

Fracture % Method 1	T 335	
Wood Waste	TM225	
Cleanness Value	TM 227	
Flat & Elongated	TM 229	
Fineness Modulus	T 27/T11	
MOISTURE % = ((A-B) / B) X 100	1.0%	
SIEVE LOSS % = ((C-D) / C) X 100		
(#10 / 1/4") x 100	51%	40-60

REMARKS

<input checked="" type="checkbox"/> QUALITY CONTROL	<input type="checkbox"/> VERIFICATION	<input type="checkbox"/> INDEPENDENT ASSURANCE
CERTIFIED TECHNICIAN (PLEASE PRINT) AND CARD NUMBER <b>Ron Watkins #41203</b>	COMPANY NAME <b>WTI</b>	SIGNATURE  DATE <b>6/24/22</b>

**EXHIBIT**

tabbies

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WATKINS TESTING & INSPECTION

Geotechnical & Construction Services

Tanner Brown  
Dry Creek Aggregate  
Prineville, Oregon

July 12, 2022  
WTI Project No.122115

DRY CREEK AGGREGATE  
10955 SE Juniper Canyon Rd.  
Prineville, Oregon

**Subject:** Results of ODOT TM 208 Laboratory Tests

Dear, Mr. Brown,

We have received your ODOT "TM 208 Degradation results, this letter represents the results of a single laboratory test representing a sample of base aggregate that was sampled by a Watkins Testing & Inspection representative on June 21, 2022. Details regarding the sample and result are provided below.

- Sample Type: Crushed basalt, Base Aggregate.
- Sample Date: June 21, 2022.
- Sampled by WTI Representative Ron Watkins, ODOT Cert.#41203.
- Source Name: Dry Creek Aggregate, Prineville Oregon.
- Source Number: N/A
- Test ran by Oregon Department of Transportation materials laboratory, Salem Oregon, ODOT Lab#22-001427.

**Results:**

Degradation ODOT TM208 (coarse aggregate) Sediment Height 0.9 in., Passing No. 20 sieve 10.8%.

**Comments:**

Sample passed Oregon Department of Transportation (ODOT) TM208 Degradation specification for base aggregate, maximum allowed sediment height 3.0 in., Passing No. 20 sieve 30.0 %.

We appreciate the opportunity to provide testing services and trust that the effort is in line with your expectation.

Prepared by,  
Watkins Testing & Inspection

Ron Watkins/President





WATKINS TESTING & INSPECTION

Geotechnical & Construction Services

Tanner Brown  
Dry Creek Aggregate  
Prineville, Oregon

July 12, 2022  
WTI Project No.122115

DRY CREEK AGGREGATE  
10955 SE Juniper Canyon Rd.  
Prineville, Oregon

**Subject:** Results of AASHTO T96 Abrasion Laboratory Tests

Dear, Mr. Brown,

We have received your "LAR" results, this letter represents the results of a single laboratory test representing a sample of base aggregate that was sampled by a Watkins Testing & Inspection representative on June 21, 2022. Details regarding the sample and result are provided below.

- Sample Type: Crushed basalt, Base Aggregate.
- Sample Date: June 21, 2022.
- Sampled by WTI Representative Ron Watkins, ODOT Cert.#41203.
- Source Name: Dry Creek Aggregate, Prineville Oregon.
- Source Number: N/A
- Test ran by Oregon Department of Transportation materials laboratory, Salem Oregon, ODOT Lab#22-001427.

**Results:**

Los Angeles Abrasion: AASHTO T-96 (ASTM C-131), Grading "B": Loss = 13.9 %

**Comments:**

Sample passed Oregon Department of Transportation (ODOT) T96 specification for base aggregate, maximum allowed loss 35.0%.

We appreciate the opportunity to provide testing services and trust that the effort is in line with your expectation.

Prepared by,  
Watkins Testing & Inspection



Ron Watkins/President

**EXHIBIT**

tabbles®

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Apex Explosives, LLC

PO Box 8510

Bend OR 97708

Greenbar Excavation Test Drill – Borehole Log

Borehole #1	44.203618 Latitude -120.764382 Longitude	1' Overburden Solid to 46'
Borehole #2	44.203683 Latitude -120.764560 Longitude	1' Overburden Solid To 46'
Borehole #3	44.203743 Latitude -120.764820 Longitude	1' Overburden Solid To 46'
Borehole #4	44.203586 Latitude -120.765000 Longitude	18" Overburden Solid To 46'
Borehole #5	44.203669 Latitude -120.765305 Longitude	18" Overburden Solid To 46'
Borehole #6	44.203079 Latitude -120.765068 Longitude	18" Overburden Solid To 46'
Borehole #7	44.202970 Latitude -120.704978 Longitude	0' Overburden Solid To 46'





Borehole #8 44.202800 Latitude 6" Overburden Solid To 46'  
-120.764540 Longitude

Borehole #9 44.202997 Latitude 6" Overburden Solid To 46'  
-120.764659 Longitude

Borehole #10 44.2031285 Latitude 1' Overburden Solid To 46'  
-120.764042 Longitude

Borehole #11 44.203351 Latitude 1' Overburden Solid To 46'  
-120.763992 Longitude

# Carlson Geotechnical

A Division of Carlson Testing, Inc.  
Geotechnical Consulting  
Construction Inspection and Related Tests

**Main Office**  
P.O. Box 23814  
Tigard, Oregon 97281  
Phone (503) 684-3460  
FAX (503) 670-9147

**Salem Office**  
1060 Hudson Ave., NE  
Salem, OR 97301  
Phone (503) 589-1252  
FAX (503) 589-1309

**Bend Office**  
P.O. Box 7918  
Bend, OR 97708  
Phone (541) 330-9155  
FAX (541) 330-9163

October 12, 2004

Richard Bartel Construction  
12909 SW Hwy 126  
Powell Butte Oregon 97753

**Re: Aggregate Resource Quality/Quantity Evaluation  
Bartel Quarry, Crook County, Oregon  
Project Number B040 2162**

## ***SCOPE OF SERVICE***

This report presents information about the subject property as an aid to categorization of the site as a significant aggregate resource. Our scope of work included the sampling of exposures and stockpiles, laboratory testing of representative samples, a visual evaluation of the site and the surrounding area to confirm that the rock outcrop is continuous throughout the intended quarry site, and an analysis of field and laboratory data. The analyses include an estimate of the quantity and an evaluation of the quality of the rock material encountered at the subject site. The site is located just over 7 miles south of Prineville, Oregon on Juniper Canyon Road. Figure 1 shows the location and surrounding topography.

## ***FIELD INVESTIGATION***

The subject site is in gently to moderately sloping terrain that is covered in native grasses, brush and trees. The existing quarry is located in the southeastern corner of the site and is characterized by an approximately 30-foot cut into the toe of a moderately sloping hillside. It is at an elevation of approximately 3940 feet above mean sea level. There are several stockpiles of previously quarried material several yards to the east of the existing cut.

On July 30, 2004, personnel from Carlson Testing sampled the aggregate and conducted a visual analysis of the site in order to confirm that the aggregate rock in question is present and consistent throughout the proposed quarry site.

## ***LABORATORY TESTING***

Per OAR 660-23-180, representative samples of the basalt outcrop were tested for abrasion, air degradation and soundness. Samples were selected from stockpiles and rock faces in accordance with the AASHTO T-2 procedure. Laboratory tests were run on manually crushed material from the cobble fraction only. Copies of the laboratory test reports are appended. Results are

**EXHIBIT**

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compared with Oregon Department of Transportation (ODOT) specifications for base rock in the following table. All tests meet ODOT requirements for base rock.

Test Name	ODOT Test Method	Base Rock Specification	Test Result
Los Angeles Rattler	TM 211	<35.0%	16.5%
Oregon Air Degradation	TM 208	<30.0% <3 inches	2.9% 0.3 inches
Sodium Sulfate Soundness	TM 206	<12.0%	3.8%

### ***ANALYSIS AND CONCLUSIONS***

The exposed basalt face is approximately 30 feet height and consists of fairly uniform material. The exception to this is the east wall of the quarry, which is more vesicular than the rest of the outcrop. However the owner has informed me that the east wall is not being quarried any further.

Throughout the southern two thirds of the proposed site there are visible outcrops of the basalt in question. As you approach the northern boundary of the site the overburden on top of the aggregate rock becomes greater to the point that actual outcrops are no longer visible, however there is a significant amount of the basalt floating on top of the overburden. This suggests that the formation is present at shallow depth throughout the entire site. Also while the existing quarry has only cut into the hillside to a depth of 30 feet it is evident from the surrounding outcrops that the basalt extends for another 20 feet or more in depth.

The proposed site is approximately 10.3. If the maximum depth of removal is kept at around 35 feet then, assuming that the basalt is continuous throughout the site, the site would yield an estimated 583,000 cubic yards of aggregate material. A conversion factor of 1.9 tons per cubic yard indicates that on the order of 1,107,700 tons of aggregate is available.

The laboratory testing indicates the aggregate meets the ODOT specifications for base rock. Further processing of the aggregate will likely be required to develop the gradation and fracture characteristics for any particular use. This basalt can be considered a high quality of aggregate because it is hard and dense compared to much of the rock of Central Oregon.

### ***LIMITATIONS***

The conclusions, opinions and quantity estimates presented in this report are based upon a site visit. It is impossible to predict all of the physical conditions that exist on-site, especially without some subsurface exploration. If a higher level of accuracy or certainty is desired it will be necessary to perform test pits and/or borings.

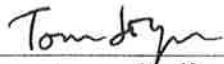
The findings of this report are valid as of the present date; however changes in the condition of a property can occur with the passage of time, whether they be due to natural process, or the works of man on this or adjacent properties. In addition, changes in applicable or appropriate standards may occur from legislation and the broadening of knowledge.

Accordingly, the findings of this report may be invalidated, wholly or partially by changes outside our control. These opinions have been derived in accordance with the current standard of practice and no warranty is expressed or implied.

If you have any questions concerning this report or the exploration, do not hesitate to contact our office at (541) 330-9155.

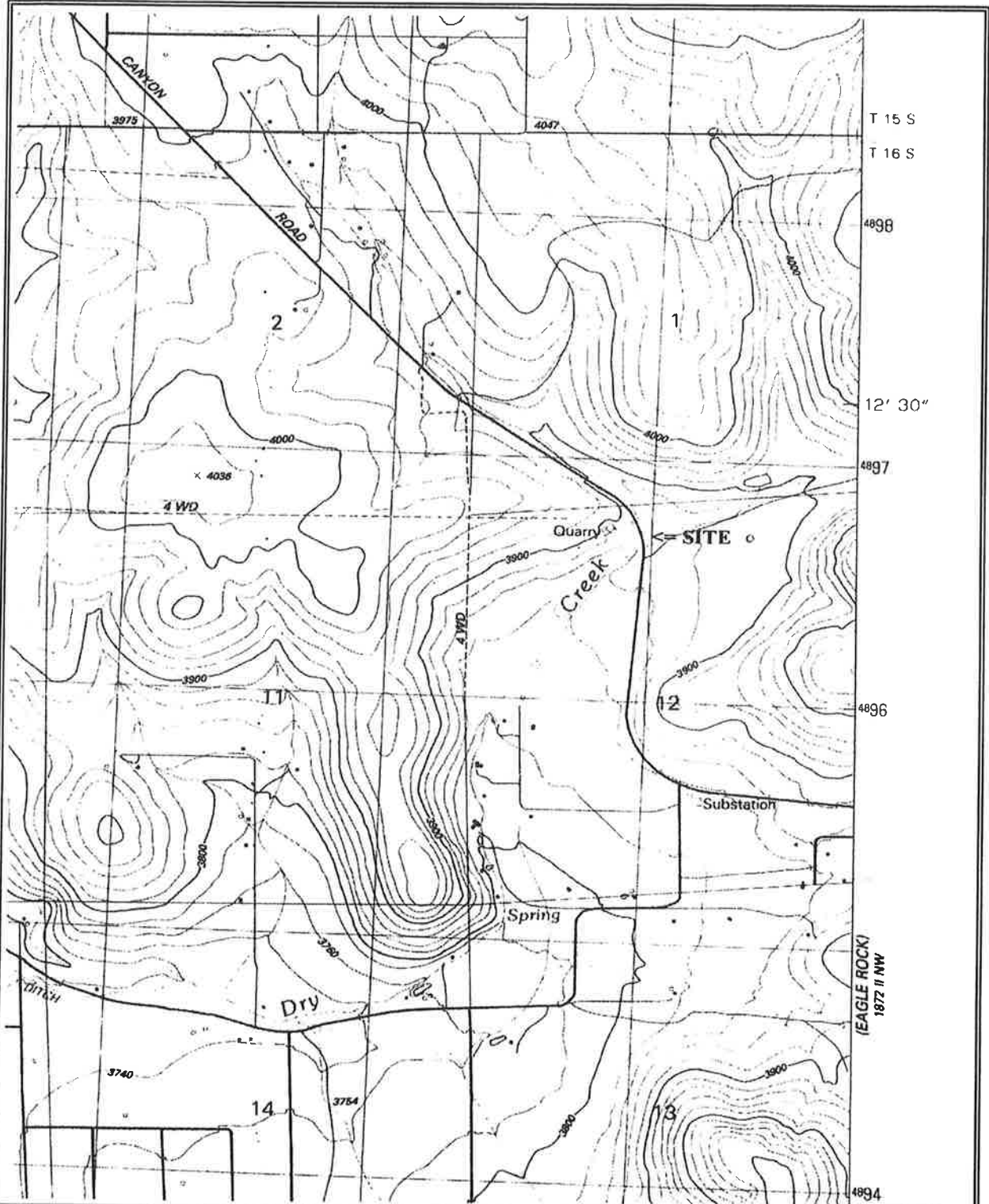
Sincerely,

**Carlson Geotechnical**

  
\_\_\_\_\_  
Tom Joyce, Staff Geologist

William A. Smith, P.E.,  
Geotechnical Engineer

Renews 6/30/2006



**SITE MAP**  
**Dick Bartell**  
**Aggregate Resource Evaluation**  
**Crook County, Oregon**

Date: Oct. 2004

Figure: 1

Scale: N/A

Project No. : B040 2162

# Carlson Testing, Inc.

**Main Office**  
P.O. Box 23814  
Tigard, Oregon 97281  
Phone (503) 684-3460  
FAX (503) 684-0954

**Salem Office**  
4060 Hudson Ave., NE  
Salem, OR 97301  
Phone (503) 589-1252  
FAX (503) 589-1309

**Bend Office**  
P.O. Box 7918  
Bend, OR 97708  
Phone (541) 330-9155  
FAX (541) 330-9163

August 31, 2004  
B0402162.CTI

Richard Bartel Construction  
12909 SW Hwy. 126  
Powell Butte, Oregon 97753

Re: Rock Quarry  
Aggregate Durability Testing – Pit Run Cobbles

Gentlemen:

As requested, we have completed durability testing on a sample of pit run cobbles material that was submitted to our laboratory by your representative on July 30, 2004. Prior to testing, the sample was reduced to test sizes by use of the laboratory crusher. Following is the test data:

## **SOUNDNESS – AASHTO T104:** *Coarse Aggregate*

Sieve Fractions	Weight Before Test	Weight After Test	Percent Loss @ 5 Cycles
1 1/2" x 3/4"	1509.0 g.	1487.5 g.	1.4%
3/4" x 3/8"	1002.0 g.	983.8 g.	1.8%
3/8" x #4	300.1 g.	297.2 g.	1.0%
Totals:	2811.1 g.	2768.5 g.	4.2%

Average percentage of loss @ 5 cycles = 1.4%  
OSHD 745 HMAC Specification: 12% Maximum

## **SOUNDNESS – AASHTO T104:** *Fine Aggregate*

Sieve Fractions	Weight Before Test	Weight After Test	Percent Loss @ 5 Cycles
#4 x #8	100.0 g.	97.0 g.	3.0%
#8 x #16	100.0 g.	96.9 g.	3.1%
#16 x #30	100.0 g.	95.6 g.	4.6%
#30 x #50	100.0 g.	88.1 g.	11.9%
Totals:	400.0 g.	377.6 g.	22.6%

Average percentage of loss @ 5 cycles = 5.7%  
OSHD 745 HMAC Specification: 12% Maximum

## **ABRASION – AASHTO T96:**

Percent loss to abrasion @ 500 revs. = 16.5% \*

\* The percentage of loss was determined by using grading "A".

OSHD 745 HMAC Specification: 35% Maximum

Page 2 of 2  
August 30, 2004  
B0402162.CTI

**OREGON AIR DEGRADATION - OSHD TM 208:**

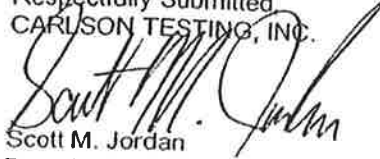
Percent passing the 850 mm (#20) sieve = 2.9%  
OSHD 745 HMAC Specification: 30.0% Maximum

Sediment height: 0.3"  
OSHD 745 HMAC Specification: 3" Maximum

Our reports pertain to the material tested/inspected only. Information contained herein is not to be reproduced, except in full, without prior authorization from this office.

If there are any further questions regarding this matter, please do not hesitate to contact this office.

Respectfully Submitted,  
CARLSON TESTING, INC.



Scott M. Jordan  
Branch Manager

CC: No report distribution per clients request.







CROOK COUNTY

BEFORE THE PLANNING COMMISSION

NO. C-CPA-007-05  
RECOMMENDATION

APPLICANT/PROPERTY OWNER: Richard Bartels  
12909 SW Highway 126  
Powell Butte OR 97753

ATTORNEY: Robert S. Lovlien  
Bryant, Lovlien and Jarvis PC  
PO Box 1151  
Bend OR 97709

GEOTECHNICAL ENGINEER: Curson Geotechnical  
PO Box 7918  
Bend OR 97708

PROPERTY LOCATION: Seven miles south of Prineville on the west side of Juniper Canyon Road (T 16 S R 16 EWM NE 1/4 Sec 12 TL 400).

PROPOSAL: An amendment to the Crook County - Prineville Area Comprehensive Plan to place a Goal 5 resource site on the Goal 5 Inventory of Mineral and Aggregate Resources as a 1C site.

On the basis of the Legal Criteria under Exhibit "A", the Facts under Exhibit "B", and the Conclusions under Exhibit "C", the Commission hereby recommends by a 5-0 vote that the Crook County Comprehensive Plan be amended to place the subject Goal 5 resource site on the Goal 5 Inventory of Mineral and Aggregate Resources as a 1C site.

EXHIBIT "A"

C-CPA-007-05

LEGAL CRITERIA

CROOK COUNTY CODE: Chapter 18.160 of the Crook County Code contains requirements for Comprehensive Plan and Land Use Regulation amendments. CCC 18.168.050 states that the Commission is to hold at least one public hearing on a proposed Comprehensive Plan amendment, and is to issue a

EXHIBIT

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**Bartels, Inventory Recommendation**

C-CPA-007-05

Page 2

written recommendation to the County Court within 20 working days.

**CROOK COUNTY COMPREHENSIVE PLAN:** Appendix "A" of the Crook County Comprehensive Plan deals with Goal 5 Resources (Mineral and Aggregate Elements). Section Two(C) deals with Inventory Analysis and Types of Sites. This section states that there are three basic types of sites;

1. 1A SITES: "Not Significant". Based on the best information that is available on location, quality and quantity, Crook County has determined that this particular resource is "not significant" and therefore not important enough to warrant inclusion on the Comprehensive Plan Inventory, or is not required to be included on the inventory based on the specific Goal standards...

2. 1B SITES: "Significance Not Yet Determined". ....some information is available, indicating the possible existence of a resource site, but that information (is) not adequate for Crook County to identify with particularity the location, quality, and quantity of the resource site...

3. 1C SITES: "Significant Sites". ....information is available on location, quality, and quantity, and Crook County determines a site to be significant or important as a result of the data collection and analysis process, then the site will be included on its Comprehensive Plan Inventory.

**OREGON ADMINISTRATIVE RULES:** OAR 660-016-0000(1) states that a local government must determine which resource sites are of significance and include them on an inventory which constitutes a part of the Goal 5 section of the government's comprehensive plan.

Subsection (2) states that a "valid" inventory of a Goal 5 resource must include a determination of the location, quality, and quantity of each proposed resource site.

Based on data collected, analyzed, and refined by local government, a jurisdiction has three basic options:

(a) **Do Not Include On Inventory** - site not important enough or not required to be included.

**Bartels, Inventory Recommendation**

**C-CPA-007-05**

**Page 3**

(b) **Delay Goal 5 Inventory Process** - inadequate information on location, quality, and/or quantity presently available.

(c) **Include On Inventory** - adequate information available on location, quality, and quantity, and local government has determined site to be significant or important.

**EXHIBIT "B"**

**C-CPA-007-05**

**FACTS**

**Location**

The property is located seven miles south of Prineville on the west side of Juniper Canyon Road, immediately to the north of the Cimarron Hills subdivision. The existing quarry is in the southeast corner of the property, approximately 200 feet from Juniper Canyon Road, and about 300 feet from the northern boundary of the subdivision. Dry Creek is between the quarry and the subdivision boundary.

The applicant proposes to eventually mine the entire property, within the setbacks which may be required.

**Quality and Quantity**

The applicant has submitted an engineer's report, produced by Curson Geotechnical, documenting the quantity and quality of resources available on the site. The findings of this report are summarized below:

**QUALITY:** In accordance with Division 16 of the Oregon Administrative Rules (OAR), representative samples of the basalt on the site were tested for abrasion, air degradation, and soundness. Samples were collected both from existing stockpiles and from rock faces on the property. All laboratory tests indicated that the resource meets ODOT requirements for base rock, and can be considered to be of high quality.

**QUANTITY:** The proposed mining site measures approximately 10.3 acres. If the maximum depth of removal is kept at

**Bartels, Inventory Recommendation**

**C-CPA-007-05**

**Page 4**

around 35 feet, and assuming that the basalt is continuous throughout the site, the site would yield an estimated 583,000 cubic yards of aggregate. Using a conversion factor of 1.9 tons per cubic yard, this would amount to more than 1,107,700 tons of aggregate.

**EXHIBIT "C"**

**C-CPA-007-05**

**CONCLUSIONS**

The Commission finds that the location and dimensions of the site, and the quality and quantity of the resource are adequately described in **Exhibit "B"** of this report, above.

The engineer's report submitted by the applicant states that more than 1,107,700 tons of aggregate are present on the site, and that the materials meet ODOT quality standards.

On the basis of the above the Commission finds that adequate information is available on location, quality, and quantity of the resource, and that the quantity and quality of the resource are adequate.

Therefore, the Commission recommends that the site be included on the inventory in accordance with OAR 660-016-0000, and Appendix "A" of the Crook County Comprehensive Plan.

**DATED THIS 7<sup>th</sup> Day of September, 2005.**



**Bill Gowen**  
**COMMISSION CHAIRMAN**

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**Gordon Moore**  
**COMMISSION SECRETARY**

IN THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CROOK

AN ORDINANCE AMENDING THE  
CROOK COUNTY BASALT RESOURCE  
INVENTORY TO INCLUDE ANOTHER  
SITE AS A 1-C SITE FOR SPECIFIC  
LANDS DESCRIBED WITHIN THIS  
ORDINANCE UNDER EXHIBIT "A"  
LOCATED IN THE RRM-5 ZONE OF  
JUNIPER CANYON

ORDINANCE 172

WHEREAS, the Crook County Planning Commission has recommended an amendment to the Comprehensive Plan mineral and aggregate inventory section; and

WHEREAS, the Planning Commission received a location, quality analysis from licensed geotechnical consultant that identified the estimated volume of 583,000 cubic yards of basalt aggregate that meets ODOT specification with a site area of approximately 10.3 acres; and

WHEREAS, the Crook County Planning Commission has held two public hearings receive comments and input from the general public and other agencies and forwarded the conclusion that the site is in accordance with OAR660-16-0000 in a written recommendation dated September 7<sup>th</sup>, 2005.

NOW, THEREFORE, the Crook County Court ORDAINS as follows:

SECTION ONE. That land identified within Exhibit A, attached and incorporated herein shall be included in the Mineral and Aggregate Inventory of the County Comprehensive Plan as a 1-C site.

SECTION TWO. The site shall be listed within the Crook County Comprehensive Plan under Appendix 5.3 as the Bartel Site.

SECTION THREE. The inclusion of this site as a 1-C site then requires an ESEE Analysis to be prepared to determine whether to allow mining activity on this property.

KEY PUNCHED

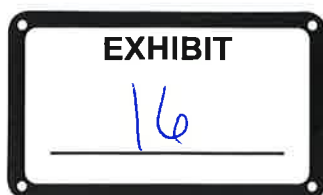
FEB 01 2006



SCANNED

STATE OF OREGON } 2006-162  
COUNTY OF CROOK }  
I CERTIFY THAT THE WITHIN INSTRUMENT WAS  
RECEIVED FOR RECORD ON THE 1st DAY OF  
February, 2006, AT 2:40 P. M.  
AND RECORDED IN C.J.R.N.L.  
RECORDS OF SAID COUNTY MF NO. 2006-162  
DEANNA E. BERMAN, CROOK COUNTY CLERK  
BY Blaise Brummer DEPUTY

N/C



Date of First Reading and Approval, January 18, ~~2005~~<sup>2006</sup>.

Date of Second Reading and Approval, ~~January~~<sup>FEBRUARY</sup> 1, ~~2005~~<sup>2006</sup>.

CROOK COUNTY COURT

Scott R. Cooper  
Judge Scott R. Cooper

Mike McCabe  
Commissioner Mike McCabe

Michael J. Mohan  
Commissioner Michael J. Mohan





BY PUNCHED  
AUG 24 2006



STATE OF OREGON } SS 2006233  
COUNTY OF CROOK }

I CERTIFY THAT THE WITHIN INSTRUMENT WAS  
RECEIVED FOR RECORD ON THE 17th DAY OF  
August, 2006 AT 10:40 A M  
AND RECORDED IN C TRN1

RECORDS OF SAID COUNTY MF NO. 2006-233  
DEANNA E. BERMAN, CROOK COUNTY CLERK  
BY Jody Jones DEPUTY

n/c

IN THE COUNTY COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CROOK

AN ORDINANCE AMENDING THE  
CROOK COUNTY COMPREHENSIVE  
PLAN TO ADD A SITE TO THE  
MINERAL AND AGGREGATE  
INVENTORY AND ADOPTING AN  
ESEE ANALYSIS TO ALLOW MINING

Ordinance No. 179

Amendment to Appendix A  
Crook County Goal 5 Mineral &  
Aggregate Elements

WHEREAS, Oregon's Statewide Planning Goal 5 establishes a State policy to protect, among others, natural resources; and

WHEREAS, Goal 5 provides that in conjunction with the Inventory of Mineral and Aggregate Resources, sites for removal and processing of such resources should be identified and protected; and

WHEREAS, the Goal 5 Administrative Rule (OAR 660-16-0000 to 660-16-0025) was designed to carry out the requirements of Goal 5 for all types of resources, including mineral and aggregate resources; and

WHEREAS, Crook County has identified the site owned by Richard Bartels as an inventoried Goal 5 aggregate resource site based upon the location, quantity and quality of the aggregate material located thereon; and

WHEREAS, the County has determined that based upon the conflicts and the Economic, Social, Environmental and Energy (ESEE) Analysis the resource is sufficiently important relative to conflicting uses that a mining operation on the site would not negatively affect the conflicting uses and will provide positive economic, social, environmental and energy contributions; and

///



WHEREAS, based upon the ESEE Analysis, Crook County may determine that the conflicting uses can continue and the Goal 5 resource may also be utilized;

NOW, THEREFORE, the County Court of Crook County, Oregon, ORDAINS as follows:

Section 1. Impact Area. The County adopts as the impact area for the subject site an area extending 1500 feet from the subject property, which site is more particularly described as Township 16 South, Range 16 East Willamette Meridian, Northeast One Quarter, Section 12 Tax lot 400.

Section 2. Adoption of Conflicts Analysis, ESEE Analysis and ESEE Decision. The County amends the Goal 5 Mineral and Aggregate element of its Comprehensive Plan by adopting the Conflicts Analysis, ESEE Analysis and ESEE Decision attached hereto as "Exhibit A" and by this reference incorporated herein.

Section 3. Findings. The Crook County Court adopts the ESEE and the findings attached hereto as "Exhibit A" and by this reference incorporated herein as its findings in support of its Decision.

First Reading and Hearing: August 2, 2006.

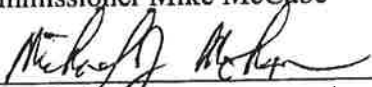
Second Reading and Hearing: August 14, 2006.

Dated this 14 day of August, 2006.

CROOK COUNTY COURT

  
\_\_\_\_\_  
Judge Scott R. Cooper

  
\_\_\_\_\_  
Commissioner Mike McCabe

  
\_\_\_\_\_  
Commissioner Michael J. Mohan

## EXHIBIT A ESEE FINDINGS

### COMPLIANCE WITH GOAL 5

#### Applicable Goal 5 Rule

The Court finds that the version of Goal 5 and its Administrative Rules applicable to this application is the version that is implemented through the Division 16 Rules of the Oregon Administrative Rules.

#### Inventory

The Court finds that the site satisfies the requirements for inclusion on the county's Inventory of Goal 5 Mineral and Aggregate Sites and was made a part of the Inventory pursuant to Crook County Ordinance 172.

#### Identification of Conflicting Uses

OAR 660-016-005 requires identification of uses that conflict with a listed Goal 5 Resource Site. OAR 660-016-0005 states:

“It is the responsibility of local government to identify conflicts with Inventoried Goal 5 Resource Sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 Resource Site. Where conflicting uses have been identified, Goal 5 Resource Sites may impact those uses.”

During the second step of the process (identifying conflicting uses), the local government “may consider only other allowable uses that have a negative impact *on* the Goal 5 Resource”.

#### Identification of Impact Area

The applicant identified a 1500 foot area surrounding the resource site as the Impact Area. The applicant submitted evidence that the 1500 foot area is standard under current Division 23 Rules of the Department of Environmental Quality and that moving for a consistent standard would serve the public interest, unless compelling circumstances (such as protection of another Goal 5 Resource, such as scenic value) are implicated. The applicant further submitted evidence that given the current configuration of the resource site the parties most likely to be affected would those within the 1500 foot area (due in part to the existing excavated nature of the resource area) especially with respect to noise and dust impacts. The County Road which bisects the proposed Impact Area and which would provide the access point to the aggregate operation is the most significant portion of that roadway in terms of impact.

The Planning Commission decided that the Impact Area should be one half mile surrounding the resource. The basis for this determination was the conclusion that since the area is zoned for outright residential use, the Impact Area should include a substantial amount of residences and that the study area should include those who might conceivably be affected by the proposed use. Finally, the Planning Commission determined that the topography favored the larger Impact Area because sound from the mining operation would be directed toward residential lots outside of the 1500 foot area. One opponent testifying before the Court added that the County has decided upon much larger Impact Area in other parts of the County (and that same opponent opined that perhaps a 500 foot Impact Area should be utilized given the County's Ordinance 41) and noted that noise can travel outside the 1500 foot distance necessitating a noise study before determining the correct Impact Area.

The Court has considered the various issues raised above. In order to adequately address these issues, the Court conducted a site visit and gained personal understanding of the topography of the land, its vegetation and situation with respect to other properties and uses. The Court further reviewed three aerial photographs, which are part of the record, showing different ranges of potential Impact Area: specifically showing areas of 1500, 2500 and 5000 respectively from the resource. Based upon its review of these sources of information, the Court found, and confirms, its decision to utilize a 1500 foot Impact Area. The Court finds that existing screening vegetation, the topography of the land and need to set a standard that remains consistent with State standards, in the absence of compelling reasons to deviate from the standard, all militate in favor of the 1500 measure. The allowance of an aggregate mining and processing facility is specifically allowed as a conditional use in the RR(M)-5 zone and there must be a balance between those more distant property owners and those more likely (by virtue of greater proximity) to be adversely affected by the use. The Court has earlier determined that the County is not bound by the 500 foot distance contained in obsolescent law and finds the greater distance (2500 feet or greater) is not justified.

#### Conflicting Uses

The Court finds that the primary conflicting uses consist of existing residential use in the area and the potential impact on recreational uses.

The Record of this case contains public testimony regarding primarily the economic, social and environmental impacts of these uses on the resource site and of the resource on the conflicting uses. Less testimony is present in the record regarding impacts on recreational use but the use is one of the very reasons for creation of the zone (*Recreational Residential Mobile Zone*) and certainly might conflict with and have an impact on the resource use.

#### ESEE Consequences of Allowing Conflicting Uses

The conflicting uses are identified as residential uses and recreational activities. Goal 5 and its implementing Rule require sufficient analysis of the consequences of

allowing conflicting uses on the site and in the impact area as contrasted with the consequences of permitting the aggregate mining to justify a decision on whether to allow, limit or preclude conflicting use.

Some of the ESEE consequences of allowing the conflicting uses are generic, as set forth in the Generic ESEE included in the county's Mineral and Aggregate Element. The most likely economic and social consequences of allowing these conflicting uses would be limitation or prohibition on mining of the resource site, and inability to satisfy a perceived "need" for additional aggregate resulting in the possibility of less competition and higher costs for aggregate "needed" for local or regional demand. An additional potential consequence of allowing the conflicting uses would be litigation and complaints involving enforcement against the resource due to incompatibility with the use, such as nuisance or violation of conditions of approval of the use or complaints that the use decreases the value of residential property; all to the detriment of the resource. One opponent raised the prospect that residential uses would be particularly sensitive to noise and dust.

The Court finds that the record clearly establishes a need for the aggregate resource in the Juniper Canyon area. This area is one of the fastest developing areas in the County and the demand for aggregate resources is and will remain high. Limiting access to this resource will negatively affect the development of the entire area. The conflicting uses will be beneficiaries of the resource in that material will be available for the support and development of the conflicting uses for road, foundation and other purposes.

The Court finds that the likelihood of complaints and enforcement issues is remote given the lack of objection by those affected within the Impact Area to the resource use and the commitment of virtually all property owners within the Impact Area (by means of waivers of remonstrance) to not challenge the use. The conflicting uses, while potentially having an impact on the site, will not significantly affect the use of the site.

#### ESEE Consequences of Allowing Mining Use

Goal 5 and its implementing Rule suggest that the consequences of allowing the Goal 5 use must then be contrasted with the consequences of allowing the conflicting uses.

#### Economic Consequences

Typical impacts of mining are noise, dust, truck traffic to and from the site, consumption of water, either from wells on-site or off-site or from irrigation ditches, employee traffic to and from the site, and other consequences that might inhibit the operation of conflicting uses within the impact area. The negative economic consequences of such impacts are typically expressed as the potential for loss in property values of nearby land uses and the wear and tear on the roads over which the aggregate is transported. These are largely the objections raised with respect to the subject site; the objection of nearby property owners (outside of the Impact Area).

The Court accepts applicant's evidence that approval of the application will lead to well-paying employment at the resource site itself and will contribute to the continuation of jobs at local development and construction sites. The Court further finds that this particular resource is located such as to provide nearby resources in an underserved part of the County in terms of commercial aggregate material and that such material is essential to the existing demand for growth and development in the area. The Court further finds that, consistent with applicant's testimony, the existence of a resource at the subject resource site will contribute to a competitive rate for material cost to those who need the resource. The Court does not accept testimony that the use of this resource will negatively affect the County Road system, since the use will occur in any event on Juniper Canyon Road, whether the material originates from applicant's site or some other.

#### Social Consequences

The negative social consequences relate chiefly to quality of life impacts suffered by residents of the area. The Planning Commission identified truck traffic (with attendant noise, visual and vehicular congestion, and potential affect on recreational bicycling); the process of extraction and processing itself; and potential conflict with other RR(M)-5 uses (private parks, campgrounds, etc.), as negative consequences of allowing the resource use. The Planning Commission also identified the limitations that applicant is willing to agree to (limited days/hours of operations, including limits on blasting); and the limited utility of the resource site for public or commercial recreational activities; which all, in the Planning Commission's decision, militate in favor of approval.

The Court received opponent testimony describing the potential loss in value of real property values due to the requested permitted use. The Court also received testimony from the significant property owner in the Impact area that all properties sold or for offer in the Area have agreed to a "waiver of remonstrance" (prohibiting objection to the existence of the mining operations). The Court finds that there is no evidence that additional truck traffic will occur as a result of its approval of the application (given the fact that the use will result in a substitution of current traffic with traffic from the resource site). The Court also finds that there is no evidence to support a conclusion that there will be a negative affect upon the residential properties within the Impact Area in terms of property values. No property owner in the Impact Area has objected to the application and all properties within applicant's prior ownership have agreed to a "waiver of remonstrance". The evidence before the Court establishes that there will be no scenic loss as a result of approval and that existing vegetative material exists to protect neighbors from any unsightliness associated with the mining effort. Blasting will be limited to a few days a year and crushing activities to no more than three weeks per year. The supply of aggregate material is a positive result of approval because one result is an ample supply of material for additional residential development.

The Court finds that within the Impact Area there is no one who objects to this approval. The only residential property owners have either supported or not responded to these proceedings. Any property owners who might wish to develop property in the

future will be required to have property owners acknowledge the existence of the resource and waive any objection to such use. There is no evidence of a negative impact on any recreational resource or intended plan.

Since adoption of Ordinance No. 43, Goal 5 Mineral and Aggregate Elements in 1990, the county has consistently approved quarry sites in locations that are visually obscured from roadways and the valley floor. This site is obscured from public view. Therefore, the ability to mitigate the visual impact to surrounding uses in this case meets prior County requirements.

#### Environmental Consequences

Environmental consequences of allowing mining generally are recognized in the county's Generic ESEE, including the following:

“Many if not most of the consequences of allowing mining activities might have a negative impact on the environment. The reclamation projects which follow the mining activity [are] designed to mitigate such deleterious effects on the environment. Surface mining may reduce available cover and forage which may cause increased competition among wildlife species for the remaining forage and cover.”

Social and environmental consequences also include the impacts of noise and dust associated with mining. The consequences of noise and dust are felt primarily by inhabitants of nearby land uses. The Court received and has considered the evidence offered by opponents to the effect that approval of the application will lead to heavier truck traffic and air pollution. The Court finds that truck traffic will not be increased as the traffic generated from applicant's site will be serving as substitution traffic which would otherwise have to come from at least seven miles away to serve this area's demand. Air pollution from vehicular sources will likely be decreased due to shorter transit times.

The generation of dust from the site can be mitigated through a dust management program. Applicant has explained that dust will be mitigated through such a program. The Court finds that applicant's plan is sufficient, certainly in the absence of any evidence that the plan will not adequately address the concern.

There is also a positive environmental consequence in that the applicant has provided evidence that he will operate only pursuant to a permit from the Department of Geology and Mining Industries. Such a permit will require reclamation of the land and will improve upon the current unreclaimed mining area.

The Court finds that while some negative consequences will result from use of the resource, such consequences can be mitigated and that the overall impact of the use will be environmentally beneficial.

### Energy Consequences

Energy consequences of allowing mining are also recognized in the County's Generic ESEE, including the following:

“Increase in energy consumption might also apply to the fact that more of the transportation system might need upgrading and rehabilitating.”

The location of this Goal 5 Resource is uniquely situated to positively affect energy consequences. The record reflects that the Juniper Canyon area is one of, if not the, most rapidly developing areas in Crook County. Currently aggregate material must be hauled at least seven miles to reach applicant's resource. Other sources of aggregate are located even farther from the demand area. Use of applicant's source will significantly decrease trip mileage of loaded trucks on at least this seven mile section of County Road and will decrease burden on other County Roads over which more distant source materials would be transported. Decreasing loaded traffic will help sustain the life of County Roads and decrease the need to consume energy in their repair.

The relative proximity of the applicant's resource to the sites currently under development in the Juniper Canyon area will allow for decreased travel time, leading to less fuel consumption and achieve a positive energy result by such conservation. The Court agrees and finds that, as did the Planning Commission, that no negative impact occurs with respect to energy consequences.

### COMPLIANCE WITH OTHER STATEWIDE PLANNING GOALS

ORS 197.175(2)(a) requires that Plan Amendments be adopted in compliance with Statewide Planning Goals. The Goal 5 Rule alludes to consideration of Planning Goals as part of the analysis of the consequences of allowing conflicting uses to the Goal 5 Resource use. Therefore, the Goals provide independent standards against which to assess the propriety of the Plan Amendment.

#### Goal 1: Citizen Involvement

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Goal 1 requires local governments to adopt and administer programs to assure citizen involvement in the land use planning process. In this application process, the opponents and applicant attended several public meetings. The public was provided notice of the earlier Planning Commission and County Court meetings and testimony was received at all hearings held.



## **Goal 2: Land Use Planning**

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Goal 2 requires that Crook County establish a factual basis for its decisions and ensure that such decisions are coordinated with the appropriate governmental agencies. The county's Comprehensive Plan is consistent with the Statewide Planning Goals and has been acknowledged by the Land Conservation and Development Commission (LCDC). Notice and coordination with appropriate governmental agencies has occurred according to the county's Comprehensive Plan and its implementing Ordinances and Regulations.

## **Goal 3: Agricultural Lands**

*To preserve and maintain agricultural lands.*

This Goal requires Comprehensive Plans to provide for the preservation and maintenance of agricultural lands. The site and the surrounding area is zoned RR(M)-5 and, therefore, Goal 3 is not applicable. There is adjacent land within the Impact Area that is used for agricultural purposes, but the owner of that property has no objection to the use of the resource. The Court finds that no Goal 3 values are adversely affected.

## **Goal 4: Forest Lands**

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

There are no forestlands on or near the subject site.

## **Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources**

*To conserve open space and protect natural and scenic resources.*

Goal 5 requires plans to conserve open space and protect natural and scenic resources. The Court finds that the only Goal 5 Resource listed for this site is the listing for mineral and aggregate resources. The Court further finds that the rim rock set back requirements to do not apply to this parcel, nor is there any evidence in the record establishing that the this property is adjacent to Juniper Canyon or is in any way affected by any scenic resources identified in County inventories or maps. There is evidence that the property is in the General Deer Winter Range, but applicant has provided testimony that the subject parcel is not irrigated; consists of largely disturbed ground by virtue of

the prior mining and is not used by wildlife. The applicant testified, without contravention, that the Oregon Department of Fish and Wildlife was contacted and that the agency had no objection to the use of the resource.

The Court does not believe adequate evidence exists in the record to refute applicant's evidence and further finds that allowing use of the resource will not negatively affect Goal 5 values.

**Goal 6: Air, Water and Land Resources Quality**

*To maintain and improve the quality of the air, water and land resources of the state.*

Goal 6 raises the issue of whether the proposed mining operation would violate or threaten to violate applicable State or Federal Environmental Quality Statutes, Rules and Standards. Specifically, the Court considered the impact of the mine in regards to noise, air and water pollution. The Court has noted that the applicant must comply with State and Federal Regulations including, Department of Environmental Quality; Oregon Department of Fish and Wildlife; Oregon Department of Water Resources; and DOGAMI. DOGAMI issues the applicable State Regulatory Permits to authorize mining activities. DEQ issues the Erosion Control Permit under the National Pollution Discharge Elimination System. DEQ also issues the Air Contaminant Discharge Permit. These permits must be obtained from the appropriate agencies.

Noise must also be considered and has been addressed as a part of the Goal 5 Analysis above. To the extent legally required, Applicant will be required to comply with DEQ Noise Standards and will be subject to the imposition of appropriate mitigation measures, including monitoring the site to assure ongoing compliance. Compliance with all applicable regulatory requirements is a condition of conditional use permit approval.

**Goal 7: Areas Subject To Natural Disasters and Hazards/NOT APPLICABLE**

**Goal 8: Recreational Needs**

*To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the citing of necessary recreational facilities, including destination resorts.*

Goal 8 requires local governments to plan for the recreational needs of its citizens. The proposed mine site does not include existing recreational facilities. In addition, there are no public recreational facilities known within the impact area.

**Goal 9: Economic Development/NOT APPLICABLE**

**Goal 10: Housing**

*To provide for the housing needs of citizens of the state.*

The Court finds that the proposed mining site is not suitable for housing and is not “buildable land”. Use of the site for mining will, therefore, not reduce the areas available for housing.

**Goal 11: Public Facilities and Services/NOT APPLICABLE**

**Goal 12: Transportation**

*To provide and encourage a safe, convenient and economic transportation system.*

The Court identified safety issues on Juniper Canyon road caused by additional traffic using the subject site for access to the road, including site distances. The Court finds that the traffic entering and exiting the site will not increase the traffic on the road itself, as the traffic will be in substitution of traffic that would otherwise be present. The Court must determine whether an application approval will result in a “safe and adequate” transportation system. Development of a traffic plan can mitigate safety issues and is part of the requirements of conditional use approval. Approval of the application will decrease heavy truck traffic on Lower Juniper Canyon Road, thereby decreasing deterioration of that part of the roadway and will cause shorter transportation distances in the delivery of heavy aggregate to sites where its use is required, leading to a safer, more convenient and economic transportation system.

**Goal 13: Energy Conservation**

*To conserve energy.*

Goal 13 requires that land and uses developed on the land be managed and controlled to maximize the conservation of all forms of energy. As indicated above, due to the shortening of travel distances for trucks hauling aggregate materials to construction and development sites, and decreased heavy truck travel on the approximately seven miles of County Road leading from Prineville to the site, which will lead to a decrease in the need to expend energy for road construction and road improvements on Juniper Canyon Road, approval of the application will lead to energy conservation.

**Goal 14: Urbanization/Not Applicable**

**Goal 15: Willamette River Greenway/Not Applicable**

**Goal 16: Estuarine Resources/Not Applicable**

**Goal 17: Coastal Shore Land/Not Applicable**

**Goal 18: Beaches and Dunes/Not Applicable**

**Goal 19: Ocean Resources/Not Applicable**

**Resolution of Conflicts, Development of Program to Achieve the Goal**

OAR 660-016-0010 requires that based upon the ESEE consequences, a jurisdiction must develop a program to meet the Goal. The jurisdiction can decide to either protect the resource site fully, to allow the conflicting uses fully (by denying the mining site) or to attempt to strike a balance between the conflicting uses by limiting both the conflicting uses and the proposed mining operation.

After reviewing on an individualized basis, the potential economic, social, environmental and energy consequences the Court finds from the ESEE Analysis that the identified conflicts are of a nature that the resource may be used despite conflicting uses in the following ways:

1. The operational standards of mining the resource shall limit the days and hours of operation. As part of the necessary conditional use permitting process, conditions shall be imposed requiring mitigation of mining operations by means of dust control and addressing noise, vibration road access safety and traffic control.
2. The requirements of Crook County Zone RRM-5, requiring relationship of the proposed conditional use to recreational purposes shall be complied with.
3. Properties within the Impact Area with respect to which additional residential development is planned shall be required to include in such plans conditions running with the land waiving any right of remonstrance with respect to mining operations located within the Impact Area; provided however that such waiver shall extend only to mining operations conducted in compliance with any conditions imposed as part of a conditional use permit issued to allow mining on applicant's property.

For the reasons set forth above, the Court finds that both the resource site and conflicting uses are important relative to each other and that the conflicting uses can be allowed in a limited way in order to protect the resource site to a limited extent. The uses that are allowed are limited to mining and resource development activities, subject to the conditions imposed under Crook County Code Section 18.144 (Aggregate Resource Sites) for aggregate resource sites and subject further to compliance with the terms and conditions of Crook County Code Section 18.40 (Recreation Residential Mobile Zone, RR(M)-5); and residential use shall be allowed fully, provided, however, that any future development increasing the number of residential sites shall be subject to a requirement that the proposed development be subject to a condition waiving any right to remonstrate

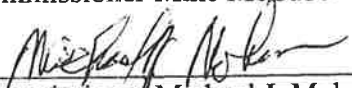
against mining use within the Impact Area; provided that the waiver shall only be binding as long as such use complies with the terms and conditions of a conditional use permit issued to allow for operation of an aggregate resource site.

DATED this 14 day of August, 2006.

CROOK COUNTY COURT

  
\_\_\_\_\_  
Judge Scott R. Cooper

  
\_\_\_\_\_  
Commissioner Mike McCabe

  
\_\_\_\_\_  
Commissioner Michael J. Mohan

**BARTELS ROCK QUARRY**  
**DOGAMI ID: 07-0160**

*I Gave Paul Povey / Copy  
 of this map on 5/22/21  
 Delete Flight of Quarry*

*Copy*

**NE1/4 NW1/4 OF SECTION 12, T.16S., R.16E., W.M.,  
 CROOK COUNTY, OREGON  
 W.O. 18-5049**

**LEGEND**

● FOUND SURVEY MONUMENT

**SURVEY FOR**

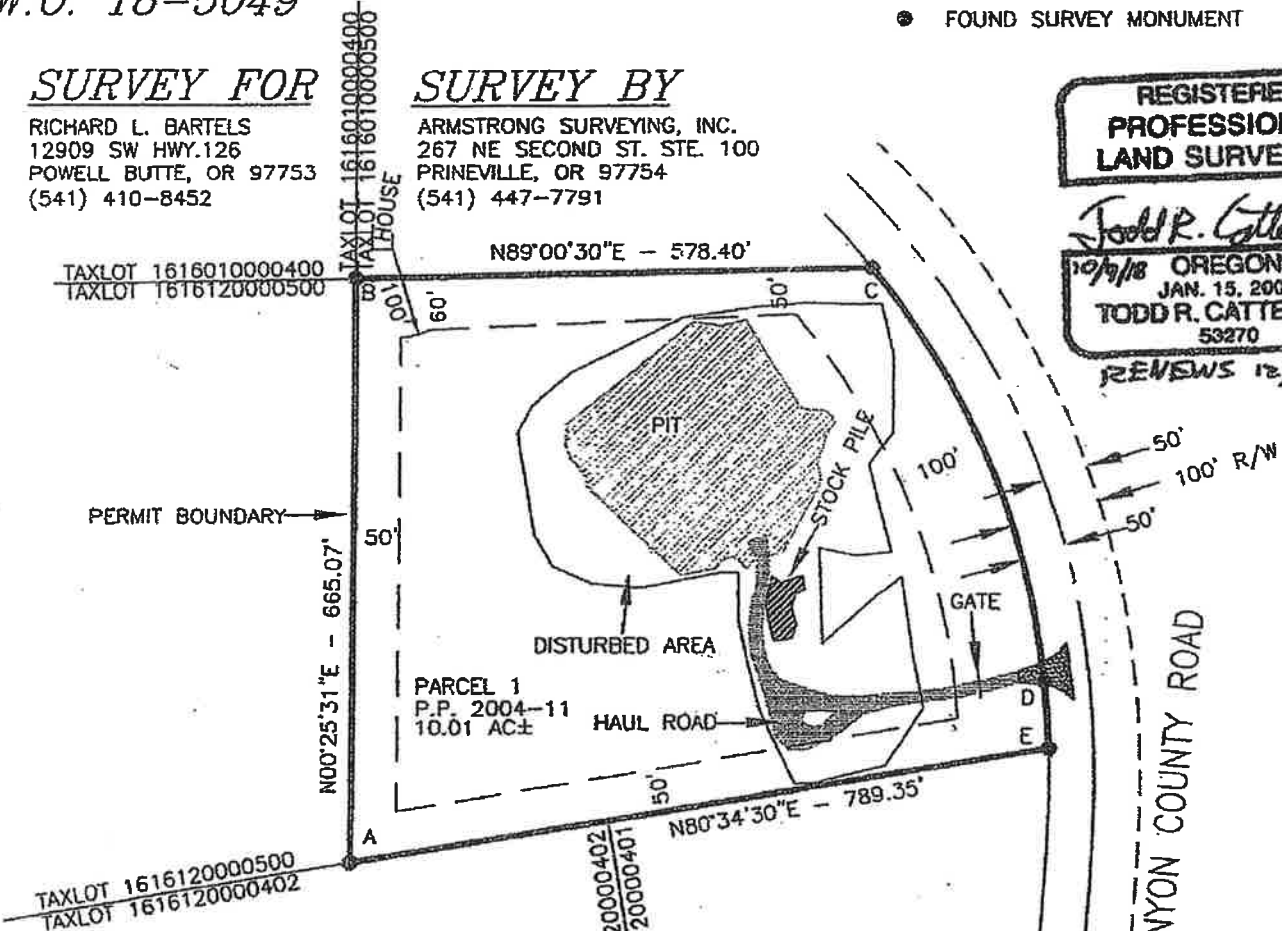
RICHARD L. BARTELS  
 12909 SW HWY.126  
 POWELL BUTTE, OR 97753  
 (541) 410-8452

**SURVEY BY**

ARMSTRONG SURVEYING, INC.  
 267 NE SECOND ST. STE. 100  
 PRINEVILLE, OR 97754  
 (541) 447-7791

**REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR**

*Todd R. Catterson*  
 10/9/18 OREGON  
 JAN. 15, 2002  
**TODD R. CATTERSON**  
 53270  
 REVIEWS 12/21/19



COORDINATE TABLE		
POINT	LATITUDE	LONGITUDE
A	N44°12'08.12"	W120°45'51.84"
B	N44°12'14.68"	W120°45'51.78"
C	N44°12'14.79"	W120°45'43.85"
D	N44°12'10.15"	W120°45'41.22"
E	N44°12'09.40"	W120°45'41.15"

**NARRATIVE**

THE BOUNDARY OF THIS SURVEY WAS DEFINED AS THE BOUNDARY OF PARCEL 1 OF PARTITION PLAT NO. 2004-11. WE TIED INTO AND HELD THE CORNERS SET DURING SAID PLAT. THE COORDINATE SYSTEM IS A LOCAL SYSTEM WITH ORIGIN OF LATITUDE N44°11'22.92102 AND ORIGIN OF LONGITUDE W120°44'56.74955". SCALE FACTOR IS 1.000000000000. COORDINATE ACCURACY IS ±0.05 FEET.

**SCALE**

1" = 200'

SEPTEMBER 6, 2018

JUNIPER CANYON COUNTY ROAD

OCT 16 2018



SHEET 1 OF 1  
 DRG. NO. 18-5049.DWG  
**W.O. 18-5049**



Lisa Andrach  
Partner  
[lisa@fitchandneary.com](mailto:lisa@fitchandneary.com)

Wendy L. Smith  
Paralegal  
[wendy@fitchandneary.com](mailto:wendy@fitchandneary.com)

March 29, 2024

**VIA HAND DELIVERY**

Crook County Community Development / Planning Division  
300 NE 3<sup>rd</sup> Street, Room 12  
Prineville, Oregon 97754

***Re: Application to Amend Comp Plan to add area to Bartels Site on Inventory  
Greenbar Excavation, LLC***

Dear Planning:

Enclosed please find the application to amend the county's Comprehensive Plan to add a resource area to the inventoried Bartels Site.

Please email me the requirements for payment of the application fee.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to be "Lisa Andrach", with a long, sweeping flourish extending to the right.

LISA ANDRACH

LA:wls

Enclosure

Cc: Client